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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2023-0599; Airspace Docket No. 22-ASO-11]

RIN 2120-AA66

Amendment and Revocation of Very High Frequency (VHF) Omnidirectional Range (VOR) Federal Airways in the Eastern United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Very High Frequency (VHF) Omnidirectional Range (VOR) Federal airways V-3, V-157, and V-579; and removes VOR Federal airway V-578 in support of the FAA's VOR Minimum Operational Network (MON) Program.

DATES: Effective date 0901 UTC, August 10, 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 JO Order 7400.11 and publication of conforming amendments.

ADDRESSES: A copy of the Notice of Proposed Rulemaking (NPRM), all comments received, this final rule, and all background material may be viewed online at www.regulations.gov using the FAA Docket number. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year.

FAA Order JO 7400.11G, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, 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 National Airspace System.

History

The FAA published a NPRM for Docket No. FAA-2023-0599 in the **Federal Register** (88 FR 17434; March 23, 2023), proposing to amend VOR Federal airways V-3, V-157, and V-579; and to remove V-578 in support of the FAA's VOR MON Program. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

Incorporation by Reference

VOR Federal airways are published in paragraph 6010(a) of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11G, 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. These amendments will be published in the next update to FAA Order JO 7400.11.

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 amending VOR Federal airways V-3, V-157, and V-579; and removing V-578 in support of the FAA's VOR MON Program. The changes facilitate the scheduled decommissioning of the following navigation aids: Alma, GA (AMG), VOR/Tactical Air Navigation System (VORTAC); Cross City, FL (CTY), VORTAC; Gators, FL (GNV), VORTAC; and Vance, SC (VAN), VORTAC. The changes are described as follows:

V-3: V-3 currently extends, in two parts: from Key West, FL, to Boston, MA; and from Presque Isle, ME, to Quebec, PQ, Canada. This action removes the route segment between the OWENS, SC, Fix and the Florence, SC (FLO), VORTAC. This segment is dependent on the Vance, SC (VAN), VORTAC which is scheduled to be decommissioned. As a result, the OWENS Fix is redefined using the Allendale, SC (ALD), VOR 116°(T)/117°(M) radial in place of the current Vance 203° radial. In addition, NAV CANADA has cancelled the segment of V-3 that extends through Canadian airspace to Quebec. Consequently, the FAA is replacing the segment from Presque Isle to Quebec with a segment that extends from Presque Isle to a Fix on the U.S./Canadian border. The Fix is defined by the intersection of Presque Isle 270°(T)/291°(M) and the Millinocket, ME 320°(T)/340°(M) radials. The words that exclude the airspace within Canada are removed from the route description.

As amended, V-3 consists of three parts: from Key West, FL, to the intersection of the Savannah, GA 028° and the Allendale, SC 116°(T)/117°(M) radials (*i.e.*, the OWENS Fix); from Florence, SC, to Boston, MA; and From Presque Isle, ME, to the intersection of the Presque Isle 270°(T)/291°(M) and the Millinocket, ME 320°(T)/340°(M) radials.

V-157: Airway V-157 consists of two parts: from Key West, FL, to Richmond, VA; and from Robbinsville, NJ, to Albany, NY. This action amends V-157 by removing the route segment between Waycross, GA and Florence, SC. As amended, V-157 consists of three parts: from Key West, FL to Waycross, GA; from Florence, SC to Richmond, VA; and from Robbinsville, NJ to Albany, NY.

V-578: V-578 extends from Pecan, GA to Savannah, GA. The route is dependent upon the Alma, GA (AMG), VORTAC which is scheduled to be decommissioned. The route also includes the Tift Myers, GA (IFM), VOR which is not operational. Without those navigation facilities, V-158 is no longer viable so the FAA is removing the entire route.

V-579: V-579 extends from Lee County, FL to Vienna, GA. The route is dependent upon the Cross City, FL (CTY), VORTAC and the Gators, FL (GNV), VORTAC, which are being decommissioned. The route also includes the Tift Myers, GA (IFM), VOR which is no longer operational. This action removes the segments from St. Petersburg, FL to Vienna, GA. As amended, V-579 would extend from Lee County, FL to St. Petersburg, FL.

Full descriptions of the amended airways are listed the amendments to part 71 set forth below. The FAA makes these changes in support of the FAA's VOR MON program.

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

Environmental Review

The FAA has determined that this airspace action of amending VOR Federal airways V-3, V-157, and V-579, and removing V-578 in the eastern United States 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 paragraph 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) . . .". 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. Accordingly, 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 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 part 71 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 6010(a) Domestic VOR Federal Airways.

* * * * *

V-3 [Amended]

From Key West, FL; INT Key West 083° and Dolphin, FL, 191° radials; Dolphin; Ft. Lauderdale, FL; Palm Beach, FL; Treasure, FL; Melbourne, FL; Ormond Beach, FL; Brunswick, GA; INT Brunswick 014° and Savannah, GA, 177° radials; Savannah; to INT Savannah 028° and Allendale, SC, 116° radials. From Florence, SC; Sandhills, NC; Raleigh-Durham, NC; INT Raleigh-Durham 016° and Flat Rock, VA, 214° radials; Flat Rock; Gordonsville, VA; INT Gordonsville

331° and Martinsburg, WV, 216° radials; Martinsburg; Westminster, MD; INT Westminster 048° and Modena, PA, 258° radials; Modena; Solberg, NJ; INT Solberg 044° and Carmel, NY, 243° radials; Carmel; Hartford, CT; INT Hartford 084° and Boston, MA, 224° radials; to Boston. From Presque Isle, ME; to INT Presque Isle 270°T/291°M and the Millinocket, ME 320°T/340° radials. The airspace within R-2916, R-2934, R-2935, is excluded.

* * * * *

V-157 [Amended]

From Key West, FL; INT Key West 038° and Dolphin, FL, 244° radials; Dolphin; INT Dolphin 331° and La Belle, FL, 113° radials; La Belle; Lakeland, FL; Ocala, FL; INT Ocala 346° and Taylor, FL, 170° radials; Taylor, FL; to Waycross, GA. From Florence, SC; Fayetteville, NC; Kinston, NC; Tar River, NC; Lawrenceville, VA; to Richmond, VA; From Robbinsville, NJ; INT Robbinsville 044° and LaGuardia, NY, 213° radials; LaGuardia; INT LaGuardia 032° and Deer Park, NY, 326° radials; INT Deer Park 326° and Kingston, NY, 191° radials; Kingston, NY; to Albany, NY. The airspace within R-6602A, B, and C is excluded when active.

* * * * *

V-578 [Removed]

V-579 [Amended]

From Lee County, FL; INT Lee County 310° and Sarasota, FL, 156° radials; Sarasota; to St. Petersburg, FL.

* * * * *

Issued in Washington, DC, on June 1, 2023.

Brian Konie, Acting Manager, Airspace Rules and Regulations.

[FR Doc. 2023-12092 Filed 6-6-23; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM22-19-000; Order No. 893]

Incentives for Advanced Cybersecurity Investment

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Final rule; correction.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is correcting a final rule that appeared in the Federal Register on May 3, 2023. The final rule revised the Commission's regulations to provide incentive-based rate treatment for the transmission of electric energy in interstate commerce and the sale of electric energy at wholesale in interstate commerce by utilities for the purpose of benefitting

consumers by encouraging investments by utilities in Advanced Cybersecurity Technology and participation by utilities in cybersecurity threat information sharing programs, as directed by the Infrastructure Investment and Jobs Act of 2021.

DATES: The rule is effective July 3, 2023.

FOR FURTHER INFORMATION CONTACT:

Alan J. Rukin (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502-8502, alan.rukin@ferc.gov.

SUPPLEMENTARY INFORMATION: In FR Doc. 2023-08929 appearing on pages 28348-28380, in the **Federal Register** of Wednesday, May 3, 2023, the following corrections are made:

Preamble Corrections

1. On page 28373, in the second column, the first sentence of paragraph 191 is corrected to read as follows:

191. We note that § 35.48(j) to the Commission's regulations declares that utilities may request CEII treatment for the portions of their cybersecurity incentive-based rate filings that contains CEII. * * *

2. On page 28374, in the third column, the first sentence of paragraph 203 is corrected to read as follows:

203. We note that § 35.48(j) to the Commission's regulations declares that utilities may request CEII treatment for the portions of their cybersecurity incentive-based rate informational reports that contain CEII. * * *

Regulatory Text Corrections

■ 3. Starting on page 28377, in the second column, and going through page 28378, in the second column, in amendatory instruction 2 for § 35.48, paragraphs (d) introductory text, (h)(1), and (j) are corrected to read as follows:

§ 35.48 [Corrected]

* * * * *

(d) *Eligibility criteria.* Pursuant to paragraphs (e) through (j) of this section, a utility may receive incentive-based rate treatment for a cybersecurity investment that:

* * * * *

(h) * * *

(1) A demonstration that the cybersecurity investment satisfies the eligibility criteria, which includes an attestation that cybersecurity investment is not mandatory, as required by paragraph (d)(2) of this section, and that the resulting rate is just and reasonable and not unduly discriminatory or preferential;

* * * * *

(j) *Transmittal of CEII in incentive applications and annual reports.* As

appropriate, any CEII submitted to the Commission in a utility's incentive application made pursuant to paragraph (h) of this section or contained in its reporting requirements made pursuant to paragraph (i) of this section shall be filed consistent with part 388 of this title.

* * * * *

Dated: June 1, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023-12184 Filed 6-6-23; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2023-0015]

RIN 1625-AA08

Special Local Regulation; Horsepower on the Hudson, Hudson River, Castleton-on-Hudson, NY

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a special local regulation on certain waters of the Hudson River near Castleton-on-Hudson, NY, in support of the Horsepower on the Hudson event, reoccurring annually one day in August. This action is necessary to ensure the safety of participants, spectators, and mariners transiting the area from the dangers associated with vessels operating at high speeds during the Horsepower on the Hudson event. This final rule will allow the Coast Guard to enforce vessel movements within two regulated areas in a portion of the Hudson River near Castleton-on-Hudson, NY.

DATES: This rule is effective July 7, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2023-0015 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MSTC Stacy Stevenson, Waterways Management Division, U.S. Coast Guard; telephone 718-354-4197, email D01-SMB-SecNY-Waterways@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port New York
DHS Department of Homeland Security
FR Federal Register
LLNR Light List Number
NPRM Notice of proposed rulemaking
OMB Office of Management and Budget
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On March 17, 2023, the Coast Guard published the Notice of Proposed Rulemaking to establish a permanent Special Local Regulation for the Horsepower on the Hudson event (88 FR 16386). There we stated why we issued the NPRM and invited comments on our proposed regulatory action related to this high-speed boating event. No comments were received during the comment period, which ended April 17, 2023.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041. The Captain of the Port New York (COTP) has determined that to ensure the safety of participants, vessels, and the navigable waters in the vicinity of the high-speed area and the spectator area before, during, and after the event. The purpose of this rule is to protect all waterway users, including event participants and spectators.

IV. Discussion of Comments, Changes, and the Rule

As noted above, no comments were received on the NPRM published March 17, 2023. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a permanent special local regulation to be enforced annually on one day in August. The special local regulation establishes a high-speed area and a spectator zone on the navigable waters of the Hudson River in the vicinity of Castleton-on-Hudson, NY. With this special local regulation, the Coast Guard intends to allow marine traffic to transit via the main navigable channel. The duration of the special local regulation is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled event.

V. Regulatory Analyses

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

Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the special local regulation. With this special local regulation, the Coast Guard intends to allow marine traffic to transit via the main navigable channel. In addition, although this rule restricts access to the waters encompassed by the local regulation, the effect of this rule will not be significant because local waterway users will be notified in advance via public Broadcast Notice to Mariners. This is to ensure the special local regulation will result in minimum impact as the main navigation channel will be maintained, allowing vessels to transit Hudson River outside of the high-speed area or the spectator area. Mariners will therefore be able to plan and either transit through the available transit area or outside the periods of enforcement of the special local regulation. Additionally, mariners may be able to transit the high-speed area or spectator areas with approval from the COTP or designated representative. The entities most likely affected are commercial vessels and pleasure craft engaged in recreational activities.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the regulated areas may be small entities, for the

reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a regulated area lasting 6 hours that would limit persons or vessels from transiting certain regulated areas during the scheduled event. It is categorically excluded from further review under paragraph L[61] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Add § 100.111 to read as follows:

§ 100.111 Special Local Regulation; Horsepower on the Hudson, Hudson River, Castleton-on-Hudson, NY.

(a) *Regulated areas.* The regulations in this section apply to the following regulated areas: (1) *High speed area.* All navigable waters of the Hudson River from Hudson River Lighted Buoy 202 (LLNR 38905) to Hudson River Lighted Buoy 204 (LLNR 38910) east of the navigable channel shoreward outside of the navigational channel.

(2) *Spectator area.* All navigable waters of the Hudson River from Hudson River Lighted Buoy 201 (LLNR 38903) to Hudson River Lighted Buoy 205 (LLNR 38915) west of the navigable channel shoreward outside of the navigational channel.

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

Designated Representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port New York (COTP) in the enforcement of the Special Local Regulation.

Participant means all persons and vessels registered with the event sponsor as a participant in the event.

Spectator means any person or vessel including human-powered craft, which is not designated by the sponsor as a support vessel, in the vicinity of the event with the primary purpose of witnessing the event. Spectator vessels can observe the marine event from the designated spectator area.

(c) *Regulations.* (1) All non-participant persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated areas described in paragraph (a) of this section unless authorized by the COTP or their designated representative.

(2) No participant may transit at high-speed inside the high-speed zone when vessels are in or transiting through the navigational channel.

(d) *Enforcement period.* This special local regulation is in effect annually on a date and time published in the Local Notice to Mariners.

(e) *Information broadcasts.* The COTP or a designated representative will inform the public through Local Notice to Mariners and Broadcast Notices to Mariners of the enforcement period for the regulated area as well as any changes in the planned schedule.

Dated: June 1, 2023.

Z. Merchant,

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

[FR Doc. 2023–12171 Filed 6–6–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0355]

RIN 1625–AA00

Safety Zone; Kanawha River, Charleston, WV

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for all navigable waters of the Kanawha River between mile markers 58.1 and 59.1. The safety zone is needed to protect personnel, vessels, and the marine environment from the potential hazards created by a fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by Captain of the Port Marine Safety Unit Huntington.

DATES: This rule is effective from 8:45 p.m. on June 30, 2023, through 10:15 p.m. on September 4, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2023–0355 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST1 Chelsea Zimmerman, Marine Safety Unit Huntington, U.S. Coast Guard; (304)733–0198, Chelsea.M.Zimmerman@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the

Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because we must establish the safety zone by June 30, 2023, and lack sufficient time to request public comments and respond to these comments before the safety zone must be established. Waiting for a full comment period to run would inhibit the Coast Guard’s ability to keep the public safe from the hazards associated with a fireworks display and the ability to minimize the impact to vessel traffic on the navigable waterway.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because immediate action is needed to respond to the potential safety hazards associated with the Nitro Memorial Day Celebration taking place on the Kanawha River between mile marker 43 and mile marker 44.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Ohio Valley (COTP) has determined that potential hazards associated with Live on the Levee 2023 starting June 30, 2023, will be a safety concern for anyone on the Kanawha River from mile marker 58.1 to mile marker 59.1. This rule is needed to protect personnel, vessels, and the marine environment from potential hazards associated with a fireworks display.

IV. Discussion of the Rule

This rule establishes a safety zone from 8:45 p.m. through 10:15 p.m. on June 30, 2023 with a rain date of July 1, 2023, or July 2, 2023, and a safety zone from 8:45 p.m. through 10:15 p.m. on July 4, 2023, with a rain date of September 4, 2023. The safety zone will cover all navigable waters between mile markers 58.1 and 59.1 on the Kanawha River. The duration of the safety zone is intended to protect personnel, vessels, and the marine environment from potential hazards created by a fireworks display.

No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or

a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of the COTP. To seek permission to enter, contact the COTP or a designated representative via VHF-FM channel 16, or through Marine Safety Unit Huntington at 304-733-0198. Persons and vessels permitted to enter the safety zone must comply with all lawful orders or directions issued by the COTP or designated representative. The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Marine Safety Information Bulletins (MSIBs), as appropriate.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the safety zone. This safety zone impacts a 1-mile stretch of the Kanawha River for a limited duration of less than 2 hours. Vessel traffic will be informed about the safety zone through local notices to mariners. Moreover, the Coast Guard will issue Broadcast Notices to Mariners via VHF-FM marine channel 16 about the zone and the rule allows vessels to seek permission to transit the zone.

B. Impact on Small Entities

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

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments,

because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone of limited duration of less than 2 hours that will limit access of the Kanawha River from mile marker 58.1 to mile marker 59.1. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

■ 2. Add § 165.T08–0355 to read as follows:

§ 165.T08–0355 Safety Zone; Kanawha River, Charleston, WV.

(a) *Location.* The following area is a safety zone: All navigable waters of the Kanawha River from mile marker 58.1 to mile marker 59.1 near Haddad Riverfront Park, Charleston, WV.

(b) *Definitions.* *Designated representative* means a Coast Guard Patrol Commander (PATCOM), including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Ohio Valley (COTP) in the enforcement of the regulations in this section.

Participant means all persons and vessels registered with the event sponsor as a participant in the race.

(c) *Regulations.* (1) The Coast Guard may patrol the event area under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on Channel 16 VHF–FM (156.8 MHz) by the call sign “PATCOM.”

(2) All persons and vessels not registered with the sponsor as participants or official patrol vessels are considered spectators. The “official patrol vessels” consist of any Coast Guard, state or local law enforcement and sponsor provided vessels assigned or approved by the Commander, Eighth Coast Guard District, to patrol the event.

(3) Spectator vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer and will be operated at a no wake speed in a manner which will not endanger participants in the event or any other craft.

(4) No spectator shall anchor, block, loiter, or impede the through transit of participants or official patrol vessels in the regulated area during the effective dates and times, unless cleared for entry by or through an official patrol vessel.

(5) The Patrol Commander may forbid and control the movement of all vessels in the regulated area. When hailed or

signaled by an official patrol vessel, a vessel shall come to an immediate stop and comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(6) Any spectator vessel may anchor outside the regulated area specified above, but may not anchor in, block, or loiter in a navigable channel.

(7) The Patrol Commander may terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property.

(8) To seek permission to enter, contact the COTP or the COTP’s representative by VHF–FM marine radio channel 16 or phone at 1–800–253–7465. Those in the regulated area must comply with all lawful orders or directions given to them by the COTP or the designated representative.

(9) The COTP will provide notice of the regulated area through advanced notice via local notice to mariners and broadcast notice to mariners and by on-scene designated representatives.

(d) *Enforcement periods.* (1) The safety zone described in paragraph (a) will be enforced from 8:45 p.m. through 10:15 p.m. on June 30, 2023, with a rain date of July 1, 2023, or July 2, 2023.

(2) The safety zone described in paragraph (a) will be enforced from 8:45 p.m. through 10:15 p.m. on July 4, 2023, with a rain date of September 4, 2023.

Dated: May 30, 2023.

H.R. Mattern,

Captain, U.S. Coast Guard, Captain of the Port Ohio Valley.

[FR Doc. 2023–12151 Filed 6–6–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0420]

RIN 1625–AA00

Safety Zone; Potomac River, Between Charles County, MD and King George County, VA

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

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Potomac River. This action is necessary to provide for the safety of life on these navigable waters at the old Governor Harry W.

Nice/Senator Thomas “Mac” Middleton Memorial (US–301) Bridge during demolition operations from June 10, 2023 through July 14, 2023. This rule will prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port, Maryland-National Capital Region or a designated representative.

DATES: This rule is effective from June 7, 2023, through July 14, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2023–0420 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email BM1 Michael Klopp, Sector Maryland-NCR, Waterways Management Division, U.S. Coast Guard: telephone 410–576–2674, email MDNCRWaterways@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On May 18, 2023, Skanska-Corman-McLean, Joint Venture, notified the Coast Guard that the company will be conducting bridge demolition operations at the old Governor Harry W. Nice/Senator Thomas “Mac” Middleton Memorial (US–301) Bridge. The work described by the contractor requires the use of explosives, and debris removal and hydrographic surveying equipment. During explosive detonation periods, there can be no marine traffic transiting near or around the bridge for safety reasons. On April 13, 2023, the Coast Guard was notified that the explosive demolition of the steel trusses would be completed no later than June 9, 2023. However, the contractor reported that due to inclement weather and explosive supply, they now anticipate being completed no later than July 14, 2023.

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good

cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. Demolition operations involving explosives will occur at the old Governor Harry W. Nice/Senator Thomas “Mac” Middleton Memorial (US-301) Bridge across the Potomac River and immediate action is needed to respond to the potential safety hazards associated with bridge demolition. Hazards from the demolition operations include low-hanging or falling ropes, cables, large piles and cement cast portions, dangerous projectiles, and/or other debris. We must establish this safety zone by June 10, 2023, to guard against these hazards.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is needed to respond to the potential safety hazards associated with demolition operations at the old Governor Harry W. Nice/Senator Thomas “Mac” Middleton Memorial (US-301) Bridge.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port (COTP) has determined that potential hazards associated with bridge demolition starting June 10, 2023, will be a safety concern for anyone near the old Governor Harry W. Nice/Senator Thomas “Mac” Middleton Memorial (US-301) Bridge demolition site. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the bridge is being demolished.

IV. Discussion of the Rule

The COTP is establishing a safety zone from 12:01 a.m. on June 10, 2023, to 11:59 p.m. on July 14, 2023. The safety zone will cover the following areas:

Area 1. All navigable waters of the Potomac River, encompassed by a line connecting the following points beginning at 38°21′38.74″ N, 077°00′52.99″ W, thence east to 38°21′52.67″ N, 076°59′2.51″ W, thence south along the shoreline to 38°21′43.45″ N, 076°58′56.64.22″ W, thence west to 38°21′28.91″ N,

077°00′52.81″ W, and thence north along the shoreline back to the beginning point, located in King George County, VA.

Area 2. All navigable waters of the Potomac River, within 1,500 feet of the explosives barge located in approximate position 38°21′21.47″ N, 076°59′45.40″ W.

The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled demolition and debris removal. Except for marine equipment and vessels operated by Skanska-Corman-McLean, Joint Venture, or its subcontractors, no vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The term designated representative also includes an employee or contractor of Skanska-Corman-McLean, Joint Venture for the sole purposes of designating and establishing safe transit corridors, to permit passage into or through the safety zone, or to notify vessels and individuals that they have entered the safety zone and are required to leave.

The COTP will notify the affected segments of the public by all appropriate means, as provided at 33 CFR 165.7(a), of the establishment of the safety zone. Such means of notification will include, but will not be limited to, Broadcast Notice to Mariners. Vessels or persons violating this rule are subject to the penalties set forth in 46 U.S.C. 70036. The regulatory text appears at the end of this document.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location and time of year of the safety zone. The temporary safety zone is approximately 3000 yards in width and 350 yards in

length. This safety zone would impact a small designated area of the Potomac River for 35 total days, but we anticipate that there would be no vessels that are unable to conduct business. Excursion vessels and commercial fishing vessels are not impacted by this rulemaking. Excursion vessels do not operate in this area, and commercial fishing vessels are not impacted because of their draft. Some towing vessels may be impacted, but bridge project personnel have been conducting outreach throughout the project in order to coordinate with those vessels. During explosive detonations, the Coast Guard will have law enforcement assets on-scene to enforce the safety zone immediately before, during and after explosive detonations. Moreover, the Coast Guard will issue Local Notices to Mariners and a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone.

B. Impact on Small Entities

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

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

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s

responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not

individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting 35 total days that would prohibit entry within a portion of the Potomac River. Normally such actions are categorically excluded from further review under paragraph L60 of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

- 2. Add § 165.T05-0420 to read as follows:

§ 165.T05-0420 Safety Zone; Potomac River, Between Charles County, MD and King George County, VA.

(a) *Location.* The following areas are safety zones. These coordinates are based on North American Datum of 1983 (NAD 83).

(1) *Area 1.* All navigable waters of the Potomac River, encompassed by a line connecting the following points beginning at 38°21'38.74" N, 077°00'52.99" W, thence east to 38°21'52.67" N, 076°59'2.51" W, thence south along the shoreline to 38°21'43.45" N, 076°58'56.64.22" W, thence west to 38°21'28.91" N, 077°00'52.81" W, and thence north along the shoreline back to the beginning point, located in King George County, VA.

(2) *Area 2.* All navigable waters of the Potomac River within 1,500 feet of the explosives barge located in approximate position 38°21'21.47" N, 076°59'45.40" W.

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

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

Designated representative means any Coast Guard commissioned, warrant, or petty officer, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the COTP in the enforcement of the safety zone. The term also includes an employee or contractor of Skanska-Corman-McLean, Joint Venture for the sole purposes of designating and establishing safe transit corridors, to permit passage into or through the safety zone, or to notify vessels and individuals that they have entered the safety zone and are required to leave.

Marine equipment means any vessel, barge or other equipment operated by Skanska-Corman-McLean, Joint Venture, or its subcontractors.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, except for marine equipment, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP, Skanska-Corman-McLean, Joint Venture, or the COTP's designated representative. If a vessel or person is notified by the COTP, Skanska-Corman-McLean, Joint Venture, or the COTP's designated representative that they have entered the safety zone without permission, they are required to immediately leave in a safe manner following the directions given.

(2) Mariners requesting to transit any of the safety zone areas in paragraph (a) of this section must first contact the Skanska-Corman-McLean, Joint Venture designated representative, the on-site project manager by telephone number 781-953-1465 or on Marine Band Radio VHF-FM channels 13 and 16 from the pusher tug Miss Stacy. If permission is granted, mariners must proceed at their own risk and strictly observe any and all instructions provided by the COTP, Skanska-Corman-McLean, Joint Venture, or designated representative to the mariner regarding the conditions of entry to and exit from any area of the safety zone. The COTP or the COTP's representative can be contacted by telephone number 410-576-2693 or on Marine Band Radio VHF-FM channel 16 (156.8 MHz).

(3) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue marine information broadcasts on VHF-FM marine band radio announcing specific enforcement dates and times.

(d) *Enforcement officials.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(e) *Enforcement period.* This section will be enforced from 12:01 a.m. on June 10, 2023, to 11:59 p.m. on July 14, 2023.

Dated: June 1, 2023.

David E. O'Connell,

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

[FR Doc. 2023-12169 Filed 6-6-23; 8:45 am]

BILLING CODE 9110-04-P

POSTAL REGULATORY COMMISSION

39 CFR Parts 3006 and 3011

[Docket No. RM2023-6; Order No. 6530]

RIN 3211-AA35

Non-Public Materials

AGENCY: Postal Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission adopts amendments to rules relating to non-public materials and the Freedom of Information Act (FOIA).

DATES: Effective July 7, 2023.

ADDRESSES: For additional information, Order No. 6530 can be accessed electronically through the Commission's website at <https://www.prc.gov>.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Background
- II. Basis and Purpose of Final Rules
- III. Final Rules

I. Background

On March 3, 2023, the Commission issued a notice of proposed rulemaking that proposed amendments to its rules to exempt non-public materials submitted to the Commission in connection with activities under 39 U.S.C. 407(b)(2)(A) from the rules in 39 CFR part 3011, and amendments to certain rules pertaining to FOIA requests in 39 CFR part 3006.¹ The

¹ Notice of Proposed Rulemaking Regarding Materials Provided to the Commission in Connection With Activities Under 39 U.S.C. 407(b)(2)(A), March 3, 2023, at 2 (Order No. 6451).

Commission initiated Docket No. RM2023-6 to consider the proposed amendments to 39 CFR parts 3006 and 3011, invited interested persons to submit comments, and appointed a Public Representative. Order No. 6451 at 19. On April 6, 2023, the Commission received comments filed by four parties: the Postal Service,² the U.S. Chamber of Commerce (COC),³ the Lexington Institute (LI),⁴ and the Public Representative.⁵

II. Basis and Purpose of Final Rules

All four commenters support the amendments proposed in Order No. 6451. *See* Postal Service Comments at 2; COC Comments at 2; LI Comments at 2; PR Comments at 1. In addition to supporting the proposed amendments, they have various suggestions for the Commission to consider for the final rules. After reviewing the comments, the Commission adopts the amended rules as proposed in Order No. 6451, with revisions in the final § 3006.30(e) to provide greater clarity with respect to the procedures for FOIA requests for records submitted by a person other than the Postal Service.

The Postal Service suggests that the Commission expand the scope of the final rules beyond the 39 U.S.C. 407(b)(2)(A) context to include non-public materials submitted to the Commission in Executive Branch interagency deliberations generally and in proceedings to which the Commission's *ex parte* rules do not apply. Postal Service Comments at 3-7. The Commission declines to do so because Postal Service's suggested expansion is beyond the scope of this rulemaking. The scope of this rulemaking as articulated throughout Order No. 6451 is narrowly focused on the non-public materials provided to the Commission in connection with the coordination activities under 39 U.S.C. 407(b)(2)(A). The Commission notes it could further amend the regulations in the future if necessary, and notes that any interested person may file a petition requesting that the Commission consider such a rule change. 39 CFR 3010.201(b)(1).

The Public Representative suggests that there may be less formal circumstances in the 39 U.S.C. 407(b)(2)(A) context, in which non-

² Comments of the United States Postal Service, April 6, 2023 (Postal Service Comments).

³ Comments of U.S. Chamber of Commerce, April 6, 2023 (COC Comments).

⁴ Comments of the Lexington Institute, April 6, 2023 (LI Comments).

⁵ Public Representative's Comments Concerning Notice of Proposed Rulemaking, April 6, 2023 (PR Comments).

public materials could be construed as being informally requested by the Commission from the Postal Service, a scenario that the proposed rulemaking does not cover. PR Comments at 5. The Commission notes her concern is hypothetical in nature and she does not present any concrete improvement in the final rules. The Commission further takes note of her suggestion that the Commission could further amend the regulations in the future if necessary. *See id.* at 5.

COC suggests that the Postal Service is not a participant in the coordination activities under 39 U.S.C. 407(b)(2)(A) (in contrast with their participation in the liaison activities under 39 U.S.C. 407(b)(2)(D)) and no materials submitted by the Postal Service can be considered to be 39 U.S.C. 407(b)(2)(A) materials. COC Comments at 2-3. The Commission declines to consider this issue in this docket. Potential distinctions between 39 U.S.C. 407(b)(2)(A) and 39 U.S.C. 407(b)(2)(D) are issues beyond the scope of this rulemaking, and adopting the Commission's proposal does not rest upon differentiating between them. Regardless, the Commission reiterates that its proposal (and the underlying legal authority and rationale articulated for adopting it) encompass materials provided to the Commission *in connection with* activities under 39 U.S.C. 407(b)(2)(A). *See generally* Order No. 6451. Accordingly, the Commission rejects the narrow interpretation that the proposed rules should not apply to any materials submitted by the Postal Service to the Commission *in connection with* the coordination activities under 39 U.S.C. 407(b)(2)(A).

COC and LI both raise concerns for the possibility of decreased transparency. COC Comments at 4; LI Comments at 2. The Commission notes that their concern is hypothetical in nature at this time. In addition, they do not specify any information or materials that are transparent now under existing rules but would no longer be transparent when the proposal is implemented. Moreover, they do not suggest any concrete rule changes to address their transparency concern. The Commission believes that the crucial and present need to ensure the free flow of information in the interagency deliberative process outweighs any hypothetical reduced transparency. In addition, the pathway through FOIA requests under 39 CFR part 3006 remains open. Finally, proposed § 3011.100(c)(3) provides that if any non-public materials submitted to the Commission in connection with activities under 39 U.S.C. 407(b)(2)(A) are also provided via one of the

enumerated four methods, then that production responsive to a subpoena or filing would be subject to the requirements in 39 CFR part 3011, including the access and public disclosure rules in 39 CFR part 3011, subparts C and D. Order No. 6451 at 11–12.

The Public Representative requests two clarifications for the proposed amendments in the FOIA rules in 39 CFR part 3006. First, she requests the Commission to clarify whether the proposed § 3006.30(d)(1) and (e)(1) apply to all records (both public and non-public) submitted by the Postal Service or any other person, respectively, and not merely to non-public records as stated in the existing regulation. PR Comments at 6. The Commission clarifies that the proposed § 3006.30(d)(1) and (e)(1) apply to all records (both public and non-public), because FOIA applies to all records and not merely non-public records. *See* 5 U.S.C. 552(f)(2)(A); 39 CFR 3006.2(b). The Commission notes that the existing heading for § 3006.30(e) (“Requesting a record submitted under seal by a person other than the Postal Service”) will no longer be accurate for the amended rules. Therefore, in the final rules, the Commission shall revise the heading for final § 3006.30(e) to delete the phrase “under seal.”

Second, the Public Representative requests the Commission to clarify whether the notification procedures in the existing § 3006.70(b)–(d) apply to requests for all records (designated as non-public or otherwise) submitted by a person other than the Postal Service, or whether the seemingly more limited notification process in the proposed § 3006.30(e)(1) apply only to requests for records not designated as non-public. PR Comments at 6–7. The Commission clarifies that the notification procedures in the existing § 3006.70(b)–(d) apply only to requests for records designated as non-public, as denoted by the consistent reference to “non-public materials” throughout the existing § 3006.70. The Commission further clarifies that the more limited notification process in the proposed § 3006.30(e)(1) is intended to apply only to requests for records submitted by a person other than the Postal Service in instances in which § 3006.70 does not apply. Proposed § 3006.30(e)(1) does not overlap with the existing § 3006.70(b)–(d), because § 3006.30(e)(1) and 3006.70(b)–(d) come into operation only after the Commission determines that referral to another Federal agency under newly added § 3006.35(b) is not appropriate, and they detail procedures for two different types of FOIA requests

(existing § 3006.70 pertains to FOIA requests for materials designated as non-public, and proposed § 3006.30(e)(1) pertains to FOIA requests in all other instances). In the final § 3006.30(e)(1), the Commission amends the rule to clarify the bifurcated procedures for these two types of FOIA requests if the Commission determines that referral to another Federal agency under § 3006.35(b) is not appropriate. In addition, in the final § 3006.30(e)(1)(ii), the Commission finds it reasonable to provide an identical deadline for the submitter to respond to the FOIA request in these circumstances as it does in existing § 3006.70(c), *i.e.*, within seven days of the date of the notice.

IV. Final Rules

The Commission adopts final rules to exempt non-public materials submitted to the Commission in connection with activities under 39 U.S.C. 407(b)(2)(A) from the rules in 39 CFR part 3011, and to revise certain rules pertaining to FOIA requests in 39 CFR part 3006.

By the Commission.

Erica A. Barker,
Secretary.

List of Subjects

39 CFR Part 3006

Administrative practice and procedure, Freedom of information, Reporting and recordkeeping requirements.

39 CFR Part 3011

Administrative practice and procedure, Confidential business information.

For the reasons stated in the preamble, the Commission amends chapter III of title 39 of the Code of the Federal Regulations as follows:

PART 3006—PUBLIC RECORDS AND FREEDOM OF INFORMATION ACT

■ 1. The authority citation for part 3006 is revised to read as follows:

Authority: 5 U.S.C. 552; 39 U.S.C. 407, 503, 504.

■ 2. Amend § 3006.30 by revising paragraphs (d) and (e) to read as follows:

§ 3006.30 Relationship among the Freedom of Information Act, the Privacy Act, and the Commission’s procedures for according appropriate confidentiality.

* * * * *

(d) *Requesting a Postal Service record.* The Commission maintains custody of records that are both Commission and Postal Service records. Except when the Postal Service submits materials to the

Commission in connection with activities under 39 U.S.C. 407(b)(2)(A), in all other instances that the Postal Service submits materials to the Commission that the Postal Service reasonably believes to be exempt from public disclosure, the Postal Service shall follow the procedures described in part 3011, subpart B of this chapter.

(1) A request made pursuant to FOIA for Postal Service records shall be referred to the Postal Service; and

(2) A request made pursuant to part 3011 of this chapter for records designated as non-public by the Postal Service shall be considered under the applicable standards set forth in that part.

(e) *Requesting a record submitted by a person other than the Postal Service.*

The Commission maintains records of a confidential nature submitted by persons other than the Postal Service as non-public materials.

(1) A request made pursuant to FOIA for records submitted by a person other than the Postal Service shall adhere to the applicable procedures of § 3006.35. If such a FOIA request is not referred to a different Federal agency pursuant to § 3006.35(b), the Commission shall consider it in light of all applicable exemptions and in accordance with the following procedures:

(i) If such materials are designated as non-public, the Commission shall follow the procedures appearing in § 3006.70(b)–(d) in determining the FOIA request; or

(ii) In all other instances, the Commission shall determine the FOIA request after notifying the person of the FOIA request and providing the person with an opportunity to respond within seven days of the date of the notice under the following circumstances:

(A) The records sought contain confidential commercial information that may be protected from disclosure under 5 U.S.C. 552(b)(4); and

(B) The Commission determines that it may be required to disclose the records, provided that at least one of the following applies:

(1) The requested information has been designated in good faith by the submitter as information considered protected from disclosure under 5 U.S.C. 552(b)(4); or

(2) The Commission has a reason to believe that the requested information may be protected from disclosure under 5 U.S.C. 552(b)(4), but has not yet determined whether the information is protected from disclosure; and

(2) A request made pursuant to part 3011 of this chapter for records designated as non-public by a person other than the Postal Service shall be

considered under the applicable standards set forth in that part.

■ 3. Add § 3006.35 to read as follows:

§ 3006.35 Consultation, referral, and coordination.

(a) *Consultation.* If records originated with the Commission but contain within them information of significance to another Federal agency or office, the Commission will typically consult with that other entity prior to making a release determination.

(b) *Referral.* In addition to referring all requests made pursuant to FOIA for Postal Service records to the Postal Service as specified by § 3006.30(d)(1), if the Commission believes that a different Federal agency is best able to determine whether to disclose the record, the Commission will typically refer responsibility for responding to the request regarding that record to that agency. Ordinarily, the agency that originated the record is presumed to be the best agency to make the disclosure determination. Whenever the Commission refers any part of the responsibility for responding to a request to another agency, the Commission will notify the requester of the referral, including the name of the agency and that agency's FOIA contact information.

(c) *Coordination.* The standard referral procedure is not appropriate where disclosure of the identity of the Federal agency to which the referral would be made could harm an interest protected by an applicable exemption, such as the exemptions that protect personal privacy or national security interests. For example, if a non-law enforcement agency responding to a request for records on a living third party locates within its files records originating with a law enforcement agency, and if the existence of that law enforcement interest in the third party was not publicly known, then to disclose that law enforcement interest could cause an unwarranted invasion of the personal privacy of the third party. Similarly, if the Commission locates within its files material originating with an Intelligence Community agency, and the involvement of that agency in the matter is classified and not publicly acknowledged, then to disclose or give attribution to the involvement of that Intelligence Community agency could cause national security harms. In such instances, in order to avoid harm to an interest protected by an applicable exemption, the Commission will coordinate with the originating agency to seek its views on disclosure of the record. The Commission then will notify the requester of the release

determination for the record that is the subject of the coordination.

(d) *Classified information.* On receipt of any request involving classified information, the Commission will determine whether the information is currently and properly classified in accordance with applicable classification rules. Whenever a request involves a record containing information that has been classified or may be appropriate for classification by another agency under any applicable executive order concerning the classification of records, the Commission must refer the responsibility for responding to the request regarding that information to the agency that classified the information, or that should consider the information for classification. Whenever an agency's record contains information that has been derivatively classified (for example, when it contains information classified by another agency), the Commission must refer the responsibility for responding to that portion of the request to the agency that classified the underlying information.

(e) *Timing of responses to consultations and referrals.* All consultations and referrals received by the Commission will be handled according to the date that the first agency received the perfected FOIA request.

(f) *Agreements regarding consultations and referrals.* The Commission may establish agreements with other agencies to eliminate the need for consultations or referrals with respect to particular types of records.

■ 4. Amend § 3006.70 by revising paragraph (a) to read as follows:

§ 3006.70 Submission of non-public materials by a person other than the Postal Service.

(a) *Overlap with treatment of non-public materials.* Any person who submits materials to the Commission (submitter) that the submitter reasonably believes to be exempt from public disclosure shall follow the procedures described in part 3011, subpart B of this chapter, except when the submitter submits materials to the Commission in connection with activities under 39 U.S.C. 407(b)(2)(A).

* * * * *

PART 3011—NON-PUBLIC MATERIALS PROVIDED TO THE COMMISSION

■ 5. The authority citation for part 3011 is revised to read as follows:

Authority: 39 U.S.C. 407, 503, 504.

■ 6. Amend § 3011.100 by adding paragraph (c) to read as follows:

§ 3011.100 Applicability and scope.

* * * * *

(c) *Exemption.* Except for the circumstances described in paragraphs (c)(1) through (3) of this section, the rules in this part do not apply to any non-public materials (and the non-public information contained therein) provided to the Commission by any person in connection with activities under 39 U.S.C. 407(b)(2)(A).

(1) The following persons shall adhere to the requirements of § 3011.302 regarding the non-dissemination, use, and care of the non-public materials (and the non-public information contained therein) provided to the Commission in connection with activities under 39 U.S.C. 407(b)(2)(A).

(i) Members of the Commission;
(ii) Commission employees; and
(iii) Non-employees who have executed appropriate non-disclosure agreements (such as contractors, attorneys, or subject matter experts) assisting the Commission in carrying out its duties.

(2) Any person that discovers that non-public materials provided to the Commission in connection with activities under 39 U.S.C. 407(b)(2)(A) have been inadvertently included within materials that are accessible to the public shall follow the procedures of § 3011.205.

(3) Non-public materials provided to the Commission in connection with activities under 39 U.S.C. 407(b)(2)(A) are construed to exclude each of the following:

(i) Non-public materials provided by the Postal Service to the Commission pursuant to a subpoena issued in accordance with part 3013 of this chapter;
(ii) Non-public materials filed in response to an information request issued in accordance with § 3010.170 of this chapter;

(iii) Non-public materials filed in compliance with any applicable Postal Service reporting required under part 3050 or part 3055 of this chapter; and
(iv) Non-public materials filed in a Commission docket.

■ 7. Amend § 3011.103 by revising paragraph (a) to read as follows:

§ 3011.103 Commission action to determine non-public treatment.

(a) The inadvertent failure of a submitter to concomitantly provide all documents required by § 3011.200(a) does not prevent the Commission from according appropriate confidentiality to non-public information contained with

any materials provided to the Commission. Information requests as described in § 3010.170 of this chapter, preliminary notices, or interim orders may be issued to help the Commission determine the non-public treatment, if any, to be accorded to the materials claimed by any person to be non-public.

* * * * *

[FR Doc. 2023-12109 Filed 6-6-23; 8:45 am]

BILLING CODE 7710-FW-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 2, 702, 703, 704, 707, 716, 717, 720, 723, 725, and 790

[EPA-HQ-OPPT-2021-0419; FRL-8223-02-OCSPP]

RIN 2070-AK68

Confidential Business Information Claims Under the Toxic Substances Control Act (TSCA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing new and amended requirements concerning the assertion and treatment of confidential business information (CBI) claims for information reported to or otherwise obtained by EPA under the Toxic Substances Control Act (TSCA). Amendments to TSCA in 2016 included many new provisions concerning the assertion, Agency review, and treatment of confidentiality claims. This document finalizes procedures for submitting such claims in TSCA submissions. It addresses issues such as substantiation requirements, exemptions, electronic reporting enhancements (including expanding electronic reporting requirements), maintenance or withdrawal of confidentiality claims, and provisions in current rules that are inconsistent with amended TSCA. The rule also addresses EPA procedures for reviewing and communicating with TSCA submitters about confidentiality claims.

DATES: This final rule is effective on August 7, 2023.

ADDRESSES: The docket for this action, identified under docket identification (ID) number EPA-HQ-OPPT-2021-0419, is available online at <https://www.regulations.gov> or in person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket) in the Environmental Protection Agency Docket Center (EPA/DC). Please review the visitor instructions and additional

information about the docket available at <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Jessica Barkas, Project Management and Operations Division (7401), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 250-8880; email address: barkas.jessica@epa.gov.

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SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

You may be affected by this action if you have submitted or expect to submit information to EPA under TSCA and have made or expect to make any confidentiality claims concerning that information. Persons who seek information on such submissions may also be affected by this action. 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:

- Manufacturers, importers, or processors of chemical substances (NAICS codes 325 and 324110), e.g., chemical manufacturing and petroleum refineries.

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

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

The statutory authority for this action is provided by section 14 of TSCA, as amended (15 U.S.C. 2601 *et seq.*). TSCA section 14 (15 U.S.C. 2613) includes requirements for asserting confidentiality claims and for EPA review of such claims to determine whether the information is entitled to the requested protections. Section 14 includes provisions that explicitly contemplate promulgation of implementation rules by the Administrator. For example, TSCA section 14(c)(1)(A) requires persons seeking to protect information from disclosure to assert such a claim concurrent with submission of the information, "in accordance with such

rules regarding a claim for protection from disclosure as the Administrator has promulgated or may promulgate pursuant to this title." In addition, TSCA section 14(c)(3) requires that confidentiality claims be substantiated "in accordance with such rules as the Administrator has promulgated or may promulgate pursuant to this section." Other provisions in TSCA section 14 further recognize the role of the Administrator in specifying the form and manner in which the requirements of TSCA section 14 should be fulfilled (e.g., manner of submitting confidentiality claims, manner in which EPA will make required notices under TSCA sections 14(g) or 14(e)).

Discussion of additional authority to require electronic reporting under TSCA may be found in the preamble to the final rule entitled "Electronic Reporting under the Toxic Substances Control Act; Final Rule" (Ref. 1). In addition, the Government Paperwork Elimination Act (GPEA), 44 U.S.C. 3504, provides that, when practicable, Federal organizations use electronic forms, electronic filings, and electronic signatures to conduct official business with the public.

C. What action is the Agency taking?

EPA is finalizing new and amended requirements concerning the assertion and treatment of CBI claims under TSCA, 15 U.S.C. 2601, *et seq.* The Frank R. Lautenberg Chemical Safety for the 21st Century Act of 2016, Public Law 114-182 (hereafter "the Lautenberg amendments"), made significant amendments to TSCA, including new provisions governing the assertion and review of CBI claims that EPA is implementing in this action.

In this document, EPA is finalizing specific procedures for submitting and supporting CBI claims under TSCA, including among other things: (1) substantiation requirements applicable at the time of submission; (2) electronic reporting requirements; (3) requirements to provide certification statements and generic names when making confidentiality claims; (4) treatment of information used for TSCA purposes that EPA has authority to require under TSCA but was originally submitted via other means; and (5) maintenance and withdrawal of confidentiality claims.

EPA is also finalizing specific procedures for reviewing and communicating with TSCA submitters about confidentiality claims, including requirements for submitters to maintain contact information, and procedures for EPA to provide notices to submitters concerning their claims.

EPA is finalizing new provisions, as well as amending and reorganizing

existing provisions concerning assertion of confidentiality claims under TSCA. Regulatory provisions concerning TSCA CBI claims are currently spread over several parts in the Code of Federal Regulations (CFR). EPA has general provisions regarding confidentiality claims at 40 CFR part 2, subpart B. Those general provisions are accompanied by sections pertaining to confidentiality for many of the statutes administered by the Agency. The TSCA-specific provisions of the Agency's general business confidentiality regulations are at 40 CFR 2.306. In addition, many of the specific TSCA regulations in 40 CFR contain their own provisions regarding CBI, such as in 40 CFR part 711 (Chemical Data Reporting) and 40 CFR part 720 (Premanufacture Notification).

In this final rule, most procedural requirements for asserting and maintaining confidentiality claims are organized in a new part of 40 CFR, *i.e.*, in part 703. The provisions in 40 CFR part 703 will apply to any TSCA submission, except as modified elsewhere by more specific provisions in 40 CFR part 2 or other TSCA-specific regulations in Title 40 of the CFR.

D. What are the estimated incremental economic impacts of this action?

EPA has evaluated the potential incremental impacts of this rulemaking, including alternative options. The details are presented in the economic analysis prepared for the rule (Ref. 2), which is available in the docket and is briefly summarized here. The benefits of the rule include improvements to EPA's management of CBI, specifically in cases of deficient claims, and improved communication and increased public transparency for chemical information. The rule is expected to decrease the frequency of submitter error and increase efficiency in the processes for asserting and maintaining CBI claims. Lastly, the rule will bring TSCA confidentiality regulations in line with the changes to TSCA section 14 brought about by the Lautenberg amendments.

EPA estimates that the public will incur a one-time burden and cost of approximately 2,945 hours with an associated cost of approximately \$272,804 in the first year after the rule is finalized and an annual, ongoing burden of approximately 523 hours with an associated cost of approximately \$45,529 in each following year.

II. Background

The Lautenberg amendments included several significant changes to TSCA section 14. These include requirements that persons submitting

information under TSCA substantiate most confidentiality claims at the time of submission, as well as additional statement, certification, and generic name requirements. Under TSCA section 14(e), in order to maintain most claims beyond a 10-year period, submitters are required to reassert and resubstantiate those claims before the end of that 10-year period.

Several new requirements also apply to EPA, including requirements in TSCA section 14(g) to review and approve or deny all chemical identity CBI claims asserted since the Lautenberg amendments were enacted concerning substances that are or have been offered for commercial distribution, as well as a subset of all other confidentiality claims. Such reviews must be completed within 90 days of assertion of the claim. Under TSCA sections 8 and 14, EPA must also review all confidentiality claims for the chemical identity of substances listed as active on the TSCA Inventory and assign and apply unique identifiers (UIDs) to substances with approved confidentiality claims for chemical identity. The amendments to TSCA section 14 also expanded the categories of people who may now access TSCA CBI. These new provisions have been discussed in previous documents published in the **Federal Register** (see *e.g.*, Refs. 3, 4, and 5).

Some TSCA regulations promulgated or amended since the Lautenberg amendments have included confidentiality provisions conforming to the amendments (*e.g.*, Chemical Data Reporting at 40 CFR 711.30 and Active/Inactive Inventory Reporting at 40 CFR 710.37). The final rule includes provisions intended to implement many of the new requirements in TSCA section 14 for the remaining TSCA regulations, especially requirements for asserting a CBI claim and procedures for EPA review of such claims. Further background information and a detailed explanation of the proposed rule is included in the preamble to the proposed rule (Ref. 6).

III. Summary of Response to Public Comments

In response to the proposed rule, EPA received eighteen public comments. The commenters include trade associations, non-governmental organizations, consultants, and individuals (two anonymous). Major comments are discussed in the context of particular provisions in Unit IV. A more detailed discussion is available in the Response to Comment Document for this rule, which is available in the docket (Ref. 8).

IV. Summary of the Final Rule

A. Existing Regulations Governing Confidentiality Under TSCA

The final rule centralizes most CBI-related procedures in a new part of the TSCA regulations, 40 CFR part 703. This new part also largely replaces TSCA-specific CBI regulations in 40 CFR 2.306, though a few provisions do remain regarding, *e.g.*, the applicability of the Agency's public information rules to TSCA CBI in general and procedures for disclosure of information under special circumstances described in TSCA sections 14(d)(2) through (7). Section 2.306 has been updated in some provisions to conform to the timeframes specified for notice under TSCA section 14(g).

In some cases, such as the regulations implementing TSCA section 14(d)(2) and (7), the final rule retains a notice requirement that is not required by TSCA but which has historically been a feature of EPA's 40 CFR part 2, subpart B, regulations. EPA received some comments about the proposal to retain these notice requirements in the rules, but notes that TSCA does not prohibit providing such notice and that especially in the case of rarely used disclosure provisions, providing notice to the person who asserted the CBI claim does not tend to significantly increase Agency burden or diminish the public availability of information. Providing notice would also tend to reduce confusion for the person who asserted the CBI claim and reduce the possibility of unnecessary conflict over the handling of the information.

B. Purpose and Applicability

EPA has somewhat revised 40 CFR 703.1 in response to public comment but retains the proposed provisions concerning the scope of information that is considered "reported to or otherwise obtained by EPA pursuant to TSCA or its implementing regulations," particularly that data need not have been submitted pursuant to an exercise of TSCA authority in order for it to be considered obtained under TSCA.

Some commenters criticized the scope provisions as greatly expanding the range of information considered submitted under TSCA, while others criticized the proposal as greatly narrowing this range. EPA responds to both groups of commenters that the proposal was not intended to modify the scope of TSCA jurisdiction, but rather to clarify it. EPA also notes that the provision regarding what is considered obtained under TSCA in the final rule works in tandem with the retention of disclosure limits (for reasons other than

business confidentiality) in the statute under which the information was originally provided to EPA.

EPA has modified the proposed regulation text in response to some of these comments. The final rule clarifies and reconciles the applicable provisions of TSCA and the other laws by which EPA may have received data that is later used for TSCA purposes. Even where TSCA excludes certain data from eligibility for business confidentiality protection, there are very limited circumstances where the statute requires affirmative disclosure of that same data by EPA. Instead, data used under TSCA might have originally been submitted under and remain protected or restricted from disclosure for reasons other than business confidentiality under another statute. An example is FIFRA section 10(g), which limits disclosure of certain pesticide data to persons who can certify they are not acting on behalf of an entity engaged in the production, sale, or distribution of pesticides in countries other than the United States. Where certain data is not entitled to business confidentiality protections under TSCA but *does* enjoy disclosure protections under another statute for other reasons (*e.g.*, FIFRA section 10(g)), EPA does not believe there is a conflict between the two statutory provisions. It therefore does not violate TSCA for EPA to withhold or restrict disclosure of such data pursuant to the requirements of the other law. EPA has therefore replaced the proposed language concerning resolution of conflicts with language clarifying that information that was originally submitted under a statute other than TSCA may be protected from disclosure under the provisions of the other statute for reasons other than claims of business confidentiality, even if the information is subsequently used under TSCA and would not be eligible for business confidentiality protections under TSCA.

Related to these provisions, some commenters were concerned that data originally obtained under other statutes would be used and potentially disclosed to the public by EPA without any notice to the original submitter. Particularly with respect to disclosure, this is not the case. Such data, once it is considered as being submitted or obtained under TSCA, will be treated and disclosed consistent with today's final rule, TSCA, and any other pertinent laws. For example, if the information were claimed as business confidential and became subject to a Freedom of Information Act (FOIA) request or EPA otherwise believed that the information might not be entitled to confidential

treatment, the Agency would review and make a final confidentiality determination under TSCA section 14(f), which would involve notice and opportunity for affected persons to substantiate confidentiality claims—if EPA denies the confidentiality claim, the affected persons would be provided notice according to today's final rule and TSCA section 14(g).

C. Definitions

EPA received several comments concerning the proposed definition of “health and safety study” at 40 CFR 703.3, particularly the proposed excluded categories of information. Some commenters proposed additional exclusions, while others argued that there should be fewer or no exclusions because having any exclusions is inconsistent with TSCA and/or that the proposed categories are information underlying and relevant to the studies.

In this final rule, EPA is declining to add exclusions beyond those originally proposed but is making modifications to the original proposal to combine similar exclusions and to clarify the intended scope of the exclusions. As EPA explained in the preamble to the proposed rule (Ref. 6), EPA considers some types of information that may be included in or with a study document as not part of the “health and safety study” as defined in TSCA section 3(8). That definition states that the term “health and safety study” means any study of any effect of a chemical substance or mixture on health or the environment or on both, including underlying information and epidemiological studies, studies of occupational exposure to a chemical substance or mixture, toxicological, clinical, and ecological studies of a chemical substance or mixture, and any test performed pursuant to this chapter. This definition does not seek to provide an exclusive list of what is or is not “included” in the health and safety study but instead clarifies that all “underlying” information must be considered part of the study. The term “underlying” is an adjective “used to describe something on which something else is based.” Cambridge Dictionary (Online). A study report may contain information beyond that which is the basis for the study. Information such as the names of lab technicians neither form the basis for the study nor is it relevant to the study results.

EPA notes that most of the exclusions have long been part of the existing TSCA rules in one form or other, such as in 40 CFR parts 720 and 716, so the final rule will in most respects maintain the status quo. EPA also considered

TSCA section 14(b)(1) (“[i]nformation that is protected from disclosure under this section, and which is mixed with information that is not protected from disclosure under this section, does not lose its protection from disclosure notwithstanding that it is mixed with information that is not protected from disclosure”) in finalizing the list, reasoning that the excluded types of information may be protected from disclosure under TSCA section 14 although included in a document that also contains information that is not protected from disclosure. EPA notes that study reports can and often are provided in a number of formats, with variable detail, and with varying levels and types of information that are ancillary to the study report.

EPA is declining to add additional exclusions, as many of the suggestions made were either redundant with the proposed list (*e.g.*, laboratory address is redundant with the name of the laboratory), or do not constitute information that EPA can categorically determine as unnecessary to interpret the study, and therefore cannot be categorically excluded from the definition of a health and safety study under TSCA section 3(8).

The final rule is modified from the proposal to combine similar exclusions and to clarify the intended scope of the exclusion. The exclusion for name of the submitting company (previously included in 40 CFR parts 716 and 720) is combined with the exclusion for name of laboratory. This exclusion is intended to permit confidentiality claims for submitting company identity and other information that would disclose company identity, such as addresses and laboratory name in the case that the laboratory that conducted the study was part of or closely related to the submitting company. The exclusion for “internal product codes” is clarified with a parenthetical that explains that this refers to the code names for a test substance that is used internally by the submitting company or is used to identify the test substance by the test laboratory. The exclusions for names of laboratory personnel and for names and other private information of study subjects are also combined in the final rule. Finally, the proposed exceptions for costs and other financial data and for product development, advertising, and marketing plans are combined. These types of information do not often appear in study reports themselves but may be included with a larger submission that includes a study report or other health and safety data or included in materials relating to cost

sharing for chemical testing (e.g., in relation to a test order).

D. Requirements for Asserting a Confidentiality Claim

TSCA section 14(c) governs assertion of confidentiality claims for TSCA submissions. This provision requires that persons submitting information under TSCA substantiate most confidentiality claims at the time of submission. It also includes additional certification and generic name requirements. The final rule retains most of the proposed provisions, with some modifications to clarify the regulatory provisions, or in response to public comment.

1. Assertion of Confidentiality Claim Upon Submission of Information to EPA

The final rule requires that confidentiality claims be asserted (and substantiated as necessary) at the time of submission (limited exceptions may apply in the case that such information is collected during an in-person TSCA enforcement inspection). See 40 CFR 703.5. This includes confidentiality claims for specific chemical identity, which must be asserted as specified in existing reporting rules (e.g., CDR, 40 CFR part 711). Several commenters expressed concern regarding language in the preamble to the proposed rule clarifying that failing to assert a CBI claim for a specific chemical identity submitted under those existing regulations would lead to the specific chemical identity being moved from the confidential to the public portion of the Inventory. (Refs. 6 and 8.) The commenters' concern pertains to those instances where the chemical identity is reported by accession number (a non-confidential identifier) and no chemical identity CBI claim is asserted, with the result that the specific chemical identity is moved to the public Inventory. Existing rules require that the reporter assert and substantiate confidentiality claims for the specific identity if they wish for that substance to remain on the confidential portion of the TSCA Inventory. See, e.g., 40 CFR 711.20(e). Commenters expressed concerns that downstream customers or processors of a specific chemical would report under TSCA by accession number and, ignorant of specific chemical identity, could accidentally or intentionally waive the confidentiality claim and cause the substance to lose confidential status.

EPA has consistently maintained and provided public notice of its position that if *any* submitting entity chooses not to assert and/or substantiate a confidentiality claim for a chemical

identity as required by TSCA section 14, the chemical identity is no longer entitled to confidential treatment and may be published on the public portion of the TSCA Inventory. For example, the Agency noted in the 2009 updates of the TSCA Inventory that “*some* manufacturers of these 530 chemical substances did not include any claim of confidentiality for the chemical identity of the chemical substance with the IUR submission.” (74 FR 37224 (July 28, 2009) (FRL–8392–4)) (emphasis added). See also TSCA Inventory Update Reporting Modifications; Chemical Reporting, (76 FR 50815 and 50825 (Sept. 15, 2011) (FRL 8872–9)) (stating that failure to identify the chemical identity as CBI and complete upfront substantiation will waive any CBI claim to the chemical identity). This position was further reinforced recently in the 2020 Procedures for Review of Confidential Business Information Claims for the Identity of Chemicals on TSCA Inventory’s Response to Comments (RTC) where EPA stated “[i]f another person reveals to the public that a confidential chemical substance is manufactured or processed for nonexempt commercial purposes in the United States, then the specific chemical identity would no longer be eligible for confidential protection, and CBI claims for that specific chemical identity would be denied upon review” (Ref. 10, at 17.)

EPA has considered the commenters' concerns that an entity lacking knowledge of a specific chemical identity may nonetheless waive confidentiality for that chemical identity. Such a situation might arise when TSCA reporting rules implicate a universe of reporters from sectors that typically have little knowledge of the identities of specific chemical substances in their products, one example being importers of articles containing the chemical substance in question. The Agency recognizes that this issue might arise in specific contexts. However, this final rule addresses a wide variety of situations where the knowledge issue is not presented. EPA believes that the best way to address commenters' concerns is to include measures in specific TSCA reporting rules that take into account the reporting entity's potential lack of knowledge, where such measures are necessary. Addressing the issue in the context of specific reporting rules will allow EPA to take into consideration the unique reporting context for the rule, such as the attributes of specific reporters. For example, a specific reporting rule might except all or a

category of reporters from requirements to reassert chemical identity claims to maintain confidential Inventory status.

Outside this final rule, the Agency has already begun exploring options for addressing the knowledge concerns raised by the commenters. For example, in the proposed rule TSCA section 8(a)(7) Reporting and Recordkeeping Requirements for the Perfluoroalkyl and Polyfluoroalkyl (PFAS) Substances; Notice of Data Availability and Request for Comment, the Agency sought to clarify and add language to the PFAS proposed rule based in part on comments received during the public comment period for today's final rule and concerning an entity's knowledge of a specific chemical identity (Ref. 11).

2. Substantiation and Exemptions

The final rule includes substantiation questions in 40 CFR 703.5(b) largely as set out in the proposed rule. As suggested in the proposed rule, the final rule omits a patent-specific question in favor of including the issue of patents in another question. The provisions concerning substantiation exemptions are as proposed.

a. *Patents.* The final rule omits a substantiation question exclusively concerned with patents, for the reasons discussed in the proposed rule and supported by public comment. Instead, where information claimed as confidential appears in some form in a patent or patent application, persons submitting those claims must address this public disclosure in their answer to the question on public disclosures more generally, 40 CFR 703.5(b)(3)(iii). Failure to address such a patent disclosure in the substantiation increases the risk that EPA will determine the information not entitled to confidential treatment. Further discussion of comments concerning CBI and patents is included in the Response to Comments for this rule (Ref. 8).

b. *Trade secrets.* Consistent with the proposed rule, the final rule omits a substantiation question specifically concerning trade secrets. See discussion in the preamble to the proposed rule (Ref. 6).

c. *Specificity of competitive harm.* EPA received several comments on the substantiation question concerning substantial competitive harm (40 CFR 703.5(b)(3)(i)), several supporting the proposed question, some advocating instead for a version of the question currently used for CDR submissions (40 CFR 711.30; “Will disclosure of the information claimed as confidential likely cause substantial harm to your business's competitive position? If you answered yes, describe the substantial

harmful effects that would likely result to your competitive position if the information is disclosed, including but not limited to how a competitor could use such information, and the causal relationship between the disclosure and the harmful effects”), or clarification, elaboration, or other changes from the proposed question. The final rule uses the proposed version of the question. Submitters may continue to use existing guidance describing EPA’s expectations for substantiation and may contact EPA regarding case-specific substantiation questions. Guidance and current staff contact information is available at <https://www.epa.gov/tsca-cbi>.

d. *Exemptions.* The final rule provisions at 40 CFR 703.5(b)(5) concerning substantiation exemptions in TSCA section 14(c)(2) are the same as proposed. EPA received limited comment concerning the exemption at TSCA section 14(c)(2)(G), for the specific identity of chemicals that have not yet been introduced into commerce, arguing that because the exemption may only be applied to claims made up until the substance is introduced into commerce, EPA has an obligation to revisit those pre-commerce claims once the substance has been introduced into commerce. While EPA agrees that new claims for the same information would no longer be exempt from the substantiation requirement once the chemical is introduced into commerce, there is nothing in the statute to suggest that EPA is required to revisit those prior claims. Indeed, CBI claims are generally only reviewed as required by TSCA section 14(g) (within 90 days of submission) or as permitted or required pursuant to one of the provisions of TSCA section 14(f). The filing of a Notice of Commencement (NOC), for example, does not trigger a mandatory review of prior CBI claims for the subject chemical substance by the same submitter.

3. Public Copies of Submissions

40 CFR 703.5(c) of the final rule includes a requirement that TSCA submitters include a public copy (sometimes referred to as a “sanitized copy”) of their submission, though 40 CFR 703.5(c)(1) limits this requirement to unfiled data, such as study reports and other documents that might be submitted as attachments to a reporting form. Most TSCA submissions that are made on a standard reporting form include individual data fields that each have a checkbox-type indicator for confidentiality claims. In the case of these forms, a public copy is either already generated automatically, or the reporting tool could be updated to

perform this function in future enhancements of CDX. Commenters generally supported this provision in the proposal, though some argued that EPA should further elaborate in the rule on how and when public copies would be made available, or that EPA should reject entire submissions or disregard CBI claims in submissions with incomplete or possibly incomplete public copies. The Response to Comments document (Ref. 8) elaborates on EPA’s current and planned practices for making public copies of TSCA submissions available, while noting that committing many of these practices to a rule is beyond the intended scope of this rulemaking activity except to the extent EPA finds the public copy to be deficient. The final rule provisions concerning treatment of deficiencies including missing or incomplete public copies are elaborated in Unit IV.D.6.

4. Supporting Statement and Certification

The final rule at 40 CFR 703.5(a) includes certification and supporting statements as set out in TSCA section 14, which are consolidated into one certification that is automatically incorporated into most TSCA reporting forms. TSCA submitters who for unusual and case-specific reasons are not able to provide their submission via CDX must assure that the consolidated statement is included in their submission. This provision is unchanged from the proposal.

5. Generic Names

The final rule includes provisions specifying requirements for generic chemical names, which are used in place of specific chemical names in public documents mentioning substances with confidential specific chemical identities. 40 CFR 703.5(d). The requirements cover when and how such generic names must be submitted, some basic requirements, and procedures for resolving disagreements about the adequacy of a given generic name. TSCA section 14(c)(1)(C) requires the submission of a generic name any time a specific chemical identity is claimed as confidential. This provision further requires that the generic name be “structurally descriptive” and that it “describe the chemical structure [. . .] as specifically as practicable” while also protecting the features of the chemical substance that are claimed confidential or where disclosure would likely cause substantial harm. 15 U.S.C. 2613(c)(1)(C)(ii). The generic name must also be consistent with the generic name guidance developed in accordance with

TSCA section 14(c)(4)(A), 15 U.S.C. 2613(c)(1)(C)(i) (Ref. 7).

The generic name provisions in the final rule are the same as were proposed. EPA received a few public comments on these provisions, questioning incorporation of elements of EPA’s generic name guidance into the rule, urging that EPA should undertake a CBI review of every generic name submitted under TSCA section 14, and suggesting that procedures permitting negotiation of generic names or permitting correction of deficiencies that EPA identifies with a generic name are too complex or are unnecessary, among other comments.

EPA concluded that incorporation of elements of the generic name guidance into the rule provides helpful clarification concerning minimum generic name requirements. Despite that clarification, however, EPA’s experience is that, in some instances, disagreement regarding the sufficiency of a generic name may be unavoidable. Therefore, the final rule sets forth a streamlined process for negotiating generic names in TSCA section 5 Notices of Commencement (40 CFR 720.102) and introduces a provision for EPA to provide an opportunity to correct deficient generic names in any TSCA submission (40 CFR 703.5(e)). The substantiation exemption for certain specific chemical identities contained in section 14(c)(2)(G) and corresponding exclusions from routine CBI review under TSCA section 14(g) indicate that substantive review of the sufficiency of every generic name at the time of submission is both in excess of TSCA requirements and impractical (especially where the substantiation necessary to complete such a review is neither required nor provided). The Response to Comments document provides more detailed discussion of these comments. (Ref. 8.)

6. Deficient Submissions

The clear requirements in the final rule regarding assertion of CBI claims, combined with recent improvements to TSCA reporting tools including near-universal electronic reporting, should significantly reduce the incidence of procedural deficiencies. Nonetheless, EPA does not expect that these will prevent all such problems. EPA is therefore retaining the proposed deficiency provisions in the final rule at 40 CFR 703.5(e).

Some public commenters advocated that the short correction period provided in the rule should be longer, and/or that EPA should give one or more additional notices, using both electronic and paper means of

communication. Others criticized providing any such opportunity to correct deficiencies, arguing that it would deprive the public of information that should be treated as non-confidential and that EPA should instead either reject such submissions outright, or immediately disclose the information subject to the deficient claim. As elaborated in the Response to Comments Document, the time period for correction of deficiencies is necessarily quite short, given statutory constraints on the time for CBI review and reviews under other parts of TSCA, such as TSCA section 5 (Ref. 8). As is also elaborated in the Response to Comments Document (Ref. 8) and in Unit IV.D.7. of this document, it is now a practical necessity that EPA and TSCA submitters rely primarily on electronic communications and notices made through CDX. *Id.*

By relying on electronic communications and keeping the period for correcting deficiencies short, EPA believes information not entitled to confidential treatment will be available to the public more quickly using the approach in the final rule (which also briefly pauses other statutory review periods, such as under TSCA section 5, such that the public is not deprived of the materials for any longer than it takes to identify the deficiency) than if EPA instead rejected the whole submission or proceeded to immediately release the information (actions, especially in the latter case, that could be expected to precipitate protracted litigation over an Agency action that could be seen as unduly punitive, arbitrary, and beyond statutory authority).

7. Electronic Reporting

The final rule requires, with very limited exceptions, that all TSCA submissions that include CBI claims must be submitted electronically. 40 CFR 703.5(f). This requirement most notably affects reporting under TSCA section 8(e), export notifications under TSCA section 12(b), and polymer exemption notices under TSCA section 5, for which electronic reporting is required for the first time in today's final rule. Voluntary e-reporting was already available for TSCA sections 8(e) and 12(b) notices, so those existing reporting tools will be updated in accordance with the final rule and will become mandatory to use for reporting. A new reporting tool will be available for submitting annual polymer exemption notices. A few commenters expressed concern over reliance on electronic reporting, citing past incidences of technical difficulties with providing electronic submissions via

CDX, especially related to 2020 CDR reporting (Ref. 8). EPA notes that in the case of 2020 CDR reporting, EPA moved quickly to correct the technical problems and extended the reporting deadline to accommodate reporters who had issues. Similar problems, many of which were related to both the large size of individual submissions and the peak volume of submissions being made around the same time, are fairly unique to the CDR rule reporting and would not be expected with TSCA section 8(e), TSCA section 12(b), or polymer exemption reporting, as the former two submission types are submitted throughout the year (not all at once) and for all three submission types, most submissions are fairly small. EPA expects that in the case technical reporting issues such as occasionally encountered in the 2020 CDR reporting period do recur in the future, the Agency would continue its practice of promptly addressing the problem and making appropriate accommodations (such as extending reporting deadlines). Also, noting one comment concerned with potential legal barriers to electronic reporting, such as when a submission might include classified information or otherwise include handling restrictions distinct from CBI claims, EPA expects to continue to handle these unusual and rare situations on a case-by-case basis, in accordance with their special legal and technical needs.

8. Requirement To Report Health and Safety Information Using OECD Harmonized Templates

EPA is finalizing the requirement to provide health and safety information using the appropriate OECD harmonized template (OHT), when such a template is available. 40 CFR 703.5(g). As explained in the preamble to the proposed rule, this requirement would be *in addition to* existing requirements to provide a full study report. EPA received some non-specific comments suggesting that the reporting burden associated with filling in such templates would be more substantial than EPA estimated, but these comments provided no alternative estimate. Use of the templates is already required for submitting data to regulatory authorities in other countries (*e.g.*, to the European Chemicals Agency (ECHA)) and international programs with strong U.S. participation and support encourage and facilitate reciprocal acceptance and use of data and non-duplication of chemical safety testing (see, *e.g.*, the OECD Mutual Acceptance of Data (MAD) system, <https://www.oecd.org/env/ehs/mutualacceptanceofdatamad>.

htm). Thus, in many if not most cases, companies or groups of companies conducting and/or submitting such chemical safety testing in the U.S will have already or would otherwise be required to fill out such templates anyway when providing the same information to regulatory authorities in other countries. Templated data will make CBI review of the submission more efficient (by aiding in identification of CBI claims) and aid in data sharing and dissemination within EPA and in public databases. EPA intends to elaborate on instructions for including OHT files (*e.g.*, currently acceptable file types and IUCLID software versions) as appropriate in individual reporting rules or orders, and/or in the applicable reporting tool instruction documents.

9. Maintenance of Company Contact Information and Communications Concerning Claims

The final rule provisions concerning maintenance of company contact information and reliance on electronic notices concerning CBI claims are as proposed. 40 CFR 703.5(h). EPA received several comments in favor of EPA providing redundant multi-media notices (electronic, paper mail, email, etc.) and concerned with the burden of maintaining contact information for each submission over time. As explained in the preamble to the proposed rule, it is EPA's experience that providing notice by other permissible means, such as via certified mail, does not necessarily better assure prompt delivery and access by its intended recipient than would EPA's proposed and preferred shift to reliance on electronic notices. For those commenters who advocated an email in addition to a CDX-delivered electronic notice, EPA notes that this is already occurring—each CDX notice coincides with a more generic email notice to the email address provided by the company contact.

Maintaining contact information for individual submissions is an inescapable consequence of the Lautenberg amendments, particularly since most CBI claims now expire after ten years unless reasserted by the submitter. The TSCA section 14(f) CBI review provisions also call for submission-specific company contact maintenance, in that those types of CBI review almost always require some notice to the company, both that the review is taking place and for the purpose of permitting submission of substantiation. Such reviews can take place at any time after a submission is made. EPA has created new reporting

tools that permit a company to request copies of record it may have lost access to by turnover in personnel or to provide updated contact information for one or more company submissions.

More broadly, EPA strongly suggests that companies develop internal practices to assure that a current company contact is maintained for each of their submissions including CBI. This might include, for example, use of email addresses that more than one person can access to receive CBI notices, a limited-access internal list of submission passphrases, or other procedures to better assure that passphrases and TSCA submission-specific information is known to or available to more than one person and isn't lost to the company when any one of its personnel are suddenly unavailable.

10. Withdrawing Claims

The final rule adopts the proposed provisions on withdrawing claims, which provide instructions for withdrawing claims originally made in an electronic submission, and for withdrawing claims originally made on paper or in an electronic submission no longer accessible to the company. 40 CFR 703.5(i).

11. Amending a Public Copy Following Claim Denial or Expiration

Public commentary was divided on who should be responsible for updating public copies of submissions to make newly non-CBI information available (the submitting company or EPA); other commenters suggested that making this information available need not be a priority unless a specific request for it was pending (e.g., a FOIA request). Based on its experience, EPA has concluded that companies submitting CBI claims should retain primary responsibility for updating public copies. Because the company best understands the intended scope and purpose of its original CBI claim(s), that company is in the best position to determine with precision which of its claims remain and assure these are indicated in the public copy accurately prior to release of the data. If EPA must occasionally dispute the scope of the remaining claims indicated by the submitter, EPA and the submitter could resolve this issue prior to release of the data, which is not possible when EPA prepares and releases the updated public copy without the involvement of the submitter. The final rule does include some minor amendments to clarify how EPA will append public copies to make newly non-CBI information available, in cases where

EPA must perform this function. 40 CFR 703.5(j).

E. EPA Review of Confidentiality Claims

1. Representative Subset

EPA received several comments on selection of the representative subset (40 CFR 703.7(a)), especially on the submissions it proposed to exclude from the subset as not being especially representative of TSCA submissions more generally. The final rule maintains the proposed case selection methodology (one in four TSCA submissions with non-exempt CBI claims for information other than chemical identity) but clarifies that this is the method EPA will use in general. EPA believes that some flexibility is appropriate here in case it might occasionally be necessary to issue additional confidentiality determinations to ensure that the Agency is meeting the minimum 25% required by TSCA section 14(g)(1)(C)(ii). The final rule also maintains the proposed exclusions from the representative subset, including certain pre-submission types of correspondence intended mainly to ascertain subsequent TSCA reporting obligations (e.g., *bona fide* notices under 40 CFR 720.25), occasional submissions that may be excluded from the otherwise nearly universal electronic reporting requirement, and amendments. In general, EPA believes that excluding these submissions is appropriate and will not significantly affect the total number of claims reviewed because these submissions may not contain many claims in the first place, the claims they do include are or will be duplicated in other submissions, and/or the submission type is relatively rare.

2. Substantive Criteria

TSCA itself does not specify the criteria that must be used in making a confidentiality determination, so EPA proposed and will retain in this final rule (40 CFR 703.7(f)) elements drawn from TSCA section 14(b) limitations of confidentiality protections, TSCA section 14(c) requirements to assert confidentiality claims, as well as EPA's long pre-existing criteria for evaluation of confidentiality claims as set out in 40 CFR 2.208.

Some commenters suggested a longer list of criteria or somewhat different wording to more strongly emphasize some parts of some criteria over others. EPA has declined most of these suggestions as EPA believes them to be unnecessary and unlikely to influence the outcome of a CBI determination. In response to one comment noting that a

FOIA-specific criterion was missing from the proposed 14(g) substantive criteria in 703.7 (it was proposed in 703.8 only for FOIA-prompted reviews under TSCA section 14(f)), EPA has made the substantive criteria uniform for any CBI determination. Though introducing some redundancy with the other criteria, EPA believes that one set of criteria for all reviews improves clarity and consistency between reviews.

EPA has declined the suggestion of one commenter that the criterion mentioning the limited confidentiality protections for health and safety study data (40 CFR 703.7(f)(5)) should be expanded to permit generic name to stand in for specific identity in any health and safety study for which the submitter wishes to assert a CBI claim. Instead, the study report would refer only to the generic name of the substance. The commenter supposed that simply not including the specific chemical identity in the study report could avoid the section 14(b) limitations on CBI protections in health and safety data. However, taking the commenter's suggestion would be contrary to longstanding EPA policy and rules stating that chemical identity is always considered part of a study (e.g., 40 CFR 720.3(k)); ignore the fact that health and safety studies are usually submitted as part of (attachments to) various TSCA reporting forms that also specifically identify the chemical; and not reflect the fact that chemical identity may be protected as CBI, need not be substantiated, and will not be routinely reviewed (under TSCA section 14(g)) until the chemical substance is introduced into U.S. commerce. However, the criterion has been clarified in the final rule to reflect that the limitations on confidentiality protections don't apply to all health and safety information that might be submitted under TSCA (e.g., data on R&D substances, prior to premanufacture notification).

3. Reconsideration Process

After considering comment on the proposal, EPA has decided to omit the reconsideration process (for denied CBI claims) from the final rule (Ref. 6). While some commenters supported the proposal, others did not, describing it as biased, open-ended, and lacking in transparency. EPA now believes that codifying a reconsideration process is unnecessary. If a person believes that a determination was incorrect or has questions about the determination, they may contact EPA (using the contact information in the final CBI determination letter) about their

concerns prior to filing a judicial appeal.

F. Related or Corresponding Revisions to Other TSCA Rules

1. Revisions to 40 CFR Parts 702, 704, 707, 716, 717, 723, and 790

The final rule replaces the CBI provisions of several TSCA rules with a cross reference to 40 CFR part 703 to centralize the CBI rules and make them more consistent among submission types. EPA received some comment advocating for retaining some of the existing CBI provisions, but EPA believes this is unnecessary, redundant, and/or needlessly inconsistent with the final CBI rules centralized in 40 CFR part 703. For further discussion, see the Response to Comments (Ref. 8).

2. Clarification of TSCA Section 12(b) Rules

The language in 40 CFR part 707 is revised in the final rule to cross reference 40 CFR part 703 for CBI reporting requirements, to require electronic reporting, and to clarify that it is generally not necessary to list confidential specific chemical identities in a TSCA section 12(b) report. EPA received some public comment criticizing this provision, misunderstanding the clarification as rescinding a previous requirement to provide specific chemical identities in TSCA section 12(b) notices. Part 707 regulations never included such a requirement, though some submitters unnecessarily provided such information anyway. The Response to Comments Document provides further clarification of the pre-existing rule and elaborates on how EPA processes TSCA section 12(b) notices without need for a confidential specific chemical identity in the report (Ref. 8).

3. Revision in 40 CFR 717.17 and 723.250 To Reflect Electronic Reporting

The final rule revises 40 CFR parts 717 and 723 to reflect that TSCA section 8(c) incident reports and TSCA section 5 polymer exemption notices must be submitted electronically.

4. Revisions to Confidentiality Provisions in the Premanufacture Notice (PMN) and Microbial Commercial Activity Notice (MCAN) Rules

The final rule revises 40 CFR parts 720 and 725 as proposed. Some public commenters also favored retaining more of the CBI provisions in 40 CFR part 720. A commenter asserted that the proposed revisions to 40 CFR 720.85 omitted necessary existing statements that are not sufficiently duplicated in the final rule—EPA disagrees and notes

that the commenter in some areas misunderstands 40 CFR 720.85. The language in 40 CFR part 720.85(a) is mostly redundant with TSCA section 14, other provisions of the final rule, or both. Under the final rule, persons may assert CBI claims for chemical identity in a PMN, but they must also submit a generic name consistent with TSCA section 14(c). Persons who would like to consult EPA concerning an appropriate generic name may continue to do so through the pre-notice consultation process. See: <https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/filing-pre-manufacture-notice-epa#pre-notice>.

Much of 40 CFR 720.85(b) is retained in the final rule, but has been moved to 40 CFR 720.102, while the substantiation provisions are replaced with the substantiation provisions in 40 CFR part 703. The provision in section 720.85(b)(1), providing that a CBI claim for chemical identity may not be asserted in an NOC unless that CBI claim has been asserted for the underlying PMN, is not necessary. If the chemical identity is not claimed as CBI in the PMN, the chemical identity is published in the public notice required by TSCA section 5(d)(2). PMNs and NOCs are identified by the same case number, providing a public link between the NOC and the PMN. Upon required TSCA section 14(g) review of the chemical identity claim in the NOC, EPA would not uphold a confidentiality claim that was not made in the PMN. Further discussion is available in the Response to Comments document (Ref. 8).

One commenter advocated retaining most of 40 CFR 720.90 (except (a)(3), (b)(2)(iii), and (c)(3)), arguing that chemical identity claims should not be permitted in health and safety studies at the PMN stage, but that if EPA continues to permit such claims in the PMN, the PMN claim should be re-reviewed when an NOC is filed and chemical identity should be disclosed. EPA disagrees. Chemical identity claims are permitted in the PMN submission including attachments, and such claims are exempt from upfront substantiation requirements under TSCA section 14(c)(2)(G) and from routine review under TSCA section 14(g). TSCA section 14(g) requires that EPA review certain CBI claims within 90 days of submission. In nearly all circumstances, an NOC is filed well more than 90 days after the PMN, usually months or sometimes years later (or not at all). The NOC is also, while linked to the PMN submission, a different TSCA submission—one that does not include health and safety studies. NOCs are

subject to review under TSCA section 14(g), as are PMNs, but the filing of an NOC does not open or reopen the TSCA section 14(g) review of the PMN filed previously. Instead, the PMN may be reviewed or re-reviewed pursuant to TSCA section 14(f), under one of the mandatory or discretionary provisions, where applicable. Even following TSCA section 14(f) review, many chemical identity claims in health and safety studies will still be valid, as TSCA section 14(b) includes exceptions from information that is not protected from disclosure, including information that discloses processes used in the manufacture of a substance or portion of mixture information.

V. References

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

1. U.S. EPA. Electronic Reporting under the Toxic Substances Control Act; Final Rule. **Federal Register**. 78 FR 72818, December 4, 2013 (FRL-9394-6).
2. U.S. EPA. Economic Impact Analysis for the Procedures for Submitting Information Subject to Business Confidentiality Claims under the Toxic Substances Control Act (TSCA); Final Rule (RIN 2070-AK68). April 2023.
3. U.S. EPA. Procedures for Review of CBI Claims for the Identity of Chemicals on the TSCA Inventory; Final Rule. **Federal Register**. 85 FR 13062, March 6, 2020 (FRL-10005-48).
4. U.S. EPA. TSCA Chemical Substances; Unique Identifier Assignment and Application Policy; Notice of Availability. **Federal Register**. 83 FR 30168, June 27, 2018 (FRL-9979-59).
5. U.S. EPA. Guidance on Expanded Access to TSCA Confidential Business Information; Notice of Availability. **Federal Register**. 83 FR 30171, June 27, 2018 (FRL-9979-75).
6. U.S. EPA. Confidential Business Information Claims under the Toxic Substances Control Act (TSCA); Proposed Rule. **Federal Register**. 87 FR 29078, May 12, 2022 (FRL-8223-01-OCSPF).
7. U.S. EPA. Guidance for Creating Generic Names for Confidential Chemical Identity Reporting under TSCA. Publication ID No. EPA 743B18001. June 2018. Available at: https://www.epa.gov/sites/production/files/2018-06/documents/san6814_guidance_for_creating_tsca_generic_names_2018-06-13_final.pdf.

8. U.S. EPA. Confidential Business Information Claims under the Toxic Substances Control Act (TSCA); Final Rule (RIN 2070-AK68). Response to Comments Document. April 2023.
9. U.S. EPA. Information Collection Request (ICR) entitled: Confidential Business Information Claims under the Toxic Substances Control Act (TSCA)—Final Rule (RIN 2070-AK68). EPA ICR No.: 2706.02; OMB Control No.: 2070-0223. February 2023.
10. U.S. EPA. Response to Comments on the Proposed Rule, Procedures for Review of CBI Claims for the Identity of Chemicals on the TSCA Inventory. February 4, 2020, available at <https://www.regulations.gov/document/EPA-HQ-OPPT-2018-0320-0061>.
11. U.S. EPA. TSCA section 8(a)(7) Reporting and Recordkeeping Requirements for the Perfluoroalkyl and Polyfluoroalkyl (PFAS) Substances; Notice of Data Availability and Request for Comment. **Federal Register**. 87 FR 72439, Nov. 25, 2022 (FRL-7902-4)

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders#influence>.

A. Executive Orders 12866: Regulatory Planning and Review and 14094: Modernizing Regulatory Review

This action is not a significant regulatory action as defined in Executive Order 12866 (58 FR 51735, October 4, 1993), as amended by Executive Order 14094 (88 FR 21879, April 11, 2023), and was therefore not subject to Executive Order 12866 review.

B. Paperwork Reduction Act (PRA)

The information collection activities in this final rule have been submitted to OMB for approval under the PRA, 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) document that EPA prepared is assigned EPA ICR No. 2706.02 and OMB Control No. 2070-0223 (Ref. 9). You can find a copy of the ICR in the docket for this action, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

The reporting requirements identified in this final rule implement statutory requirements in TSCA section 14, including the new requirements that persons submitting information under TSCA must substantiate most confidentiality claims at the time of submission, as well as additional certification and generic name requirements. In order to maintain most claims beyond a 10-year period,

submitters will also be required to reassert and substantiate those claims. Several new requirements also apply to EPA, including requirements to review and approve or deny all chemical identity claims asserted concerning substances that are offered for commercial distribution, as well a subset of all other confidentiality claims, within 90 days of the claim being asserted. Further requirements that EPA review all confidentiality claims concerning substances listed as active on the TSCA Inventory, a requirement to assign and apply Unique Identifiers to substances with approved confidentiality claims for chemical identity, as well as new provisions providing expanded access to TSCA CBI, have been discussed in previous **Federal Register** Documents. Additionally, TSCA rules promulgated since the Lautenberg amendments have included confidentiality provisions conforming to the amendments (*e.g.*, 40 CFR parts 710 and 711).

Respondents/affected entities: Firms asserting claims for confidentiality in submissions to EPA under TSCA. See also Unit I.A.

Respondent's obligation to respond: Mandatory (TSCA section 14; 15 U.S.C. 2613).

Frequency of response: On occasion.
Total estimated number of respondents: 1,100 firms with an estimated additional 55 new firms each year.

Total estimated number of responses: 1,100.

Total estimated burden: 2,945 hours in the first year and 523 hours every subsequent year. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$ 272,804 in the first year and \$ 45,592 every subsequent year, which includes \$ 0 annualized capital or operation and maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA, 5 U.S.C. 601 *et seq.* The

small entities subject to the requirements of this action are chemical manufacturers (including importers). EPA estimates that 1,001 small firms would be affected by the proposed requirements. Of those small firms, 100% would have cost impacts of less than 1 percent of annual revenues, which EPA has determined does not qualify as a significant impact. Details of this analysis are presented in the Economic Analysis (Ref. 2), which is available in the docket. We have therefore concluded that this action will not have a significant adverse economic impact on all directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an 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 4, 1999) because it will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have Tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000) because it 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. It does not have substantial direct effects on Tribal government because EPA does not anticipate that Tribal governments will often make TSCA submissions, let alone those for which they would assert a CBI claim necessitating substantiation and other requirements under TSCA and this rule, so this rulemaking is not expected to impose substantial direct compliance costs on Tribal governments. 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 EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of Executive Order 13045. This action is not subject to Executive Order 13045 because it does not concern environmental health risk or safety risk.

Although this action does not concern human health or safety risk, it does set clear procedures for confidentiality claims made by reporting entities under TSCA, this action is expected to improve the quality of such claims, reduce unnecessary and unsupported claims, and is anticipated to result in more information being available to the public. This action does not address any human health or environmental risks and does not affect the level of protection provided to human health or the environment. Information submitted under TSCA can also be used by government agencies and others to identify potential problems, set priorities, and take appropriate steps to reduce any potential risks to human health and the environment and as noted in this paragraph, may make more of this information available to the public.

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

This action is not a subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866 and has not otherwise been designated as a significant energy action by the Administrator of the Office of Information and Regulatory Affairs.

I. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve technical standards that would require Agency consideration under NTTAA section 12(d), 15 U.S.C. 272.

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 this action does not directly concern human health or environmental conditions and therefore cannot reasonably be evaluated with respect to potentially disproportionate and adverse effects on people of color, low-income populations and/or indigenous peoples. This action does not directly address any human health or environmental risks and does not directly affect the level of protection provided to human health or the environment. However, although this action does not directly concern human health or environmental conditions, in setting clear procedures for confidentiality claims made by reporting entities under TSCA, this action is expected to improve the quality of such claims, reduce unnecessary and unsupported claims, and is anticipated to result in more information being available to the public. By ensuring uniform substantiation of CBI claims, electronic reporting requirements, certification statements, clarifying how EPA treats certain information initially obtained in a context other than TSCA, and the process for maintenance or withdrawal of confidentiality claims, EPA is improving communications and transparency to the public and promoting consistency for the regulated community. Improved communication and transparency has inherent informational benefits including increasing understanding and awareness of potential issues related to chemical information. Information submitted under TSCA can also be used by government agencies and others to identify potential problems, set priorities, and take appropriate steps to reduce any potential risks to human health and the environment and as noted in this paragraph, may make more of this information available to the public. Therefore, the informational benefits of the action are likely to have a positive impact on the human health and environmental impacts of all populations, including minority populations, low-income populations, and indigenous peoples.

L. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.*, and EPA will submit a rule report to each House of the Congress and to the Comptroller General

of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 2

Administrative practice and procedure, Confidential business information, Courts, Environmental protection, Freedom of information, Government employees.

40 CFR Part 702

Administrative practice and procedure, Chemicals, Environmental protection, Hazardous substances.

40 CFR Part 703

Administrative practice and procedure, Chemicals, Confidential business information, Environmental protection, Exports, Hazardous substances, Imports, Reporting and recordkeeping requirements.

40 CFR Part 704

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

40 CFR Part 707

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

40 CFR Part 716

Chemicals, Confidential business information, Environmental protection, Hazardous substances, Health, Reporting and recordkeeping requirements, Safety.

40 CFR Part 717

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

40 CFR Part 720

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

40 CFR Part 723

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

40 CFR Part 725

Administrative practice and procedure, Biologics, Chemicals, Environmental protection, Hazardous substances, Imports, Labeling, Microorganisms, Occupational safety and health, Reporting and recordkeeping requirements.

40 CFR Part 790

Administrative practice and procedure, Biologics, Chemicals, Environmental protection, Hazardous substances, Imports, Labeling, Microorganisms, Occupational safety and health, Reporting and recordkeeping requirements.

Authority: 15 U.S.C. 2603, 2604, 2605, 2607, 2613, 2619, and 2625 *et seq.*

Michael S. Regan,
Administrator.

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

PART 2—PUBLIC INFORMATION

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 15 U.S.C 2613.

■ 2. Revise § 2.306 to read as follows:

§ 2.306 Special rules governing certain information obtained under the Toxic Substances Control Act.

(a) *Definitions.* For the purposes of this section:

Act means the Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.*

Chemical substance has the meaning given it in section 3(2) of the Act, 15 U.S.C. 2602(2).

EPA Legal Office means the EPA Office of General Counsel and any EPA office over which the EPA General Counsel exercises supervisory authority.

Proceeding means any rulemaking, adjudication, or licensing conducted by EPA under the Act or under regulations which implement the Act, except for determinations under this subpart.

(b) *Applicability.* This section applies as set forth in 40 CFR 703.1.

(c) *Basic rules that apply without change.* Sections 2.210, 2.211, 2.212, 2.214, and 2.215 of this part apply without change to information to which this section applies. Unless otherwise specified in this section, the provisions in §§ 2.201 through 2.205 and 2.208 do not apply to information subject to this section. Instead, the provisions of 40 CFR part 703 provide the requirements and procedures relevant to confidentiality determinations for information submitted to EPA under the Act.

(d) *Disclosure in special circumstances.* (1) EPA intends to make disclosures pursuant to a request under section 14(d)(4), (5), or (6) of the Act for information to which this section applies in accordance with the requirements of the Act and any applicable EPA guidance required by section 14(c)(4)(B) of the Act.

(2) Section 2.209 applies to information to which this section applies, except that:

(i) The notification specified in § 2.209(b)(2) is 15 business days.

(ii) The following two additional provisions apply to § 2.209(c):

(A) The official purpose for which the information is needed must be in connection with the agency's duties under any law for protection of health or the environment or for specific law enforcement purposes; and

(B) EPA notifies the other agency that the information was acquired under authority of the Act and that any knowing disclosure of the information may subject the officers and employees of the other agency to the penalties in section 14(h) of the Act (15 U.S.C. 2613(h)).

(e) *Disclosure of information relevant in a proceeding.* (1) Under section 14(d)(7) of the Act (15 U.S.C. 2613(d)(7)), any information to which this section applies may be disclosed by EPA when the information is relevant in a proceeding under the Act, notwithstanding the fact that the information otherwise might be entitled to confidential treatment under this subpart. However, any such disclosure shall be made in a manner that preserves the confidentiality of the information to the extent practicable without impairing the proceeding. Disclosure of information to which this section applies because of its relevance in a proceeding shall be made only in accordance with this paragraph (e).

(2) The provisions of § 2.301(g)(2) through (4) apply to disclosures under this paragraph (e).

(f) *Disclosure of information to contractors and subcontractors.* (1) Under section 14(d)(2) of the Act (15 U.S.C. 2613(d)(2)), any information to which this section applies shall be disclosed by EPA to a contractor or subcontractor of the United States if, in the opinion of the Administrator, the disclosure is necessary for the satisfactory performance of their work in connection with the Act, notwithstanding the fact that the information otherwise might be entitled to confidential treatment under this subpart. Subject to the limitations in this paragraph (f), information to which this section applies may be disclosed:

(i) To a contractor or subcontractor with EPA, if the EPA program office managing the contract first determines in writing that such disclosure is necessary for the satisfactory performance by the contractor or subcontractor of the contract or subcontract; or

(ii) To a contractor or subcontractor with an agency other than EPA, if the EPA program office which provides the information to that agency, contractor, or subcontractor first determines in writing, in consultation with the General Counsel, that such disclosure is necessary for the satisfactory performance by the contractor or subcontractor of the contract or subcontract.

(2) The provisions of § 2.301(h)(2)(ii) through (iv) apply to disclosures under paragraph this (f).

(3) At the time any information is furnished to a contractor or subcontractor under this paragraph (f), the EPA office furnishing the information to the contractor or subcontractor shall notify the contractor or subcontractor that the information was acquired under authority of the Act and that any knowing disclosure of the information may subject the contractor or subcontractor and its employees to the penalties in section 14(h) of the Act (15 U.S.C. 2613(h)).

(g) *Disclosure of information when necessary to protect health or the environment against an unreasonable risk of injury.* (1) Under section 14(d)(3) of the Act (15 U.S.C. 2613(d)(3)), any information to which this section applies shall be disclosed by EPA if the Administrator determines that disclosure is necessary to protect health or the environment against an unreasonable risk of injury to health or the environment, without consideration of costs, or other non-risk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant by the Administrator under the conditions of use. However, any disclosure shall be made in a manner that preserves the confidentiality of the information to the extent not inconsistent with protecting health or the environment against the unreasonable risk of injury. Disclosure of information to which this section applies because of the need to protect health or the environment against an unreasonable risk of injury shall be made only in accordance with this paragraph (g).

(2) If any EPA office determines that there is an unreasonable risk of injury to health or the environment and that to protect health or the environment against the unreasonable risk of injury it is necessary to disclose information to which this section applies that otherwise might be entitled to confidential treatment under this subpart, the EPA office shall notify the EPA Legal Office in writing of the nature of the unreasonable risk of injury, the extent of the disclosure

proposed, how the proposed disclosure will serve to protect health or the environment against the unreasonable risk of injury, and the proposed date of disclosure. Such notification shall be made as soon as practicable after discovery of the unreasonable risk of injury. If the EPA office determines that the risk of injury is so imminent that it is impracticable to furnish written notification to the EPA Legal Office, the EPA office shall notify the EPA Legal Office orally.

(3) Upon receipt of notification under paragraph (g)(2) of this section, the EPA Legal Office shall make a determination in writing whether disclosure of information to which this section applies that otherwise might be entitled to confidential treatment is necessary to protect health or the environment against an unreasonable risk of injury. The EPA Legal Office shall also determine the extent of disclosure necessary to protect against the unreasonable risk of injury as well as when the disclosure must be made to protect against the unreasonable risk of injury.

(4) If the EPA Legal Office determines that disclosure of information to which this section applies that otherwise might be entitled to confidential treatment is necessary to protect health or the environment against an unreasonable risk of injury, the EPA Legal Office shall furnish notice to each affected business of the contemplated disclosure and of the Legal Office's determination. Such notice shall be made in writing, via either electronic notice as described in 40 CFR 703.5(h) or by certified mail, return receipt requested, at least 15 business days before the disclosure is to be made. The notice shall state the date upon which disclosure will be made. However, if the EPA Legal Office determines that disclosure of the information is necessary to protect against an imminent and substantial harm to health or the environment, no prior notification is necessary.

PART 702—GENERAL PRACTICES AND PROCEDURES

■ 3. The authority citation for part 702 continues to read as follows:

Authority: 15 U.S.C. 2605 and 2619.

■ 4. Amend § 702.37 by revising paragraph (d) to read as follows:

§ 702.37 Submission of manufacturer requests for risk evaluations.

* * * * *

(d) *Confidential business information.* Claims of confidentiality must be made

in accordance with the procedures described in 40 CFR part 703.

* * * * *

■ 5. Add part 703 to read as follows:

PART 703—CONFIDENTIALITY CLAIMS

Sec.

703.1 Purpose and applicability.

703.3 Definitions.

703.5 Requirements for asserting and maintaining confidentiality claims.

703.7 EPA review of confidentiality claims under TSCA section 14(g).

703.8 EPA review of confidentiality claims under TSCA section 14(f).

Authority: 15 U.S.C. 2613.

§ 703.1 Purpose and applicability.

(a) The purpose of this part is to describe procedures for asserting and maintaining confidentiality claims in accordance with TSCA section 14, and for EPA review of such claims. The procedures described in this part are generally applicable to the submission and EPA review of any TSCA submission, except to the extent that application of the requirements would be inconsistent with TSCA section 14(i). The procedures include requirements concerning the form and manner in which TSCA submissions must be made to meet requirements in TSCA sections 14(b) and (c), to facilitate EPA review of such claims in accordance with TSCA sections 14(f) and (g), and to facilitate disclosure of non-confidential information to the public in accordance with TSCA, FOIA, and their implementing regulations.

(b) This part applies to all information that is reported to or otherwise obtained by EPA pursuant to TSCA or its implementing regulations. This includes information that was first obtained by EPA other than pursuant to the authority of TSCA or its implementing regulations, provided that the following two criteria have been met:

(1) EPA has authority to collect the information under TSCA; and

(2) Either:

(i) Subsequent to its submission the information is being used to satisfy the obligation of a person under TSCA or its implementing regulations; or

(ii) EPA makes use of the information in the course of carrying out its responsibilities under TSCA (*e.g.*, EPA considered such information in its actions under TSCA sections 4, 5, or 6).

(c)(1) This part applies regardless of the following:

(i) Whether the information is intended by its submitter to be used by EPA in implementing TSCA;

(ii) Whether TSCA or an implementing regulation was cited as

authority for the request or submission of the information; or

(iii) Whether the information was provided directly to EPA or through some third person.

(2) However, where such information is not protected from disclosure under TSCA Section 14, but the statute under which the information was originally provided to EPA limits disclosure for reasons other than business confidentiality (for example, limited disclosure of pesticide data to multinational pesticide producers under 7 U.S.C. 136h(g)), the disclosure limitation in the statute under which the information was obtained by EPA continues to apply, except where TSCA expressly requires disclosure of that information.

(d) The provisions of 40 CFR part 2, subpart B, apply to this section, as modified by 40 CFR 2.306.

§ 703.3 Definitions.

The definitions in this section and the definitions in TSCA section 3 apply to this part. In addition, the definition in § 720.3(ff) of this subchapter for *test data* also applies in this part.

Accept in the context of asserting a TSCA CBI claim means EPA's first approval of the submission containing the CBI claim in CISS, or its successor system.

Act, or *TSCA*, means the Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.*

CDX or *Central Data Exchange* means EPA's centralized electronic document receiving system, or its successor system.

CISS or *Chemical Information Submission System* means EPA's web-based reporting tool for preparing and submitting TSCA submissions, or its successor system.

Confidentiality claim means a claim or allegation that business information is entitled to confidential treatment.

FOIA means the Freedom of Information Act, 5 U.S.C. 552, *et seq.*

Health and safety study has the same meaning as that provided in § 720.3(k) of this subchapter, except that for purposes of this part 703 the following information is not part of a health and safety study:

(1) The name, address, or other identifying information for the submitting company, including identification of the laboratory that conducted the study in cases where the laboratory is part of or closely affiliated with the submitting company.

(2) Internal product codes (*i.e.*, code names for the test substance used internally by the submitting company or to identify the test substance to the test laboratory).

(3) Names and contact details for testing laboratory personnel and names and other private information for health and safety study participants or persons involved in chemical incidents such as would typically be withheld under 5 U.S.C. 552(b)(6) or under other privacy laws.

(4) Information pertaining to test substance product development, advertising, or marketing plans, or to cost and other financial data.

§ 703.5 Requirements for asserting and maintaining confidentiality claims.

Any person who submits information under TSCA or these implementing regulations may assert a business confidentiality claim to information included in such submission except where such a claim is disallowed by applicable regulation under this subchapter. Such claim must be made concurrent with submission of the information. If no such claim accompanies the submission, EPA will not recognize a confidentiality claim, and the information in or referred to in that submission may be made available to the public (e.g., by publication of specific chemical name and CASRN on the public portion of the TSCA Inventory) without further notice.

(a) *Supporting statement and certification.* (1) A person asserting a confidentiality claim must submit a statement that the person has:

(i) Taken reasonable measures to protect the confidentiality of the information;

(ii) Determined that the information is not required to be disclosed or otherwise made available to the public under any other Federal law;

(iii) A reasonable basis to conclude that disclosure of the information is likely to cause substantial harm to the competitive position of the person; and

(iv) A reasonable basis to believe that the information is not readily discoverable through reverse engineering.

(2) The person must also certify that these four statements and any information required to substantiate the confidentiality claim in accordance with paragraph (b) of this section are true and correct.

(b) *Substantiation.* (1) Confidentiality claims must be substantiated at the time of submission to EPA, unless exempt under paragraph (b)(5) of this section. In the case of information collected by EPA or on behalf of EPA in person at the site of a TSCA inspection under section 11 of the Act, the affected company must assert its confidentiality claim(s) in writing at the time the information is collected, and then must provide

substantiation of its confidentiality claims and the supporting statement and certification described in paragraph (a) of this section within ten business days after the inspection ends.

Confidentiality claims lacking required substantiation after ten business days will be treated as deficient under paragraph (e) of this section. Unless otherwise directed by EPA, such information or materials must be submitted via CDX. In the case of an unusually voluminous document collection under section 11 of the Act, the affected company may request additional time to assert claims and provide substantiation, which EPA may grant at its discretion. The inspection is considered to have ended when the inspector physically exits the regulated facility on the last day of the inspection.

(2) Information in substantiations may be claimed as confidential. Such claims must be accompanied by the certification described in paragraph (a) of this section but need not be themselves separately substantiated.

(3) Substantiation questions for all claims. Unless otherwise specified elsewhere in this subchapter (e.g., 40 CFR part 711), answers to the following questions must be provided for each confidentiality claim in a TSCA submission:

(i) Please specifically explain what harm to the competitive position of your business would be likely to result from the release of the information claimed as confidential. How would that harm be *substantial*? Why is the substantial harm to your competitive position *likely* (i.e., probable) to be caused by release of the information rather than just *possible*? If you claimed multiple types of information to be confidential (e.g., site information, exposure information, environmental release information, etc.), explain how disclosure of each type of information would be likely to cause substantial harm to the competitive position of your business.

(ii) Has your business taken precautions to protect the confidentiality of the disclosed information? If yes, please explain and identify the specific measures, including but not limited to internal controls, that your business has taken to protect the information claimed as confidential. If the same or similar information was previously reported to EPA as non-confidential (such as in an earlier version of this submission), please explain the circumstances of that prior submission and reasons for believing the information is nonetheless still confidential.

(iii)(A) Is any of the information claimed as confidential required to be

publicly disclosed under any other Federal law? If yes, please explain.

(B) Does any of the information claimed as confidential otherwise appear in any public documents, including (but not limited to) safety data sheets; advertising or promotional material; professional or trade publications; State, local, or Federal agency files; or any other media or publications available to the general public? If yes, please explain why the information should be treated as confidential. If this chemical is patented and the patent reveals the information you are claiming confidential, please explain your reasons for believing the information is nonetheless still confidential.

(iv) Is the claim of confidentiality intended to last less than 10 years (see TSCA section 14(e)(1)(B))? If yes, please indicate the number of years (between 1 and 10 years) or the specific date after which the claim is withdrawn.

(v) Has EPA, another Federal agency, or court made any confidentiality determination regarding information associated with this chemical substance? If yes, please provide the circumstances associated with the prior determination, whether or not the information was found to be entitled to confidential treatment, the entity that made the decision, and the date of the determination.

(4) Additional substantiation questions for chemical identity-related claims only. Unless otherwise specified in the relevant electronic reporting form, answers to the following questions must be provided for each chemical identity-related confidentiality claim in a TSCA submission:

(i) Is this chemical substance publicly known (including by your competitors) to be in U.S. commerce? If yes, please explain why the specific chemical identity should still be afforded confidential status (e.g., the chemical substance is publicly known only as being distributed in commerce for research and development purposes, but no other information about the current commercial distribution of the chemical substance in the United States is publicly available). If no, please complete the certification statement:

I certify that on the date referenced I searched the internet for the chemical substance identity (i.e., by both chemical substance name and CASRN). I did not find a reference to this chemical substance and have no knowledge of public information that would indicate that the chemical is being manufactured or imported by anyone for a commercial purpose in the United States. [provide date].

(ii) Does this specific chemical substance leave the site of manufacture (including import) in any form, *e.g.*, as a product, effluent, emission? If yes, please explain what measures have been taken to guard against the discovery of its identity.

(iii) If the chemical substance leaves the site in a form that is available to the public or your competitors, can the chemical identity be readily discovered by analysis of the substance (*e.g.*, product, effluent, emission), in light of existing technologies and any costs, difficulties, or limitations associated with such technologies? Please explain why or why not.

(iv) Would disclosure of the specific chemical identity release confidential process information? If yes, please explain.

(5) Information described in paragraphs (b)(5)(i) and (ii) of this section is exempt from the requirement to substantiate the claim at the time of submission. EPA may identify on a reporting form certain information as exempt from substantiation. Additional assertions of exemption from substantiation may be asserted by the submitter. Each such assertion must include a detailed explanation for why the information falls within the claimed exemption. If the explanation is missing or inadequate, and the claim is not otherwise substantiated, EPA will place a hold on the submission, as described in paragraph (e) of this section.

(i) The following information types are exempt from the substantiation requirement at the time of information submission:

(A) Specific information describing the processes used in manufacture or processing of a chemical substance, mixture, or article;

(B) Marketing and sales information;

(C) Information identifying a supplier or customer;

(D) Details of the full composition of a mixture and the respective percentages of constituents;

(E) Specific information regarding the use, function, or application of a chemical substance or mixture in a process, mixture, or article; and

(F) Specific production or import volumes.

(ii) Exemption for chemical substances not yet offered for commercial distribution.
(A) A confidentiality claim for specific identity of a chemical substance, where the submission is made prior to the date on which the chemical substance whose identity is claimed as confidential is first offered for commercial distribution, is exempt from the requirement to substantiate

confidentiality claims at the time of submission.

(B) A specific chemical identity claim includes specific chemical names, CAS numbers, molecular formulas, reactants (if required to be reported as part of the identification of the chemical, such as for Class 2 substances in § 720.45(a) of this subchapter), and structural diagrams; or in the case of microorganisms, genus and species name and genetic construct.

(C) This exemption applies where the submitter lacks information to reasonably conclude that the chemical substance has been offered for commercial distribution, where both:

(1) The chemical substance is not on the TSCA Inventory; and

(2) The substance is otherwise not publicly known to have been offered for commercial distribution.

(c) *Public copies.* All TSCA submissions and their accompanying attachments that include a confidentiality claim must be accompanied, at the time of submission, by a public version of the submission and any attachments, with all information that is claimed as confidential removed. In the case of documents collected by EPA or on behalf of EPA in person at the site of a TSCA inspection under section 11 of the Act, the affected company must provide such public copies at the same time and in the same manner as it provides substantiation of its confidentiality claims in accordance with paragraph (b)(1) of this section, within ten working days after the inspection ends. Only information that is claimed as confidential may be redacted or removed. Generally, a public copy that removes all or substantially all of the information would not meet the requirements of this paragraph (c) so will likely be treated as deficient under paragraph (e) of this section.

(1) Where the applicable reporting form or electronic reporting tool contains a checkbox or other means of designating with specificity what information is claimed as confidential, no further action by the submitter is required to satisfy this requirement.

(2) For all other information claimed as confidential, including but not limited to information in attachments and in substantiations required under paragraph (b) of this section, the submitter must prepare and attach a public copy. EPA may treat as deficient submissions with public copies that are entirely blank or that are substantially reduced in length as compared to the CBI version (*see* paragraph (e) of this section).

(d) *Generic name.* Each confidentiality claim for specific chemical identity must be accompanied by a structurally descriptive generic name for that substance. This generic name must be consistent with guidance on the determination of structurally descriptive generic names developed in accordance with, and made binding by, section 14(c)(4)(A) of the Act (*e.g.*, *Guidance for Creating Generic Names for Confidential Chemical Substance Identity Reporting under TSCA*; available at <https://www.epa.gov/tsca-inventory/guidance-creating-generic-names-confidential-chemical-substance-identity-reporting>), and 15 U.S.C. 2613(c)(1)(C)(ii).

(1) At a minimum, the generic name must either:

(i) Be identical to the generic name for the same substance included on the non-confidential portion of the TSCA Inventory (if the substance is listed on the TSCA Inventory), or

(ii) For substances that are not listed on the TSCA Inventory, mask only the confidential portions of the specific chemical name. In most cases, only one structural element of a specific chemical name may be masked to protect a confidential chemical identity—if the submitter of a proposed generic name wishes to mask more than one such element, the submission must include an explanation of why masking only one element is insufficient to protect the confidential identity.

(2) Notwithstanding paragraph (d)(1) of this section, EPA may conclude that a generic name provided with the submission and listed on the current non-confidential version of the TSCA Inventory does not comply with 15 U.S.C. 2613(c)(1)(C). In such cases, EPA will notify the submitting company and proceed as described in paragraph (c)(4) of this section.

(3) A generic name that meets the requirements of section 14(c)(1)(C) of the Act prior to the date on which the chemical substance is first offered for commercial distribution for the purposes of a pre-market submission (*e.g.*, a PMN) may not be sufficient for the purposes of subsequent listing on the TSCA Inventory, as identified upon review under section 14(g)(1)(C)(i) of the Act of a confidentiality claim for specific chemical identity made in a Notice of Commencement required under § 720.102 or § 725.190(f) of this subchapter. In such cases, EPA will notify the submitting company and proceed as described in § 720.102(f) or § 725.190(f) of this subchapter.

(4) If EPA concludes that the proposed generic name does not comply with 15 U.S.C. 2613(c)(1)(C), EPA will

notify the submitter, and provide 10 business days for the submitter to provide a revised generic name. If EPA concludes that the revised generic name is still not acceptable, EPA will hold the submission for an additional period of up to 10 business days, proceeding as set out in paragraph (e) of this section.

(e) *Deficient confidentiality claims.* (1) A confidentiality claim under TSCA is deficient if it meets one or more of the following criteria:

(i) The confidentiality claim is not accompanied by the supporting statement and certification required by paragraph (a) of this section.

(ii) The confidentiality claim is not accompanied by the substantiation required by paragraph (b) of this section. If the submitter claims an exemption from substantiation under paragraph (b)(5) of this section and the exemption does not apply or an explanation is not provided for the exemption pursuant to paragraph (b)(5) of this section, the confidentiality claim is deficient.

(iii) The confidentiality claim is not accompanied by a public copy that meets the requirements of paragraph (c) of this section.

(iv) The confidentiality claim is for a specific chemical identity and is not accompanied by a generic name that meets the requirements of paragraph (d) of this section.

(2) A submission that is identified as deficient under paragraph (e)(1) of this section will be held for a period of up to 10 business days, and the submitter will be notified via CDX as described in paragraph (h) of this section. During the hold, which commences on the day the CDX notice is sent, any applicable review period for the underlying submission will be suspended until either the deficiency is corrected or the 10 business days elapse without such correction. Upon the occurrence of the first of either of these events, the applicable review period for the underlying submission commences or comes out of suspension. If the deficiency is not remedied during the suspension, EPA will proceed with review of the submission and may deny the CBI claim(s).

(f) *Electronic reporting required.* (1) TSCA submissions bearing confidentiality claims must be submitted via CDX, except where EPA directs that information subpoenaed under section 11(c) of the Act or materials collected or requested by EPA as part of an inspection under section 11(a) of the Act, not be submitted via CDX. Any required TSCA submission asserting a CBI claim that does not meet the requirements of this paragraph will be deemed incomplete. EPA reserves the

ability to waive the requirements of this paragraph, at its discretion, where compliance is infeasible.

(2) You must use CISS to complete and submit TSCA submissions via CDX. To access CISS go to <https://cdx.epa.gov/> and follow the appropriate links.

(3) On receipt by EPA, each electronic TSCA submission will be assigned a case number or document identifier, which will be available to the submitter in their CDX account. This identifier may be used as a reference in future communications that concern the substance and may be used by EPA in public communications (e.g., **Federal Register** notices) that concern the submission, such as notices of receipt, final confidentiality determination, pending confidentiality claim expiration, or in other regulatory actions that concern the TSCA submission.

(g) *Requirement to report health and safety studies using templates.* Submitters of health and safety studies or information from such studies must provide such data in templated form, using an appropriate OECD harmonized template, if such template is available for the data type (<https://www.oecd.org/ehs/templates/>). Individual test or data submission rules or orders may specify an appropriate template or templates. Submission of templated data is not a substitute for submitting a full study report where a specific TSCA rule or order requires submission of the full study report (e.g., § 720.50(a) of this subchapter, or according to the terms of a specific order under section 5(e) of the Act).

(h) *Requirement to maintain company contact information; electronic notices concerning confidentiality claims.* (1) To facilitate ongoing or future communication concerning TSCA submissions, current contact information for all of the individuals associated with a particular TSCA submission must be maintained. Contact information for all the individuals associated with a particular TSCA submission must be updated by amending the submission via CDX, except that submissions that are either no longer accessible to the submitting company or that were not submitted via CDX (e.g., submissions that were originally provided on paper or other physical media), updated company contact must be provided via CDX using the appropriate EPA-provided electronic reporting application in CISS. In circumstances where ownership of the company or unit of a company has changed, such that contact information for one or more prior TSCA submissions that include confidentiality claims is

affected, a notice of transfer of ownership must be directed to EPA via CDX. Instructions for providing this notice and for requesting access to copies of a prior TSCA submission are available at <https://cdx.epa.gov/>.

(2) When EPA contacts a TSCA submitter concerning confidentiality claims (e.g., related to a pending or concluded confidentiality claim review, a deficient submission, or in relation to the 10-year expiration of a confidentiality claim (described in section 14(e) of the Act)), EPA may provide notices and other correspondence to the submitter via CDX, using the contact information provided in the most recent version of the submission, or using the contact information provided in a more recent notice of transfer of ownership relating to that submission. The fact and date of delivery of such notice is verified automatically by CDX.

(3) In addition to individual notice described in paragraph (h)(2) of this section, EPA will publish on its website, or other appropriate platform, a list of TSCA submissions with confidentiality claims that are approaching the end of the ten-year period of protection described in section 14(e) of the Act. Such TSCA submissions will be referred to by the TSCA case or document identifier (as described in paragraph (f)(3) of this section) that was assigned to the submission by EPA when it was originally submitted. TSCA submissions will be added to this list at least 60 days prior to the end of the ten-year period of protection, along with instructions for reasserting and substantiating expiring claims.

(4) When a confidentiality claim is being reviewed pursuant to section 14(f) of the Act, EPA will provide, when necessary, notice of such review and an opportunity to substantiate or resubstantiate the affected confidentiality claim to the submitter using the contact information for the authorized official or technical contact provided in the most recent version of the submission or in a more recent notice of transfer of ownership relating to that submission.

(5) Where the submission with the relevant CBI claim was not originally made via CDX, EPA will send the notice via courier or US Mail to the company address provided in the most recent TSCA submission made by that company, or via other means that allows verification of the fact and date of receipt. The notice will provide instructions for substantiating claims that were exempt from substantiation when the confidentiality claim was asserted or for which the submitter was

otherwise not required to provide substantiation at the time of initial submission, and for updating or re-substantiating as necessary any claims that were previously substantiated.

(i) *Withdrawing confidentiality claims.* TSCA confidentiality claims may be voluntarily withdrawn by the submitter at any time.

(1) Confidentiality claims in TSCA submissions that were originally made via electronic submission may be withdrawn. To withdraw a claim, a person must reopen the submission in CDX, remove confidentiality markings (e.g., confidential checkmarks or bracketing), revise public copies including any attachments to unredact the information no longer claimed confidential, and then resubmit the submission.

(2) For submissions that were not originally made via CDX, or that are no longer accessible to the submitting company via CDX, confidentiality claims may also be withdrawn via CDX using the "TSCA Communications" application or successor system. The withdrawal correspondence must indicate the case or document number (or other applicable document identifier or document identifying details) from which CBI claims are being withdrawn, identify the submitting company, and include a list or description of the information for which CBI claims are being withdrawn, including page numbers where relevant. Current contact information for the person withdrawing the claim must also be provided, in the event EPA needs clarification concerning which claim or claims are being withdrawn.

(j) *Amending public copy following confidentiality claim denial or expiration.* (1) Following the expiration or EPA's denial of a TSCA confidentiality claim, the person who asserted the denied or expired claim should prepare and submit a revised public copy of the submission to EPA, following the procedures for voluntarily withdrawing claims described in paragraph (i) of this section.

(2) If the person who asserted the denied or expired claim declines or fails to provide within 30 days a revised public copy of the submission that includes the information for which the confidentiality claim(s) were denied or expired, EPA may prepare an addendum to the original public copy, as needed, disclosing the information to the public.

§ 703.7 EPA review of confidentiality claims under TSCA section 14(g)

(a) *Representative subset and selection of submissions for review.* (1) A representative subset consists of at

least 25 percent of confidentiality claims asserted under TSCA, not including claims for specific chemical identity or for the categories of information listed in section 14(c)(2) of the Act. Excluded from the representative subset are:

(i) Inquiries with respect to potential submission to EPA of a notification under 40 CFR part 720, 721, 723, or 725 by a person who has not submitted the notification at the time of the inquiry, including inquiries under § 720.25(b) or § 721.11 of this subchapter;

(ii) Submissions or other communication not submitted to EPA via CDX; and

(iii) Amendments to previous TSCA submissions.

(2) To satisfy its confidentiality claim review obligations under section 14(g)(1)(C)(ii) of the Act, EPA will generally review all claims (except those exempt from substantiation under section 14(c)(2) of the Act) in every fourth TSCA submission submitted via CDX that is part of the representative subset, in chronological order of receipt by EPA. For each submission selected for review as part of the representative subset, EPA reviews and approves or denies every individual confidentiality claim in that submission (except claims that are exempt under sections 14(c)(2) and 14(g) of the Act), including claims made in attachments and amendments available to EPA at the time of the review.

(b) *Review of new and expiring confidentiality claims under TSCA Section 14(g).* (1)(i) Under section 14(g) of the Act, EPA will review:

(A) All chemical identity claims asserted in TSCA submissions except those that are exempt from substantiation according to section 14(c)(2)(G) of the Act; and

(B) a representative subset of other confidentiality claims as provided in paragraph (a) of this section.

(ii) Final determinations will be issued by the General Counsel or their designee, which may include personnel outside of the Office of General Counsel.

(2) EPA will review all timely requests for extension of claims under section 14(e) of the Act within 30 days of receipt.

(3) EPA will also review or re-review confidentiality claims under certain other circumstances, as set out in section 14(f) of the Act. Review under section 14(f) of the Act are conducted in accordance with procedures set out in § 703.8.

(c) *Commencement of the review period and effect of amendments.* Subject to § 703.5(e), the 90-day review period described in section 14(g) of the

Act begins on the day that EPA accepts a new TSCA submission that includes confidentiality claims. For new information, other than specific chemical identity, added to a submission after EPA first accepts the submission, the review will take into account such amendments to that submission that are made either up to 60 days from the original submission date, or until the Agency issues a final confidentiality determination for the submission, whichever comes first. If a submission is amended to report an additional or different chemical substance that includes a new specific chemical identity claim, the TSCA section 14(g) review period for the added chemical identity begins on the day EPA accepts the amendment including the new claim.

(d) *Publication of final determinations.* Final confidentiality determinations will be published on EPA's website, or other platform, periodically, in accordance with the requirements of section 26(j) of the Act.

(e) *Claim denials and notice period.* In the case that EPA determines that a claim or part of a claim is not entitled to confidential treatment, EPA will provide notice of the denial to the person who made the claim and provide reasons for the denial or denial in part. The notice will be provided, as described in § 703.5(h). The 30-day notice period described in section 14(g)(2)(B) of the Act begins on the next business day following the date the notice is made available to the submitter in their CDX account.

(f) *Substantive criteria for use in confidentiality determinations.* Information claimed as confidential under section 14 of the Act will be approved if all of the following apply:

(1) The business has asserted a business confidentiality claim which has not expired by its terms, nor been waived nor withdrawn;

(2) The business has satisfactorily shown that it has taken reasonable measures to protect the confidentiality of the information, and that it intends to continue to take such measures for as long as the claim is maintained;

(3) The information is not, and has not been, reasonably obtainable without the business's consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding; e.g., the business has demonstrated a reasonable basis to believe the information is not readily discoverable through reverse engineering);

(4) The business has demonstrated a reasonable basis to conclude that disclosure of the information is likely to cause substantial harm to the competitive position of the business; and

(5) No statute denies confidential protection to the information. Information from health and safety studies respecting any chemical that has been offered for commercial distribution or for which testing is required under section 4 of the Act or notice is required under section 5 of the Act is not entitled to confidential treatment, except that the following information may be entitled to confidential treatment if it otherwise meets the remainder of criteria in this paragraph (f):

(i) Any information, including formulas (including molecular structures) of a chemical substance or mixture, that discloses processes used in the manufacturing or processing of a chemical substance or mixture; or

(ii) In the case of a mixture, the portion of the mixture comprised by any of the chemical substances in the mixture.

(6) The business adequately demonstrates that the information is commercial or financial information obtained from a person and is confidential within the meaning of FOIA Exemption 4 (5 U.S.C. 552(b)(4)).

(g) *Criteria to use in consideration of requests for extension under TSCA section 14(e).* Requests to extend the period of confidentiality protection under TSCA section 14(e) will be evaluated using the same criteria as described in paragraph (f) of this section. Requests for extension may rely on a substantiation previously provided to EPA, but the submitter must recertify that the substantiation is still true and correct.

§ 703.8 EPA review of confidentiality claims under TSCA section 14(f).

(a) *Review of confidentiality claims initiated under TSCA Section 14(f).* In accordance with the procedures described in this section, EPA may review confidentiality claims where authorized by TSCA section 14(f)(1), and will review confidentiality claims subject to TSCA section 14(f)(2) in the following situations:

(1) In response to a request under the Freedom of Information Act (5 U.S.C. 552) for TSCA information claimed confidential;

(2) If EPA has reason to believe that information claimed confidential does not qualify for protection from disclosure; or

(3) For any chemical substance which EPA determines under TSCA section

6(b)(4)(A) presents an unreasonable risk of injury to health or the environment.

(b) *Substantiation exemptions not applicable.* The exemptions from substantiation requirements contained in section 14(c)(2) of TSCA do not apply to confidentiality claims reviewed under this section 703.8, even if such exemptions applied when the information was originally submitted to EPA.

(c) *Additional substantiation.* If necessary, such as where substantiation has not previously been provided for confidentiality claims under review, or where EPA has reason to believe the substantiation is incomplete or out of date, EPA will request additional substantiation from the person(s) that claimed the information as confidential.

(d) *Additional substantiation notice.* If additional substantiation is necessary, EPA will provide notice to the person that claimed the information as confidential in the manner specified in § 703.5(h)(4). The notice will provide the time allowed for additional substantiation from the business and the method for requesting a time extension if necessary. If the person does not make a timely response or extension request, EPA will consider any existing substantiations in its review of the claims or, in the case of any unsubstantiated claim, EPA will construe this as a waiver of the claim and may make the information public without any further notice to the submitter.

(e) *Substantive criteria for use in confidentiality determinations.* The criteria in § 703.7(f) apply to confidentiality determinations initiated under TSCA section 14(f).

(f) *Adverse determinations and notice period.* Final determinations will be issued by the General Counsel or their designee, including personnel outside of the Office of General Counsel. Except for instances where claims were waived, if EPA determines that information claimed confidential does not qualify for protection from disclosure, EPA will provide written notice to the person who asserted the claim. The notice will be provided electronically, as described in § 703.5(h)(2). The 30-day notice period described in TSCA section 14(g)(2)(B) begins on the next business day following the date the notice is made available to the submitter in their CDX account.

(g) *Disclosure of Information.* After a final determination has been made by EPA to release some or all of the information claimed as confidential, the Agency shall make the information available to the public (in the absence

of a court order prohibiting disclosure) whenever:

(1) The period provided for commencement by a business of an action to obtain judicial review of the determination has expired without notice to EPA of commencement of such an action; or

(2) The court, in a timely-commenced action, has denied the person's motion for a preliminary injunction, or has otherwise upheld the EPA determination.

(h) *Notice relating to public requests for records.* Any person whose request for release of the information under 5 U.S.C. 552 is pending at the time notice is given under paragraph (f) of this section shall be furnished notice under 5 U.S.C. 552 either stating the circumstances under which the some or all of the information will be released or denying the request if all requested information was found to be entitled to confidential treatment.

PART 704—REPORTING AND RECORDKEEPING REQUIREMENTS

■ 6. The authority citation for part 704 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

■ 7. Revise § 704.7 to read as follows:

§ 704.7 Confidential business information claims.

Claims of confidentiality must be made in accordance with the procedures described in 40 CFR part 703.

PART 707—CHEMICAL IMPORTS AND EXPORTS

■ 8. The authority citation for part 707 continues to read as follows:

Authority: 15 U.S.C. 2611(b) and 2612.

■ 9. Amend § 707.63 by:

■ a. Removing the paragraph designations (a) through (d) and listing the existing definitions in alphabetical order; and

■ b. Adding in alphabetical order a definition for "CDX".

The addition reads as follows:

§ 707.63 Definitions.

* * * * *

CDX or Central Data Exchange means EPA's centralized electronic document receiving system, or its successor system.

* * * * *

■ 10. Revise § 707.65 to read as follows:

§ 707.65 Submission to the agency.

(a) For each action under TSCA triggering export notification, exporters must notify EPA of their export or intended export of each subject

chemical substance or mixture for which export notice is required under § 707.60 in accordance with the following:

(1)(i) The export notice must be for the first export or intended export by an exporter to a particular country in a calendar year when the chemical substance or mixture is the subject of an order issued, an action that is pending, or relief that has been granted under TSCA section 5(f), a rule that has been proposed or promulgated under TSCA section 6, or an action that is pending or relief that has been granted under TSCA section 7.

(ii) The export notice must only be for the first export or intended export by an exporter to a particular country when the chemical substance or mixture is the subject of an order issued, an action that is pending, or relief that has been granted under TSCA section 5(e), a rule that has been proposed or promulgated under TSCA section 5(a)(2), or when the submission of data is required under TSCA section 4 or 5(b). Under this paragraph, notice of export to a particular country is not required if an exporter previously submitted to EPA a notice of export to that country prior to January 16, 2007.

(2) The export notice must be submitted to EPA within seven days of forming the intent to export or on the date of export, whichever is earlier. A notice of intent to export must be based on a definite contractual obligation, or an equivalent intra-company agreement, to export the regulated chemical.

(b) If the EPA action that prompts the notice is a proposed rule, the requirement to submit export notices to EPA shall begin thirty days after publication of the action in the **Federal Register**.

(c) Export notices must be submitted via CDX, using the TSCA section 12(b) Export Notification Application or its successor.

- 11. Amend § 707.67 by revising paragraph (a) to read as follows:

§ 707.67 Contents of notice.

* * * * *

(a) The name of the regulated chemical as it appears in the TSCA section 4, 5, 6, and/or 7 action. For substances on the confidential portion of the TSCA Inventory, the substance must be identified by generic name and accession number, or by any other non-confidential identifier under which it is listed on the TSCA section 12(b) reporting list maintained by EPA and available in the TSCA section 12(b) Export Notification Application described in § 707.65(c). If a category is regulated, the name of the individual

regulated chemical within that category, as well as the category, must be given. The name must be that which appears in the TSCA Inventory if the chemical appears there.

* * * * *

- 12. Amend § 707.75 by revising paragraph (d) to read as follows:

§ 707.75 Confidentiality.

* * * * *

(d) Claims of confidentiality must be made in accordance with the procedures described in 40 CFR part 703.

PART 716—HEALTH AND SAFETY DATA REPORTING

- 12. The authority citation for part 716 continues to read as follows:

Authority: 15 U.S.C. 2607(d).

- 13. Revise § 716.55 to read as follows:

§ 716.55 Confidentiality claims.

Claims of confidentiality must be made in accordance with the procedures described in 40 CFR part 703.

PART 717—RECORDS AND REPORTS OF ALLEGATIONS THAT CHEMICAL SUBSTANCES CAUSE SIGNIFICANT ADVERSE REACTIONS TO HEALTH OR THE ENVIRONMENT

- 14. The authority citation for part 717 continues to read as follows:

Authority: 15 U.S.C. 2607(c).

- 15. Amend § 717.17 by revising paragraph (c) to read as follows:

§ 717.17 Inspection and reporting requirements.

* * * * *

(c) *How to Report.* When required to report, firms must submit copies of records via CDX <https://cdx.epa.gov/> using the EPA provided electronic reporting application.

- 16. Revise § 717.19 to read as follows:

§ 717.19 Confidentiality.

Claims of confidentiality must be made in accordance with the procedures described in 40 CFR part 703.

PART 720—PREMANUFACTURE NOTIFICATION

- 17. The authority citation for part 720 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2613.

- 18. Revise § 720.80 to read as follows:

§ 720.80 General provisions.

Claims of confidentiality must be made in accordance with the procedures described in 40 CFR part 703.

§ 720.85 [Removed]

- 19. Remove § 720.85.

§ 720.90 [Removed]

- 20. Remove § 720.90.

- 21. Revise § 720.95 to read as follows:

§ 720.95 Public file.

All information submitted with a notice, including any health and safety study and other supporting documentation, will become part of the public file for that notice, unless such materials are claimed confidential in accordance with procedures in 40 CFR 703.5. In addition, EPA may add materials to the public file, subject to subpart E of this part. Publicly available materials are available at the docket addresses in § 700.17(b)(1) and (2) of this subchapter and on EPA's website.

- 22. Amend § 720.102 by revising paragraph (c)(2) and adding paragraphs (e) and (f) to read as follows:

§ 720.102 Notice of commencement of manufacture or import.

* * * * *

(c) * * *

(2) If the submitter claims any information on the form as confidential, the claim must be asserted and substantiated in accordance with the requirements described in 40 CFR part 703 and must be submitted via EPA Form 7710-56. If the submitter wants the chemical identity to be listed on the confidential portion of the TSCA Inventory, the chemical identity must be claimed as confidential and the submitter must also follow the certification, substantiation, and generic name requirements described 40 CFR part 703 and paragraphs (e) and (f) of this section. Otherwise, EPA will list the specific chemical identity on the public TSCA Inventory. Submitters who did not claim the chemical identity, submitter identity, or other information to be confidential in the PMN cannot claim this information as confidential in the notice of commencement.

* * * * *

(e) *Confidentiality.* (1) Any person who asserts a confidentiality claim for chemical identity in a Notice of Commencement submitted under this section must:

(i) Comply with generic name requirements described in 40 CFR part 703 and as specified in paragraph (f) of this section.

(ii) Agree that EPA may disclose to a person with a *bona fide* intent to manufacture or import the chemical substance the fact that the particular chemical substance is included on the confidential TSCA Inventory for

purposes of notification under section 5(a)(1)(A) of the Act.

(iii) Have available for the particular chemical substance, and agree to furnish to EPA upon request:

(A) An elemental analysis.

(B) Either an X-ray diffraction pattern (for inorganic substances), a mass spectrum (for most other substances), or an infrared spectrum of the particular chemical substance, or if such data do not resolve uncertainties with respect to the identity of the chemical substance, additional or alternative spectra or other data to identify the chemical substance.

(2) Claims of confidentiality must be made in accordance with the procedures described in 40 CFR part 703.

(f) *Generic name.* If a submitter asserts a claim of confidentiality for chemical identity in a notice of commencement, they must provide a structurally descriptive generic name.

(1) Generic names must:

(i) Be structurally descriptive (*e.g.*, not a trade name);

(ii) Describe the chemical structure of the chemical substance as specifically as practicable while protecting only those features of the chemical structure that are claimed as confidential and disclosure of which would likely cause substantial harm to the competitive position of the person—the generic name should generally only obscure one structural feature, but in any case, should conceal only the feature(s) necessary to avoid a likelihood of substantial competitive harm to the submitter; and

(iii) Be consistent with guidance on the determination of structurally descriptive generic names, developed in accordance with TSCA section 14(c)(4)(A) (*e.g.*, *Guidance for Creating Generic Names for Confidential Chemical Substance Identity Reporting under TSCA*; available at <https://www.epa.gov/tscainventory/guidance-creating-generic-names-confidential-chemical-substance-identity-reporting>).

(2) Generic names will be reviewed by EPA at the time of submission.

(i) If EPA concludes that a proposed generic name meets the criteria in paragraph (f)(1) of this section, EPA will include that generic name in the public TSCA Inventory listing for that substance.

(ii) If the proposed generic name does not meet the criteria in paragraph (f)(1) of this section, EPA will notify the submitter concerning the deficiency via CDX, as described in 40 CFR 703.5(f). EPA will provide 10 business days to correct the deficiency and provide an alternative generic name that would be acceptable to EPA. If the alternative generic name proposed by EPA is

acceptable to the submitter (or if the submitter does not respond within the 10-day period), EPA will place that alternative generic name on the public TSCA Inventory. If the alternative generic name proposed by EPA is not acceptable to the submitter, the submitter must submit a revised generic name that meets the criteria in paragraph (f)(1) of this section and an explanation of how EPA's proposed generic name reveals confidential information. If EPA concludes that the submitter's revised generic name also does not meet the criteria in paragraph (f)(1) of this section, EPA will hold the notice of commencement for a period of up to 10 business days. Reporting requirements will not be considered to have been met and the substance will not be added to the TSCA Inventory during this period. If the submission remains deficient after this 10-day period, EPA will proceed with CBI review of the chemical identity claim and will likely deny the claim.

PART 723—PREMANUFACTURE NOTICE EXEMPTIONS

■ 23. The authority citation for part 723 continues to read as follows:

Authority: 15 U.S.C. 2604.

■ 24. Amend § 723.50 by revising paragraph (l) to read as follows:

§ 723.50 Chemical substances manufactured in quantities of 10,000 kilograms or less per year, and chemical substances with low environmental releases and human exposures.

* * * * *

(l) *Confidentiality.* Claims of confidentiality must be made in accordance with the procedures described in 40 CFR part 703.

* * * * *

■ 25. Amend § 723.250 by revising paragraphs (f) introductory text and (n) to read as follows:

§ 723.250 Polymers.

* * * * *

(f) *Exemption report for polymers manufactured under the terms of this section.* For substances exempt under paragraphs (e)(1) through (3) of this section a report of manufacture or import must be submitted by January 31 of the year subsequent to initial manufacture. The report and accompanying claims must be submitted via CDX (<https://cdx.epa.gov/>), using the TSCA Section 5 Notices and Supports—ePMN application. See § 720.40(a)(2)(ii) of this subchapter for information on how to access e-PMN software. The notice must include:

* * * * *

(n) *Confidentiality.* Claims of confidentiality must be made in accordance with the procedures described in 40 CFR part 703.

PART 725—REPORTING REQUIREMENTS AND REVIEW PROCESSES FOR MICROORGANISMS

■ 26. The authority citation for part 725 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, 2613, and 2625.

■ 27. Revise § 725.80 to read as follows:

§ 725.80 General provisions for confidentiality claims.

Claims of confidentiality must be made in accordance with the procedures described in 40 CFR part 703, except as modified in this paragraph. In general, references to “chemical” or “chemical identity” in part 703 are equivalent to “microorganism” or “microorganism identity” for the purposes of this part.

(a) In place of § 703.5(b)(3)(v) of this subchapter, the following question must be answered: Has EPA, another Federal agency, or court made any confidentiality determination regarding information associated with this microorganism? If yes, please provide the circumstances associated with the prior determination, whether the information was found to be entitled to confidential treatment, the entity that made the decision, and the date of the determination.

(b) In place of § 703.5(b)(4) of this subchapter, the following questions apply:

(1) Has the identity of the microorganism been kept confidential to the extent that competitors do not know it is being manufactured or imported into US commerce? If not, explain why the microorganism identity should still be afforded confidential status (*e.g.*, the microorganism is publicly known only as being distributed in commerce for research and development purposes, but no other information about the current commercial distribution of the microorganism in the United States is publicly available).

(2) Does the microorganism leave the site of production or testing in a form which is accessible to the public or to competitors? If yes, please explain what measures have been taken to guard against the discovery of its identity. Further, what is the cost to a competitor, in time and money, to develop appropriate use conditions? What factors facilitate or impede product analysis?

§ 725.85 [Removed]

■ 28. Remove § 725.85.

§ 725.92 [Removed]

- 29. Remove § 725.92.

§ 725.94 [Removed]

- 30. Remove § 725.94.
- 31. Revise § 725.95 to read as follows:

§ 725.95 Public file.

All information submitted, including any health and safety study of a microorganism and other supporting documentation, will become part of the public file for that submission, unless such materials are claimed as confidential in accordance with this section. In addition, EPA may add materials to the public file, subject to subpart C of this part. Publicly available materials are available at the docket addresses in § 700.17(b)(1) and (2) of this subchapter and on EPA's website.

- 32. Amend § 725.190 by revising paragraph (c) and adding paragraphs (e) and (f) to read as follows:

§ 725.190 Notice of commencement of manufacture or import.

* * * * *

(c) *Information to be reported.* The NOC must contain the following information: Specific microorganism identity, MCAN number, and the date when manufacture or import commences. If the person claims any information on the form as confidential, the claim must be asserted and substantiated in accordance with the requirements described in part 703 of this subchapter and § 725.80, as indicated in EPA Form 7710–56. If the submitter wants the microorganism identity to be listed on the confidential portion of the TSCA Inventory, the microorganism identity must be claimed as confidential and also follow the certification, substantiation, and generic name requirements described in part 703 of this subchapter and paragraphs (e) and (f) of this section.

* * * * *

(e) *Requirements for assertion.* Any person who asserts a confidentiality claim for microorganism identity must:

(1) Comply with the requirements of paragraph (f) of this section regarding submission of a generic name.

(2) Agree that EPA may disclose to a person with a *bona fide* intent to manufacture or import the microorganism the fact that the particular microorganism is included on the confidential TSCA Inventory for purposes of notification under section 5(a)(1)(A) of the Act.

(3) Have available and agree to furnish to EPA upon request the taxonomic designations and supplemental information required by § 725.12.

(4) Make claims of confidentiality in accordance with the procedures described in 40 CFR part 703.

(f) *Generic name.* If a submitter asserts a claim of confidentiality for microorganism identity in a notice of commencement, they must provide a generic name.

(1) Generic names must:

(i) Be structurally descriptive (*e.g.*, not a trade name); and

(ii) Be consistent with guidance on the determination of structurally descriptive generic names, developed in accordance with section 14(c)(4)(A) of the Act (*e.g.*, *Guidance for Creating Generic Names for Confidential Chemical Substance Identity Reporting under TSCA*). Generic names for microorganisms may only mask the portion of microorganism identity that the submitter believes is proprietary (considering that the identity of a microorganism to be listed on the TSCA Inventory must include taxonomic designations (genus, species, and strain), key phenotypic traits, key genotypic traits and modifications, genetic material that has been introduced or modified, any vector constructs used, cellular location of introduced or modified genes, number and type of genes introduced or modified, and method of construction or modification). Taxonomic designation (in most cases down to strain) must be included in the generic name except where the submitter claims the taxonomic designation confidential, in which case the person making such claim must provide an explanation of why such masking is necessary to protect proprietary information. Additionally, the generic microorganism identity must include a statement regarding the function and stability of the genetic construct. This includes an indication of whether the introduced or modified genes are present on the chromosome or extrachromosomal.

(2) Generic names will be reviewed by EPA at the time of submission.

(i) If EPA concludes that a proposed generic name meets the criteria in paragraph (f)(1) of this section, EPA will include that generic name in the public TSCA Inventory listing for that substance.

(ii) If the proposed generic name does not meet the criteria in paragraph (f)(1) of this section, EPA will notify the submitter concerning the deficiency via CDX, as described in § 703.5(h) of this subchapter. EPA will provide ten business days to correct the deficiency and provide an alternative generic name that would be acceptable to EPA. If the alternative generic name proposed by EPA is acceptable to the submitter (or if

the submitter does not respond within the ten-day period), EPA will place that alternative generic name on the public TSCA Inventory. If the alternative generic name proposed by EPA is not acceptable to the submitter, the submitter must submit a revised generic name that meets the criteria in paragraph (f)(1) of this section and an explanation of how EPA's proposed generic name reveals confidential information. If EPA concludes that the revised generic name also does not meet the criteria in paragraph (f)(1) of this section, EPA will hold the notice of commencement for a period of up to 10 business days. Reporting requirements will not be considered to have been met and the microorganism will not be added to the TSCA Inventory during this period. If the submission remains deficient after this 10-day period, EPA will proceed with CBI review of the microorganism identity claim and will likely deny the claim.

PART 790—PROCEDURES GOVERNING TESTING CONSENT AGREEMENTS AND TEST RULES

- 34. The authority citation for part 790 continues to read as follows:

Authority: 15 U.S.C. 2603.

- 32. Revise § 790.7 to read as follows:

§ 790.7 Confidentiality.

Claims of confidentiality must be made in accordance with the procedures described in 40 CFR part 703.

[FR Doc. 2023–12044 Filed 6–6–23; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Medicare & Medicaid Services**

42 CFR Parts 417, 422, 423, 455, and 460

[CMS–4201–CN2]

RIN 0938–AU96

Medicare Program; Contract Year 2024 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; correction.

SUMMARY: This document corrects technical errors that appeared in the

final rule published in the **Federal Register** on April 12, 2023 entitled “Contract Year 2024 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly.”

DATES: This correcting document is effective June 5, 2023.

FOR FURTHER INFORMATION CONTACT: Lucia Patrone, (410) 786–8621.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2023–07115 of April 12, 2023 (88 FR 22120), there were a few technical errors that are identified and corrected in this correcting document. The provisions in this correction document are effective as if they had been included in the document published April 12, 2023. Accordingly, the corrections are effective June 5, 2023.

II. Summary of Errors in the Regulations Text

On pages 22332 and 22338, we made technical errors in the regulations text amendatory instructions for §§ 422.164 and 423.186.

III. Waiver of Proposed Rulemaking and Delay in Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on the proposed rule in accordance with section 1871(b)(1) of the Social Security Act (the Act) and 5 U.S.C. 553(b) of the Administrative Procedure Act (APA). In particular, section 1871 of the Act requires a minimum 60 day period for public comment. The notice of proposed rulemaking includes a reference to the legal authority under which the rule is proposed, and the terms and substances of the proposed rule or a description of the subjects and issues involved. In addition, section 553(d) of the APA, and section 1871(e)(1)(B)(i) of the Act mandate a 30-day delay in effective date after issuance or publication of a rule. Per APA sections 553(b)(B) and (d)(3) and section 1871(b)(2)(C) and (e)(1)(B)(ii) of the Act, there procedures can be waived if an agency finds good cause that a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the finding and its reasons in the rule issued.

We believe that this final rule correcting document does not constitute a rule that would be subject to the

notice and comment or delayed effective date requirements. This document merely corrects typographical and technical errors in the final rule, but it does not make substantive changes to the policies or the implementing regulations that were adopted in the final rule. As a result, this final rule correcting document is intended to ensure that the information in the final rule accurately reflects the policies and regulatory amendments adopted in that document.

In addition, even if this were a rule to which the notice and comment procedures and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the minor corrections in this document into the final rule or delaying the effective date would be unnecessary, as we are not altering our policies or regulatory changes, but rather, we are simply implementing correctly the policies and regulatory changes that we previously proposed, requested comment on, and subsequently finalized. This final rule correcting document is intended solely to ensure that the final rule accurately reflects these policies and regulatory changes. Furthermore, such notice and comment procedures would be contrary to the public interest because it is in the public’s interest to ensure that the final rule accurately reflects our policies and regulatory changes. Therefore, we believe we have good cause to waive the notice and comment and effective date requirements.

Correction of Errors

In FR Doc. 2023–07115 of April 12, 2023 (88 FR 22120), make the following corrections:

§ 422.166 [Corrected]

■ 1. On page 22332, in the third column, in § 422.166, in amendatory instruction 17c, line 1, the phrase “Revising paragraphs (g)(1), (i)(3)(iv)” is corrected to read “Revising paragraphs (g)(1) introductory text, (i)(3)(iv)”.

§ 423.186 [Corrected]

■ 2. On page 22338, in the first column, in § 423.186, in amendatory instruction 40c, line 1, the phrase “Revising paragraphs (g)(1), (i)(7)(i)” is corrected to read “Revising paragraphs (g)(1) introductory text, (i)(7)(i)”.

Elizabeth J. Gramling,

*Executive Secretary to the Department,
Department of Health and Human Services.*

[FR Doc. 2023–12098 Filed 6–2–23; 4:15 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 220919–0193]

RTID 0648–XD039

**Atlantic Highly Migratory Species;
Atlantic Bluefin Tuna Fisheries;
Closure of the Angling Category
Southern New England Area Trophy
Fishery for 2023**

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the Angling category southern New England area fishery for large medium and giant (“trophy” (*i.e.*, measuring 73 inches (185 cm) curved fork length or greater)) Atlantic bluefin tuna (BFT). This action applies to Highly Migratory Species (HMS) Angling and HMS Charter/Headboat permitted vessels when fishing recreationally.

DATES: Effective 11:30 p.m., local time, June 5, 2023, through December 31, 2023.

FOR FURTHER INFORMATION CONTACT: Larry Redd, Jr., *larry.redd@noaa.gov*, 301–427–8503 or Ann Williamson, *ann.williamson@noaa.gov*, 301–427–8503.

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

Under § 635.28(a)(1), NMFS files a closure action with the Office of the Federal Register for publication when a BFT quota (or subquota) is reached or is projected to be reached. Retaining, possessing, or landing BFT under that quota category is prohibited on and after the effective date and time of a closure action for that category, for the remainder of the fishing year, until the opening of the subsequent quota period or until such date as specified.

As of January 1, 2023, the previous Angling category Trophy North subquota area was divided into two zones: north and south of 42° N lat. (off Chatham, MA) (87 FR 59966, October 3, 2022). These newly formed areas are named the Gulf of Maine Trophy area and the Southern New England Trophy area. The 2023 BFT fishing year, which is managed on a calendar-year basis and subject to an annual calendar-year quota, began January 1, 2023. The Angling category season opened January 1, 2023, and continues through December 31, 2023. The Angling category baseline quota is 297.4 metric tons (mt), of which 9.2 mt is suballocated for the harvest of large medium and giant (trophy) BFT by vessels fishing under the Angling category quota, with 2.3 mt allocated for each of the following areas: North of 42° N lat. (the Gulf of Maine area); south of 42° N lat. and north of 39°18' N lat. (the southern New England area); south of 39°18' N lat., and outside of the Gulf of Mexico (the southern area); and the Gulf of Mexico region. Trophy BFT measure 73 inches (185 cm) curved fork length or greater. This action applies to the southern New England area.

Angling Category Large Medium and Giant Southern New England "Trophy" Fishery Closure

Based on landings data from the NMFS Automated Catch Reporting System, as well as average catch rates and anticipated fishing conditions, NMFS projects the Angling category southern New England area trophy BFT subquota of 2.3 mt has been reached and exceeded. Therefore, retaining, possessing, or landing large medium or giant (*i.e.*, measuring 73 inches (185 cm)

curved fork length or greater) BFT in the southern New England area by persons aboard HMS Angling and HMS Charter/Headboat permitted vessels (when fishing recreationally) must cease at 11:30 p.m. local time on June 5, 2023. This closure will remain effective through December 31, 2023. This action applies to HMS Angling and HMS Charter/Headboat permitted vessels when fishing recreationally for BFT, and is taken consistent with the regulations at § 635.28(a)(1). This action is intended to prevent further overharvest of the Angling category southern New England area trophy BFT subquota.

If needed, subsequent Angling category adjustments will be published in the **Federal Register**. Information regarding the Angling category fishery for Atlantic tunas, including daily retention limits for BFT measuring 27 inches (68.5 cm) to less than 73 inches (185 cm), and any further Angling category adjustments, is available at <https://www.hmspermits.noaa.gov> or by calling 978-281-9260. Fishermen aboard HMS Angling and HMS Charter/Headboat permitted vessels may catch and release (or tag and release) BFT of all sizes, subject to the requirements of the catch-and-release and tag-and-release programs at § 635.26. All BFT that are released must be handled in a manner that will maximize survival, and without removing the fish from the water, consistent with requirements at § 635.21(a)(1). For additional information on safe handling, see the "Careful Catch and Release" brochure available at <https://www.fisheries.noaa.gov/resource/outreach-and-education/careful-catch-and-release-brochure/>.

HMS Angling and HMS Charter/Headboat permitted vessel owners are required to report the catch of all BFT retained or discarded dead, within 24 hours of the landing(s) or end of each trip, by accessing <https://www.hmspermits.noaa.gov>, using the HMS Catch Reporting app, or calling 888-872-8862 (Monday through Friday from 8 a.m. until 4:30 p.m.).

Classification

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

The Assistant Administrator for NMFS (AA) finds that pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and opportunity to provide comment on this action, as notice and comment would be impracticable and contrary for the following reasons. Specifically, the regulations implementing the 2006 Consolidated HMS FMP and its amendments provide for inseason adjustments and fishery closures to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Providing for prior notice and opportunity to comment is impracticable and contrary to the public interest as this fishery is currently underway and delaying this action could result in further excessive trophy BFT landings that may result in future potential quota reductions for the Angling category, depending on the magnitude of a potential Angling category overharvest. NMFS must close the southern New England area trophy BFT fishery before additional landings of these sizes of BFT occur. Taking this action does not raise conservation and management concerns. NMFS notes that the public had an opportunity to comment on the underlying rulemakings that established the U.S. BFT quota and the inseason adjustment criteria.

For all of the above reasons, the AA also finds that pursuant to 5 U.S.C. 553(d), there is good cause to waive the 30-day delay in effectiveness.

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

Dated: June 2, 2023.

Jennifer M. Wallace,

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

[FR Doc. 2023-12173 Filed 6-2-23; 4:15 pm]

BILLING CODE 3510-22-P

Proposed Rules

Federal Register

Vol. 88, No. 109

Wednesday, June 7, 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 71

[Docket No. FAA-2023-1329; Airspace Docket No. 23-AEA-2]

RIN 2120-AA66

Establishment of United States Area Navigation (RNAV) Routes T-440, T-455, T-457, T-459, and T-476, and Amendment of RNAV Routes T-358, T-416, and T-445; Eastern United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish United States Area Navigation (RNAV) routes T-440, T-455, T-457, T-459, and T-476, and amend RNAV routes T-358, T-416, and T-445 in support of the FAA's Very High Frequency (VHF) Omnidirectional Range (VOR) Minimum Operational Network (MON) Program. The purpose is to enhance the efficiency of the National Airspace System (NAS) by transitioning from ground-based navigation aids to a satellite-based navigation system.

DATES: Comments must be received on or before July 24, 2023.

ADDRESSES: Send comments identified by FAA Docket No. FAA-2023-1329 and Airspace Docket No. 23-AEA-2 using any of the following methods:

* *Federal eRulemaking Portal:* Go to www.regulations.gov and follow the online instructions for sending your comments electronically.

* *Mail:* Send comments to Docket Operations, M-30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey

Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493-2251.

Docket: Background documents or comments received may be read at www.regulations.gov at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory,

aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

Availability of Rulemaking Documents

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Operations office (see **ADDRESSES** section for address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, GA 30337.

Incorporation by Reference

United States Area Navigation Routes are published in paragraph 6011 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022. These updates would be published in the next update to FAA Order JO 7400.11. That order 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 Proposal

The FAA is proposing an amendment to 14 CFR part 71 to establish RNAV routes T-440, T-455, T-457, T-459, and T-476, and amend RNAV routes T-358, T-416, and T-445 in support of the FAA’s VOR MON Program. The proposed changes are described below.

T-358: T-358 currently extends from the Martinsburg, WV (MRB), VOR/Tactical Air Navigation System (VORTAC) to the AVALO, NJ, waypoint (WP). This action proposes to extend the current route T-358 to the northeast from the AVALO, NJ, waypoint (WP) to the Augusta, ME (AUG), VOR/Distance Measuring Equipment (DME). T-358 overlays VOR Federal airway V-268 from the AVALO, NJ, WP to the BURDY, MA, WP and from the LBSTA, MA, WP to the Augusta, ME (AUG), VOR/DME. The MOYRR, MD, WP name is being replaced by the HAMRR, MD, WP at the same location due to similar sounding WP names.

T-416: T-416 currently extends from the Smyrna, NJ (ENO), VORTAC to the PREPI, OA, WP (*i.e.*, OA means Offshore Atlantic). This action proposes to move the RIDNG, NJ, WP 1.83 nautical miles southwest of its current location to align with a standard instrument departure procedure.

T-440: This action proposes a new route T-440 that would extend from the Elmira, NY (ULW), VOR/DME to the TALLI, PA, WP. T-440 would overlay VOR Federal airway V-147 from the Elmira, NY (ULW), VOR/DME to the Wilkes-Barre, PA (LVZ), VORTAC; and airway V-116 from the Wilkes-Barre, PA (LVZ), VORTAC to the TALLI, PA, WP.

T-445: T-445 currently extends from the Westminster, ME (EMI), VORTAC to the AIRCO, NY, Fix. The action proposes to delete the segment from the Westminster, ME (EMI), VORTAC to the Harrisburg, PA (HAR), VORTAC. Further, the Elmira, NY (ULW), VOR/DME would replace the STUBN, NY, WP.

T-455: This action proposes a new route T-455 that would extend from the Allentown, PA (FJC), VORTAC to the WIGGZ, PA, WP. T-455 would overlay airway V-613 from the Allentown, PA (FJC), VORTAC to the Wilkes-Barre, PA (LVZ), VORTAC, and would overlay airway V-188 from the Wilkes-Barre, PA (LVZ), VORTAC to the Slate Run, PA (SLT), VORTAC.

T-457: This action proposes a new route T-457 that would extend from the JIIMS, NJ, WP to the BOOCH, PA, WP.

T-459: This action proposes a new route T-459 that would extend from the JIIMS, NJ, WP to the DOGGR, PA, WP.

T-476: This action proposes a new route T-476 that would extend from the TUNDR, MD, WP to the WIMKA, NJ, WP.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant

preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F:

“nvironmental Impacts: Policies and Procedures” prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11G, 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-358 Martinsburg, WV (MRB) to Augusta, ME (AUG) [Amended]

Martinsburg, WV (MRB)	VORTAC	(Lat. 39°23'08.06" N, long. 077°50'54.08" W)
CPTAL, MD	WP	(Lat. 39°32'16.02" N, long. 077°41'55.65" W)
TWIRK, MD	WP	(Lat. 39°34'36.70" N, long. 077°12'44.75" W)
HAMRR, MD	WP	(Lat. 39°30'03.42" N, long. 076°56'10.84" W)
DANII, MD	WP	(Lat. 39°17'46.42" N, long. 076°42'19.36" W)
OBWON, MD	WP	(Lat. 39°11'54.69" N, long. 076°32'04.84" W)
SWANN, MD	WP	(Lat. 39°09'05.28" N, long. 076°13'43.94" W)
Smyrna, DE (ENO)	VORTAC	(Lat. 39°13'53.93" N, long. 075°30'57.49" W)
AVALO, NJ	WP	(Lat. 39°16'54.52" N, long. 074°30'50.75" W)
MANTA, NJ	WP	(Lat. 39°54'07.01" N, long. 073°32'31.63" W)
ORCHA, NY	WP	(Lat. 40°54'55.46" N, long. 072°18'43.64" W)
Sandy Point, RI (SEY)	VOR/DME	(Lat. 41°10'02.77" N, long. 071°34'33.91" W)
BURDY, MA	WP	(Lat. 41°57'19.14" N, long. 070°57'07.45" W)
HAVNS, OA	WP	(Lat. 42°17'55.00" N, long. 070°27'42.00" W)
GRGIO, MA	WP	(Lat. 42°35'09.36" N, long. 070°33'54.40" W)
LBSTA, MA	WP	(Lat. 42°48'00.00" N, long. 070°36'48.70" W)
MESHL, ME	WP	(Lat. 43°19'12.07" N, long. 070°09'48.03" W)
Augusta, ME (AUG)	VOR/DME	(Lat. 44°19'12.07" N, long. 069°47'47.63" W)

* * * * *		
T-416 Smyrna, NJ (ENO) to PREPI, OA [Amended]		
Smyrna, NJ (ENO)	VORTAC	(Lat. 39°13'53.93" N, long. 075°30'57.49" W)
TEBEE, NJ	WP	(Lat. 39°30'13.97" N, long. 075°19'37.19" W)
LULOO, NJ	WP	(Lat. 39°36'35.96" N, long. 075°12'57.43" W)
RIDNG, NJ	WP	(Lat. 39°43'56.08" N, long. 075°07'12.86" W)
ALBEK, NJ	WP	(Lat. 39°46'39.92" N, long. 074°54'25.99" W)
Coyle, NJ (CYN)	VORTAC	(Lat. 39°49'02.42" N, long. 074°25'53.85" W)
PREPI, OA	WP	(Lat. 39°48'41.06" N, long. 073°15'40.70" W)
* * * * *		
T-440 Elmira, NY (ULW) to TALLI, PA [New]		
Elmira, NY (ULW)	VOR/DME	(Lat. 42°05'38.96" N, long. 077°01'29.30" W)
WLKES, PA	WP	(Lat. 41°16'22.57" N, long. 075°41'21.60" W)
TALLI, PA	WP	(Lat. 41°19'01.60" N, long. 075°06'43.17" W)
* * * * *		
T-445 Harrisburg, PA (HAR) to AIRCO, NY [Amended]		
Harrisburg, PA (HAR)	VORTAC	(Lat. 40°18'08.06" N, long. 077°04'10.41" W)
Selinsgrove, PA (SEG)	VOR/DME	(Lat. 40°47'27.09" N, long. 076°53'02.55" W)
LYKOM, PA	WP	(Lat. 41°20'18.75" N, long. 076°46'30.30" W)
Elmira, NY (ULW)	VOR/DME	(Lat. 42°05'38.96" N, long. 077°01'29.32" W)
BEEPS, NY	WP	(Lat. 42°49'13.26" N, long. 076°59'04.84" W)
Rochester, NY (ROC)	VOR/DME	(Lat. 43°07'04.65" N, long. 077°40'22.06" W)
AIRCO, NY	WP	(Lat. 43°12'36.66" N, long. 078°28'57.00" W)
* * * * *		
T-455 Allentown, PA (FJC) to WIGGZ, PA [New]		
Allentown, PA (FJC)	VORTAC	(Lat. 40°43'36.07" N, long. 075°27'17.08" W)
WLKES, PA	WP	(Lat. 41°16'22.57" N, long. 075°41'21.60" W)
LYKOM, PA	WP	(Lat. 41°20'18.75" N, long. 076°46'30.30" W)
WIGGZ, PA	WP	(Lat. 41°30'51.00" N, long. 077°58'52.00" W)
* * * * *		
T-457 JIMMS, NJ to BOOCH, PA [New]		
JIMMS, NJ	WP	(Lat. 39°32'15.62" N, long. 074°58'01.72" W)
GABRS, NJ	WP	(Lat. 39°38'15.91" N, long. 075°04'15.96" W)
RIDNG, NJ	WP	(Lat. 39°43'56.08" N, long. 075°07'12.86" W)
BOJID, PA	WP	(Lat. 40°03'20.87" N, long. 075°12'16.25" W)
BOOCH, PA	WP	(Lat. 40°14'09.24" N, long. 075°16'08.52" W)
* * * * *		
T-459 JIIMS, NJ to DOGGR, PA [New]		
JIIMS, NJ	WP	(Lat. 39°32'15.62" N, long. 074°58'01.72" W)
LULOO, NJ	WP	(Lat. 39°36'35.96" N, long. 075°12'57.43" W)
DOGGR, PA	WP	(Lat. 40°08'12.25" N, long. 075°27'07.50" W)
* * * * *		
T-476 TUNDR, MD to WIMKA, NJ [New]		
TUNDR, MD	WP	(Lat. 38°44'37.73" N, long. 076°15'38.97" W)
FILRO, MD	WP	(Lat. 38°57'51.42" N, long. 075°56'45.51" W)
TWANE, MD	WP	(Lat. 39°10'57.10" N, long. 075°57'34.19" W)
EYEUP, MD	WP	(Lat. 39°18'30.83" N, long. 075°51'56.10" W)
COHLE, DE	WP	(Lat. 39°20'26.55" N, long. 075°34'36.79" W)
WIMKA, NJ	WP	(Lat. 39°25'22.02" N, long. 075°08'32.67" W)
* * * * *		

Issued in Washington, DC, on June 1, 2023.

Brian Konie,
Acting Manager, Airspace Rules and Regulations.

[FR Doc. 2023-12090 Filed 6-6-23; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2023-1325; Airspace Docket No. 23-AGL-17]

RIN 2120-AA66

Amendment of VOR Federal Airway V-36 and Establishment of RNAV Route T-675; Northcentral United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Very High Frequency (VHF) Omnidirectional Range (VOR) Federal airway V-36 and establish Area Navigation (RNAV) route T-675 in the northcentral United States. The airway amendments are necessary due to the planned decommissioning of the Wawa, Ontario (ON), Canada, VOR navigational aid (NAVAID). This action is in support of NAV CANADA's NAVAID Modernization Program within Canada.

DATES: Comments must be received on or before July 7, 2023.

ADDRESSES: Send comments identified by FAA Docket No. FAA-2023-1325 and Airspace Docket No. 23-AGL-17 using any of the following methods:

* *Federal eRulemaking Portal*: Go to www.regulations.gov and follow the online instructions for sending your comments electronically.

* *Mail*: Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

* *Hand Delivery or Courier*: Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

* *Fax*: Fax comments to Docket Operations at (202) 493–2251.

Docket: Background documents or comments received may be read at www.regulations.gov at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FAA Order JO 7400.11G, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. You may also contact the Rules and Regulations Group, Office of Policy, 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 would modify the National Airspace System (NAS) as necessary to preserve the safe and efficient flow of air traffic.

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at www.dot.gov/privacy.

Availability of Rulemaking Documents

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Operations office (see **ADDRESSES** section for address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the office of the Operations Support Group, Central Service Center, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Incorporation by Reference

VOR Federal airways are published in paragraph 6010(a) and Canadian Area Navigation Routes are published in paragraph 6013 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022. These updates would be published in the next update to FAA Order JO 7400.11. That order 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.

Background

NAV CANADA, which operates Canada's civil air navigation service, is implementing changes to Canada's instrument flight rules (IFR) navigation infrastructure as part of their NAVAID Modernization Program. This modernization program is designed to enhance the efficiency of Canada's flying operations by taking advantage of performance-based navigation and RNAV avionics capabilities. The changes being implemented by NAV CANADA affect a portion of VOR Federal airway V–36 which extends across the United States/Canada border through United States airspace over Lake Superior, MI.

NAV CANADA is planning to decommission the Wawa, ON, Canada, VOR in November 2023 as part of their NAVAID Modernization Program. As a result, amendment of V–36 in United States airspace is required due to the loss of navigational guidance between Thunder Bay, ON, Canada and Sault Ste Marie, MI, and to mirror the airway changes planned by NAV CANADA within Canadian airspace. Additionally, NAV CANADA plans to establish a new Canadian RNAV route, T–675, as a route replacement for V–36.

To mitigate the loss of the V–36 route segment over Lake Superior in northern Michigan, and support NAV CANADA's planned RNAV route replacement for V–36, the FAA must establish a segment of the Canadian RNAV route T–675 over Lake Superior within United States airspace. The new Canadian RNAV route segment in United States airspace would provide airway continuity with NAV CANADA's T–675 in Canadian airspace and support cross border airway connectivity between the United States and Canada. IFR pilots could continue to be able to use adjacent VOR

Federal airways V-300 and V-348 or request air traffic control (ATC) radar vectors to fly around the affected area. IFR aircraft equipped with RNAV capabilities could also navigate point to point using airspace fixes and waypoints (WP) that will remain in place. Visual flight rules (VFR) pilots who elect to navigate airways could also take advantage of the adjacent VOR Federal airways or ATC services listed previously.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to amend VOR Federal airway V-36 and establish Canadian RNAV route T-675 in United States airspace. This action is being taken due to NAV CANADA’s planned decommissioning of the Wawa, ON, Canada, VOR as part of their NAVAID Modernization Program. The proposed Air Traffic Service (ATS) route actions are described below.

V-36: V-36 currently extends between the Thunder Bay, ON, Canada, VOR/DME and the Sault Ste Marie, MI, VOR/DME; and between the Elmira, NY, VOR/DME and the intersection of the La Guardia, NY, VOR/DME 310° and the Stillwater, NJ, VOR/DME 043° radials (NEION fix). The airspace within Canada is excluded. The FAA proposes to remove the airway segment between the Thunder Bay, ON, Canada, VOR/DME and the Sault Ste Marie, MI, VOR/DME. The FAA also proposes to remove the exclusionary language. As amended, the airway would extend completely within United States airspace between the Elmira VOR/DME and the intersection of the La Guardia VOR/DME 310° and the Stillwater VOR/DME 043° radials (NEION fix).

T-675: T-675 is a new RNAV route proposed between the NOJJE, MI, and the RUXDU, MI, WPs replacing the “CFZDP” and “CFTKM” computer navigation fixes, respectively, on the United States/Canada border. The new RNAV route would provide route continuity and cross border connectivity over Lake Superior with the two T-675 route segments being established by NAV CANADA within Canadian airspace between the Wawa, ON, Canada, and the Thunder Bay, ON, Canada, areas.

All radials in the VOR Federal airway V-36 description in the Proposed Amendment section below are unchanged and stated in degrees True north.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance

with FAA Order 1050.1F, “Environmental Impacts: Policies and Procedures” prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V-36 [Amended]

From Elmira, NY; INT Elmira 110° and LaGuardia, NY, 310° radials; to INT LaGuardia 310° and Stillwater, NJ, 043° radials.

* * * * *

Paragraph 6013 Canadian Area Navigation Routes.

* * * * *

T-675	NOJJE, MI TO RUXDU, MI [NEW]		
NOJJE, MI	WP	(Lat. 48°10'58.82" N, long. 088°03'36.84" W)	
RUXDU, MI	WP	(Lat. 48°13'11.74" N, long. 088°44'17.74" W)	

* * * * *

Issued in Washington, DC, on May 31, 2023.

Brian Konie,
Acting Manager, Airspace Rules and Regulations.

[FR Doc. 2023-12046 Filed 6-6-23; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA-2023-1296; Airspace
Docket No. 23-ANE-2]

RIN 2120-AA66

**Amendment of Canadian Area
Navigation Routes Q-907 and Q-951,
and Establishment of United States
Area Navigation (RNAV) Route T-739;
Eastern United States**

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking
(NPRM).

SUMMARY: This action proposes to amend high altitude Canadian Area Navigation routes Q-907 and Q-951; and to establish United States (U.S.) Area Navigation (RNAV) route T-739, in support of the FAA's Very High Frequency (VHF) Omnidirectional Range (VOR) Minimum Operational Network (MON) Program. The purpose is to enhance the efficiency of the National Airspace System (NAS) by transitioning from ground-based navigation aids to a satellite-based navigation system.

DATES: Comments must be received on or before July 24, 2023.

ADDRESSES: Send comments identified by FAA Docket No. FAA-2023-1296 and Airspace Docket No. 23-ANE-2 using any of the following methods:

* *Federal eRulemaking Portal:* Go to www.regulations.gov and follow the online instructions for sending your comments electronically.

* *Mail:* Send comments to Docket Operations, M-30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493-2251.

Docket: Background documents or comments received may be read at www.regulations.gov at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

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

SUPPLEMENTARY INFORMATION:**Authority for This Rulemaking**

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

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA

will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

Availability of Rulemaking Documents

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Operations office (see **ADDRESSES** section for address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, GA 30337.

Incorporation by Reference

Canadian Area Navigation routes are published in paragraph 2007 and United States Area Navigation routes are published in paragraph 6011 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022. These updates would be published in the next update to FAA Order JO 7400.11. That order 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 Proposal

The FAA is proposing an amendment to 14 CFR part 71 to amend Canadian Area Navigation routes Q-907 and Q-951; and to establish United States Area Navigation route T-739, in cooperation with Nav Canada for replacement of Computer Notification Fixes (CNF).

Replacement fixes would be relocated to lie on the U.S./Canada border. This action is in support of the FAA's VOR MON Program. The purpose is to enhance the efficiency of the NAS by transitioning from ground-based navigation aids to a satellite-based navigation system. The proposed changes are described below.

Q-907: Q-907 is a proposed amended route that would extend from the POSTS, MI, waypoint (WP) to the IMAMA, ME, WP. This proposed amended route replaces CNF with pronounceable WP names as well as moving multiple WPs to lie on the U.S./Canada border.

Q-951: Q-951 is a proposed amended route that would extend from the POSTS, MI, WP to the DANOL, ME, WP. This proposed amended route replaces CNF with pronounceable WP names as well as moving multiple WPs to lie on the U.S./Canadian border.

T-739: T-739 is a proposed new route that would extend from the KATEK, NY, WP to the DANOL, ME, WP. This proposed route overlays a portion of VOR Federal airway V-300 from the CAMPO, ME, WP to the DANOL, ME, WP.

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 2007 Canadian Area Navigation Routes.

* * * * *

Q-907 POSTS, MI to IMAMA, ME [Amended]

POSTS, MI	WP	(Lat. 42°18'00.00" N, long. 085°02'00.00" W)
PADDE, MI	WP	(Lat. 42°17'09.00" N, long. 084°28'28.00" W)
Salem, MI (SVM)	VORTAC	(Lat. 42°24'31.11" N, long. 083°35'38.05" W)
GADAV, MI	WP	(Lat. 42°42'27.47" N, long. 082°29'24.66" W)
ATENE, ME	WP	(Lat. 46°14'15.18" N, long. 070°15'28.92" W)
IMAMA, ME	WP	(Lat. 46°44'09.51" N, long. 067°47'20.94" W)

Excluding the airspace within Canada.

* * * * *

Q-951 POSTS, MI to DANOL, ME [Amended]

POSTS, MI	WP	(Lat. 42°18'00.00" N, long. 085°02'00.00" W)
PADDE, MI	WP	(Lat. 42°17'09.00" N, long. 084°28'28.00" W)
Salem, MI (SVM)	VORTAC	(Lat. 42°24'31.11" N, long. 083°35'38.05" W)
GADAV, MI	WP	(Lat. 42°42'27.47" N, long. 082°29'24.66" W)
KATEK, NY	WP	(Lat. 44°40'45.38" N, long. 075°32'22.66" W)
DAVDA, NY	WP	(Lat. 44°43'27.00" N, long. 075°22'28.20" W)
SSENA, NY	WP	(Lat. 44°54'51.43" N, long. 074°43'21.31" W)
TALNO, NY	WP	(Lat. 44°59'35.12" N, long. 074°21'35.70" W)
KERVO, ME	WP	(Lat. 45°26'41.75" N, long. 070°39'02.77" W)
DANOL, ME	WP	(Lat. 45°41'49.50" N, long. 067°48'11.94" W)

Excluding the airspace within Canada.

* * * * *

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T-739 KATEK, MD to DANOL, ME [New]

KATEK, NY	WP	(Lat. 44°40'45.38" N, long. 075°32'22.66" W)
SSENA, NY	WP	(Lat. 44°54'51.43" N, long. 074°43'21.31" W)
TALNO, NY	WP	(Lat. 44°59'35.12" N, long. 074°21'35.70" W)
KERVO, ME	WP	(Lat. 45°26'41.75" N, long. 070°39'02.77" W)
CAMPO, ME	WP	(Lat. 45°26'49.95" N, long. 070°20'54.73" W)
Millinocket, ME (MLT)	VOR/DME	(Lat. 45°35'12.15" N, long. 068°30'55.67" W)
DANOL, ME	WP	(Lat. 45°41'49.50" N, long. 067°48'11.94" W)

Excluding the airspace within Canada.

* * * * *

Issued in Washington, DC, on June 1, 2023.

Brian Konie,

Acting Manager, Airspace Rules and Regulations.

[FR Doc. 2023-12097 Filed 6-6-23; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2023-1295; Airspace Docket No. 23-AEA-04]

RIN 2120-AA66

Amendment of United States Area Navigation (RNAV) Route Q-445; Eastern United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend United States Area Navigation (RNAV) route Q-445 by removing segments of the route from the PAACK, NC, waypoint (WP) to the BRIGS, NJ Fix. This amendment is proposed because those route segments are unused due to multiple other routes in the same area.

DATES: Comments must be received on or before July 24, 2023.

ADDRESSES: Send comments identified by FAA Docket No. FAA-2023-1295 and Airspace Docket No. 23-AEA-04 using any of the following methods:

* *Federal eRulemaking Portal:* Go to www.regulations.gov and follow the online instructions for sending your comments electronically.

* *Mail:* Send comments to Docket Operations, M-30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493-2251.

Docket: Background documents or comments received may be read at www.regulations.gov at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12-140 of the West Building Ground Floor at 1200

New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FAA Order JO 7400.11G, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267-8783.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, 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 amends the route structure to maintain the efficient flow of air traffic.

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider

all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

Availability of Rulemaking Documents

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Operations office (see **ADDRESSES** section for address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, GA 30337.

Incorporation by Reference

United States Area Navigation routes are published in paragraph 2006 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022. These updates would be published in the next update to FAA Order JO 7400.11. That order 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.

Background

RNAV route Q-445 currently extends from the PAACK, NC, WP to the KYSKY, NY, Fix. Operationally, it has been found that the portions of the route from the PAACK WP to the BRIGS, NJ, Fix are not being used due to the existence of multiple other routes in the

same area. This amendment would improve air traffic efficiency and reduce chart clutter in that area.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to amend RNAV route Q-445 by removing the segments from the PAAK, NC, WP to the BRIGS, NJ, Fix. The remaining existing route segments from the SHAUP, OA (*i.e.*, OA means Offshore Atlantic), WP to the KYSKY, NY, WP would be retained. Those segments would continue to be used so that arrivals to airports on Cape Cod, MA, Martha’s Vineyard, MA, and Nantucket, MA, can bypass the heavy air traffic in the Philadelphia and New York City areas. This would allow safer and more efficient descents into those airports. The amended Q-445 description would read: SHAUP, OA, WP; VALPO, OA, WP; KYSKY, NY, WP.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to

keep them operationally current. It, therefore: (1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Q-445	SHAUP, OA TO KYSKY, NY [AMENDED]	
SHAUP, OA	WP	(Lat. 39°44’23.91” N, long. 073°34’33.84” W)
VALCO, OA	WP	(Lat. 40°05’29.86” N, long. 073°08’22.91” W)
KYSKY, NY	WP	(Lat. 40°46’52.75” N, long. 072°12’21.45” W)

* * * * *

Issued in Washington, DC, on June 1, 2023.
Brian Konie,
Acting Manager, Airspace Rules and Regulations.
 [FR Doc. 2023-12091 Filed 6-6-23; 8:45 am]
BILLING CODE 4910-13-P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1281

[Docket No. CPSC-2006-0057]

Safety Standard for Portable Generators

AGENCY: Consumer Product Safety Commission.

ACTION: Announcement of opportunity for oral presentation of comments.

SUMMARY: The Consumer Product Safety Commission (Commission or CPSC) is providing an opportunity for interested parties to present oral comments on the supplemental notice of proposed rulemaking (SNPR) the Commission issued regarding a safety standard for portable generators. Any oral comments will become part of the rulemaking record.

DATES: The hybrid meeting will begin at 10 a.m. Eastern time on June 28, 2022. Any individual interested in making an oral presentation must submit a request to make an oral presentation to the Office of the Secretary, along with the written text of the oral presentation, and indicate whether the presentation will be in person or via webinar. Such requests must be received no later than 5 p.m. Eastern time on June 20, 2023. All attendees planning to present virtually must pre-register for the webinar no later than 5 p.m. Eastern time on June 20, 2023, at the website in **ADDRESSES.**

ADDRESSES: The hearing will be held in the Commission Hearing Room, 4th floor of the Bethesda Towers Building, 4330 East-West Highway, Bethesda, MD 20814, and via webinar. Attendance is free of charge. Submit requests to make oral presentations and provide the written text of oral presentations to the Office of the Secretary, with the caption, “Portable Generator SNPR; Oral Presentation,” by email to *cpsc-os@cpsc.gov*, or by mail to the Office of the Secretary, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814.

All attendees planning to present virtually must pre-register for the

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 2006 United States Area Navigation Routes

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webinar online at: <https://cpsc.webex.com/weblink/register/r58a4afc53a820ea44ebc6ff0c246c95f>, no later than 5 p.m. Eastern time on June 20, 2023. After registering, presenters will receive a confirmation email containing information about joining the webinar. All other individuals who wish to attend the meeting via webinar should register using the same internet link before the start of the hearing. Individuals who wish to attend the meeting in-person, but not make any oral presentation, need not register.

FOR FURTHER INFORMATION CONTACT: For information about the subject matter of this hearing, contact Janet Buyer, Project Manager, Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; 301-987-2293; email: *jbuyer@cpsc.gov*. For information about the hearing procedure to make an oral presentation, contact Alberta E. Mills, Office of the Secretary, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; 301-504-7479; *cpsc-os@cpsc.gov*.

SUPPLEMENTARY INFORMATION:

I. Background ¹

On April 20, 2023, the Commission published an SNPR in the **Federal Register**, proposing to issue a modified safety standard for portable generators under the Consumer Product Safety Act (CPSA; 15 U.S.C. 2051–2089), and seeking written comments. 88 FR 24346. The SNPR seeks to address the unreasonable risk of injury and death associated with acute carbon monoxide (CO) poisoning from portable generators. The proposed rule limits CO emissions from portable generators and requires generators to shut off when specified emission levels are reached. The SNPR is available at: www.regulations.gov/document/CPSC-2006-0057-0118, and CPSC staff's briefing package for the SNPR is available at: www.cpsc.gov/s3fs-public/SupplementalNoticeofProposedRulemakingSNPRSafetyStandardforPortableGenerators.pdf?VersionId=xzwp.Npj8nNCxLf7Clp3zMVqLB1MrgE.

II. The Public Hearing

The Administrative Procedure Act (5 U.S.C. 551–562) and section 9 of the CPSA require the Commission to provide interested parties with an opportunity to submit “written data, views, or arguments” regarding a proposed rule. 5 U.S.C. 553(c); see 15 U.S.C. 2058(d)(2). The SNPR invited such written comments. In addition, section 9 of the CPSA requires the Commission to provide interested parties “an opportunity for oral presentation of data, views, or arguments.” 15 U.S.C. 2058(d)(2). The Commission must keep a transcript of such oral presentations. *Id.* The Commission received requests to present and, in accordance with the requirement in section 9 of the CPSA, the Commission is providing a forum for oral presentations concerning the proposed standard for portable generators.

To request the opportunity to make an oral presentation, see the information under the **DATES** and **ADDRESSES** sections of this document. Participants should limit their presentations to approximately 10 minutes, excluding time for questioning by the Commissioners or CPSC staff. To avoid duplicate presentations, groups or participants with substantially similar comments should designate a spokesperson, and the Commission reserves the right to limit presentation

times or impose further restrictions, as necessary.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2023–11983 Filed 6–6–23; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–106228–22]

RIN 1545–BQ61

Malta Personal Retirement Scheme Listed Transaction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations that would identify transactions that are the same as, or substantially similar to, certain Malta personal retirement scheme transactions as listed transactions, a type of reportable transaction. Material advisors and participants in these listed transactions would be required to file disclosures with the IRS and be subject to penalties for failure to disclose. These proposed regulations would affect participants in these transactions as well as material advisors. This document also provides notice of a public hearing on the proposed regulations.

DATES: Written or electronic comments must be received by August 7, 2023. A public hearing on this proposed regulation has been scheduled for September 21, 2023, at 10 a.m. EST. Requests to speak and outlines of topics to be discussed at the public hearing must be received by August 7, 2023. If no outlines are received by August 7, 2023, the public hearing will be cancelled. Requests to attend the public hearing must be received by 5 p.m. EST on September 19, 2023. The public hearing will be made accessible to people with disabilities. Requests for special assistance during the public hearing must be received by 5 p.m. EST on September 18, 2023.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically via the Federal eRulemaking Portal at <https://www.regulations.gov> (indicate IRS and REG–106228–22) by following the online instructions for submitting

comments. Requests for a public hearing must be submitted as prescribed in the “Comments and Requests for a Public Hearing” section. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comments submitted to the IRS’s public docket. Send paper submissions to: CC:PA:LPD:PR (REG–106228–22), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

Comments and Public Hearing

Before these proposed amendments to the regulations are adopted as final regulations, consideration will be given to comments regarding the notice of proposed rulemaking that are submitted timely to the IRS as prescribed in the preamble under the **ADDRESSES** section. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. All comments will be made available at <https://www.regulations.gov>. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn.

A public hearing has been scheduled for September 21, 2023, beginning at 10 a.m. EST, in the Auditorium at the Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. Participants may alternatively attend the public hearing by telephone.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit an outline of the topics to be discussed and the time to be devoted to each topic by August 7, 2023. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing. If no outline of the topics to be discussed at the hearing is received by August 7, 2023, the public hearing will be cancelled. If the public hearing is cancelled, a notice of cancellation of the public hearing will be published in the **Federal Register**.

¹ The Commission voted 4–0 to publish this document.

Individuals who want to testify in person at the public hearing must send an email to publichearings@irs.gov to have your name added to the building access list. The subject line of the email must contain the regulation number REG-106228-22 and the language TESTIFY In Person. For example, the subject line may say: Request to TESTIFY In Person at Hearing for REG-106228-22.

Individuals who want to testify by telephone at the public hearing must send an email to publichearings@irs.gov to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number REG-106228-22 and the language TESTIFY Telephonically. For example, the subject line may say: Request to TESTIFY Telephonically at Hearing for REG-106228-22.

Individuals who want to attend the public hearing in person without testifying must also send an email to publichearings@irs.gov to have your name added to the building access list. The subject line of the email must contain the regulation number REG-106228-22 and the language ATTEND In Person. For example, the subject line may say: Request to ATTEND Hearing In Person for REG-106228-22. Requests to attend the public hearing must be received by 5 p.m. EST on September 19, 2023.

Individuals who want to attend the public hearing by telephone without testifying must also send an email to publichearings@irs.gov to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number REG-106228-22 and the language ATTEND Hearing Telephonically. For example, the subject line may say: Request to ATTEND Hearing Telephonically for REG-106228-22. Requests to attend the public hearing must be received by 5 p.m. EST on September 19, 2023.

Hearings will be made accessible to people with disabilities. To request special assistance during a hearing please contact the Publications and Regulations Branch of the Office of Associate Chief Counsel (Procedure and Administration) by sending an email to publichearings@irs.gov (preferred) or by telephone at (202) 317-6901 (not a toll-free number) by September 18, 2023.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, W. Shawver Adams at (202) 317-5132; concerning submissions of comments or requests for a public hearing, Vivian Hayes at (202) 317-6901 (not toll-free numbers) or by email at publichearings@irs.gov (preferred).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed additions to 26 CFR part 1 (Income Tax Regulations) under section 6011 of the Internal Revenue Code (Code). The additions identify certain transactions that are “listed transactions” for the purposes of section 6011. This regulation would also affect reporting requirements under section 6111 and list maintenance requirements under section 6112.

I. Overview of the Reportable Transaction Regime

Section 6011(a) generally provides that, when required by regulations prescribed by the Secretary, “any person made liable for any tax imposed by this title or with respect to the collection thereof, shall make a return or statement according to the forms and regulations prescribed by the Secretary. Every person required to make a return or statement shall include therein the information required by such forms or regulations.”

On February 28, 2000, the Treasury Department and the IRS issued a series of temporary regulations (TD 8877; TD 8876; TD 8875) and cross-referencing notices of proposed rulemaking (REG-103735-00; REG-110311-00; REG-103736-00) under sections 6011, 6111, and 6112. The temporary regulations and cross-referencing notices of proposed rulemaking were published in the **Federal Register** (65 FR 11205, 65 FR 11269; 65 FR 11215, 65 FR 11272; 65 FR 11211, 65 FR 11271) on March 2, 2000 (2000 Temporary Regulations). The 2000 Temporary Regulations were modified several times before March 4, 2003, the date on which the Treasury Department and the IRS, after providing notice and opportunity for public comment and considering the comments received, published final regulations (TD 9046) in the **Federal Register** (68 FR 10161) under sections 6011, 6111, and 6112 (2003 Final Regulations). The 2000 Temporary Regulations and 2003 Final Regulations consistently provided that reportable transactions include listed transactions and that a listed transaction is a transaction that is the same as or substantially similar to one of the types of transactions that the IRS has determined to be a tax avoidance transaction and identified by notice, regulation, or other form of published guidance as a listed transaction.

As part of the American Jobs Creation Act of 2004 (AJCA), Public Law 108-357, 118 Stat. 1418 (October 22, 2004), Congress added sections 6707A, 6662A, and 6501(c)(10) to the Code and revised

sections 6111, 6112, 6707, and 6708 of the Code. See sections 811-812 and 814-817 of the ACJA. The AJCA’s legislative history explains that Congress incorporated in the statute the method that the Treasury Department and the IRS had been using to identify reportable transactions, and provided incentives, via penalties, to encourage taxpayer compliance with the new disclosure reporting obligations. As the Committee on Ways and Means explained in its report accompanying H.R. 4520, which became the AJCA:

The Committee believes that the best way to combat tax shelters is to be aware of them. The Treasury Department, using the tools available, issued regulations requiring disclosure of certain transactions and requiring organizers and promoters of tax-engineered transactions to maintain customer lists and make these lists available to the IRS. Nevertheless, the Committee believes that additional legislation is needed to provide the Treasury Department with additional tools to assist its efforts to curtail abusive transactions. Moreover, the Committee believes that a penalty for failing to make the required disclosures, when the imposition of such penalty is not dependent on the tax treatment of the underlying transaction ultimately being sustained, will provide an additional incentive for taxpayers to satisfy their reporting obligations under the new disclosure provisions.

House Report 108-548(I), 108th Cong., 2nd Sess. 2004, 2004 WL 1380512, at 261 (June 16, 2004) (House Report).

In Footnote 232 of the House Report, the Committee on Ways and Means notes that the statutory definitions of “reportable transaction” and “listed transaction” were intended to incorporate the pre-AJCA regulatory definitions, while providing the Secretary with leeway to make changes to those definitions:

The provision states that, except as provided in regulations, a listed transaction means a reportable transaction, which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011. For this purpose, it is expected that the definition of “substantially similar” will be the definition used in Treas. Reg. sec. 1.6011-4(c)(4). However, the Secretary may modify this definition (as well as the definitions of “listed transaction” and “reportable transactions”) as appropriate.

Id. at 261 n.232.

Section 6707A(c)(1) defines a “reportable transaction” as “any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a

potential for tax avoidance or evasion.” A “listed transaction” is defined by section 6707A(c)(2) as “a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for the purposes of section 6011.”

Section 6111(a), as revised by the AJCA, provides that each material advisor with respect to any reportable transaction shall make a return setting forth: (1) information identifying and describing the transaction, (2) information describing any potential tax benefits expected to result from the transaction, and (3) such other information as the Secretary may prescribe. Such return must be filed not later than the date specified by the Secretary. Section 6111(b)(2) provides that a reportable transaction has the meaning given to such term by section 6707A(c).

Section 6112(a), as revised by the AJCA, provides that each material advisor with respect to any reportable transaction (as defined in section 6707A(c)) must (whether or not required to file a return under section 6111 with respect to such transaction) maintain a list (1) identifying each person with respect to whom such advisor acted as a material advisor and (2) containing such other information as the Secretary may by regulations require.

On August 3, 2007, the Treasury Department and the IRS published final regulations in the **Federal Register** (72 FR 43146, 72 FR 43157, 72 FR 43154) under sections 6011, 6111, and 6112, modifying the rules relating to the disclosure of reportable transactions by participants in reportable transactions under section 6011, the disclosure of reportable transactions by material advisors under section 6111, and the list maintenance requirements of material advisors with respect to reportable transactions under section 6112 in response to the changes in the AJCA.

II. Disclosure of Reportable Transactions by Participants and Penalties for Failure To Disclose

Section 1.6011-4(a) provides that every taxpayer that has participated in a reportable transaction within the meaning of § 1.6011-4(b) and who is required to file a tax return must file a disclosure statement within the time prescribed in § 1.6011-4(e).

Section 1.6011-4(d) and (e) provide that the disclosure statement—Form 8886, *Reportable Transaction Disclosure Statement* (or successor form)—must be attached to the taxpayer’s tax return for each taxable year for which a taxpayer participates in a reportable transaction.

A copy of the disclosure statement must be sent to the IRS’s Office of Tax Shelter Analysis (OTSA) at the same time that any disclosure statement is first filed by the taxpayer pertaining to a particular reportable transaction.

Reportable transactions include listed transactions, confidential transactions, transactions with contractual protection, loss transactions, and transactions of interest. See § 1.6011-4(b)(2) through (6). Consistent with the definitions previously provided in the 2000 Temporary Regulations and later in the 2003 Final Regulations as promulgated in 2007, § 1.6011-4(b)(2) continues to define a listed transaction as a transaction that is the same as or substantially similar to one of the types of transactions that the IRS has determined to be a tax avoidance transaction and identified by notice, regulation, or other form of published guidance as a listed transaction.

Section 1.6011-4(c)(4) provides that a transaction is “substantially similar” if it is expected to obtain the same or similar types of tax consequences and is either factually similar or based on the same or similar tax strategy. Receipt of an opinion regarding the tax consequences of the transaction is not relevant to the determination of whether the transaction is the same as or substantially similar to another transaction. Further, the term substantially similar must be broadly construed in favor of disclosure. For example, a transaction may be substantially similar to a listed transaction even though it may involve different entities or use different Code provisions.

Section 1.6011-4(c)(3)(i)(A) provides that a taxpayer has participated in a listed transaction if the taxpayer’s tax return reflects tax consequences (including an exclusion from gross income) or a tax strategy described in the published guidance that lists the transaction under § 1.6011-4(b)(2). A taxpayer also has participated in a listed transaction if the taxpayer knows or has reason to know that the taxpayer’s tax benefits are derived directly or indirectly from tax consequences or a tax strategy described in published guidance that lists a transaction under § 1.6011-4(b)(2). Published guidance may identify other types or classes of persons that will be treated as participants in a listed transaction. Published guidance may also identify types or classes of persons that will not be treated as participants in a listed transaction.

Section 1.6011-4(e)(2)(i) provides that if a transaction becomes a listed transaction after the filing of a

taxpayer’s tax return reflecting the taxpayer’s participation in the listed transaction and before the end of the period of limitations for assessment for any taxable year in which the taxpayer participated in the listed transaction, then a disclosure statement must be filed with OTSA within 90 calendar days after the date on which the transaction becomes a listed transaction. This requirement extends to an amended return and exists regardless of whether the taxpayer participated in the transaction in the year the transaction became a listed transaction. The Commissioner may also determine the time for disclosure of listed transactions in the published guidance identifying the transaction.

Participants required to disclose these transactions under § 1.6011-4 who fail to do so are subject to penalties under section 6707A. Section 6707A(b) provides that the amount of the penalty is 75 percent of the decrease in tax shown on the return as a result of the reportable transaction (or which would have resulted from such transaction if such transaction were respected for Federal tax purposes), subject to minimum and maximum penalty amounts. The minimum penalty amount is \$5,000 in the case of a natural person and \$10,000 in any other case. For a listed transaction, the maximum penalty amount is \$100,000 in the case of a natural person and \$200,000 in any other case.

Additional penalties may also apply. In general, section 6662A imposes a 20 percent accuracy-related penalty on any understatement (as defined in section 6662A(b)(1)) attributable to an adequately disclosed reportable transaction. If the taxpayer has a requirement to disclose participation in the reportable transaction but does not adequately disclose the transaction in accordance with the regulations under section 6011, the taxpayer is subject to an increased penalty rate equal to 30 percent of the understatement. See section 6662A(c). Section 6662A(b)(2) provides that section 6662A applies to any item which is attributable to any listed transaction and any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

Participants required to disclose listed transactions who fail to do so are also subject to an extended period of limitations under section 6501(c)(10). That section provides that the time for assessment of any tax with respect to the transaction shall not expire before the date that is one year after the earlier of the date the participant discloses the

transaction or the date a material advisor discloses the participation pursuant to a written request under section 6112(b)(1)(A).

III. Disclosure of Reportable Transactions by Material Advisors and Penalties for Failure To Disclose

Section 301.6111-3(a) of the Procedure and Administration Regulations provides that each material advisor with respect to any reportable transaction, as defined in § 1.6011-4(b), must file a return as described in § 301.6111-3(d) by the date described in § 301.6111-3(e).

Section 301.6111-3(b)(1) provides that a person is a material advisor with respect to a transaction if the person provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, insuring, or carrying out any reportable transaction, and directly or indirectly derives gross income in excess of the threshold amount as defined in § 301.6111-3(b)(3) for the material aid, assistance, or advice. Under § 301.6111-3(b)(2)(i) and (ii), a person provides material aid, assistance, or advice if the person provides a tax statement, which is any statement (including another person's statement), oral or written, that relates to a tax aspect of a transaction that causes the transaction to be a reportable transaction as defined in § 1.6011-4(b)(2) through (7).

Material advisors must disclose transactions on Form 8918, *Material Advisor Disclosure Statement*, (or successor form) as provided in § 301.6111-3(d) and (e). Section 301.6111-3(e) provides that the material advisor's disclosure statement for a reportable transaction must be filed with the OTSA by the last day of the month that follows the end of the calendar quarter in which the advisor becomes a material advisor with respect to a reportable transaction or in which the circumstances necessitating an amended disclosure statement occur. The disclosure statement must be sent to the OTSA at the address provided in the instructions for Form 8918 (or successor form).

Section 301.6111-3(d)(2) provides that the IRS will issue to a material advisor a reportable transaction number with respect to the disclosed reportable transaction. Receipt of a reportable transaction number does not indicate that the disclosure statement is complete, nor does it indicate that the transaction has been reviewed, examined, or approved by the IRS. Material advisors must provide the reportable transaction number to all

taxpayers and material advisors for whom the material advisor acts as a material advisor as defined in § 301.6111-3(b). The reportable transaction number must be provided at the time the transaction is entered into, or, if the transaction is entered into prior to the material advisor receiving the reportable transaction number, within 60 calendar days from the date the reportable transaction number is mailed to the material advisor.

Additionally, material advisors must prepare and maintain lists identifying each person with respect to whom the advisor acted as a material advisor with respect to the reportable transaction in accordance with § 301.6112-1(b) and furnish such lists to the IRS in accordance with § 301.6112-1(e).

Section 6707(a) provides that a material advisor who fails to file a timely disclosure, or files an incomplete or false disclosure statement, is subject to a penalty. Pursuant to section 6707(b)(2), for listed transactions, the penalty is the greater of (A) \$200,000 or (B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return is filed under section 6111.

A material advisor may also be subject to a penalty under section 6708 for failing to maintain a list under section 6112(a) and failing to make the list available upon written request to the Secretary in accordance with section 6112(b) within 20 business days after the date of such request. Section 6708(a) provides that the penalty is \$10,000 per day for each day of the failure after the 20th day. However, no penalty will be imposed with respect to the failure on any day if such failure is due to reasonable cause.

IV. Malta Personal Retirement Schemes

Under U.S. Federal income tax law, individual savings arrangements are not entitled to tax-favored treatment available for pension or retirement arrangements if they do not meet the requirements for an individual retirement account (IRA) described in section 408 or a Roth IRA described in section 408A. The tax-favored treatment for an IRA or Roth IRA includes the deductibility (in many cases) of contributions to an IRA, tax deferral on the earnings of the IRA or Roth IRA, and exclusion from income for qualified distributions from a Roth IRA. IRAs and Roth IRAs are subject to certain requirements, such as a requirement that an individual's contributions, other than certain rollovers, are restricted to cash and limited by reference to an

individual's earned income (including, in the case of spousal IRAs, a spouse's earned income). In addition, a distribution from an IRA (or a distribution from a Roth IRA that is not a qualified distribution) is generally subject to a 10% additional tax if paid before the IRA owner attains age 59½.

Malta's personal retirement schemes were enacted as part of the Retirement Pensions Act of 2011 and implemented by regulations in 2015.¹ They are tax-favored savings arrangements in Malta that allow individuals or their employers to contribute assets to a trust or other investment vehicle for such individuals' benefit. In contrast to U.S. tax-favored individual savings arrangements, there is no requirement that contributions be limited by reference to income earned from employment or self-employment activities, no limitation on contribution amounts, and no restriction on the types of assets (such as securities) that may be contributed. Distributions, which may begin when an individual member is 50 but must start no later than age 75, may be exempt from Maltese income tax if the individual elects to receive initial and additional cash lump sum distributions.

Absent treaty relief, U.S. citizens and U.S. resident aliens who establish a foreign individual retirement trust or other individual retirement arrangement are generally required to take into account the arrangement's income on a current basis, even if there has been no distribution from the arrangement. See, e.g., section 671. Under section 894(a), the Code applies to a taxpayer with due regard to any treaty obligations of the United States. Pursuant to the saving clause in Article 1, paragraph 4, of the Convention Between the Government of the United States of America and the Government of Malta for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Valetta, August 8, 2008 ("Treaty"), the United States retains its right to tax the income of its citizens and residents (as determined under Article 4 (Resident) of the Treaty) as if there were no Treaty between the United States and Malta. Notwithstanding the saving clause, U.S. citizens and U.S. resident aliens may claim an exemption from U.S. income tax in accordance with the Treaty if they qualify for an exception to the saving

¹ Act No. XVI of 2011, as amended by Act No. XX of 2013, and amended by Act No. XXVI of 2018; Ch. 514 (Retirement Pensions Act). Pension Rules for Personal Retirement Schemes Issued in Terms of the Retirement Pensions Act, 2011, were issued on January 7, 2015, and effective January 1, 2015.

clause provided under paragraph 5 of Article 1.

Articles 17(1)(b) and 18 of the Treaty, are both listed as exceptions to the saving clause. These provisions may permit U.S. citizens and U.S. resident aliens an exemption from U.S. income tax on (1) “pensions and other similar remuneration” arising in Malta to the extent such pensions or remuneration would be exempt from tax under Maltese law if the beneficial owner were a resident of Malta (Article 17(1)(b)), and (2) income earned by a “pension fund” established in Malta until such income is distributed (Article 18). As explained in Treasury’s Technical Explanation to the Treaty, Article 17 applies generally to “distributions from pensions and other similar remuneration beneficially owned by a resident of a Contracting State in consideration of past employment . . .”, whereas Article 18 applies to income of a “pension fund established in the other Contracting State . . .” Paragraph (1)(k) of Article 3 of the Treaty defines the term “pension fund” for purposes of the Treaty. In the case of Malta, a pension fund is a licensed fund or scheme subject to tax only on income derived from immovable property situated in Malta, and as relevant here, operated principally to “administer or provide pension or retirement benefits . . .”

On December 27, 2021, the IRS published in the Internal Revenue Bulletin a Competent Authority Arrangement (the “CAA”) between the United States and Malta. I.R.B. 2021–52, Ann. 2021–19. In the CAA, the U.S. and Maltese competent authorities agreed that individual retirement arrangements established under Malta’s Retirement Pensions Act of 2011 are not considered “pension funds” for purpose of relevant provisions of the Treaty. The CAA also confirmed that distributions from these types of arrangements are not “pensions or other similar remuneration” in consideration of past employment for purposes of paragraph 1(b) of Article 17. The CAA “reflects the original intent [of the United States and Malta] regarding the definition of ‘pension fund’ for purposes of the Treaty.”

In addition to the income tax consequences associated with a U.S. taxpayer’s transactions with or interest in a Malta personal retirement scheme, information reporting requirements also apply. Section 6048 generally requires annual information reporting of a U.S. person’s transfers of money or other property to, ownership of, and distributions from, foreign trusts. Section 6677 imposes penalties on a U.S. person for failing to comply with

section 6048. See also Notice 97–34, 1997–1 C.B. 422. Under section 6048(d)(4), the Secretary may suspend or modify any requirement under section 6048 if the United States has no significant tax interest in obtaining the required information. The Treasury Department and the IRS have previously issued guidance providing that reporting is not required under section 6048(a), (b), and (c) for certain U.S. citizen and resident individuals with respect to their transactions with, and ownership of, certain tax-favored foreign retirement trusts and certain tax-favored foreign nonretirement savings trusts, as described in Revenue Procedure 2020–17, 2020–12 I.R.B. 539. Malta personal retirement schemes are not eligible for this relief from section 6048 reporting because contributions to these arrangements are not limited to income earned from the performance of services, subject to a certain annual or lifetime limit, or subject to a limit based on a percentage of the participant’s earned income. See Section 5.03 of Rev. Proc. 2020–17. Section 6048 information reporting is provided on Form 3520, *Annual Return To Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts*, and Form 3520–A, *Annual Information Return of Foreign Trust With a U.S. Owner (Under section 6048(b))*.

Section 6038D may also apply to a U.S. person’s interest in a Malta personal retirement scheme. Under section 6038D, a specified person, which includes a U.S. citizen or resident alien, must report any interest in a specified foreign financial asset provided that the aggregate value of all such assets exceeds certain thresholds. See § 1.6038D–2(a). Section 6038D(d) imposes a penalty for failing to comply. Section 6038D information reporting is provided on Form 8938, *Statement of Specified Foreign Financial Assets*. A specified person who is required to report information under section 6038D on Form 8938 may also be required to report similar identifying information under section 6048 on Form 3520 or Form 3520–A.

V. Tax Avoidance Transactions Using Malta Personal Retirement Schemes

The Treasury Department and the IRS are aware of transactions in which a U.S. citizen or a U.S. resident alien misconstrues the pension provisions of the Treaty to claim an exemption from U.S. income tax on earnings in and distributions from personal retirement schemes established under the laws of Malta. E.g., IR–2022–113. Typically, the transaction is intended to permanently avoid U.S. tax on (1) the built-in-gain of

appreciated property transferred to personal retirement schemes established in Malta, (2) income earned by and accumulated in such schemes, and/or (3) distributions from such schemes. The U.S. individuals who participate in these transactions generally lack any connection to Malta other than their participation in these arrangements. These individuals also may fail to comply with their U.S. information reporting requirements, including under section 6048.

In this transaction, the taxpayer (Taxpayer A), a U.S. citizen or a U.S. resident alien, establishes a personal retirement scheme under Malta’s Retirement Pension Act of 2011. In Year 1, Taxpayer A transfers cash, appreciated property (annuities, securities, digital assets, partnership interests, etc.), or a combination thereof, to the scheme without recognizing gain on the transfer under section 684(b). In Year 2 or later, Taxpayer A takes the position on a U.S. income tax return that the income earned by the scheme (including gain on the sale or other disposition of appreciated property initially transferred to the scheme) is exempt from U.S. tax under Articles 18 and 1(5)(a) of the Treaty because the scheme is a “pension fund” for purposes of the Treaty. In Year 3 or later, Taxpayer A receives a distribution from the scheme and takes the position on a U.S. income tax return that such distributions are exempt from U.S. tax by reason of Articles 17(1)(b) and 1(5)(a) of the Treaty. Additionally, Taxpayer A may not comply with U.S. information reporting requirements related to these transactions, including under section 6048.

The taxpayer’s positions in these transactions are incorrect. First, the Treaty benefits claimed with respect to personal retirement schemes established in Malta are not available because these schemes are not “pension funds,” and their distributions are not “pensions or other similar remuneration,” as explained in the CAA. Second, under Article 3(2) of the Treaty, the undefined terms “pension” and “retirement” are interpreted according to the tax law of the United States, which is the country that is applying the Treaty.² Under U.S. law applicable to individual retirement

² Treasury’s Technical Explanation to Article 3(2) of the Treaty states:

Paragraph 2 provides that in the application of the Convention, any term used but not defined in the Convention will have the meaning that it has under the law of the Contracting State whose tax is being applied, unless the context requires otherwise, or the competent authorities have agreed on a different meaning pursuant to Article 25 (Mutual Agreement Procedure).

arrangements, Malta personal retirement schemes are neither “pensions” nor do they provide “retirement benefits” for purposes of the Treaty. Maltese law does not condition the tax benefits it provides for these arrangements upon reasonably analogous requirements of U.S. law. Those requirements include that an individual’s contributions to an individual retirement arrangement (other than qualified rollovers from a pension or retirement arrangement that is tax-favored under the same country’s laws) must be made in cash and must be based on income earned from employment or self-employment activities. See sections 219, 408, and 408A. Third, in appropriate fact patterns, the transaction viewed as a whole may be disregarded under relevant judicial doctrines, including the step-transaction doctrine, the substance-over-form doctrine, and the assignment of income doctrine, in order to give effect to the general purpose of the Treaty to mitigate double taxation but not improperly create instances of non-taxation, especially in cases in which the person establishing the retirement arrangement has no other connection to the treaty jurisdiction.

VI. Purpose of Proposed Regulation

On March 3, 2022, the Sixth Circuit issued an order in *Mann Construction v. United States*, 27 F.4th 1138, 1147 (6th Cir. 2022), holding that Notice 2007–83, 2007–2 C.B. 960, which identified certain trust arrangements claiming to be welfare benefit funds and involving cash value life insurance policies as listed transactions, violated the Administrative Procedure Act (APA), 5 U.S.C. 551–559 because the notice was issued without following the notice-and-comment procedures required by section 553 of the APA. The Sixth Circuit concluded that Congress did not clearly express an intent to override the notice-and-comment procedures required by section 553 of the APA when it enacted the AJCA. *Id.* at 1148. The Sixth Circuit reversed the decision of the district court, which held that Congress had authorized the IRS to identify listed transactions without notice and comment. See *Mann Construction, Inc. v. United States*, 539 F.Supp.3d 745, 763 (E.D. Mich. 2021).

Relying on the Sixth Circuit’s analysis in *Mann Construction*, three district courts and the Tax Court have concluded that IRS notices identifying listed transactions were improperly issued because they were issued without following the APA’s notice and comment procedures. See *Green Rock, LLC v. IRS*, 2023 WL 1478444 (N.D. AL., February 2, 2023) (Notice 2017–10);

GBX Associates, LLC, v. United States, 1:22cv401 (N.D. Ohio, Nov. 14, 2022) (same); *Green Valley Investors, LLC, et al. v. Commissioner*, 159 T.C. No. 5 (Nov. 9, 2022) (same); see also *CIC Services, LLC v. IRS*, 2022 WL 985619 (E.D. Tenn. March 21, 2022), as modified by 2022 WL 2078036 (E.D. Tenn. June 2, 2022) (Notice 2016–66, identifying a transaction of interest).

The Treasury Department and the IRS disagree with the Sixth Circuit’s decision in *Mann Construction* and the subsequent decisions that have applied that reasoning to find other IRS notices invalid and are continuing to defend the validity of notices identifying transactions as listed transactions in circuits other than the Sixth Circuit. At the same time, however, to avoid any confusion and ensure consistent enforcement of the tax laws throughout the nation, the Treasury Department and the IRS are issuing these proposed regulations to identify certain transactions involving Malta pension plans as listed transactions for purposes of all relevant provisions of the Code and Treasury Regulations, including section 6707A and § 1.6011–4(b)(2).

The Treasury Department and the IRS believe that transactions involving a Malta personal retirement scheme described in the proposed regulations, and substantially similar transactions involving a retirement arrangement established in Malta, unless specifically excepted, are tax avoidance transactions and should be identified as listed transactions for purposes of § 1.6011–4 and sections 6111 and 6112. Under the proposed regulations, participants involved in such transactions and their material advisors would need to comply with the information reporting and collection requirements under § 1.6011–4 and sections 6111 and 6112. Failure to do so could result in penalties as described in sections II and III of the Background section of this preamble.

Explanation of Provisions

I. Malta Personal Retirement Scheme Transaction

Proposed § 1.6011–12(a) provides that, except as provided in proposed § 1.6011–12(b)(2), a transaction that is the same as, or substantially similar to, a Malta personal retirement scheme transaction (described in proposed § 1.6011–12(b)(1)) is a listed transaction for purposes of § 1.6011–4 and sections 6111 and 6112. A transaction is a Malta personal retirement scheme transaction as described in proposed § 1.6011–12(b)(1) if a U.S. citizen or a U.S. resident alien directly or indirectly (1) transfers (within the meaning of

§ 1.679–3 or § 1.684–2) cash or other property to, or receives a distribution from, a personal retirement scheme established under Malta’s Retirement Pension Act of 2011 (a “Malta personal retirement scheme”), and (2) takes the position on a U.S. Federal income tax return that (a) income earned or gain realized by the Malta personal retirement scheme is not includible in income on a current basis for U.S. Federal income tax purposes by reason of the Treaty, or (b) a distribution from a Malta personal retirement scheme attributable to earnings or gains of the scheme that have not been included in income for U.S. Federal income tax purposes is exempt from U.S. taxation by reason of the Treaty. Proposed § 1.6011–12(b)(1). Indirect transfers include transfers to a Malta personal retirement scheme by any person (intermediary) to whom a U.S. person transfers property if such transfer is made pursuant to a plan one of the principal purposes of which is the avoidance of United States tax. See, e.g., § 1.679–3(c).

For example, assume in Year 1 Taxpayer A, a U.S. citizen or a U.S. resident alien directly or indirectly transfers cash and appreciated property to a Malta personal retirement scheme. In Year 2 the Malta personal retirement scheme sells Taxpayer A’s contributed property at a gain. On a U.S. income tax return for Year 2, Taxpayer A does not include the gain realized by the scheme, because, according to Taxpayer A, such gain is exempt from U.S. taxation under Articles 18 and 1(5)(a) of the Treaty. Taxpayer A has engaged in a Malta personal retirement scheme transaction as described in proposed § 1.6011–12(b)(1). Unless the exception described in proposed § 1.6011–12(b)(2) applies, the transaction is a listed transaction for purposes of § 1.6011–4 and sections 6111 and 6112. Taxpayer A and any material advisor with respect to the listed transaction are therefore subject to the information reporting and collection of information requirements under § 1.6011–4 and sections 6111 and 6112, respectively, as described in sections I through III of the Background section of this preamble. Taxpayer A must also comply with U.S. information reporting requirements including, for example, requirements under section 6048.

Under § 1.6011–4(c)(3)(i)(E), Taxpayer A is a participant in a listed transaction for each year in which Taxpayer A’s tax return reflects tax consequences or a tax strategy of a Malta personal retirement scheme transaction as described in proposed § 1.6011–12(b)(1). Thus, continuing with the example in the preceding paragraph, if Taxpayer A

receives a distribution from the Malta personal retirement scheme in Year 3, but does not include the distribution in income under Articles 17(1)(b) and 1(5)(a) of the Treaty, Taxpayer A will have participated in a Malta personal retirement scheme transaction as described in proposed § 1.6011–12(b)(1) in each of Year 2 and Year 3.

A transaction is not substantially similar to a Malta personal retirement scheme transaction unless it involves the Treaty and a retirement arrangement established in Malta. The Treasury Department and the IRS are aware that taxpayers may attempt to use transactions similar to the Malta personal retirement scheme transaction in other jurisdictions to achieve a similar tax avoidance outcome. The Treasury Department and the IRS are therefore considering whether transactions similar to the Malta personal retirement scheme transaction replicated in other jurisdictions should also be identified as listed transactions and request comments on this matter.

II. Exception

The Treasury Department and the IRS are aware that the United Kingdom allows tax-deferred transfers from its pension or retirement schemes to certain “qualified recognised overseas pension schemes” (or QROPS), including Malta personal retirement schemes. The Treasury Department and the IRS believe that certain U.S. individuals who may have transferred their foreign pension or retirement arrangements to Malta personal retirement schemes in accordance with foreign law and claimed an exemption from U.S. income tax for earnings in or distributions from such schemes on U.S. Federal income tax returns filed before the date these proposed regulations are published in the **Federal Register** should not be treated as participating in a listed transaction described in proposed § 1.6011–12(b)(1) provided certain requirements are met. Accordingly, proposed § 1.6011–12(b)(2) provides that if a U.S. citizen or resident alien described in proposed § 1.6011–12(b)(1)(i) takes a position described in proposed § 1.6011–12(b)(1)(ii) on a U.S. Federal income tax return filed before June 6, 2023, such U.S. citizen or U.S. resident alien will not be treated as participating in a listed transaction for the taxable year to which the U.S. Federal income tax return relates provided that (1) such U.S. citizen or U.S. resident alien (the transferor) established the Malta personal retirement scheme with a transfer (or rollover) of a pension or other retirement arrangement established in a

country other than Malta or the United States (for example, a pension scheme established in the United Kingdom), and in compliance with the tax laws of such country, (2) the transferor was, when such pension or retirement arrangement was established and such rollover occurred, a resident of the other country under that country’s tax law, including under Article 4 (Residency) of such country’s income tax treaty with the United States, if applicable (for example, a tax resident of the United Kingdom), and (3) the transferor’s contributions to such pension or retirement arrangement consisted solely of cash in an amount that bears a relationship to the transferor’s income earned from the performance of personal services. This exception does not apply to a U.S. citizen or U.S. resident alien who takes a position described in proposed § 1.6011–12(b)(1)(ii) on a U.S. Federal income tax return filed on or after June 6, 2023, when U.S. citizens or U.S. resident aliens who own foreign pension or retirement arrangements and their material advisors are on notice that the Treasury Department and the IRS have proposed identifying Malta personal retirement scheme transactions as listed transactions for purposes of § 1.6011–4(b)(2) and sections 6111 and 6112.

For example, assume Taxpayer B, a U.S. citizen, was a resident of Country Y when Taxpayer B established a Country Y pension plan in compliance with Country Y’s laws. Taxpayer B made cash contributions from wages to the Country Y pension plan. Taxpayer B, while a U.S. citizen and resident of Country Y, transferred the Country Y pension plan to a Malta personal retirement scheme in accordance with Country Y tax law. In Year 1, Taxpayer B’s Malta personal retirement scheme earned income. On Taxpayer B’s Year 1 U.S. Federal income tax return, which is filed before June 6, 2023, Taxpayer B took a position described in proposed § 1.6011–12(b)(1)(ii). Under proposed § 1.6011–12(b)(2), Taxpayer B would not be treated as participating in a listed transaction with respect to such year.

A U.S. citizen or U.S. resident alien who is described in proposed § 1.6011–12(b)(2), however, may be subject to U.S. income tax as a result of the transfer from a pension or retirement arrangement established in a country other than Malta to a Malta personal retirement scheme, as well as U.S. information reporting requirements under, for example, section 6048(a) and (c). See IRS INFO 2011–0096 (Dec. 30, 2011). U.S. citizens and U.S. residents who are described in proposed § 1.6011–12(b)(2) are subject to U.S.

income tax on income earned and gain realized by their Malta personal retirement schemes, as described in section IV of the Background section of this preamble.

III. Effect of Transaction Becoming a Listed Transaction

Participants required to disclose these transactions under § 1.6011–4 who fail to do so would be subject to penalties under section 6707A. Participants required to disclose these transactions under § 1.6011–4 who fail to do so would also be subject to an extended period of limitations under section 6501(c)(10). Material advisors required to disclose these transactions under section 6111 who fail to do so would be subject to the penalty under section 6707. Material advisors required to maintain lists of investors under section 6112 who fail to do so (or who fail to provide such lists when requested by the IRS) would be subject to the penalty under section 6708(a). In addition, the IRS may impose other penalties on persons involved in these transactions or substantially similar transactions, including accuracy-related penalties under section 6662 or section 6662A, the section 6694 penalty for understatements of a taxpayer’s liability by a tax return preparer, and the section 6677 penalty for the failure to timely report certain transactions with, and ownership of, foreign trusts.

Taxpayers who have filed a tax return (including an amended return (or Administrative Adjustment Request (AAR) for certain partnerships)) reflecting their participation in these transactions before [DATE THE FINAL REGULATIONS ARE PUBLISHED IN THE **FEDERAL REGISTER**] (the finalization date) and who have not otherwise finalized a settlement agreement with the IRS with respect to the transaction must disclose the transactions as provided in § 1.6011–4(d) and (e) provided that the period of limitations for assessment of tax, including any applicable extensions, for any taxable year in which the taxpayer participated in the transaction has not ended on or before the finalization date. Proposed § 1.6011–12(b)(3); see also § 1.6011–4(e)(2)(i). Thus, for example, taxpayers who participated in a Malta personal retirement scheme transaction before the finalization date, but did not comply with their foreign trust information reporting requirements under section 6048 with respect to such transaction, have an open period of limitations for assessments under section 6501(c)(8) and therefore must file a disclosure statement with OTSA within 90 calendar days after the date

on which the transaction becomes a listed transaction.

In addition, material advisers have disclosure requirements with regard to transactions occurring in prior years. However, notwithstanding § 301.6111–3(b)(4)(i) and (iii), material advisers are required to disclose only if they have made a tax statement on or after the date that is six years before the date the regulations are published as final regulations in the **Federal Register**.

The Treasury Department and the IRS recognize that some taxpayers may have filed tax returns taking the position that they were entitled to the purported tax benefits of the types of transactions described in these proposed regulations. Because the IRS will take the position that taxpayers are not entitled to the purported tax benefits of the listed transactions described in the proposed regulations, taxpayers should consider filing amended returns to ensure that their transactions are disclosed properly.

Proposed Applicability Date

Proposed § 1.6011–12 would identify certain Malta personal retirement scheme transactions described in proposed § 1.6011–12(b)(1), except as described in proposed § 1.6011–12(b)(2), as listed transactions effective as of the date of publication in the **Federal Register** of a Treasury decision adopting these regulations as final regulations.

Special Analyses

I. Regulatory Planning and Review—Economic Analysis

The Administrator of the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), has determined that this proposed rule is not a significant regulatory action, as that term is defined in section 3(f) of Executive Order 12866, as amended. Therefore, OIRA has not reviewed this proposed rule pursuant to section 6(a)(3)(A) of Executive Order 12866 and April 11, 2018, Memorandum of Agreement between the Treasury Department and the OMB.

II. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) generally requires that a Federal agency obtain the approval of the OMB before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit.

The estimated number of taxpayers impacted by these proposed regulations ranges between 50 to 150 per year. No burden on these taxpayers would be

imposed by these proposed regulations. Instead, the collection of information contained in these proposed regulations is reflected in the collection of information for Forms 8886 and 8918 that has been reviewed and approved by the OMB in accordance with the Paperwork Reduction Act (44 U.S.C. 3507(c)) under control numbers 1545–1800 and 1545–0865. Thus, the burden estimates for the Forms 8886 and 8918 will be adjusted to reflect the taxpayers impacted by these regulations. 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.

III. Regulatory Flexibility Act

When an agency issues a rulemaking proposal, the Regulatory Flexibility Act (5 U.S.C. chapter 6) (“RFA”) requires the agency “to prepare and make available for public comment an initial regulatory flexibility analysis” that will “describe the impact of the proposed rule on small entities.” See 5 U.S.C. 603(a). Section 605 of the RFA provides an exception to this requirement if the agency certifies that the proposed rulemaking will not have a significant economic impact on a substantial number of small entities. A small entity is defined as a small business, small nonprofit organization, or small governmental jurisdiction. See 5 U.S.C. 601(3) through (6).

The Treasury Department and the IRS do not expect that the proposed regulations will have a significant economic impact on a substantial number of small entities within the meaning of sections 601(3) through (6) of the RFA. The Malta personal retirement scheme transaction described in proposed § 1.6011–12 only applies to U.S. citizens and U.S. resident individuals, and not entities. Therefore, with respect to its impact on participants, proposed § 1.6011–12 will not impact small entities.

The Treasury Department and the IRS do not have information about which entities engage in the advising of this transaction, and therefore cannot accurately estimate the impact of proposed § 1.6011–12 on material advisers that are small entities. However, the Treasury Department and the IRS do not expect proposed § 1.6011–12 to impact a substantial number of small entities that may advise on this transaction. As explained in section III of the Background section of this preamble, participants in these transactions generally have no connection to Malta other than their participation in a Malta personal

retirement scheme primarily to avoid U.S. tax, and to avoid detection, they may not comply with their U.S. information reporting requirements. This tax-avoidance motive of potential clients who are U.S. persons, combined with the necessary familiarity with, and access to, Malta’s pension system and tax law in order to facilitate the Malta personal retirement scheme transaction, means that it is unlikely for a substantial number of small entities to engage in advising on these transactions. The Treasury Department and the IRS request comments from the public on the number of small entities that may be impacted and whether that impact will be economically significant.

IV. Section 7805(f)

Pursuant to section 7805(f) of the Code, the proposed regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small businesses.

V. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation. The proposed regulations do not include any Federal mandate that may result in expenditures by State, local, or Tribal governments or by the private sector in excess of that threshold.

VI. Executive Order 13132: Federalism

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

Statement of Availability of IRS Documents

Guidance cited in this preamble is published in the Internal Revenue Bulletin and is available from the Superintendent of Documents, U.S.

Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at <https://www.irs.gov>.

Drafting Information

The principal authors of these regulations are Lara Banjanin and Tracy Vilecco of the Office of Associate Chief Counsel (International). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, the Treasury Department and the IRS propose to amend 26 CFR part 1 as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *
* * * * *
Section 1.6011–12 also issued under 26 U.S.C. 6001 and 26 U.S.C. 6011 * * *
* * * * *

■ **Par. 2.** Section 1.6011–12 is added to read as follows:

§ 1.6011–12 Malta Personal Retirement Scheme Listed Transaction.

(a) *Malta personal retirement scheme listed transaction.* Transactions that are the same as, or substantially similar to, a transaction described in paragraph (b)(1) of this section are identified as listed transactions for purposes of § 1.6011–4(b)(2), except as provided in paragraph (b)(2) of this section. A transaction is not substantially similar unless it involves a retirement arrangement established in Malta and the taxpayer takes a Federal income tax return position based on the income tax treaty between the United States and Malta.

(b) *Malta personal retirement scheme transaction—(1) Transaction description.* A transaction is described in this paragraph (b)(1) if:

(i) A U.S. citizen or U.S. resident alien, directly or indirectly—

(A) Transfers (within the meaning of § 1.679–3 or § 1.684–2) cash or other property to a personal retirement scheme established under Malta's Retirement Pension Act of 2011 (a "Malta personal retirement scheme"), or

(B) Receives a distribution from a Malta personal retirement scheme, and

(ii) A U.S. citizen or U.S. resident alien described in paragraph (b)(1)(i) of

this section takes a position on a U.S. Federal income tax return that—

(A) Income earned or gain realized by the Malta personal retirement scheme is not includible on a current basis in income for U.S. Federal income tax purposes by reason of the income tax treaty between the United States and Malta, or

(B) A distribution received from the Malta personal retirement scheme attributable to earnings or gains that have not been included in income for U.S. Federal income tax purposes is exempt from U.S. taxation by reason of the income tax treaty between the United States and Malta.

(2) *Exception.* If a U.S. citizen or U.S. resident alien described in paragraph (b)(1) of this section takes a position described in paragraph (b)(1)(ii) of this section on a U.S. Federal income tax return filed before June 6, 2023, such U.S. citizen or U.S. resident alien will not be treated as participating in a listed transaction under this section for the taxable year to which the U.S. Federal income tax return relates provided that—

(i) Such U.S. citizen or U.S. resident alien (the transferor) established the Malta personal retirement scheme with a transfer (or rollover) of a pension or other retirement arrangement established in a country other than Malta or the United States, and in compliance with the tax laws of such country;

(ii) The transferor was, when such pension or retirement arrangement was established and such rollover occurred, a resident of the other country under that country's tax law, including under Article 4 (Residency) of such country's income tax treaty with the United States, if applicable; and

(iii) The transferor's contributions to such pension or retirement arrangement consisted solely of cash in an amount that bears a relationship to the transferor's income earned from the performance of personal services.

The preceding sentence does not apply, however, to any U.S. citizen or U.S. resident alien who take a position described in paragraph (b)(1)(ii) of this section on a U.S. Federal income tax return filed on or after June 6, 2023.

(3) *Applicability date—(i) In general.* This section identifies transactions that are the same as, or substantially similar to, the transaction described in paragraph (b)(1) of this section, except as provided in paragraph (b)(2) of this section, as listed transactions for purposes of § 1.6011–4(b)(2) and sections 6111 and 6112 effective [DATE OF PUBLICATION OF THE FINAL

REGULATIONS IN THE FEDERAL REGISTER].

(ii) *Obligations of participants with respect to prior periods.* Pursuant to § 1.6011–4(d) and (e), taxpayers who have filed a tax return (including an amended return) reflecting their participation in these transactions prior to [DATE OF PUBLICATION OF THE FINAL REGULATIONS IN THE FEDERAL REGISTER], who have not otherwise finalized a settlement agreement with the Internal Revenue Service with respect to the transaction, must disclose the transactions as provided in § 1.6011–4(d) and (e) provided that the period of limitations for assessment of tax for any taxable year in which the taxpayer participated in the transaction has not ended on or before [DATE OF PUBLICATION OF THE FINAL REGULATIONS IN THE FEDERAL REGISTER].

(iii) *Obligations of material advisors with respect to prior periods.* Material advisors defined in § 301.6111–3(b) of this chapter who have previously made a tax statement with respect to a transaction described in paragraph (b)(1) of this section, except as provided in paragraph (b)(2) of this section, have disclosure and list maintenance obligations as described in §§ 301.6111–3 and 301.6112–1 of this chapter, respectively. Notwithstanding § 301.6111–3(b)(4)(i) and (iii) of this chapter, material advisors are required to disclose only if they have made a tax statement on or after the date that is six years before the date the regulations are published as final regulations in the *Federal Register*.

Douglas W. O'Donnell,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2023–11861 Filed 6–6–23; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number: USCG–2023–0308]

RIN 1625–AA08

Special Local Regulation; Henderson Bay, Henderson Harbor, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a permanent special local regulation for certain waters of

Henderson Bay in Henderson Harbor, NY, in support of the Christmas in July festival. This action is necessary to provide for the safety of life on these navigable waters near Henderson Bay, Henderson Harbor, NY, during a boat parade. This proposed rulemaking would prohibit persons and vessels from entering, transiting through, anchoring, blocking, or loitering within the event area adjacent to the city of Henderson Harbor, unless authorized by the Captain of the Port Buffalo or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before July 7, 2023.

ADDRESSES: You may submit comments identified by docket number Docket: USCG-2023-0308 using the Federal Decision-Making Portal at <https://www.regulations.gov>. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email MST2 Andrew Nevenner, Waterways Management Division MSD Massena, U.S. Coast Guard; telephone 315-769-5483, email SMB-MSDMassena-WaterwaysManagement@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

On March 16, 2023, the Henderson Business and Community Council notified the Coast Guard of an intention to conduct the "Christmas in July" boat parade in Henderson Bay. Christmas in July is an annual event in July occurring on or near the last weekend of July. The special local regulation area will occur from 5 p.m. through 9 p.m. and cover all waters within a moving zone that encompasses a 50 yard buffer zone ahead of the lead vessel, 50 yards astern of the last participating vessel, and 50 yards on each side of the parade vessels as it travels the parade route. The parade will start at Waterside Tavern dock at point 43°51'44" N 76°12'07.3" W and running north adjacent to the shore to point 43°52'12.2" N 76°11'32.7" W,

continuing northwest to point 43°53'40.9" N 76°12'40.6" W and running south adjacent to the shore to point 43°51'47.2" N 76°14'08.3" W, ending at the starting position at point 43°51'44" N 76°12'07.3" W. The event is expected to draw a high concentration of vessels to Henderson Bay along the proposed parade route. The Coast Guard is establishing this special local regulation to minimize any potential impact to recreational boaters in the area. This regulation is necessary to ensure the safety of individuals, property, and the marine environment on the navigable waters of Henderson Bay during this event.

The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70041.

III. Discussion of Proposed Rule

The COTP is proposing to establish a permanent special local regulation for the annual "Christmas in July" festival on the final weekend of July. The special local regulation area will occur from 5 p.m. through 9 p.m. and cover all waters within a moving zone that encompasses a 50 yard buffer zone ahead of the lead vessel, 50 yards astern of the last participating vessel, and 50 yards on each side of the parade vessels as it travels the parade route. The parade will start at Waterside Tavern dock at point 43°51'44.0" N 76°12'07.3" W and running north adjacent to the shore to point 43°52'12.2" N 76°11'32.7" W, continuing northwest to point 43°53'40.9" N 76°12'40.6" W and running south adjacent to the shore to point 43°51'47.2" N 76°14'08.3" W, ending at the starting position at point 43°51'44.0" N 76°12'07.3" W. The duration of the special local regulation area is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 5 p.m. through 9 p.m. event. Spectators may contact the Coast Guard Patrol Commander to request permission to pass through the regulated area. If permission is granted, spectators must pass directly through the regulated area at a safe speed without loitering. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the special local regulation. Vessel traffic would be able to safely transit around this special local regulation, which would impact a small-designated area of Henderson Bay. Moreover, the Coast Guard would issue a Local Notice to Mariners about the areas, and the rule would allow vessels to seek permission to enter the areas.

B. Impact on Small Entities

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

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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

INFORMATION CONTACT section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a special local regulation that would prohibit persons and vessels from transiting the regulated area during the parade. Normally such actions are categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision-Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG–2023–0308 in the search box and click “Search.” Next, look for this document in the Search Results column, and click on it. Then click on the

Comment option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions web page. Also, if you click on the Dockets tab and then the proposed rule, you should see a “Subscribe” option for email alerts. The option will notify you when comments are posted, or a final rule is published.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

- 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

- 2. In § 100.901, amend Table [1] by adding “Christmas in July” to read as follows:

§ 100.901 Great Lakes annual marine events.

* * * * *

TABLE 1

* * * * *

**Sector Buffalo, NY:
Fireworks by Grucci**

Sponsor: New York Power Authority.
Date: Last weekend of July.

Location: Lake Ontario, Wright’s Landing/Oswego Harbor, NY within an 800 foot radius of the fireworks launching platform located in approximate position 43°28’10” N 076°31’04” W.

Flagship International Kilo Speed Challenge

Sponsor: Presque Isle Powerboat Racing Association.
Date: 3rd or 4th weekend of June.

Location: That portion of Lake Erie, Presque Isle Bay, south of a line drawn from 42°08’54” N 080°05’42” W; to 42°07’ N 080°21’ W will be a regulated area. That portion of Lake Erie, Presque Isle bay, north of a line drawn from 42°08’54” N 080°05’42” W; to 42°07’ N 080°21’ W will be a “caution area”. All vessels transiting the caution area will be operated at bare steerageway, keeping the vessel’s wake at a minimum, and will exercise a high degree of caution in the area. The bay entrance will not be effected.

Flagship International Offshore Challenge

Sponsor: Presque Isle Powerboat Racing Association.
Date: 3rd or 4th weekend of June.

Location: That portion of Lake Erie, Presque Isle Bay, Entrance Channel, and the enclosed area from Erie Harbor Pier Head Light (LLNR 3430) northeast to 42°12’48” N 079°57’24” W, thence south to shore just east of Shades Beach.

Friendship Festival Airshow

Sponsor: Friendship Festival.
Date: 4th of July holiday.

Location: That portion of the Niagara River and Buffalo. Harbor from:

Latitude	Longitude
42°54.4’ N	078°54.1’ W, thence to
42°54.4’ N	078°54.4’ W, thence along the International Border to
42°52.9’ N	078°54.9’ W, thence to
42°52.5’ N	078°54.3’ W, thence to
42°52.7’ N	078°53.9’ W, thence to
42°52.8’ N	078°53.8’ W, thence to
42°53.1’ N	078°53.6’ W, thence to
42°53.2’ N	078°53.6’ W, thence to
42°53.3’ N	078°53.7’ W, thence along the breakwall to
42°54.4’ N	078°54.1’ W.

NFBRA Red Dog Kilo Time Trials

Sponsor: Niagara Frontier Boat Racing Association.
Date: 4th or 5th weekend of September.

Location: That portion of the Niagara River, Tonawanda Channel, between Tonawanda Channel Buoy 31 to approximately 1/2 mile southwest of Twomile Creek along a line drawn from 43°00’45” N 078°55’06” W to 43°00’28” N 078°54’56” W (Sipco Oil Company).

Sodus Bay 4th of July Fireworks

Sponsor: Sodus Bay Historical Society.
Date: 4th of July holiday.

Location: Lake Ontario, within a 500 foot radius around a barge anchored in approximate position 43°15.73’ N 076°58.23’ W, in Sodus Bay.

Tallship Erie

Sponsor: Erie Maritime Programs, Inc.
Date: 1st or 2nd weekend of July.

Location: That portion of Lake Erie, Presque Isle Bay Entrance Channel and Presque Isle Bay from:

Latitude	Longitude
42°10’ N	080°03’ W, thence to
42°08.1’ N	080°07’ W, thence to
42°07.9’ N	080°06.8’ W, thence east along the shoreline and structures to:
42°09.2’ N	080°02.6’ W, thence to 080°03’ W.
42°10’ N.	

Thomas Graves Memorial Fireworks Display

Sponsor: Port Bay Improvement Association.
Date: 1st or 2nd weekend of July.

Location: That portion of Lake Ontario, Port Bay Harbor, NY within a 500 ft radius surrounding a barge anchored in approximate position 43°17’46” N 076°50’02” W.

Thunder Island Offshore Challenge

Sponsor: Thunder on the Water Inc.
Date: 3rd or 4th weekend of June.

Location: That portion of Lake Ontario, Oswego Harbor from the West Pier Head Light (LLNR 2080) north to:

Latitude	Longitude
43°29’02” N	076°32’04” W, thence to
43°26’18” N	076°39’30” W, thence to

TABLE 1—Continued

43°24'55" N 076°37'45" W, thence along the shoreline to the West Pier Head Light (LLNR 2080).

We Love Erie Days Fireworks

Sponsor: We Love Erie Days Festival, Inc.

Date: 3rd weekend of August.

Location: That portion of Lake Erie, Erie Harbor, within a 300 foot radius, surrounding the Erie Sand and Gravel Pier, located in position 42°08'16" N 080°05'40" W.

Christmas in July

Sponsor: Henderson Business and Community Council.

Date: Final weekend of July.

Location: The special local regulation area will cover all waters within a moving zone that encompasses a 50 yard buffer zone ahead of the lead vessel, 50 yards astern of the last participating vessel, and 50 yards on each side of the parade vessels as it travels the parade route starting at point 43°51'44" N 76°12'07.3" W and running north adjacent to the shore to point 43°52'12.2" N 76°11'32.7" W, continuing northwest to point 43°53'40.9" N 76°12'40.6" W and running south adjacent to the shore to point 43°51'47.2" N 76°14'08.3" W, ending at the starting position at point 43°51'44.0" N 76°12'07.3" W.

	Latitude	Longitude
43°51'44" N	076°12'07.3" W, thence to	
43°52'12.2" N	076°11'32.7" W, thence to	
43°53'40.9" N	076°14'08.3" W, thence along the shoreline to end at the starting position.	

¹ All coordinates listed in Table 100.901 reference Datum NAD 1983.

² As noted in paragraph (a)(3) of this section, the enforcement dates and times for each of the listed events in this table are subject to change. In the event of a change, or for enforcement periods listed that do not allow a specific date or dates to be determined, the Captain of the Port will provide notice to the public by publishing a Notice of Enforcement in the **Federal Register**, as well as, issuing a Broadcast Notice to Mariner.

May 30, 2023.

Mark I. Kuperman,

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

[FR Doc. 2023-11881 Filed 6-6-23; 8:45 am]

BILLING CODE 9110-04-P

Notices

Federal Register

Vol. 88, No. 109

Wednesday, June 7, 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

Rural Business-Cooperative Service

[Docket Number: RBS-23-BUSINESS-0013]

Notice of Request for Approval of New Information Collection

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice of request and comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Rural Business-Cooperative Service, an agency of the United States Department of Agriculture’s (USDA), invites comments on this information collection for which the Agency intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by August 7, 2023.

FOR FURTHER INFORMATION CONTACT: Lynn Gilbert, Rural Development Innovation Center—Regulations Management Division, USDA, 1400 Independence Avenue SW, South Building, Washington, DC 20250-1522. Telephone: (202) 690-2682. Email lynn.gilbert@usda.gov.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget’s (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104-13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that the Agency is submitting to OMB for revision.

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 will have practical utility; (b) the accuracy of the

agency’s estimate of burden including the validity of the methodology and assumption used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques on other forms and information technology. Comments may be sent as follows:

Federal eRulemaking Portal: Go to <https://www.regulations.gov> and, in the “Search” box, type in the Docket No. RBS-23-BUSINESS-0013. A link to the Notice will appear. You may submit a comment here by selecting the “Comment” button or you can access the “Docket” tab, select the “Notice,” and go to the “Browse & Comment on Documents” Tab. Here you may view comments that have been submitted as well as submit a comment. To submit a comment, select the “comment” button, complete the required information, and select the “Submit Comment” button at the bottom. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site’s “FAQ” link at the bottom. Comments on this information collection must be received by August 7, 2023.

Title: Indigenous Animals and Harvesting Meat Processing Grant Program for Fiscal Year 2023.

OMB Control Number: 0570-NEW.

Expiration Date of Approval: Three years from date of approval.

Type of Request: New information collection.

Abstract: The Indigenous Animals Harvesting and Meat Processing Grant Program was authorized by section 1001 of the American Rescue Plan (ARP) Act of 2021 (Pub. L. 117-2), which assists U.S. states and territories to build resilience in the middle of the supply chain and strengthen local and regional food systems. The Rural Business-Cooperative Service (RBCS) administers this program, an agency within USDA Rural Development, in partnership with the Agricultural Marketing Service (AMS) and in consultation with the Office of Tribal Relations (OTR).

If successfully selected for an Indigenous Animals Grant award,

respondents are not expected to spend more than 24 hours completing the information required. Grant applicants are required to submit their information via *Grants.gov*. Information collected as part of this one-time grant program, outlined in the RFA, includes the grant narrative (application) and standardized Federal forms (for which information is collected through *Grants.gov*). Once grant recipients are determined, Rural Business Cooperative Service (RBCS) uses the award agreement form as its Notice of Award and Grant Agreement (NOA) as the binding contract with the Federal award recipient. The NOA outlines additional post-award requirements by which award recipients must comply, including Terms and Conditions, Administrative and National Policy Requirements (2 CFR 200.300), performance and financial reporting (AMS requires annual reporting in alignment with 2 CFR 200.329), and final close-out reporting requirements.

The program contain requirements that involve information collection activities, including approved OMB forms in chart below, SAM registration and general certifications, the project RFA, NEPA environmental checklist, organizational documents, Articles of Incorporation, design and construction documents, letters of support, evidence of land ownership, the NICRA, surety, technical services documents, final project and financial state report, project performance reports, inspection reports, and recordkeeping.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.29 hours per response.

Respondents: Indian Tribes.

Estimated Number of Respondents: 50.

Estimated Number of Responses per Respondent: 36.

Estimated Number of Responses: 1801.

Estimated Total Annual Burden Hours on Respondents: 2328.

Form No.	Responses per respondent
SF 424, 424A, 424C, 424D	1
SF LLL	1
RD 1940-1	1
RD 4280-2	1
RD 1942-46	1
RD 1924-9	1
RD 1942-10	1

Form No.	Responses per respondent
SF 425	1
SF 271	1
SF 270	1
SF 3881	1

Copies of this information collection can be obtained from Lynn Gilbert, Rural Development Innovation Center-Regulatory Team, at (202) 690-2682. Email: lynn.gilbert@usda.gov. All responses to this information collection and recordkeeping notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Karama Neal,

Administrator, Rural Business Cooperative Service.

[FR Doc. 2023-12136 Filed 6-6-23; 8:45 am]

BILLING CODE 3410-XY-P

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on December 28, 2022, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: Office of the Secretary, Department of Commerce.

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Control Number: 0690-0030.

Form Number(s): None.

Type of Request: Regular submission (Extension and revision of a current information collection).

Number of Respondents: 163,500, (updated from 60-day FR Notice).

Average Hours per Response: 14,250, (updated from 60-day FR Notice).

Burden Hours: 42,750, (updated from 60-day FR Notice).

Estimated Total Annual Cost to Public: \$265,188, (updated from 60-day FR Notice).

Needs and Uses: The Office of Security is requesting clearance of this collection to continue gathering information to mitigate variances in foreign access management program implementation and registration information requirements needed to reach risk-based determinations of physical and logical access by foreign national visitors and guests to Commerce facilities and resources. The information collected will be used for risk-based assessments of short-term access or as partial completion towards long term guest research agreements and supporting security and background investigations for potential personal identity credential issuance in compliance with U.S. laws and regulations governing physical and logical access to federal facilities and information resources. Due to the increasing diversity of foreign national participation in departmental programs, considerable efforts have been made to baseline requirements as a means to define uniform program standards as well as to expand current guidance beyond foreign visitor control to manage emerging risks associated with physical and logical access to the Department's facilities and resources.

Affected Public: Individuals or Households, Businesses or for-profit organizations, State, Local or Tribal Government, etc.

Frequency: 5 to 30 minutes for surveys; 1 to 2 hours for focus groups; 30 minutes to 1 hour for interviews.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function and entering either the title of the collection.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2023-12186 Filed 6-6-23; 8:45 am]

BILLING CODE 3510-17-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-580-898]

Large Diameter Welded Pipe From the Republic of Korea: Preliminary Results and Partial Rescission of the Countervailing Duty Administrative Review; 2021

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of large diameter welded pipe (welded pipe) from the Republic of Korea (Korea). The period of review (POR) is January 1, 2021, through December 31, 2021. Additionally, we are rescinding this review with respect to 22 companies. We invite interested parties to comment on these preliminary results.

DATES: Applicable June 7, 2023.

FOR FURTHER INFORMATION CONTACT: Dennis McClure or Jonathan Schueler, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-5973 or (202) 482-9175, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 31, 2022, we received multiple requests for an administrative review¹ of the countervailing duty (CVD) order on welded pipe from Korea for the POR.² On July 14, 2022, Commerce published the initiation of this administrative review for 25 producers/exporters of welded pipe from Korea.³ On August 29, 2022, Commerce selected Hyundai RB Co., Ltd. (Hyundai RB) and SeAH Steel Corporation (SeAH Steel) as the mandatory respondents in this

¹ See Hyundai RB Co., Ltd.'s Letter, "Request for Administrative Review," dated May 31, 2022; see also SeAH Steel Corporation's Letter, "Request for Administrative Review," dated May 31, 2022; HiSteel Co., Ltd., "Request for Administrative Review," dated May 31, 2022; and Domestic Interested Party's Letter, "Request for Administrative Review," dated May 31, 2022. The domestic interested party is the American Line Pipe Producers Association Trade Committee.

² See *Large Diameter Welded Pipe from the Republic of Korea: Countervailing Duty Order*, 84 FR 18773 (May 2, 2019) (*Order*).

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 87 FR 42144 (July 14, 2022).

administrative review.⁴ On January 6, 2023, Commerce extended the deadline for these preliminary results to no later than May 31, 2023.⁵

For a complete description of the events that followed the initiation of this review, see the Preliminary Decision Memorandum.⁶ A list of topics discussed in the Preliminary Decision Memorandum is included at Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Order

The merchandise covered by the Order is welded pipe. For a complete description of the scope of the Order, see the Preliminary Decision Memorandum.

Rescission of Administrative Review, In Part

On October 12, 2022, the domestic interested party timely withdrew its request for administrative review in its entirety.⁷ However, Hyundai RB, SeAH Steel, and HiSteel Co., Ltd. continue to have outstanding review requests. As such, because there were no other active

review requests for the 22 companies listed in Appendix II, we are rescinding this review, in part, with respect to these 22 companies, pursuant to 19 CFR 351.213(d)(1).

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we preliminarily determine that there is a subsidy, *i.e.*, a government-provided financial contribution that confers a benefit to the recipient, and that the subsidy is specific.⁸ For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum.

Preliminary Rate for Non-Selected Companies

The statute and Commerce's regulations do not directly address the CVD rates to be applied to companies not selected for individual examination where Commerce limited its examination in an administrative review pursuant to section 777A(e)(2) of the Act. However, Commerce normally determines the rates for non-selected companies in reviews in a manner that is consistent with section 705(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation. Section 777A(e)(2) of the Act provides that "the individual countervailable subsidy rates determined under subparagraph (A)

shall be used to determine the all-others rate under section 705(c)(5) {of the Act}." Section 705(c)(5)(A) of the Act states that for companies not investigated, in general, we will determine an all-others rate by weight-averaging the countervailable subsidy rates established for each of the companies individually investigated, excluding zero and *de minimis* rates or any rates based solely on the facts available.

As discussed above, we initiated an administrative review of 25 companies and are rescinding the review with respect to the 22 companies listed in Appendix II. In addition, Commerce selected Hyundai RB and SeAH Steel as mandatory respondents. As such, HiSteel Co., Ltd., is the only company subject to this review not selected for individual examination. Because we preliminarily determine that only Hyundai RB received countervailable subsidies at a rate above *de minimis*, we are preliminarily applying the net subsidy rate calculated for Hyundai RB to HiSteel Co., Ltd., as the non-selected rate.

Preliminary Results of the Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual net countervailable subsidy rate for Hyundai RB and SeAH. Commerce preliminarily determines that, during the POR, the net countervailable subsidy rates for the producers/exporters under review are as follows:

Company	Net countervailable subsidy rate (percent ad valorem)
Hyundai RB Co., Ltd.; and its cross-owned affiliate Shinchang Construction Co., Ltd	1.54.
SeAH Steel Corporation; and its cross-owned affiliates SeAH Holdings Corporation; and ESAB SeAH Corporation ..	0.17 (<i>de minimis</i>).
HiSteel Co., Ltd	1.54.

Verification

As provided in section 782(i)(3) of the Act, Commerce intends to verify the information relied upon for its final results of this review.

Disclosure and Public Comment

We intend to disclose to parties to this proceeding the calculations performed in reaching the preliminary results

within five days of the date of publication of this notice.⁹ Interested parties will be notified of the timeline for the submission of case briefs at a later date.¹⁰ Rebuttal briefs, limited to issues raised in case briefs, may be filed no later than seven days after the date for filing case briefs.¹¹ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit arguments are requested to

submit with the argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, using Enforcement and Compliance's ACCESS

⁴ See Memorandum, "Respondent Selection," dated August 29, 2022.

⁵ See Memorandum, "Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review; 2020," dated January 6, 2023.

⁶ See Memorandum, "Decision Memorandum for the Preliminary Results and Partial Rescission of the Countervailing Duty Administrative Review;

2021: Large Diameter Welded Pipe from the Republic of Korea," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁷ See Domestic Interested Party's Letter, "Withdrawal of Request for Administrative Review," dated October 12, 2022.

⁸ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E)

of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁹ See 19 CFR 351.224(b).

¹⁰ See 19 CFR 351.309(c)(1)(ii).

¹¹ See 19 CFR 351.309(d)(1); see also *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006, 17007 (March 26, 2020).

system within 30 days of publication of this notice.¹² Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; (3) whether any participant is a foreign national; and (4) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm the date and time of the hearing two days before the scheduled date.

Parties are reminded that all briefs and hearing requests must be filed electronically using ACCESS and received successfully in their entirety by 5:00 p.m. Eastern Time on the due date. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.¹³

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2), Commerce intends to issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in any written briefs, no later than 120 days after the date of publication of these preliminary results.

Assessment Rates

In accordance with 19 CFR 351.221(b)(4)(i), we preliminarily assigned subsidy rates in the amounts shown above for the producers/exporters shown above. Upon completion of the administrative review, consistent with section 751(a)(1) of the Act and 19 CFR 351.212(b)(2), Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries covered by this review.

For the companies for which this review is rescinded, we will instruct CBP to assess countervailing duties on all appropriate entries at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period January 1, 2021, through December 31, 2021, in accordance with 19 CFR 351.212(c)(1)(i). We intend to issue assessment instructions to CBP for these companies no earlier than 35 days after the date of publication of the

preliminary results of this review in the **Federal Register**.

For the companies remaining in the review, we intend to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Rate

In accordance with section 751(a)(2)(C) of the Act, Commerce intends, upon publication of the final results, to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts calculated in the final results for each of the reviewed companies listed above on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review, except, where the rate calculated in the final results is zero or *de minimis*, no cash deposit will be required. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the all-others rate as established in the *Order* (*i.e.*, 9.29 percent)¹⁴ or the most recent company-specific rate applicable to the company, as appropriate. These cash deposit instructions, when imposed, shall remain in effect until further notice.

Notification to Interested Parties

These preliminary results of review are issued and published pursuant to sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4) and 351.221(b)(4).

Dated: May 31, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I—List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. Period of Review
- V. Partial Rescission of Administrative Review
- VI. Diversification of Korea's Economy
- VII. Subsidies Valuation Information
- VIII. Benchmarks and Interest Rates
- IX. Analysis of Programs
- X. Recommendation

¹⁴ See *Order*, 84 FR at 18775.

Appendix II

1. AJU Besteel Co., Ltd.
2. Chang Won Bending Co., Ltd.
3. Daiduck Piping Co., Ltd.
4. Dong Yang Steel Pipe Co., Ltd.
5. Dongbu Incheon Steel Co., Ltd.
6. EEW KHPC Co., Ltd.
7. EEW Korea Co., Ltd.
8. Hansol Metal Co. Ltd.
9. Husteel Co., Ltd.¹⁵
10. Hyundai Steel Company¹⁶
11. Il Jin Nts Co. Ltd.
12. Kem Solutions Co., Ltd.
13. Kiduck Industries Co., Ltd.
14. Kum Kang Kind. Co., Ltd.
15. Kumsoo Connecting Co., Ltd.
16. Nexteel Co., Ltd.
17. POSCO International Corporation.
18. Samkang M&T Co., Ltd.
19. Seonghwa Industrial Co., Ltd.
20. SIN-E B&P Co., Ltd.
21. Steel Flower Co., Ltd.
22. WELTECH Co., Ltd.

[FR Doc. 2023–12113 Filed 6–6–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Applications for Inclusion on the Lists of Arbitrators Under the Data Privacy Framework Program

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information

¹⁵ Subject merchandise both produced and exported by Husteel Co., Ltd. (Husteel) is excluded from the countervailing duty order. See *Large Diameter Welded Pipe from the Republic of Korea: Countervailing Duty Order*, 84 FR 18773 (May 2, 2019). Thus, Husteel's inclusion in this administrative review is limited to entries for which Husteel was not both the producer and exporter of the subject merchandise.

¹⁶ Subject merchandise both produced and exported by Hyundai Steel Company (Hyundai Steel) and subject merchandise produced by Hyundai Steel and exported by Hyundai Corporation are excluded from the countervailing duty order. See *Large Diameter Welded Pipe from the Republic of Korea: Countervailing Duty Order*, 84 FR 18773 (May 2, 2019). Thus, Hyundai Steel's inclusion in this administrative review is limited to entries for which Hyundai Steel was not the producer and exporter of the subject merchandise and for which Hyundai Steel was not the producer and Hyundai Corporation was not the exporter of subject merchandise.

¹² See 19 CFR 351.310(c).

¹³ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on March 30, 2023 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: International Trade Administration, Department of Commerce.

Title: Applications for Inclusion on the Lists of Arbitrators Under the Data Privacy Framework Program.

OMB Control Number: New collection. Not yet assigned.

Form Number(s): None.

Type of Request: Regular submission, new information collection.

Number of Respondents: 36.

Average Hours per Response: 240 minutes.

Burden Hours: 144 hours.

Needs and Uses: The United States, the European Union (EU), the United Kingdom (UK), and Switzerland share a commitment to enhancing privacy protection, the rule of law, and a recognition of the importance of transatlantic data flows to our respective citizens, economies, and societies, but take different approaches to doing so. Given those differences, the Department of Commerce (DOC) developed the EU-U.S. Data Privacy Framework (EU-U.S. DPF), the UK Extension to the EU-U.S. Data Privacy Framework (UK Extension to the EU-U.S. DPF), and the Swiss-U.S. Data Privacy Framework (Swiss-U.S. DPF) in consultation with the European Commission, the UK Government, the Swiss Federal Administration, industry, and other stakeholders. These arrangements were respectively developed to provide U.S. organizations reliable mechanisms for personal data transfers to the United States from the European Union, the United Kingdom (and, as applicable, Gibraltar), and Switzerland while ensuring data protection that is consistent with EU, UK, and Swiss law.

The DOC is issuing the EU-U.S. DPF Principles and the Swiss-U.S. DPF Principles, including the respective sets of Supplemental Principles (collectively the Principles) and Annex I of the Principles, as well as the UK Extension to the EU-U.S. DPF under its statutory authority to foster, promote, and develop international commerce (15 U.S.C. 1512). The International Trade Administration (ITA) will administer and supervise the Data Privacy Framework program, including maintaining and making publicly available the Data Privacy Framework List, an authoritative list of U.S. organizations that have self-certified to the DOC and declared their commitment

to adhere to the Principles pursuant to the EU-U.S. DPF and, as applicable, the UK Extension to the EU-U.S. DPF, and/or the Swiss-U.S. DPF. While the decision by an organization to self-certify its compliance pursuant to the EU-U.S. DPF and, as applicable the UK Extension to the EU-U.S. DPF, and/or the Swiss-U.S. DPF and by extension participate in the Data Privacy Framework program is voluntary; effective compliance is compulsory: organizations that self-certify to the DOC and publicly declare their commitment to adhere to the Principles must comply fully with the Principles. Such commitments to comply with the Principles are legally enforceable under U.S. law. On the basis of the Principles, Executive Order 14086, 28 CFR part 201, and accompanying letters and materials, including ITA's commitments regarding the administration and supervision of the Data Privacy Framework program, it is the DOC's expectation that the European Commission, the UK Government, and the Swiss Federal Administration will respectively recognize the adequacy of the protection provided by the EU-U.S. DPF, the UK Extension to the EU-U.S. DPF, and the Swiss-U.S. DPF thereby enabling personal data transfers from each respective jurisdiction to U.S. organizations participating in the relevant part of the Data Privacy Framework program. It is the DOC's present expectation that the effective date of the EU-U.S. DPF Principles would coincide with the entry into force of the European Commission's anticipated recognition of adequacy, whereas the respective effective dates of the UK Extension to the EU-U.S. DPF and the Swiss-U.S. DPF Principles would occur before the entry into force of the anticipated, respective recognitions of adequacy (*i.e.*, to enable U.S. organizations from the earliest possible date to self-certify their compliance with multiple parts of the Data Privacy Framework program). Personal data cannot be received in reliance on the EU-U.S. DPF, the UK Extension to the EU-U.S. DPF, and the Swiss-U.S. DPF until they have respectively received such recognition (*i.e.*, until such formal recognition enters into force).

As respectively described in Annex I of the EU-U.S. DPF Principles, the UK Extension to the EU-U.S. DPF, and Annex I of the Swiss-U.S. DPF Principles the DOC commits separately with the European Commission, the UK Government, and the Swiss Federal Administration to implement an arbitration mechanism to provide EU,

UK, and Swiss individuals with the ability under certain circumstances to invoke binding arbitration to determine, for residual claims, whether an organization has violated its obligations under the Principles as to those individuals. Organizations that self-certify their compliance pursuant to the EU-U.S. DPF, including those that also elect to participate in the UK Extension to the EU-U.S. DPF are obligated to arbitrate claims and follow the terms as set forth in Annex I of the EU-U.S. DPF Principles, provided that an EU or UK (as applicable) individual has invoked binding arbitration by delivering notice to the organization at issue and following the procedures and subject to the conditions set forth in Annex I of the EU-U.S. DPF Principles. Organizations that self-certify their compliance pursuant to the Swiss-U.S. DPF are obligated to arbitrate claims and follow the terms as set forth in Annex I of the Swiss-U.S. DPF Principles, provided that a Swiss individual has invoked binding arbitration by delivering notice to the organization at issue and following the procedures and subject to the conditions set forth in Annex I of the Swiss-U.S. DPF Principles. An individual's decision to invoke this binding arbitration option is entirely voluntary. Arbitral decisions will be binding on all parties to the arbitration. Under this binding arbitration option, a panel (consisting of one or three arbitrators, as agreed by the parties) has the authority to impose individual-specific, non-monetary equitable relief (such as access, correction, deletion, or return of the individual's data in question) necessary to remedy the violation of the Principles only with respect to the individual. No damages, costs, fees, or other remedies are available. The parties will select the arbitrators from the list(s) of arbitrators described below.

Pursuant to the EU-U.S. DPF and the UK Extension to the EU-U.S. DPF, the DOC and the European Commission will develop and seek to maintain a list of at least 10 arbitrators. The parties, including the EU or UK individual who has invoked binding arbitration, will select arbitrators for the arbitration panel from that list of arbitrators developed under the EU-U.S. DPF (EU-U.S. DPF List of Arbitrators). To be eligible for inclusion on the EU-U.S. DPF List of Arbitrators, applicants must be admitted to practice law in the United States and be experts in U.S. privacy law, with expertise in EU data protection law; and shall not be subject to any instructions from, or be affiliated with, either party, or any participating

organization, or the United States, European Union, or any EU Member State or any other governmental authority, public authority, or enforcement authority. Arbitrators will remain on the EU–U.S. DPF List of Arbitrators for a period of 3 years, absent exceptional circumstances or removal for cause, renewable by the DOC, with prior notification to the European Commission for additional 3-year terms.

Pursuant to the Swiss-U.S. DPF the DOC and the Swiss Federal Administration will develop and seek to maintain a list of up to five arbitrators to supplement the list of arbitrators developed under the EU–U.S. DPF. The parties, including the Swiss individual who has invoked binding arbitration, will select arbitrators for the arbitration panel from the list of arbitrators developed under the EU–U.S. DPF, as supplemented by the list of arbitrators developed under the Swiss-U.S. DPF (Swiss-U.S. DPF Supplemental List of Arbitrators). To be eligible for inclusion on the Swiss-U.S. DPF Supplemental List of Arbitrators, applicants must be admitted to practice law in the United States and be experts in U.S. privacy law, with expertise in European or Swiss data protection law; and shall not be subject to any instructions from, or be affiliated with, either party, or any participating organization, or the United States, Switzerland, European Union, or any EU Member State or any other governmental authority, public authority, or enforcement authority. Arbitrators will remain on the Swiss-U.S. DPF Supplemental List of Arbitrators for a period of 3 years, absent exceptional circumstances or removal for cause, renewable by the DOC, with prior notification to the Swiss Federal Administration for additional 3-year terms.

Individuals interested in being considered for inclusion on the EU–U.S. DPF List of Arbitrators or the Swiss-U.S. DPF Supplemental List of Arbitrators would submit their applications to the DOC online via email at dpf.program@trade.gov.

The DOC has agreed with the European Commission to the adoption of arbitration rules that govern arbitration proceedings and a code of conduct for arbitrators under the EU–U.S. DPF (and similarly agreed with the UK Government as relates to arbitration proceedings under the UK Extension to the EU–U.S. DPF), and the Swiss Federal Administration to the adoption of arbitration rules that govern arbitration proceedings and a code of conduct for arbitrators under the Swiss-U.S. DPF. In the event that the rules

governing the proceedings and/or the code of conduct for arbitrators need to be changed, the DOC and the European Commission and the Swiss Federal Administration will agree to amend those rules or adopt a different set of existing, well-established U.S. arbitral procedures, and/or amend the code of conduct for arbitrators (as applicable).

The DOC has selected the International Centre for Dispute Resolution (ICDR), the international division of the American Arbitration Association (AAA) (collectively ICDR–AAA) to administer arbitrations pursuant to and manage the arbitral fund identified in Annex I of the EU–U.S. DPF Principles, including as relates to the UK Extension to the EU–U.S. DPF, and Annex I of the Swiss-U.S. DPF Principles. Among other things, the ICDR–AAA facilitates arbitrator fee arrangements, including the collection and timely payment of arbitrator fees and other expenses.

Affected Public: Private individuals.

Frequency: Recurrent, depending on the number of arbitrators required to maintain active lists of arbitrators under the Data Privacy Framework Program.

Respondent's Obligation: Required to obtain or retain benefits.

Legal Authority: The DOC's statutory authority to foster, promote, and develop the foreign and domestic commerce of the United States (15 U.S.C. 1512).

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function and entering the title of the collection.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2023–12192 Filed 6–6–23; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–501]

Circular Welded Carbon Steel Standard Pipe and Tube Products From Turkey: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2021–2022

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that the sole mandatory respondent in this administrative review, Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan Mannesmann) and Borusan Istikbal Ticaret T.A.S. (Istikbal) (collectively, Borusan), a producer and exporter subject to this administrative review, made sales of subject merchandise at less than normal value during the period of review (POR) May 1, 2021, through April 30, 2022. Additionally, based on timely withdrawal of requests for review, we are rescinding this administrative review with respect to all other companies for which we initiated an administrative review. Interested parties are invited to comment on these preliminary results.

DATES: Applicable June 7, 2023.

FOR FURTHER INFORMATION CONTACT: Magd Zalok, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4162.

SUPPLEMENTARY INFORMATION:

Background

On July 14, 2022, based on timely requests for a review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated this administrative review of the antidumping duty order¹ on circular welded carbon steel standard pipe and tube products from Turkey, covering 19 companies.² On August 30, 2022, Commerce selected Borusan as the mandatory respondent for individual examination.³ On October 12, 2022, Nucor Tubular Products Inc. (Nucor), a petitioner in this proceeding, withdrew its request for an administrative review

¹ *Antidumping Duty Order; Welded Carbon Steel Standard Pipe and Tube Products from Turkey*, 51 FR 17784 (May 15, 1986) (*Order*).

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 87 FR 42144 (July 14, 2022) (*Initiation Notice*).

³ See Memorandum, “Respondent Selection,” dated August 30, 2022.

with respect to every company except Borusan.⁴

On January 13, 2023, Commerce extended the preliminary results of this review by 120 days, until May 31, 2023.⁵ For a complete description of the events that followed the initiation of this review, see the Preliminary Decision Memorandum.⁶

Partial Rescission

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. Nucor timely withdrew its requests for an administrative review with respect to each company listed in the *Initiation Notice*, other than Borusan.⁷ No other party requested a review of these companies. Accordingly, we are rescinding this review, in part, with respect to these companies, pursuant to 19 CFR 351.213(d)(1). The producers and/or exporters for which we are rescinding the administrative review are listed in Appendix II of this notice.

Scope of the Order⁸

The merchandise covered by the *Order* is circular welded carbon steel standard pipe and tube products. For a complete description of the scope of the *Order*, see the Preliminary Decision Memorandum.⁹

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). Export price and constructed export price are calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum.¹⁰ A list of

topics discussed in the Preliminary Decision Memorandum is included at Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

No Shipment Claims

Between June 12 and August 15, 2022, 11 companies timely submitted letters to Commerce certifying that they had no sales, shipments, or entries of the subject merchandise to the United States during the POR.¹¹ However, as indicated above, because Commerce is rescinding this review for each company listed in the *Initiation Notice*, except Borusan, Commerce has not made a determination of no shipments for these companies.

With respect to Istikbal, one of the companies which certified no shipments during the POR, we continue to find it to be part of the Borusan single entity and we find no record evidence that warrants altering this treatment.¹² Therefore, because we find that Borusan had shipments during this POR, we have not made a preliminary determination of no shipments with respect to Istikbal.

Preliminary Results of Review

We preliminarily determine that the following weighted-average dumping margin exists for the period May 1, 2021, through April 30, 2022:

¹¹ See Borusan's Letter, "No Shipments Letter," dated August 15, 2022, in which the following companies certified that they had no entries, exports, or sales of subject merchandise into the United States during the POR: Istikbal, Borusan Birlesik Boru Fabrikalari San ve Tic., Borusan Gemlik Boru Tesisleri A.S., Borusan Ihracat Ithalat ve Dagitim A.S., Tubeco Pipe and Steel Corporation, and Borusan Ithicat ve Dagitim A.S. See also Noksel Çelik Boru Sanayi A.Ş. (Nokse), Letter, "Anti-Dumping Administrative Review (5/1/21-4/30/22)," dated July 22, 2022, in which Noksel certified that it had no entries, export or sales of subject merchandise during the POR; and Boru Sanayi ve Ticaret A.Ş.'s (Yücel) Letter, "Yücel no shipments letter," dated June 12, 2022, in which it certified that Yücel, Boru Sanayi ve Ticaret A.Ş., Yücel Boru ve Profil Endüstrisi A.Ş., and their affiliated trading company, Yücelboru Ihracat Ithalat ve Pazarlama A.Ş. (collectively, "Yücel") had no entries, export or sales of subject merchandise during the POR.

¹² See, e.g., *Welded Carbon Steel Standard Pipe and Tube Products from Turkey: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2013-2014*, 80 FR 76674 (December 10, 2015).

Exporter/producer	Weighted-average dumping margin (percent)
Borusan Mannesmann Boru Sanayi ve Ticaret A.S./Borusan Istikbal Ticaret T.A.S	5.44

Assessment Rates

Upon issuance of the final results, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.¹³ The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties, where applicable.¹⁴

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).

Pursuant to 19 CFR 351.212(b)(1), where an examined respondent's weighted-average dumping margin is not zero or *de minimis* (*i.e.*, less than 0.5 percent) in the final results of this review, we will calculate an importer-specific *ad valorem* duty assessment rate based on the ratio of the total amount of dumping calculated for the U.S. sales for a given importer to the total entered value of those sales. Where a mandatory respondent did not report entered value, we calculate 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 assessment rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For entries of subject merchandise during the POR produced by Borusan for which it did not know that its merchandise was destined for the United States, we will instruct CBP to liquidate such unreviewed entries pursuant to the reseller policy,¹⁵ *i.e.*, the assessment rate for such entries will be equal to the all-others rate established in the investigation (*i.e.*, 14.74 percent *ad*

¹³ See 19 CFR 351.212(b)(1).

¹⁴ See section 751(a)(2)(C) of the Act.

¹⁵ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

⁴ See Nucor's Letter, "Partial Withdrawal of Request for Administrative Review," dated October 12, 2022 (Nucor's Withdrawal of Review Request).

⁵ See Memorandum, "Extension of Deadline for the Preliminary Results of the 2021-2022 Antidumping Duty Administrative Review," dated January 13, 2023.

⁶ See Memorandum, "Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Circular Welded Carbon Steel Standard Pipe and Tube Products from Turkey; 2021-2022" dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁷ See Nucor's Withdrawal of Review Request.

⁸ *Antidumping Duty Order; Welded Carbon Steel Standard Pipe and Tube Products from Turkey*, 51 FR 17784 (May 15, 1986) (*Order*).

⁹ See Preliminary Decision Memorandum.

¹⁰ *Id.*

valorem),¹⁶ if there is no rate for the intermediate company(ies) involved in the transaction.

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Borusan, which is listed above, will be equal to this company's weighted-average dumping margin established in the final results of this review, (except if the *ad valorem* rate is *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 in which the company participated; (3) if the exporter is not a firm covered in this review, or the underlying investigation, but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 14.74 percent, the all-others rate established in the underlying investigation.¹⁷

These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

Commerce intends to disclose the calculations performed in connection with these preliminary results to interested parties within five days after the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit case briefs no later than 30 days after the date of publication of this notice.¹⁸ Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days after the time limit for filing case briefs.¹⁹ Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.²⁰ Executive summaries

should be limited to five pages total, including footnotes.²¹ Case and rebuttal briefs should be filed using ACCESS and must be served on interested parties.²² Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.²³

Pursuant to 19 CFR 351.310(c), any interested party who wishes to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance within 30 days of publication of this notice. Hearing requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Issues raised in the hearing will be limited to issues raised in the case and rebuttal briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined.²⁴ Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

All submissions to Commerce must be filed electronically using ACCESS²⁵ and must also be served on interested parties.²⁶ An electronically filed document must be received successfully in its entirety by ACCESS, by 5 p.m. Eastern Time (ET) on the date that the document is due.

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any briefs, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

²¹ *Id.*

²² See 19 CFR 351.303.

²³ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

²⁴ See 19 CFR 351.310(c).

²⁵ See 19 CFR 351.303.

²⁶ See 19 CFR 351.303(f).

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: May 31, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I—List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. Partial Rescission of Administrative Review
- V. No Shipment Claims
- VI. Discussion of the Methodology
- VII. Currency Conversion
- VIII. Recommendation

Appendix II—List of Companies for Which the Administrative Review Has Been Rescinded

1. Borusan Birlesik Boru Fabrikalari San ve Tic.
2. Borusan Gemlik Boru Tesisleri A.S.
3. Borusan Holding
4. Borusan Ihracat Ithalat ve Dagitim A.S.
5. Borusan Ithicat ve Dagitim A.S.
6. Borusan Mannesmann Yatirim Holding
7. Cayirova Boru Sanayi ve Ticaret A.S.
8. Çınar Boru Profil San. Ve Tic. Aş.
9. Erbosan Erciyas Boru Sanayi ve Ticaret A.S.
10. Kale Baglanti Teknolojileri San. ve Tic. A.Ş.
11. Noksel Çelik Boru Sanayi A.Ş.
12. Toscelik Metal Ticaret A.Ş.
13. Tosçelik Profil Ve Sac Endüstrisi A.Ş.
14. Tosyali Dis Ticaret A.S.
15. Tubeco Pipe and Steel Corporation
16. Yucel Boru ve Profil Endustrisi A.S.
17. Yucelboru Ihracat Ithalat ve Pazarlama A.S.

[FR Doc. 2023–12115 Filed 6–6–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–863]

Honey From the People's Republic of China: Final Results of the Expedited Fourth Sunset Review of the Antidumping Duty Order

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

SUMMARY: As a result of this expedited sunset review, the U.S. Department of Commerce (Commerce) finds that revocation of the antidumping duty (AD) order on honey from the People's Republic of China (China) would be likely to lead to continuation or recurrence of dumping at the levels

¹⁶ See *Order*, 51 FR at 17784.

¹⁷ *Id.*

¹⁸ See 19 CFR 351.309(c)(1)(ii); see also 19 CFR 351.303 (for general filing requirements).

¹⁹ See 19 CFR 351.309(d)(1).

²⁰ See 19 CFR 351.309(c)(2) and (d)(2).

indicated in the “Final Results of Review” section of this notice.

DATES: Applicable June 7, 2023.

FOR FURTHER INFORMATION CONTACT: Whitley Herndon, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-6274.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 2023, Commerce published the notice of initiation of the fourth sunset review of the AD order on honey from China¹ pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).²

On March 15, 2023, the American Honey Producers Association and the Sioux Honey Association (collectively, the domestic interested parties) notified Commerce of their intent to participate within the 15-day period specified in 19 CFR 351.218(d)(1)(i).³ The domestic interested parties claimed interested party status under sections 771(9)(C) and (E) of the Act as producers of domestic like product in the United States and as a trade association whose members are engaged in the business of producing honey in the United States.

On March 30, 2023, Commerce received an adequate substantive response to the *Initiation Notice* with respect to the *Order* from the domestic interested parties within the 30-day period specified in 19 CFR 351.218(d)(3)(i).⁴ Commerce did not receive a substantive response from any other interested parties with respect to the *Order* covered by this sunset review. On April 20, 2023, Commerce notified the U.S. International Trade Commission that it did not receive an adequate substantive response from respondent interested parties in this sunset review.⁵ Pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted an expedited (120-day) sunset review of the *Order*.

¹ See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Honey from the People's Republic of China*, 66 FR 63670 (December 10, 2001) (*Order*).

² See *Initiation of Five-Year (Sunset) Reviews*, 88 FR 12915 (March 1, 2023) (*Initiation Notice*).

³ See Domestic Interested Parties' Letter, “Honey from the People's Republic of China—Domestic Interested Parties' Notice of Intent to Participate,” dated March 15, 2023.

⁴ See Domestic Interested Parties' Letter, “Honey from the People's Republic of China—Domestic Interested Parties' Substantive Response,” dated March 30, 2023.

⁵ See Commerce's Letter, “Sunset Reviews Initiated on March 1, 2023,” dated April 20, 2023.

Scope of the Order

The scope of the *Order* is honey from China. For a complete description of the scope of the *Order*, see the Issues and Decision Memorandum.⁶

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review is provided in the accompanying Issues and Decision Memorandum. A list of the issues discussed in the Issues and Decision Memorandum is attached as the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Final Results of Sunset Review

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, Commerce determines that revocation of the *Order* would likely lead to a continuation or recurrence of dumping and that the magnitude of the dumping margins likely to prevail would be weighted-average margins up to 183.80 percent.

Administrative Protective Order

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing the results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.218 and 351.221(c)(5)(ii).

⁶ See Memorandum, “Decision Memorandum for the Final Results of the Expedited Fourth Sunset Review of the Antidumping Duty Order on Honey from the People's Republic of China,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Dated: June 1, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. History of the *Order*
- V. Legal Framework
- VI. Discussion of the Issues
 1. Likelihood of Continuation or Recurrence of Dumping
 2. Magnitude of the Margins of Dumping Likely to Prevail
- VII. Final Results of Sunset Review
- VIII. Recommendation

[FR Doc. 2023-12114 Filed 6-6-23; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Open Meeting of the Information Security and Privacy Advisory Board

AGENCY: National Institute of Standards and Technology.

ACTION: Notice.

SUMMARY: The Information Security and Privacy Advisory Board (ISPAB) will meet Wednesday, July 12, 2023, from 10:00 a.m. until 4:30 p.m., Eastern Time, and Thursday, July 13, 2023, from 10:00 a.m. until 4:00 p.m., Eastern Time. All sessions will be open to the public.

DATES: The meeting will be held on Wednesday, July 12, 2023, from 10 a.m. until 4:30 p.m., Eastern Time, and Thursday, July 13, 2023, from 10 a.m. until 4:00 p.m., eastern time.

ADDRESSES: The meeting will be held at Stewart Lee Udall Department of the Interior Building, 1849 C Street NW, Washington, DC 20240. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Jeff Brewer, Information Technology Laboratory, NIST, 100 Bureau Drive, Stop 8930, Gaithersburg, MD 20899-8930, Telephone: (301) 975-2489, Email address: jeffrey.brewer@nist.gov.

SUPPLEMENTARY INFORMATION:

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. app., notice is hereby given that the ISPAB will meet Wednesday, July 12, 2023, from 10 a.m. until 4:30 p.m., Eastern Time, and Thursday, July 13, 2023, from 10 a.m. until 4:00 p.m., eastern time. All sessions will be open

to the public. The ISPAB is authorized by 15 U.S.C. 278g–4, as amended, and advises the National Institute of Standards and Technology (NIST), the Secretary of Homeland Security, and the Director of the Office of Management and Budget (OMB) on information security and privacy issues pertaining to Federal government information systems, including through review of proposed standards and guidelines developed by NIST. Details regarding the ISPAB's activities are available at <https://csrc.nist.gov/projects/ispab>.

The agenda is expected to include the following items:

- Board Introductions and Member Activities,
- Remarks from NIST Director and the Under Secretary of Commerce and Technology,
- Update from NIST's Information Technology Laboratory (ITL) Director,
- Discussion on Issues Facing the U.S. Government Related to Privacy,
- Presentation on from NIST on Privacy Enhancing Technologies,
- Presentation from NIST on the U.S. Government National Standards Strategy for Critical and Emerging Technology,
- Discussion on Identity Technical Challenges and Policies,
- Presentation from the Office of the National Cyber Director on the National Cybersecurity Strategy Implementation Plan,
- Presentation from the Department of Homeland Security (DHS) on Secure Software Attestation,
- Discussion on IoT Cybersecurity Labeling,
- Public comments,
- Board Discussions and Recommendations.

Note that agenda items may change without notice. The final agenda will be posted on the ISPAB event page: <https://csrc.nist.gov/Events/2023/ispab-july-2023-meeting>. Seating will be available for the public and media.

Public Participation: Written questions or comments from the public are invited and may be submitted electronically by email to Jeff Brewer at the contact information indicated in the **FOR FURTHER INFORMATION CONTACT** section of this notice by 5 p.m., eastern time, on Tuesday, July 11, 2023.

The ISPAB agenda will include a period, not to exceed thirty minutes, for submitted questions or comments from the public between 3 p.m. and 3:30 p.m. on Wednesday, July 12, 2023. Submitted questions or comments from the public will be selected on a first-come, first-served basis and limited to five minutes per person.

Members of the public who wish to expand upon their submitted statements, those who had wished to submit a question or comment but could not be accommodated on the agenda, and those who were unable to attend the meeting are invited to submit written statements. In addition, written statements are invited and may be submitted to the ISPAB at any time. All written statements should be directed to the ISPAB Secretariat, Information Technology Laboratory by email to: jeffrey.brewer@nist.gov.

Admittance Instructions: Pre-registration is required to attend this meeting due to security requirements in the building. It is recommended to allow thirty minutes to process through security. All visitors must enter the Udall Building through the C Street lobby, located between 18th and 19th Streets NW.

- All individuals over 18 years of age are required to present a valid, government-issued photo ID to enter the building.
- All visitors are subject to security screenings, including bag and parcel checks. Please note there are no locker facilities for visitors to store belongings.
- All visitors must comply with COVID–19 restrictions as posted at the building entrance.

Any individual who wishes to attend the meeting should register via email at: jeffrey.brewer@nist.gov prior to the registration deadline of 5:00 p.m., Eastern Time, July 11, 2023.

Alicia Chambers,
NIST Executive Secretariat.

[FR Doc. 2023–12170 Filed 6–6–23; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Artificial Intelligence Advisory Committee

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open briefing sessions.

SUMMARY: The National Institute of Standards and Technology (NIST) announces that the National Artificial Intelligence Advisory Committee (NAIAC or Committee) will hold a series of virtual briefing sessions. These sessions will be held on Tuesday, June 20, 2023; Thursday, June 22, 2023; and Tuesday, June 27, 2023. The purpose of these sessions is for invited experts to

brief the Committee on topics of interest related to the Committee's year two efforts. Additional information, including the final agenda and link to register, will be available online at: ai.gov/naiac/.

DATES: The sessions will be held on Tuesday, June 20, 2023; Thursday, June 22, 2023; and Tuesday, June 27, 2023. Additional information, including the session times, will be available on ai.gov/naiac. Members of the public interested in viewing the sessions are encouraged to visit ai.gov/naiac/ for session details and to register to watch virtually. Registration is required to view each of the virtual sessions and members of the public should register in accordance with the information provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

ADDRESSES: These sessions will be held virtually. For instructions on how to attend the sessions, please see the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Alicia Chambers, Committee Liaison Officer, National Institute of Standards and Technology, 100 Bureau Drive, MS 1000, Gaithersburg, MD 20899, alicia.chambers@nist.gov or 301–975–5333, or Melissa Banner, Designated Federal Officer, National Institute of Standards and Technology, 100 Bureau Drive, MS 1000, Gaithersburg, MD 20899, melissa.banner@nist.gov or 301–975–5245. Please direct any inquiries to naiac@nist.gov.

SUPPLEMENTARY INFORMATION: In accordance with the Federal Advisory Committee Act, 5 U.S.C. 1001 *et seq.*, notice is hereby given that the NAIAC will hold briefing sessions on Tuesday, June 20, 2023; Thursday, June 22, 2023; and Tuesday, June 27, 2023. The sessions will be open to the public and will be held virtually. Interested members of the public will be able to attend the sessions from remote locations. The purpose of these sessions is for invited experts to brief the Committee on topics of interest related to the Committee's year two efforts. Additional information, including the final agenda and link to register, will be available online at: ai.gov/naiac/.

The NAIAC is authorized by section 5104 of the National Artificial Intelligence Initiative Act of 2020 (Pub. L. 116–283), in accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. 1001 *et seq.* The Committee advises the President and the National Artificial Intelligence Initiative Office on matters related to the National Artificial Intelligence

Initiative. Additional information on the NAIAC is available at ai.gov/naiac/.

Comments: Oral comments from the public will not be permitted during these virtual sessions. However, individuals and representatives of organizations may submit written comments and suggestions to the Committee at any time. Please note that all submitted comments will be treated as public documents and will be made available for public inspection. All comments must be submitted via email with the subject line "YOUR NAME, YOUR ORGANIZATION NAME (if applicable), NAIAC Comments" to naiac@nist.gov.

Virtual Admittance Instructions: The sessions will be broadcast live via virtual teleconference. Registration is required to view each of the virtual sessions. To register, please visit ai.gov/naiac/. Members of the public that would like to view the virtual sessions must register by 5:00 p.m. Eastern Time, Friday June 16, 2023, for the June 20, 2023 session; by 5:00 p.m. Eastern Time, Tuesday, June 20, 2023, for the Thursday, June 22, 2023 session; and by 5:00 p.m. Eastern Time, Friday June 23, 2023 for the Tuesday, June 27, 2023 session.

Alicia Chambers,

NIST Executive Secretariat.

[FR Doc. 2023-12164 Filed 6-6-23; 8:45 am]

BILLING CODE 3510-13-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XD068]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (MAFMC) Bluefish Advisory Panel will hold a public meeting, jointly with the Atlantic States Marine Fisheries Commission (ASMFC) Bluefish Advisory Panel.

DATES: The meeting will be held on Thursday, June 22, 2023, from 4 p.m. to 5:30 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held via webinar. Webinar connection, agenda items, and any additional information will be available at www.mafmc.org/council-events.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674-2331 or on their website at www.mafmc.org.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526-5255.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is for the Advisory Panel to develop a fishery performance report (FPR) that describes recent performance of the bluefish commercial and recreational fisheries. The intent of the FPR is to facilitate a venue for structured input from the Advisory Panel for the bluefish specifications process. The FPR will be used by the MAFMC's Scientific and Statistical Committee (SSC) and the Bluefish Monitoring Committee (MC) when recommending 2024-2025 management measures designed to achieve the recommended bluefish catch and landings limits.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shelley Spedden at the Council Office, (302) 526-5251, at least 5 days prior to the meeting date.

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

Dated: June 2, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023-12179 Filed 6-6-23; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XD041]

Pacific Whiting; Advisory Panel; Joint Management Committee; Call for Nominations

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

ACTION: Notice; call for nominations.

SUMMARY: NMFS is soliciting nominations for appointments to the United States Advisory Panel (AP) and the Joint Management Committee (JMC) established in the Agreement between the Government of the United States of America and the Government of Canada

on Pacific Hake/Whiting (Pacific Whiting Treaty). Nominations are being sought to fill six positions on the AP beginning on September 16, 2023, and two position on the JMC starting September 16, 2023. Terms are 4 years, and appointees will be eligible for reappointment at the expiration of the terms.

DATES: Nominations must be received by July 7, 2023.

ADDRESSES: You may submit nominations by the following method:

- Email: frank.lockhart@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Frank Lockhart, (206) 526-6142, or Colin Sayre (206) 526-4656, colin.sayre@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

Pacific Whiting Treaty Committees

The Pacific Whiting Act of 2006 (Pacific Whiting Act) (16 U.S.C. 7001-10) implements the Pacific Whiting Treaty. Among other provisions, the Pacific Whiting Act provides for the appointment of the United States representation on the JMC and AP.

The JMC reviews the advice of two scientific bodies and the AP, and recommends to the Parties the coast-wide total allowable catch of Pacific whiting each year. Four individuals represent the United States on the JMC; one official from NOAA, one member of the Pacific Fishery Management Council, one representative of the treaty Indian tribes with treaty fishing rights to Pacific whiting, and one representative from the commercial fishing sector of the whiting fishing industry concerned with the offshore whiting resource. NMFS is soliciting nominations for one representative of the commercial sector (16 U.S.C. 7002 (a)(1)) through this notice.

The AP advises the JMC on bilateral Pacific whiting management issues. Eight individuals represent the United States on the AP, and nominations for six of those individuals (16 U.S.C. 7005) are solicited through this notice. Members appointed to the U.S. sections of the AP and JMC will be reimbursed for necessary travel expenses in accordance with Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5 (16 U.S.C. 7008). NMFS anticipates that two meetings of the JMC and one meeting of the AP will be held annually, and these meetings will be held in the United States or Canada. AP and JMC members will need a valid U.S. passport.

The Pacific Whiting Act also states that while performing their appointed

duties, members “other than officers or employees of the United States Government, shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28.” (16 U.S.C. 7008).

Information on the Pacific Whiting Treaty, including current committee members, can be found at: <https://www.fisheries.noaa.gov/west-coast/laws-and-policies/pacific-hake-whiting-treaty#committees-and-panels>.

Nominations

Nomination packages for appointments should include:

- (1) The name of the applicant or nominee, position they are being nominated for and a description of their interest in Pacific whiting; and
- (2) A statement of background and/or description of how the following qualifications are met.

Advisory Panel Qualifications

AP member nominees must be knowledgeable or experienced in the harvesting, processing, marketing, management, conservation, or research of the offshore Pacific whiting resource; and must not be employees of the United States government.

Joint Management Committee Qualifications

The JMC nominee for the commercial sector must be from the commercial sector of the Pacific whiting fishing industry concerned with the offshore Pacific whiting resource, and must be knowledgeable or experienced concerning the offshore whiting resource.

Authority: 16 U.S.C. 7001 *et seq.*

Dated: June 2, 2023.

Jennifer M. Wallace,

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

[FR Doc. 2023-12159 Filed 6-6-23; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Policy Board: Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Policy, Department of Defense (DoD).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The DoD is publishing this notice to announce the following

Federal Advisory Committee meeting of the Defense Policy Board (DPB) will take place.

DATES: Closed to the public; Tuesday, June 13, 2023, from 8:30 a.m. to 5 p.m.

Closed to the public; Wednesday, June 14, 2023, from 8:30 a.m. to 5 p.m.

ADDRESSES: The closed meetings will be held in the Rodman Conference Room, 3D852, at The Pentagon, 2000 Defense Pentagon, Washington, DC 20301-2000.

FOR FURTHER INFORMATION CONTACT: Lt Col Jesse Humpal (U.S. Air Force), (571) 256-8395 (Voice),

osd.pentagon.rsrcmgmt.list.ousd-policy-defense-board-mbx@mail.mil (Email).

Mailing address is 2000 Defense Pentagon, Attn: 5E420, Washington, DC 20301-2000.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of Federal Advisory Committee Act (FACA) (5 U.S.C. App), the Government in the Sunshine Act (“the Sunshine Act”) (5 U.S.C. 552b), sections 102-3.140 and 102-3.150 of title 41, Code of Federal Regulations (CFR).

Due to circumstances beyond the control of the Designated Federal Officer, the Defense Policy Board was unable to provide public notification required by 41 CFR 102-3.150(a) concerning its June 13-14, 2023 meeting. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102-3.150(b), waives the 15-calendar day notification requirement.

Purpose of the Meeting: To obtain, review, and evaluate classified information related to the DPB’s mission to advise on (a) issues central to strategic DoD planning; (b) policy implications of U.S. force structure and modernization on DoD’s ability to execute U.S. defense strategy; (c) U.S. regional defense policies; and (d) other defense policy topics of special interest to the DoD, as determined by the Secretary of Defense, the Deputy Secretary of Defense, or the Under Secretary of Defense for Policy.

Agenda: On June 13, 2023, and June 14, 2023, the DPB will receive classified briefings and hold classified discussions on the long-term regional and global strategic implications of potential coercion by the People’s Republic of China (PRC) across the Taiwan Strait, including implications for U.S. allies and partners in the Indo-Pacific and around the world. The DPB will: (1) conduct classified deliberations as a Board regarding the Information Operations terms of reference discussed at the December 13-14, 2022, and the March 7-8, 2023, meetings; (2) receive

classified briefings on reactions by the Chinese Communist Party (CCP) and China’s People’s Liberation Army (PLA) from the National Intelligence Officer for East Asia, National Intelligence Council, and Dr. Dale Rielage, Senior Director for Strategic Competition, OSD Red Team, Office of the Under Secretary of Defense for Intelligence & Security; (3) deliberate as a Board on classified CCP and PLA scenarios; (4) receive a classified briefing regarding reactions by Central & South American partners to these scenarios from GEN Laura Richardson (U.S. Army), Commander, U.S. Southern Command; (5) receive a classified briefing regarding reactions by South Korea, Japan, and Australia from the National Intelligence Officer for Near East, National Intelligence Council, and Honorable Ely Ratner, Assistant Secretary of Defense for Indo-Pacific Security Affairs; (6) receive a classified briefing regarding reactions by India, Vietnam, the Philippines, and Indonesia, from the National Intelligence Officer for South Asia, National Intelligence Council, and Hon. Ely Ratner, Assistant Secretary of Defense for Indo-Pacific Security Affairs; (7) receive a classified briefing regarding reactions by NATO Allies from AMB Julie Smith, U.S. Ambassador to NATO, and Ms. Rachel Ellehuss, U.S. NATO Defense Advisor; (8) conduct classified deliberations as a Board regarding the Taiwan topic terms of reference; (9) receive a classified briefing regarding reactions by African Partners from Gen Michael Langley (USMC), Commander, U.S. Africa Command; (10) receive a classified briefing regarding reactions by Russia and Iran from the National Intelligence Officer for Russia & Eurasia, National Intelligence Council; (11) receive a classified briefing regarding reactions by North Korea from the National Intelligence Officer for North Korea, National Intelligence Council; (12) discuss these briefings in a classified session with the Deputy Secretary of Defense and the Under Secretary of Defense; and (13) finally conduct a final classified deliberation as a Board regarding the Taiwan topic terms of reference.

Meeting Accessibility: In accordance with 5 U.S.C. 1009(d) and 41 CFR 102-3.155, the DoD has determined that this meeting shall be closed to the public. The Under Secretary of Defense (Policy), in consultation with the DoD FACA Attorney, has determined in writing that this meeting be closed to the public because the discussions fall under the purview of 5 U.S.C. 552b(c)(1) of title and are so inextricably intertwined with

unclassified material that they cannot reasonably be segregated into separate discussions without disclosing classified material.

Written Statements: In accordance with 5 U.S.C. 1009(a)(3) and 41 CFR 102–3.105(j) and 102–3.140(c), the public or interested organizations may submit written statements to the membership of the DPB at any time regarding its mission or in response to the stated agenda of a planned meeting. Written statements should be submitted to the DPB's DFO, which is listed above in this notice or can be obtained from the GSA's FACA Database—<https://www.facadatabase.gov/>. Written statements that do not pertain to a scheduled meeting of the DPB may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than five business days prior to the meeting in question. The DFO will review all submitted written statements and provide copies to all members.

Dated: June 2, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–12202 Filed 6–6–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Indian Education Discretionary Grants Programs—Native American Language Resource Centers Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications (NIA) for fiscal year (FY) 2023 for the Native American Language Resource Centers (NALRC) Program, Assistance Listing Number 84.415C. This notice relates to the approved information collection under OMB control number 1894–0006.

DATES:

Applications Available: June 7, 2023.

Deadline for Notice of Intent to Apply: June 27, 2023.

Date of Pre-Application Webinar: June 22, 2023.

Deadline for Transmittal of Applications: July 27, 2023.

Deadline for Intergovernmental Review: August 28, 2023.

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:

Donna Sabis-Burns, U.S. Department of Education, 400 Maryland Avenue SW, Room 3W203, Washington, DC 20202. Telephone: 202–213–9014. Email: Donna.Sabis-Burns@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 this program, which further aligns resources provided by the Department with the policies in the Native American Languages Act (NALA), 25 U.S.C. 2901 *et seq.*, is to support establishing, strengthening, and operating one or more Native American language resource centers.

Background: Congress recently emphasized the need to support the use of Native American languages as a medium of instruction for a variety of age levels, academic content areas, and types of schools, including Native American language medium education by passing the Native American Language Resource Center Act of 2022 (NALRCA) (20 U.S.C. 7457). According to a 2011 U.S. Census American Community Survey (ACS), it is estimated that during 2006–2010 there were fewer than 372,095 Native language speakers in the United States.¹ One out of every four Native students, in fourth or eighth grade, has had no exposure to a Native American language.²

The NALRC Program supports projects that will preserve, protect, and

¹ United States Census Bureau. *Native North American Languages Spoken at Home in the United States and Puerto Rico: 2006–2010*. U.S. Census Bureau's American Community Survey Office, 2011. <https://www2.census.gov/library/publications/2011/acs/acsbr10-10.pdf>.

² U.S. Department of Education, Institute of Education Sciences, National Center for Education Statistics, National Assessment of Educational Progress (NAEP), 2019 National Indian Education Study.

promote the rights and freedom of Native Americans to use, practice, and develop Native American languages in furtherance of the policies in NALA and the United States trust responsibility to Tribal Nations. Native American language resource centers supported by the NALRC Program will be staffed by individuals with relevant expertise and experience, including staff who speak American Indian, Alaska Native, or Native Hawaiian languages and have worked in Native language education in a preschool, elementary school, secondary school, adult education, or higher education program. For FY 2023, this competition includes two absolute priorities, one for regional centers and one for a national center, to advance policies set forth in NALA, including the rights of Native Americans to express themselves through Native American languages in any public proceeding, including publicly supported education programs. 25 U.S.C. 2904. This competition also includes a competitive preference priority for projects that are led by a Tribal college or university (TCU).

Tribal Consultation: This competition was informed by Tribal consultation with elected Tribal leaders or their officially designated proxies. The Department held a virtual Tribal consultation on January 10, 2023, and announced the opportunity through various external community listservs.

The Department requested input from Tribal Nations on whether the program should be administered through a contractual agreement or grant competition. The majority of Tribal leaders favored using contractual agreements, depending on the functions of the NALRC Program. Other Tribal leaders noted potential inequities in grant competitions because some Tribal Nations have greater access to high-quality grant writers. After considering the comments received, the Department will administer the program through a grant competition and may convert awards to cooperative agreements at any point if the grantee agrees. This competition includes a competitive preference priority for TCU lead applicants to address Tribal leader concerns regarding access to high-quality grant writers.

The Department requested input from Tribal Nations on what priorities would strengthen implementation of the program. The majority of Tribal leaders expressed the importance of regional representation of Native language needs and that such needs must inform the work of the NALRC Program. Other Tribal leaders also expressed the need for the NALRC Program to advance the

purpose of NALA and support immersion schools where Native language is used as a medium of instruction. A consortium representing 33 Tribal Nations provided written comments recommending that program administration be designed in an equitable and regional manner. In response to the comments received, the Department has incorporated two absolute priorities to advance the authorized activities outlined in the NALRCA, including a priority for the implementation of regional centers.

The Department requested input from Tribal Nations on how the Department can better ensure resource coordination and avoid duplication of effort across the Federal government. The majority of Tribal leaders expressed that the Department should carefully consider existing research and promising practices to ensure Tribal Nations have access to meaningful resources. Other Tribal leaders expressed that ongoing communication with Native language practitioners is paramount to ensure emergent programs can benefit from the experiences of existing programs.

Priorities: This notice includes two absolute priorities and one competitive preference priority. We are establishing these priorities in accordance with section 437(d)(1) of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d)(1).

Absolute Priorities: For FY 2023 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3), we consider only applications that meet Absolute Priority 1 or Absolute Priority 2.

The Secretary intends to create two funding slates for NALRC Program applications—one for applications that meet Absolute Priority 1 and one for applications that meet Absolute Priority 2. As a result, the Secretary may fund applications out of the overall rank order, but the Secretary is not bound to do so.

Note: The Department prefers that an eligible entity apply for either the National Center or a Regional Center. The Department will, however, consider multiple, separate applications from one entity applying for one or more Regional Centers and the National Center as long as the entity submits a separate application for each Center. If an applicant submits multiple applications that fall within the funding range, after review and comparison of those applications, the Department may choose not to fund all applications that propose using the same project

personnel or providing the same services as other fundable applications.

These priorities are:

Absolute Priority 1: Regional Centers.

To meet this priority, applicants must propose a regional Native American language resource center that supports the provision of high-quality capacity-building services to Tribal clients and recipients to identify, implement, and sustain effective programs, practices, and interventions that—

(a) Encourage and support the use of Native American languages within educational systems in the same manner as other world languages, including by encouraging State educational agencies, local educational agencies, and institutions of higher education (IHEs) to offer Native American language courses for the same full academic credit as courses in other world languages;

(b) Support the development, adoption, and use of assessments, qualifications, and processes based on promising practices in Native American language medium education;

(c) Provide technical assistance to Native American language programs seeking other Federal resources; and

(d) Provide technical assistance to Native American communities and school systems to support the development of Native American language medium education programs in preschool, elementary school, secondary school, or adult education programs.

In a single application, an applicant must propose to operate a Regional Center in one and only one of the following regions:

1. Appalachia (Kentucky, Tennessee, Virginia, and West Virginia).

2. Central (Colorado, Kansas, Missouri, Nebraska, North Dakota, South Dakota, and Wyoming).

3. Mid-Atlantic (Delaware, District of Columbia, Maryland, New Jersey, and Pennsylvania).

4. Midwest (Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, and Wisconsin).

5. Northeast and Islands (Connecticut, Massachusetts, Maine, New Hampshire, New York, Puerto Rico, Rhode Island, Vermont, and the Virgin Islands).

6. Northwest (Alaska, Idaho, Montana, Oregon, and Washington).

7. Pacific (American Samoa, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Guam, Hawaii, Palau, and Republic of the Marshall Islands).

8. Southeast (Alabama, Florida, Georgia, Mississippi, North Carolina, and South Carolina).

9. Southwest (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas).

10. West (Arizona, California, Nevada, and Utah).

Note: To ensure geographic diversity, the Department will not fund more than one project that proposes to serve clientele in a single region.

Absolute Priority 2: National Center.

To meet this priority, an applicant must propose a project that supports a National Center that will provide high-quality capacity-building services to Regional Centers, other Department-funded technical assistance centers, Tribal clients and recipients, and IHEs, including TCUs, to identify, implement, and sustain effective programs, practices, and interventions that—

(a) Encourage and support educator preparation programs, as well as appropriate alternative pathways to teacher certification, that prepare teachers to teach Native American languages and to use Native American languages as a medium of instruction, including by disseminating promising practices and developing pedagogical programming;

(b) Provide information and resources on promising practices in—

(1) The use and revitalization of Native American languages in Native American communities, including use in educational institutions; and

(2) The use of technology in school and community-based Native American language programs to support the retention, use, and teaching of Native American languages;

(c) Support the use of distance learning technologies in Native American language acquisition and related training for parents, students, teachers, and learning support staff associated with Native American language programs, including through—

(1) The compilation and curation of digital libraries and other online resources for Native American languages, except that any materials collected by the center may only be materials provided by a Native American language program or Native American community;

(2) The development of optional distance learning curricula appropriate for preschool, elementary school, secondary school, adult education, and postsecondary education; and

(3) Pedagogical training for Native American language teachers; and

(d) Support regional centers, Native American language programs, and Native American communities in—

(1) Accessing international best practices, resources, and research in indigenous language revitalization; and

(2) Gathering and sharing technical assistance, promising practices, and experiences.

Competitive Preference 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 a competitive preference priority. Under 34 CFR 75.105(c)(2)(i), we award up to an additional 2 points to an application that meets the competitive preference priority.

This priority is:

Tribal College or University Lead Applicants (0 or 2 points).

To meet this priority, an application must be submitted by a TCU (as defined in this notice) that is eligible to participate in the NALRC Program. A consortium application that is submitted in accordance with 34 CFR 75.127–129 is eligible to receive the preference only if the lead applicant for the consortium is the TCU.

Application Requirements: For FY 2023 and any subsequent year in which we make awards from the list of unfunded applications from this competition, applicants must meet the following application requirements. Application Requirement 1 is from the NALRCA, and we are establishing Application Requirement 2 in accordance with section 437(d)(1) of GEPA.

Each applicant must—

1. *Native Language Expertise Assurance.* Include an assurance that the proposed center will be staffed by individuals with relevant expertise and experience, including staff who speak American Indian and Alaska Native languages and the Native Hawaiian language and have worked in language education in the American Indian and Alaska Native languages and the Native Hawaiian language in a preschool, elementary school, secondary school, adult education, or higher education program.

2. *Description of Program Requirements.* Describe how the proposed project will meet the program requirements.

Program Requirements: We are establishing these requirements for the FY 2023 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of GEPA. For FY 2023 and any subsequent year in which we make awards from the list of unfunded applications from this competition, grantees must adhere to the following program requirements.

Applicants under either absolute priority must carry out activities to:

(a) Improve the capacity to teach and learn Native American languages;

(b) Further Native American language use and acquisition;

(c) Preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages in furtherance of—

(1) The policies set forth in the Native American Languages Act (25 U.S.C. 2901 *et seq.*); and

(2) The United States trust responsibility to Native American communities;

(d) Address the effects of past discrimination and ongoing inequities experienced by Native American language speakers;

(e) Support the revitalization and reclamation of Native American languages;

(f) Support the use of Native American languages as a medium of instruction for a wide variety of age levels, academic content areas, and types of schools, including Native American language medium education; and

(g) Support the operation of intensive programs, including summer institutes, to train Native American language speakers, to provide professional development, and to improve Native American language instruction through preservice and in-service language training for teachers.

ISDEAA Statutory Hiring Preference:

(a) Awards that are primarily for the benefit of Indians are subject to the provisions of section 7(b) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638) (ISDEAA). That section requires that, to the greatest extent feasible, a grantee—

(1) Give to Indians preferences and opportunities for training and employment in connection with the administration of the grant; and

(2) Give to Indian organizations and to Indian-owned economic enterprises, as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452(e)), preference in the award of contracts, subcontracts, and subgrants, in connection with the administration of the grant.

(b) For purposes of this preference, an Indian is a member of any federally recognized Indian Tribe.

Definitions: The terms “elementary school,” “local educational agency,” “secondary school,” and “State educational agency” are from section 8101 of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 U.S.C. 7801). The terms “Native American” and “Native American language” are from section 103 of the Native American Languages Act. The term “institution of higher

education” is from section 101 of the Higher Education Act of 1965, as amended (HEA). The term “Tribal College or University” is from section 316(b)(3) of the HEA.

Elementary school means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.

Institution of higher education means an educational institution in any State that—

(a) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, or persons who meet the requirements of 20 U.S.C. 1091(d);

(b) Is legally authorized within such State to provide a program of education beyond secondary education;

(c) Provides an educational program for which the institution awards a bachelor’s degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree, or awards a degree that is acceptable for admission to a graduate or professional degree program, subject to review and approval by the Secretary;

(d) Is a public or other nonprofit institution; and

(e) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

Local educational agency—

(a) In General. The term “local educational agency” means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.

(b) Administrative Control and Direction. The term includes any other public institution or agency having administrative control and direction of

a public elementary school or secondary school.

(c) Bureau of Indian Education Schools. The term includes an elementary school or secondary school funded by the Bureau of Indian Education but only to the extent that including the school makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under the ESEA with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Education.

(d) Educational Service Agencies. The term includes educational service agencies and consortia of those agencies.

(e) State Educational Agency. The term includes the State educational agency in a State in which the State educational agency is the sole educational agency for all public schools.

Native American means an Indian, Native Hawaiian, or Native American Pacific Islander. For purposes of this definition, the term "Indian" has the meaning given to such term under 20 U.S.C. 7491(3).

Native American language means the historical, traditional languages spoken by Native Americans.

Secondary school means a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that the term does not include any education beyond grade 12.

State educational agency means the agency primarily responsible for the State supervision of public elementary schools and secondary schools.

Tribal College or University means an institution that—

(a) Qualifies for funding under the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1801 *et seq.*) or the Navajo Community College Act (25 U.S.C. 640a note); or

(b) Is cited in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note).

Program Authority: 20 U.S.C. 7451; 20 U.S.C. 7457.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed priorities, requirements, definitions, and selection criteria. Section 437(d)(1) of GEPA, however, allows the Secretary to exempt from rulemaking requirements, regulations governing the first grant competition under a new or substantially revised program authority. This is the first grant competition for the NALRC Program under the NALRCA, and therefore qualifies for this exemption. The Secretary has decided to forgo public comment under the waiver authority in section 437(d)(1) of GEPA in order to ensure timely grant awards.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 82, 84, 86, 97, 98, and 99. (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.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Discretionary grants/cooperative agreements.

Note: Pursuant to 34 CFR 75.262, when making continuation awards in any year, the Department may convert these grants into cooperative agreements. The Department may also convert awards to cooperative agreements at any point if the grantee agrees.

Estimated Available Funds: \$2,900,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in future years from the list of unfunded applications from this competition.

Estimated Range of Awards:

For a Regional Center, \$250,000–\$350,000 per year.

For a National Center, \$1,000,000–\$1,300,000 per year.

Estimated Average Size of Awards:

For a Regional Center, \$300,000 per year.

For a National Center, \$1,150,000 per year.

Estimated Number of Awards: 6–7.

The Department intends to support 5–6 Regional Centers under this

competition. One award will support the National Center.

Note: The Department is not bound by any estimates in this notice.

Note: As noted above, to ensure geographic diversity, the Department will not fund more than one project that proposes to serve clientele in a single region (as described in Absolute Priority 1).

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants*: The following entities are eligible to apply under this competition:

(a) An institution of higher education (as defined in this notice);

(b) An entity within an institution of higher education with dedicated expertise in Native American language and culture education; or

(c) A consortium that includes one or more entities described in paragraph (a), or one or more entities described in paragraph (b).

2. a. *Cost Sharing or Matching*: This program does not require cost sharing or matching.

b. *Indirect Cost Rate Information*: This program uses a training indirect cost rate. This limits indirect cost reimbursement to an entity's actual indirect costs, as determined in its negotiated indirect cost rate agreement, or 8 percent of a modified total direct cost base, whichever amount is less. For more information regarding training indirect cost rates, see 34 CFR 75.562. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see www2.ed.gov/about/offices/list/ocfo/intro.html.

c. *Administrative Cost Limitation*: This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees*: Under 34 CFR 75.708(b) and (c), a grantee under this competition may award subgrants—to directly carry out project activities described in its application—to the following types of entities: IHEs, nonprofit organizations, professional organizations, or businesses. The grantee may award subgrants to entities it has identified in the approved application or that it selects through a competition under procedures established by the grantee.

4. a. *Reasonable and Necessary Costs*: Applicants must ensure that all costs included in the proposed budget are reasonable and necessary to meet the

goals and objectives of the proposed project. Any costs determined by the Secretary to be unreasonable or unnecessary will be removed from the final approved budget.

b. *Audits:* (i) A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of 2 CFR part 200. (2 CFR 200.501(a))

(ii) A non-Federal entity that expends less than \$750,000 during the non-Federal entity's fiscal year in Federal awards is exempt from Federal audit requirements for that year, except as noted in 2 CFR 200.503 (Relation to Other Audit Requirements), but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and Government Accountability Office (GAO). (2 CFR 200.501(d)).

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 7504), 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. Submission of Proprietary

Information: Given the types of projects that may be proposed in applications for the NALRC Program grant competition, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define "business information" and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended). Because we plan to post on our website a selection of funded abstracts and applications' narrative sections, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate

appendix section of your application, under "Other Attachments Form," please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program. Please note that, under 34 CFR 79.8(a), we have shortened the standard 60-day intergovernmental review period in order to make awards by the end of FY 2023.

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 30 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; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract, the resumes, the bibliography, the letter(s) of support, or the signed consortium agreement. However, the recommended page limit does apply to all of the application narrative. An application will not be disqualified if it exceeds the recommended page limit.

5. *Notice of Intent to Apply:* The Department will be able to review grant applications more efficiently if we know the approximate number of applicants that intend to apply and the region they represent. Therefore, we strongly encourage each potential applicant to notify us of their intent to submit an application. To do so, please email the program contact person listed under **FOR FURTHER INFORMATION CONTACT** with the subject line "Intent to Apply," and include the applicant's name, a contact person's name and email address, and the region they represent. Applicants

that do not submit a notice of intent to apply may still apply for funding; applicants that do submit a notice of intent to apply are not bound to apply or bound by the information provided.

6. *Award Basis:* In determining whether to approve a grant award and the amount of such award, the Department will take into consideration, among other things, the applicant's performance and use of funds under a previous or existing award under any Department program (34 CFR 75.217(d)(3)(ii) and 75.233(b)). In assessing the applicant's performance and use of funds under a previous or existing award, the Secretary will consider, among other things, the outcomes the applicant has achieved and the results of any Departmental grant monitoring, including the applicant's progress in remedying any deficiencies identified in such monitoring.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210. The source of each selection criterion, and the maximum score for addressing each criterion and factor within each criterion, is included in parentheses. The maximum score for these criteria is 100 points. The maximum score for each criterion is included in parentheses following the title of the specific selection criterion. Each criterion also includes the factors that reviewers will consider in determining the extent to which an applicant meets the criterion. Taken together with the competitive preference priority, an applicant can receive up to a total of 102 points.

The selection criteria are as follows:

(a) *Need for project* (6 points).

The Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers the following factors:

(1) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses. (Up to 3 points)

(2) The extent to which the proposed project will prepare personnel for fields in which shortages have been demonstrated. (Up to 3 points)

(b) *Quality of project design* (36 points).

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable. (Up to 12 points)

(2) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs. (Up to 6 points)

(3) The extent to which performance feedback and continuous improvement are integral to the design of the proposed project. (Up to 6 points)

(4) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice. (Up to 12 points)

(c) *Quality of project services* (13 points).

The Secretary considers the quality of the project services. In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (Up to 2 points)

In addition, the Secretary considers the following factors:

(1) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice. (Up to 7 points)

(2) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services. (Up to 4 points)

(d) *Quality of project personnel* (12 points).

The Secretary considers the quality of the personnel who will carry out the proposed project. In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (Up to 2 points)

In addition, the Secretary considers the following factors:

(1) The qualifications, including relevant training and experience, of the project director or principal investigator. (Up to 5 points)

(2) The qualifications, including relevant training and experience, of key project personnel. (Up to 5 points)

(e) *Adequacy of resources* (8 points).

The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(1) The extent to which the budget is adequate to support the proposed project. (Up to 4 points)

(2) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project. (Up to 4 points)

(f) *Quality of the management plan* (15 points).

The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(1) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks. (Up to 5 points)

(2) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project. (Up to 5 points)

(3) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project. (Up to 5 points)

(g) *Quality of the project evaluation* (10 points).

The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(1) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project. (Up to 5 points)

(2) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings. (Up to 5 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 also 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 the FY 2023 NALRC Program competition, all applications will be assigned to peer review panels. The Department will select applications for funding consideration based on their ranking in the competition.

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this program 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. 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 in 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.

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. If a grantee is provided additional funding for this purpose, the Secretary establishes a data collection period.

Note: Consistent with 2 CFR 200.315(b) and other applicable law, the Department may make reports, deliverables, outputs, or materials produced by the Native American Language Resource Centers publicly available and may request that the Native American Language Resource Centers disseminate reports, deliverables, outputs, or materials to a wide audience (e.g., through their websites, social media, or other public-facing channels).

5. *Performance Measures:* The following measures have been established for the purpose of Department reporting under 34 CFR 75.110 and will be used to evaluate the success of the NALRC Program:

(a) The percentage of the annual measurable objectives, as described in the application, that are met by grantees;

(b) The annual increase in the number of Tribes supported; and

(c) The annual increase in the number of languages supported.

These measures constitute the Department's indicators of success for this program. Consequently, we advise an applicant for a grant under this program to carefully consider these

measures in conceptualizing the approach to, and evaluation for, its proposed project. Each grantee will be required to provide, in its annual performance and final reports, data about its progress in meeting these measures.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things, whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, 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).

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, 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.

James F. Lane,

Principal Deputy Assistant Secretary, Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 2023-12166 Filed 6-6-23; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

[Docket ID ED-2021-OESE-0152]

Final Priority and Requirements—Full-Service Community Schools

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Final priority and requirements.

SUMMARY: The Department of Education (Department) announces a priority and requirements under the Full-Service Community Schools (FSCS) program, Assistance Listing Number 84.215J. The Department may use the priority and requirements for competitions in fiscal year (FY) 2023 and in later years. The Department intends for the priority and requirements to support competitions under the FSCS program for the purpose of conducting national evaluations of the program's implementation and effectiveness.

DATES: The priority and requirements are effective July 7, 2023.

FOR FURTHER INFORMATION CONTACT: Jane Hodgdon, U.S. Department of Education, 400 Maryland Avenue SW, room 3E346, Washington, DC 20202. Telephone: 202-245-6057. Email: FSCS@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: The FSCS program, established under sections 4621-4623 and 4625 of the Elementary and Secondary Education Act, as amended (ESEA), provides support for the planning, implementation, and operation of full-service community schools that improve the coordination, integration, accessibility, and effectiveness of services for children and families, particularly for children attending schools with concentrated poverty, including rural schools.

Program Authority: Sections 4621-4623 and 4625 of the ESEA, 20 U.S.C. 7271-7273, 7275.

We published a notice of proposed priorities, requirements, definitions, and

selection criteria for this program in the **Federal Register** on January 12, 2022 (87 FR 1709) (the NPP). That document contained background information and rationale for proposing the priorities, requirements, definitions, and selection criteria, including a priority for participation in a national evaluation of the program's effectiveness using a randomized controlled trial (*i.e.*, experimental) design. We then published a notice of final priorities, requirements, definitions, and selection criteria for this program in the **Federal Register** on July 13, 2022 (87 FR 41675) (the 2022 FSCS NFP). In the 2022 FSCS NFP, we discussed a plan to conduct additional outreach before finalizing a priority on a national evaluation.

Public Comment: In response to our invitation in the NPP, 19 parties submitted comments pertinent to the proposed national evaluation priority, which were addressed in the 2022 FSCS NFP. In the 2022 FSCS NFP, the Department communicated our appreciation for the comments, concerns, and support shared by the field regarding a national evaluation of the FSCS program. We committed to working with grantees and other stakeholders to design and conduct the national evaluation required under section 4625(f) of the ESEA. To allow more time to conduct outreach with the field, the Department delayed launching the national evaluation.

We discuss substantive issues under each priority or requirement to which they pertain. Generally, we do not address technical and other minor changes or suggested changes the law does not authorize us to make. In addition, we do not address comments that are outside the scope of the proposed priority and requirements.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priority and requirements related to the proposed national evaluation priority follows.

Proposed Priority 4—Participation in a National Evaluation.

Comments: We summarized the 19 comments received related to Priority 4 in the 2022 FSCS NFP.

Discussion: As discussed in the 2022 FSCS NFP, the Department appreciates the comments, concerns, and support shared by the field regarding a national evaluation of the FSCS program and we are committed to working with grantees and other stakeholders to design and implement the national evaluation required under section 4625(f) of the ESEA, which requires the Department's Institute of Education Sciences (IES) to conduct an evaluation of the effectiveness of the FSCS program

grants. To allow more time to conduct outreach with the field, the Department did not begin the national evaluation with the FY 2022 grant competition.

In response to comments expressing concern about the design of the national evaluation, section 4625(f) of the ESEA requires a national evaluation that assesses the effectiveness of the grants. Section 4625(g) of the ESEA requires that grantees conduct local evaluations to assess annual progress achieved, refine and improve activities, and make the results publicly available. The local and national evaluations are separate but complementary, and one cannot be used in place of the other. The alternative designs suggested by commenters for a national evaluation would not meet the requirements in section 4625(f). While a national evaluation of the program's implementation would be useful and is included in the randomized controlled trial design described in the national evaluation priority, a national evaluation of implementation alone would not fulfill the mandate for evaluating the program's effectiveness. While two of the 19 comments received supported conducting a randomized controlled trial evaluation beginning in 2022, the majority of commenters and stakeholders that provided input through subsequent outreach shared that it would be useful to the field to learn about the implementation of FSCS grants prior to assessing their effectiveness. We have decided to first conduct a national evaluation of program implementation and will share those implementation findings with the field. We will use the interim implementation findings to inform and enhance the design and execution of a subsequent national evaluation of the program's effectiveness using a randomized controlled trial.

Another commenter suggested that an alternative design, a quasi-experimental study, would be very challenging to execute with sufficient scientific rigor at a national level. A quasi-experimental design would require the identification of a comparison group of non-FSCS funded schools that are very similar at baseline to the schools receiving grant funds. It would likely be very difficult to find schools not implementing community schools strategies that are similar enough to schools receiving FSCS grant funds and willing to provide the detailed data required for the evaluation. While such a quasi-experimental design approach has been used in evaluating community schools within more limited contexts, such as a single city or one or two States, it would be much more difficult to identify

credible comparison schools for each FSCS-funded school given the diverse and widespread distribution of schools receiving FSCS grant funds. Even if an ostensibly suitable comparison group at baseline could be identified, it would not be possible to fully determine whether there are factors in the comparison schools that make them more or less likely to have better outcomes over time and to disentangle those factors from the effects of the FSCS grant funds.

One commenter asked how the Department will ensure that the outcomes measured go beyond test scores and include outcomes such as student physical and mental health and a range of key non-cognitive competencies, such as social and emotional learning and increased sense of safety and well-being. Using a national evaluation of implementation to inform the national evaluation of effectiveness required under section 4625(f) of the ESEA provides the Department with an opportunity to better understand what can be measured, including outcomes related to health, social emotional learning, safety, and well-being. Further, the 13 program indicators that were included in the 2022 FSCS NFP include measures related to attendance, school climate, discipline, expanded learning time, and family engagement, among others.

The Department agrees with commenters that requiring applicants to propose at least four schools to receive grant funding could exclude some districts. Therefore, in the priority for a national evaluation of effectiveness using a randomized controlled trial, we are reducing the minimum number of proposed schools from four to two.

In response to comments that a randomized controlled trial would be unfair, the Department disagrees. In all FSCS competitions, there is not sufficient funding for every interested and eligible school. Whatever total grant funds are available in any year, under a randomized controlled trial design, more applicants and localities would receive FSCS grants, though not every one of their interested schools could participate or benefit from that funding. Without a randomized controlled trial, fewer localities receive grants, though all interested schools can participate in FSCS funding. Therefore, whether there is a randomized controlled trial or not, there will be schools that will not receive grant funds or participate under a funded grant. In either case, the Department would be awarding the same total amount of money to support FSCS nationally.

Regarding comments related to data collection, the Department agrees that it is vital to engage stakeholders in a variety of ways, in part to ensure that any national evaluation plans are well-informed and reflect the reality of grantee variation. Since receiving feedback on the national evaluation priority, we interviewed key community schools researchers and practitioners. We synthesized the interview findings and shared updated evaluation plans in a webinar with the field in February 2023. We will continue to seek stakeholder input and incorporate multiple perspectives, as feasible and aligned with the theory of action, in all national evaluations.

Regarding recommendations that the Department engage a technical advisory group, we also agree there is substantial value in obtaining multiple perspectives on any national evaluation of FSCS. The evaluation currently has a Technical Working Group comprised of community schools researchers and practitioners. This group met in October 2020 to advise on initial evaluation plans. We will continue to consult these experts, or experts with similar expertise, as the design and execution of a national evaluation of FSCS implementation and effectiveness moves forward. The Department agrees that mandatory participation in any national evaluation is essential for the results to reflect the diversity of grantees and their efforts.

Following the publication of the 2022 FSCS NFP and after discussions with FSCS grantees and other stakeholders, the Department has determined that a robust national evaluation of FSCS grantee implementation, as recommended in comments received on the NPP, will help the field learn about implementation, provide information to the Department to help us target supports for applicants and grantees, and inform a subsequent national evaluation of effectiveness that meets the statutory requirement. Accordingly, and as discussed in more detail below, we are establishing requirements that applicants include an assurance to participate in the national evaluation assessing the implementation of the FSCS program and that grantees participate in the national evaluation assessing the implementation of the FSCS program.

To meet the statutory requirement, the Department will use information learned about implementation of FSCS grants to develop a rigorous national evaluation of effectiveness. In order to conduct a subsequent effectiveness study, we are establishing a priority for participation in a future national

evaluation of effectiveness using a randomized controlled trial design.

Changes: The Department has finalized a priority for participation in a national evaluation of effectiveness of the FSCS program using a randomized controlled trial design that requires applicants to propose at least two, rather than four, schools to potentially receive grant funding.

Other Requirements

Comments: We summarized comments received related to FSCS program requirements in the 2022 FSCS NFP.

As discussed in connection with the national evaluation proposed priority from the 2022 FSCS NPP, numerous commenters recommended that the Department conduct an evaluation using a design other than a randomized controlled trial design. There were four comments related to differences in implementation of full-service community schools across schools because the strategy is specific to the needs and assets of individual communities and schools.

Discussion: We agree that it is important to study how grantees are implementing their FSCS grants. In order to ensure that FSCS applicants are fully prepared to participate in a national evaluation of the implementation of the FSCS program, the Department is establishing an application requirement and a program requirement that grantees must work with IES during the assessment of implementation of the FSCS program.

Changes: The Department has added an application requirement that applicants include an assurance that the eligible entity and its partner entities will participate in a national evaluation assessing the implementation of the FSCS program and a program requirement that grantees will work with IES during the assessment of implementation of the FSCS program.

Final Priority

This document contains one final priority.

Participation in a National Evaluation of Effectiveness Using a Randomized Controlled Trial Design.

Projects in which the applicant agrees to—

(a) Carry out the FSCS grant in a manner consistent with a randomized controlled trial evaluation design developed by the Department and its national evaluator;

(b) Propose at least two schools to potentially receive grant funding in the national evaluation of effectiveness. The

proposed schools can be elementary, middle, and/or high schools;

(c) Not currently be fully implementing all four pillars of full-service community schools (as defined in the 2022 FSCS NFP) in any of the schools proposed for the grant;

(d) Consent to the evaluator's random assignment of approximately one-half of the schools proposed by the applicant to receive funding and begin implementing the FSCS approach; and the other half of schools to not receive funding from any FSCS grant for 3 years following random assignment;

(e) Not promote or begin using grant funds for the implementation of the FSCS approach in any proposed schools until the grantee receives notification from the national evaluator about the random assignment of its schools to receive FSCS grant funding or not; and

(f) Cooperate, consistent with applicable privacy requirements, with evaluation data collection activities, including: surveys of grantee directors, principals of both groups of proposed schools (those randomly assigned to receive grant funding and schools assigned to not receive grant funding), and a representative sample of parents/guardians of students attending the two groups of grantee schools; and provision of district administrative records on educators (e.g., credentials, experience) and students (e.g., academic assessment scores, course taking and credit accumulation, attendance) in the two groups of grantee schools. These data collections will be carried out at multiple points over the grant period.

Note: From among the proposed schools, applicants may designate one group of two or more schools that serve the same grade levels as "highest need." If the applicant receives a grant, the national evaluation of effectiveness will ensure that at least one of the schools in the group receives FSCS funding.

Types of Priorities: When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105C(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit

that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This document does *not* solicit applications. In any year in which we choose to use one or more of these priorities, we invite applications through a notice in the **Federal Register**.

Final Requirements

This document contains two final requirements.

Assurance of Participation in a National Evaluation Assessing the Implementation of the FSCS Program.

Each applicant must include an assurance that the eligible entity and its partner entities will participate in a national evaluation assessing the implementation of the FSCS program, which may include, but is not limited to, the following:

(a) Completing surveys of grantee organizations (which may include service provider partners), grantee schools (which may include multiple individuals within each school such as the principal and the service coordinator), and potentially a sample of teachers within grantee schools;

(b) Participating in interviews of grantee organizations, grantee schools, and/or a sample of teachers within grantee schools;

(c) Providing administrative data, such as student absenteeism rates and high school graduation rates;

(d) Cooperating with data collection at several points during the grant period, such as shortly after grant award (baseline round of data collection), during the middle of the grant period (interim round of data collection), and toward the end of the grant period (final round of data collection); and

(e) Assisting in facilitating connections between each grantee's local evaluator and the national evaluation of implementation to ensure efficiency and coordination between the evaluation efforts.

Participate in a National Evaluation Assessing the Implementation of the FSCS Program.

Each grantee must participate in a national evaluation assessing the implementation of the FSCS program,

which may include, but is not limited to, the following:

(a) Completing surveys of grantee organizations (which may include service provider partners), grantee schools (which may include multiple individuals within each school such as the principal and the service coordinator), and potentially a sample of teachers within grantee schools;

(b) Participating in interviews of grantee organizations, grantee schools, and/or a sample of teachers within grantee schools;

(c) Providing administrative data, such as student absenteeism rates and high school graduation rates;

(d) Cooperating with data collection at several points during the grant period, such as shortly after grant award (baseline round of data collection), during the middle of the grant period (interim round of data collection), and toward the end of the grant period (final round of data collection); and

(e) Assisting in facilitating connections between each grantee's local evaluator and the national evaluation of implementation to ensure efficiency and coordination between the evaluation efforts.

Executive Orders 12866, 13563, and 14094

Regulatory Impact Analysis

Under Executive Order 12866, the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by OMB. Section 3(f) of Executive Order 12866, as amended by Executive Order 14094, defines a "significant regulatory action" as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of \$200 million or more (adjusted every 3 years by the Administrator of OIRA for changes in gross domestic product); or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise legal or policy issues for which centralized review would

meaningfully further the President's priorities or the principles stated in the Executive order, as specifically authorized in a timely manner by the Administrator of OIRA in each case.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866 (as amended by Executive Order 14094). Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), OIRA designated this rule as not a "major rule," as defined by 5 U.S.C. 804(2).

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." OIRA has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing the final priority and requirements only on a reasoned determination that the benefits justify the costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that

follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with these Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

Summary of Costs and Benefits: The Department believes that the final priority and requirements will not impose significant costs on the entities eligible to apply for FSCS. We also believe that the benefits of implementing the final priority and requirements outweigh any associated costs.

The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The priority and requirements give the Department the opportunity to conduct a national evaluation of the FSCS program, as required in section 4625(f) of the ESEA.

Because the final priority and requirements would neither expand nor restrict the universe of eligible entities for any Department grant program, and since application submission and participation in our discretionary grant programs is voluntary, there are no costs associated with this priority and requirements for applicants; grantees would use grant funds for participation in evaluation activities.

Regulatory Flexibility Act Certification: The Secretary certifies that this final regulatory action will not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define "small entities" as for-profit or nonprofit institutions with total annual revenue below \$7,000,000 or, if they are institutions controlled by small governmental jurisdictions (that are comprised of cities, counties, towns, townships, villages, school districts, or special districts), with a population of less than 50,000.

The small entities that this regulatory action will affect are local educational agencies, the Bureau of Indian Education, and community-based organizations, nonprofit organizations,

and other public or private entities that may apply. We believe that the costs imposed on an applicant by the final priority and requirements will be limited to paperwork burden related to preparing an application and that the benefits of implementing this final priority and requirements will outweigh any costs incurred by the applicant. Grantees will incur costs related to participating in the national evaluation and implementation study; however, grant funds will be available to meet those costs. Therefore, we do not believe that the final priority and requirements will significantly impact small entities beyond the potential for receiving additional support should the small entity receive a competitive grant from the Department.

Paperwork Reduction Act of 1995

As part of its continuing effort to reduce paperwork and respondent burden, the Department provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This helps ensure that: The public understands the Department's collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

The final priority and requirements contain information collection requirements that are approved by OMB under OMB control number 1894-0006.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: On request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format, 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 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.

James F. Lane,

Principal Deputy Assistant Secretary, Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 2023-12144 Filed 6-6-23; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Applications for New Awards; Full-Service Community Schools Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for fiscal year (FY) 2023 for the Full-Service Community Schools (FSCS) program, Assistance Listing Number 84.215J. This notice relates to the approved information collection under the OMB control number 1894-0006.

DATES:

Applications Available: June 7, 2023.

Deadline for Notice of Intent to Apply: July 7, 2023.

Date of Pre-Application Meetings: The Department will hold pre-application meetings via webinars for prospective applicants. Detailed information regarding these webinars will be provided on the FSCS website at <https://oese.ed.gov/offices/office-of-discretionary-grants-support-services/school-choice-improvement-programs/full-service-community-schools-program-fscs/fy-2023-fscs-grant-competition/>.

Deadline for Transmittal of Applications: August 8, 2023.

Deadline for Intergovernmental Review: October 8, 2023.

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: Jane Hodgdon, U.S. Department of Education, 400 Maryland Avenue SW, Room 4E246, Washington, DC 20202. Telephone: 202-245-6057. Email: FSCS@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 FSCS program is authorized by sections 4621-4623 and 4625 of the Elementary and Secondary Education Act of 1965, as amended (ESEA). This program provides support for the planning, implementation, and operation of full-service community schools that improve the coordination, integration, accessibility, and effectiveness of services for children and families, particularly for children attending high-poverty schools, including high-poverty rural schools.

Background: Meeting the needs of the whole child is essential to helping America's students grow academically and improve their well-being. The Biden-Harris Administration's commitment to increasing and supporting the adoption of community school models across the country has resulted in an increase in funding from \$25 million in 2020 to \$150 million in FY 2023, from 42 grantees in 2020 to 129 grantees in 2023, which includes 42 grants made to local educational agencies (LEAs) (as defined in this notice), nonprofit (as defined in this notice) organizations, institutions of higher education, and government organizations in FY 2022. To further demonstrate its commitment to community schools, the White House worked with nine Federal agencies to identify how funding across the Federal

government can be used to support community schools. These efforts resulted in the publication of a Fact Sheet¹ and Toolkit² designed to assist community school leaders, coordinators, advocates, and other stakeholders to understand the current scope of Federal funding that can be used to support community schools.

Full-service community schools (as defined in this notice) meet the unique needs of the neighborhoods they serve by leveraging local nonprofit, private sector, and public partnerships to bring wraparound services into school buildings, such as mental health supports, dental services, and assistance with shelter and nutrition. They operate with the assistance of school staff who coordinate with school administrators, stakeholders, and local organizations to deliver these services and more to students, their families, and members of the community. Research³ has shown that comprehensive community school interventions have increased student attendance, on-time grade progression, and high school graduation rates.

The growing interest at the State and local levels in community schools,⁴ known as full-service community schools, coincides with a moment in which schools are urgently focused on supporting students' holistic needs as they help them recover from the COVID-19 pandemic and the Nation is grappling with violence in and around schools. In his January 2023 speech, Secretary Miguel Cardona encouraged all stakeholders to raise the bar in education. "Raise the Bar: Lead the World"⁵ is the Department's call to action to transform preschool through grade 12 education and unite around evidence-based (as defined in this notice) strategies that advance educational equity and excellence for all students. Raising the bar in education focuses on building the skills that all students need to thrive inside and

¹ Fact Sheet: Biden-Harris Administration Announces Efforts to Support Community Schools. Available at: www.whitehouse.gov/briefing-room/statements-releases/2023/01/18/fact-sheet-biden-harris-administration-announces-efforts-to-support-community-schools/.

² White House Toolkit: Federal Resources to Support Community Schools. Available at: www.whitehouse.gov/wp-content/uploads/2023/01/2023-01-13-WHITE-HOUSE-TOOLKIT-Federal-Resources-to-Support-Community-Schools.pdf.

³ Maier, A., Daniel, J., Oakes, J., & Lam, L. (December 2017). Community Schools as an Effective School Improvement Strategy: A Review of the Evidence. Learning Policy Institute.

⁴ Maier, A., Daniel, J., Oakes, J., & Lam, L. (December 2017). Community Schools as an Effective School Improvement Strategy: A Review of the Evidence. Learning Policy Institute.

⁵ Raise the Bar, U.S. Department of Education Call to Action. Available at: www.ed.gov/raisethebar/.

outside of school, and supporting students to excel in the classroom, in their careers, and in their enriched lives and communities, making a positive difference in the world, for generations to come.

In addition to the funding made available under FSCS, the ESEA offers flexibilities at the State and local levels to implement strategies supported by community schools, such as coordination of school and community resources (ESEA sections 1114(b)(5) and 1115(b)(2)) and after-school programming and support for a community school coordinator (ESEA section 4108(5)(H)). If a State educational agency (SEA) (as defined in this notice) or LEA lacks the resources to implement community schools at scale, it can productively begin in neighborhoods where community schools are most needed and, therefore, students are most likely to benefit.⁶ In addition to a community school approach being an allowable use of funding under title I of ESEA as an evidence-based approach to school improvement, full-service community schools have been well-positioned to respond to the COVID-19 pandemic and its impact on student's academic needs and well-being, including by working closely with partner organizations to address community needs such as summer programming, food and nutrition programs, tutoring, mentoring, mental and physical health services, COVID-19 vaccine access, family engagement strategies, and opportunities to accelerate learning both inside and outside the classroom. Accordingly, community schools are an allowable use of American Rescue Plan Act funds. In addition, through the FSCS program, the Department provides catalytic support for the planning and capacity building, development, implementation, operation, and coordination of effective services for children and families, particularly in urban and rural areas with high rates of poverty.

Research⁷ shows that community schools that include certain design features show improvements in teaching, learning, and student outcomes. The evidence-based features, or pillars, include providing (1)

integrated supports (e.g., social and emotional learning, access to health and nutrition services); (2) expanded and enriched learning time (e.g., after-school enrichment and summer school); (3) active family and community engagement; and (4) collaborative leadership and practices to support high-quality teaching. Full-service community schools should create and implement these evidence-based strategies as part of a comprehensive set of services that are designed to reflect and be tailored to local contexts. These four pillars are supported by the Science of Learning and Development Alliance⁸ and can be used to address the needs of the whole child, including those children and youth whom schools and community partners determine to be most underserved. Continued inclusion of the four pillars in this year's FSCS competition allows applicants to develop projects with greater fidelity to evidence-based practices⁹ that have been shown to be associated with improvements in teaching, learning, and student outcomes, and prepares the FSCS program and its grantees for future national evaluation efforts. For example, in a January 2020 study of New York City community schools, assuming strong social capital, stable leadership, and a strong instructional program, community schools have been associated with improved attendance, on-time grade progression, student achievement in math, and fewer disciplinary incidents.¹⁰

Building upon the work and progress of the field, as well as the lessons learned from reviews and evaluations of community school strategies and implementation, the Department published a notice of final priority and requirements for the FSCS program elsewhere in this issue of the **Federal Register** (2023 FSCS NFP). The final requirements are included in this notice and require that grantees under this competition commit to and participate in a national evaluation assessing the implementation of the FSCS program.

In this FSCS competition, through two competitive preference priorities,

the Department seeks applications that consider how classroom practices and school designs that are focused on the whole learner can be incorporated into community school supports and strategies. Recognizing the impact of school and community safety on learning, the Department is also interested in projects that propose to coordinate across multiple agencies and organizations to address community violence prevention and intervention. Through an invitational priority, the Department encourages projects that support effective transition practices, continuity of services and supports, and aligned instruction for students as they transition from preschool and other early childhood settings into kindergarten and from kindergarten into the early grades. Under the ESEA, FSCS grantees must provide pipeline services (as defined in this notice), which includes access to high-quality early childhood education programs. While FSCS grantees are also required to support a child's transition between elementary, middle, and high schools, they are not required to support effective transitions between early childhood education and elementary school settings, which research suggests is a critical point for addressing the achievement gap before it is further entrenched.¹¹ Furthermore, instructional alignment from prekindergarten to first grade is associated with a sustained benefit for a student's language, literacy, and math skills through first grade.¹² To facilitate a smooth transition to kindergarten and support educational continuity across the preschool to third grade continuum, we include the invitational priority.

Priorities: This notice contains five absolute priorities, two competitive preference priorities, and one invitational priority. In accordance with 34 CFR 75.105(b)(2)(iv), Absolute Priority 1 is from section 4625(b)(1)(A) of the ESEA, and Absolute Priority 2 is from section 4625(b)(1)(A) and (B) of the ESEA. Absolute Priorities 3, 4, and 5 are from the notice of final priorities, requirements, definitions, and selection criteria for this program published in the **Federal Register** on July 13, 2022 (87 FR 41675) (2022 FSCS NFP). Competitive Preference Priorities 1 and 2 are from the Secretary's Supplemental Priorities and Definitions for

⁸ Science of Learning and Development Alliance. (2020). Science of Learning and Development: Initial Findings. https://soldalliance.org/wp-content/uploads/2021/12/SoLD-Science-Translation_May-2020_FNL.pdf.

⁹ Learning Policy Institute & Turnaround for Children. (2021). Design principles for schools: Putting the science of learning and development into action.

¹⁰ Johnston, W., Engberg, J., Opper, I., Sontag-Padilla, L., and Xenakis, L. (2020). Illustrating the Promise of Community Schools: An Assessment of the Impact of the New York City Community Schools Initiative. City of New York, www.rand.org/pubs/research_reports/RR3245.html.

¹¹ McCormick, M., MacDowell, C., Weiland, C., Hsueh, J., Maier, M., Pralica, M., Maves, S., Snow, C. & Sachs, J. (2023). Instructional Alignment is Associated with Sustained Benefits of PreK. (EdWorkingPaper: 23-776). Retrieved from Annenberg Institute at Brown University: <https://doi.org/10.26300/8s3g-tz1>.

¹² Ibid.

⁶ Horn, M.B., Freeland, J., Butler, S.M., & Brookings Institution. (2015). Schools as Community Hubs: Integrating Support Services to Drive Educational Outcomes. A Series of Discussion Papers on Building Healthy Neighborhoods. No. 3. In Brookings Institution. Brookings Institution.

⁷ Maier, A., Daniel, J., Oakes, J., & Lam, I. (2017). Community Schools as an Effective School Improvement Strategy: A Review of the Evidence. Palo Alto, CA: Learning Policy Institute.

Discretionary Grants Programs published in the **Federal Register** on December 10, 2021 (86 FR 70612) (Supplemental Priorities).

Absolute Priorities: For FY 2023 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3) we consider only applications that meet Absolute Priority 1 or Absolute Priority 2 and one additional absolute priority (Absolute Priority 3, Absolute Priority 4, or Absolute Priority 5).

Absolute Priorities 3, 4, and 5 constitute their own funding categories under Absolute Priority 1 and under Absolute Priority 2. Consequently, there will be separate funding slates for each of the following categories of applications:

- Absolute Priorities 1 and 3;
- Absolute Priorities 1 and 4;
- Absolute Priorities 1 and 5;
- Absolute Priorities 2 and 3;
- Absolute Priorities 2 and 4; and
- Absolute Priorities 2 and 5.

The Secretary intends to award grants under each of these funding categories, provided that applications of sufficient quality are submitted. To ensure that applicants are considered for the correct type of grant, applicants must clearly identify the specific absolute priorities that the proposed project addresses in the one-page abstract. If an entity is interested in proposing separate projects (e.g., one that addresses Absolute Priorities 1 and 3 and another that addresses Absolute Priorities 1 and 4), separate applications must be submitted.

These priorities are:

Absolute Priority 1—Title IA Schoolwide Program Eligibility.

To meet this priority, applicants must propose to serve a minimum of two or more full-service community schools eligible for a schoolwide program (as defined in this notice) under section 1114(b) of the ESEA, as part of a community- or district-wide strategy.

Absolute Priority 2—Title IA Schoolwide Program Eligibility and Rural Districts—Small and Rural or Rural and Low-Income.

To meet this priority, applicants must propose to: (1) serve a minimum of two or more full-service community schools eligible for a schoolwide program under section 1114(b) of the ESEA, as part of a community- or district-wide strategy; and (2) include an LEA that satisfies the requirements of the Small Rural School Achievement program (ESEA section 5211(b)(1)(A), (B), or (C)) or the Rural and Low-Income School program (ESEA section 5221(b)(1)(A), (B), or (C)).

Note: Applicants may determine whether a particular LEA is eligible for these programs by referring to information on the following Department website: <https://oese.ed.gov/offices/office-of-formula-grants/rural-insular-native-achievement-programs/rural-education-achievement-program/>.

Note: An LEA includes a public charter school that operates as an LEA.

Absolute Priority 3—Capacity Building and Development Grants.

To meet this priority, applicants must propose projects to (a) conduct initial development and coordination activities, including extensive community engagement, that leverage the findings of their needs assessment—which may be completed during or before the grant period—to develop the infrastructure, activities, and partnerships to implement full-service community schools in two or more schools, and (b) gather data on performance indicators.

Absolute Priority 4—Multi-Local Educational Agency Grants.

To meet this priority, applicants must propose projects to implement and sustain full-service community schools in two or more LEAs. As outlined in section 4622(1)(B) of the ESEA, an eligible entity for any FSCS grant is a consortium of one or more LEAs or the Bureau of Indian Education (BIE) and one or more community-based organizations, nonprofit organizations, or other public or private entities. The project must, with the exception of LEAs that oversee a single school, coordinate and provide services at two or more full-service community schools in each LEA.

Absolute Priority 5—FSCS State Scaling Grants.¹³

Applications submitted under Priority 5 must include a written commitment of the SEA to participate in the partnership and to sustain the program beyond 2 years after the term of the grant, which can be submitted in the required preliminary memorandum of understanding (MOU) that includes the roles and responsibilities of the SEA and other partners identified at the time of the application. The applicant, in partnership with the SEA, determines the number and percentage of State LEAs, and the number and percentage of schools across those LEAs, that will develop, support, and expand full-service community schools over the 5-year grant performance period.

¹³ Unitary systems, such as the District of Columbia, Hawaii, and Puerto Rico, may apply under Absolute Priority 5 FSCS State Scaling Grants.

Applications under Priority 5 must also identify or establish a State steering committee (which may be a previously existing body) that represents relevant community schools' stakeholders, including educators and other school staff, community school initiative leaders, education union or association designees, family leaders participating in community school programs, community partners such as service providers, early childhood education providers such as Head Start, and community school coordinators from schools already implementing full-service community schools in the State. In addition to serving as an advisory committee, the steering committee also has the authority to make decisions about the design, implementation, and evaluation for the grant, which may include identification or selection of LEAs that will partner in the development and implementation of two or more community schools in each LEA, with the exception of LEAs that oversee a single school. The roles and responsibilities of the steering committee must be included in the required preliminary MOU.

As outlined in section 4622(1)(B) of the ESEA, an eligible entity for any FSCS grant is a consortium of one or more LEAs or the BIE and one or more community-based organizations, nonprofit organizations, or other public or private entities.

Competitive Preference Priorities: For FY 2023 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award up to an additional 10 points to an application, depending on how well the application meets one or both of these priorities; the total possible points for each competitive preference priority are noted in parentheses. Applicants may apply under one, both, or none of the competitive preference priorities. If an applicant chooses to address one or both of the competitive preference priorities, the applicant must identify in the one-page abstract the competitive preference priorities they are addressing in order to receive those points. The applicant must respond to the competitive preference priorities it chooses to address in the application narrative section of its application.

These priorities are:

Competitive Preference Priority 1—Meeting Student Social, Emotional, and Academic Needs. (up to 5 points)

Projects that are designed to improve students' social, emotional, academic, and career development, with a focus on

underserved students, through one or more of the following priority areas:

(1) Creating education or work-based settings that are supportive, positive, identity-safe, and inclusive with regard to race, ethnicity, culture, language, and disability status, through developing trusting relationships between students (including underserved students), educators, families, and community partners.

(2) Providing multi-tiered systems of supports that address learning barriers both in and out of the classroom, that enable healthy development and respond to students' needs and which may include evidence-based trauma-informed practices and professional development for educators on avoiding deficit-based approaches.

(3) Creating and implementing comprehensive schoolwide frameworks (such as small schools or learning communities, advisory systems, or looping educators) that support strong and consistent student and educator relationships.

Competitive Preference Priority 2—Strengthening Cross-Agency Coordination and Community Engagement to Advance Systemic Change. (up to 5 points)

The Secretary gives priority to projects that are designed to take a systemic evidence-based approach to improving outcomes for underserved students in coordinating efforts with Federal, State, or local agencies, or community-based organizations, that support students, to address community violence prevention and intervention.

Invitational Priority: For FY 2023 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this is an invitational priority. Under 34 CFR 75.105(c)(1) we do not give an application that meets this invitational priority a competitive or absolute preference over other applications. If an applicant chooses to address the invitational priority, the applicant must identify so in the one-page abstract. The applicant must respond to the invitational priority in the application narrative section of its application.

This priority is:

Supporting Effective Transition Practices, Continuity of Services and Supports, and Aligned Instruction for Students from Preschool and Other Early Childhood Settings into Kindergarten and from Kindergarten into the Early Grades (K–3).

The Secretary is particularly interested in projects that include policies and procedures informed by developmentally appropriate practices that support cross-sector collaboration

and family engagement across early learning and early elementary grades to support continuity of relationships and services from preschool through grade three, designed to lead to increased and improved educational opportunities for students, and include implementation of one or more of the following: (1) early learning through early elementary grades instructional alignment and educator and school leader support to promote academic recovery; (2) promotion of effective and informed attendance strategies in early learning and the early elementary grades; and (3) capacity building to promote effective family engagement for students in early learning and the early elementary grades.

Application Requirements: For FY 2023 and any subsequent year in which we make awards from the list of unfunded applications from this competition, the following requirements apply. Applications for FSCS grant funds must address the following application requirements. Applicants must respond to the requirements that correspond to the absolute priority that they are addressing. The application requirements are from section 4625(a) of the ESEA, the 2022 FSCS NFP, and the 2023 FSCS NFP. The source of each requirement is provided in the parentheses following each requirement. An applicant may choose to respond to each requirement separately or in the context of the applicant's response to the selection criteria in Section V.1. of this notice.

Absolute Priority 3—Capacity Building and Development Grants.

In order to receive funding, applicants for grants under Absolute Priority 3 Capacity Building and Development Grants must address the following application requirements.

(1) A description of the eligible entity. (4625(a)(1))

(2) A preliminary MOU among all partner entities of the eligible entity, identified at the time of application, that will assist the eligible entity to plan, develop, coordinate, provide, and evaluate pipeline services and that describes the roles and responsibilities that the partners, including the broadly representative consortium (as defined in this notice), will assume. (4625(a)(2) and 2022 FSCS NFP)

(3) A description of the capacity of the eligible entity to coordinate and provide pipeline services at two or more full-service community schools. (4625(a)(3))

(4) A comprehensive plan that includes descriptions of the following:

(A) The student, family, and school community to be served, including

demographic information; (4625(a)(4)(A))

(B) A plan for conducting the needs assessment that identifies the academic, physical, nonacademic, health, mental health, and other needs of students, families, and community residents; (4625(a)(4)(B)) and 2022 FSCS NFP)

(C) A plan for developing annual measurable performance objectives and outcomes, including an increase in the number and percentage of families and students targeted for services each year of the program, in order to ensure that children are—

(i) Prepared for kindergarten;

(ii) Achieving academically; and

(iii) Safe, healthy, and supported by engaged parents. (4625(a)(4)(C) and 2022 FSCS NFP)

(D) A plan for identifying and developing pipeline services, including existing and additional pipeline services, to be coordinated and provided by the eligible entity and its partner entities, including an explanation of:

(i) Why such services have been selected;

(ii) How such services will improve student academic achievement; and

(iii) How such services will address the annual measurable performance objectives and outcomes established under paragraph (4)(C) of this requirement. (4625(a)(4)(D) and 2022 FSCS NFP)

(E) A description of the pillars of full-service community schools (as defined in this notice) that they have in place or how they will establish these pillars, or how they will implement these pillars with partners, including community-based organizations and collaborating with school leadership and staff. (2022 FSCS NFP)

(F) Plans to ensure that each full-service community school site has a full-time coordinator of pipeline services at such school, including a description of the applicable funding sources, plans for professional development for the personnel managing, coordinating, or delivering pipeline services, and plans for joint utilization and management of school facilities. (4625(a)(4)(E))

(G) Plans for an annual evaluation based upon attainment of the performance objectives and outcomes described in paragraph (4)(C) of this requirement.

An applicant must, in addition to providing the information and assurances required by section 4625(a)(4)(F) of the ESEA, commit to an independent evaluation that includes a design and implementation evaluation that will, at a minimum, (1) include annual evaluations of progress achieved

with the grant; (2) be used to refine and improve activities carried out through the grant; (3) collect and report data that includes, but is not limited to, the following indicators: student chronic absenteeism rates; student discipline rates, including suspensions and expulsions; school climate information, which may come from student, parent, or teacher surveys; provision of integrated student supports and stakeholder services; expanded and enriched learning time and opportunities; family and community engagement efforts and impact; information on the number, qualifications, and retention of school staff, including the number and percentage of fully certified teachers, disaggregated by race and ethnicity, rates of teacher turnover, and teacher experience; graduation rates; changes in school spending information; collaborative leadership and practice strategies, which may include building the capacity of educators, principals, other school leaders, and other staff to lead collaborative school improvement structures, such as professional learning communities; regularly convening or engaging all initiative-level partners, such as LEA representatives, city or county officials, children's and youth's cabinets, nonprofit service providers, public housing agencies, and advocates; regularly assessing program quality and progress through individual student data, participant feedback, and aggregate outcomes to develop strategies for improvement; and organizing school personnel and community partners into working teams focused on specific issues identified in the needs and assets assessment; and (4) make results of the evaluation publicly available. (2022 FSCS NFP)

(H) Plans for sustaining the programs and services described in section 4625(a) of the ESEA after the grant period. (4625(a)(4)(G))

(5) An assurance that the eligible entity and its partner entities will participate in a national evaluation assessing the implementation of the FSCS program, which may include, but is not limited to, the following:

(A) Completing surveys of grantee organizations (which may include service provider partners), grantee schools (which may include multiple individuals within each school such as the principal and the service coordinator), and potentially a sample of teachers within grantee schools;

(B) Participating in interviews of grantee organizations, grantee schools, and/or a sample of teachers within grantee schools;

(C) Providing administrative data, such as student absenteeism rates and high school graduation rates;

(D) Cooperating with data collection at several points during the grant period, such as shortly after grant award (baseline round of data collection), during the middle of the grant period (interim round of data collection), and toward the end of the grant period (final round of data collection); and

(E) Assisting in facilitating connections between each grantee's local evaluator and the national evaluation of implementation to ensure efficiency and coordination between the evaluation efforts. (2023 FSCS NFP)

(6) An assurance that the eligible entity and its partner entities will focus services on schools eligible for a schoolwide program under section 1114(b) of the ESEA. (4625(a)(5))

Absolute Priority 4—Multi-Local Educational Agency Grants.

In order to receive funding, applicants for grants under Absolute Priority 4 Multi-Local Educational Agency Grants must address the following application requirements.

(1) A description of the eligible entity. (4625(a)(1))

(2) A preliminary MOU among all partner entities of the eligible entity, identified at the time of the application, that will assist the eligible entity to plan, develop, coordinate, provide, and evaluate pipeline services and that describes the roles and responsibilities that the partners, including the broadly representative consortium, will assume. (4625(a)(2) and 2022 FSCS NFP)

(3) A description of the capacity of the eligible entity to coordinate and provide pipeline services at two or more full-service community schools in each LEA. (4625(a)(3) and 2022 FSCS NFP)

(4) A comprehensive plan that includes descriptions of the following:

(A) The student, family, and school community to be served, including demographic information. (4625(a)(4)(A))

(B) A needs assessment that identifies the academic, physical, nonacademic, health, mental health, and other needs of students, families, and community residents. (4625(a)(4)(B))

(C) Annual measurable performance objectives and outcomes, including an increase in the number and percentage of families and students targeted for services each year of the program, in order to ensure that children are—

(i) Prepared for kindergarten; (4625(a)(4)(C)(i))

(ii) Achieving academically; (4625(a)(4)(C)(ii)) and

(iii) Safe, healthy, and supported by engaged parents. (4625(a)(4)(C)(iii))

(D) Pipeline services, including existing and additional pipeline services, to be coordinated and provided by the eligible entity and its partner entities, including an explanation of:

(i) Why such services have been selected;

(ii) How such services will improve student academic achievement; and

(iii) How such services will address the annual measurable performance objectives and outcomes established under paragraph (4)(C) of this requirement. (4625(a)(4)(D))

(E) A description of the pillars of full-service community schools that they have in place or how they will establish these pillars, or how they will implement these pillars with partners, including community-based organizations and collaborating with school leadership and staff. (2022 FSCS NFP)

(F) Plans to ensure that each full-service community school site has a full-time coordinator of pipeline services at such school, including a description of the applicable funding sources, plans for professional development for the personnel managing, coordinating, or delivering pipeline services, and plans for joint utilization and management of facilities. (4625(a)(4)(E))

(G) Plans for an annual evaluation based upon attainment of the performance objectives and outcomes described in paragraph (4)(C) of this requirement.

An applicant must, in addition to providing the information and assurances required by section 4625(a)(4)(F) of the ESEA, commit to an independent evaluation that includes a design and implementation evaluation that will, at a minimum, (1) include annual evaluations of progress achieved with the grant; (2) be used to refine and improve activities carried out through the grant; (3) collect and report data that includes, but is not limited to, the following indicators: student chronic absenteeism rates; student discipline rates, including suspensions and expulsions; school climate information, which may come from student, parent, or teacher surveys; provision of integrated student supports and stakeholder services; expanded and enriched learning time and opportunities; family and community engagement efforts and impact; information on the number, qualifications, and retention of school staff, including the number and percentage of fully certified teachers, disaggregated by race and ethnicity, rates of teacher turnover, and teacher experience; graduation rates; changes in

school spending information; collaborative leadership and practice strategies, which may include building the capacity of educators, principals, other school leaders, and other staff to lead collaborative school improvement structures, such as professional learning communities; regularly convening or engaging all initiative-level partners, such as LEA representatives, city or county officials, children's and youth's cabinets, nonprofit service providers, public housing agencies, and advocates; regularly assessing program quality and progress through individual student data, participant feedback, and aggregate outcomes to develop strategies for improvement; and organizing school personnel and community partners into working teams focused on specific issues identified in the needs and assets assessment; and (4) make results of the evaluation publicly available. (2022 FSCS NFP)

(H) Plans for sustaining the programs and services described in section 4624(a) of the ESEA after the grant period. (4625(a)(4)(G))

(5) An assurance that the eligible entity and its partner entities will participate in a national evaluation assessing the implementation of the FSCS program, which may include, but is not limited to, the following:

(A) Completing surveys of grantee organizations (which may include service provider partners), grantee schools (which may include multiple individuals within each school such as the principal and the service coordinator), and potentially a sample of teachers within grantee schools;

(B) Participating in interviews of grantee organizations, grantee schools, and/or a sample of teachers within grantee schools;

(C) Providing administrative data, such as student absenteeism rates and high school graduation rates;

(D) Cooperating with data collection at several points during the grant period, such as shortly after grant award (baseline round of data collection), during the middle of the grant period (interim round of data collection), and toward the end of the grant period (final round of data collection); and

(E) Assisting in facilitating connections between each grantee's local evaluator and the national evaluation to ensure efficiency and coordination between the evaluation efforts. (2023 FSCS NFP)

(6) An assurance that the eligible entity and its partner entities will focus services on schools eligible for a schoolwide program under section 1114(b). (4625(a)(5))

Absolute Priority 5—State Scaling Grants.

In order to receive funding, applicants for grants under Absolute Priority 5 State Scaling Grants must address the following application requirements.

(1) A description of the eligible entity. (4625(a)(1))

(2) A preliminary MOU among all partner entities of the eligible entity, identified at the time of the application, that will assist the eligible entity to plan, develop, coordinate, provide, and evaluate pipeline services and that describes the roles and responsibilities that the partners, including the broadly representative consortium, will assume. (4625(a)(2) and 2022 FSCS NFP)

Applications submitted under Priority 5 FSCS State Scaling Grants must also include in the preliminary MOU a description of the State steering committee and the SEA's commitment to and partnership in the consortium, including the roles, responsibilities, and commitment of the SEA to the partnership and the scaling of full-service community schools to a percentage of State LEAs implementing schoolwide Title IA programs and where there is a commitment to sustain the program beyond 2 years after the term of the grant. (4625(a)(2) and 2022 FSCS NFP)

(3) A description of the capacity of the eligible entity to coordinate and provide pipeline services at two or more full-service community schools in each of the LEAs included in the application. (4625(a)(3) and 2022 FSCS NFP)

(4) A comprehensive plan that includes descriptions of the following:

(A) The student, family, and school community to be served, including demographic information. (4625(a)(4)(A))

(B) A needs assessment that identifies the academic, physical, nonacademic, health, mental health, and other needs of students, families, and community residents. (4625(a)(4)(B))

(C) Annual measurable performance objectives and outcomes, including an increase in the number and percentage of families and students targeted for services each year of the program, in order to ensure that children are—

(i) Prepared for kindergarten; (4625(a)(4)(C)(i))

(ii) Achieving academically; (4625(a)(4)(C)(ii)) and

(iii) Safe, healthy, and supported by engaged parents. (4625(a)(4)(C)(iii))

(D) Pipeline services, including existing and additional pipeline services to be coordinated and provided by the eligible entity and its partner entities, including an explanation of:

(i) Why such services have been selected; (4625(a)(4)(D)(ii))

(ii) How such services will improve student academic achievement; (4625(a)(4)(D)(ii)) and

(iii) How such services will address the annual measurable performance objectives and outcomes established under paragraph (4)(C) of this requirement. (4625(a)(4)(C)(iii))

(E) A description of the pillars of full-service community schools that they have in place or how they will establish these pillars, or how they will implement these pillars with partners, including community-based organizations and collaborating with school leadership and staff. (2022 FSCS NFP)

(F) Plans to ensure that each full-service community school site has a full-time coordinator of pipeline services at such school, including a description of the applicable funding sources, plans for professional development for the personnel managing, coordinating, or delivering pipeline services, and plans for joint utilization and management of facilities. (4625(a)(4)(E))

(G) Plans for an annual evaluation based upon attainment of the performance objectives and outcomes described in paragraph (4)(C) of this requirement.

An applicant must, in addition to providing the information and assurances required by section 4625(a)(4)(F) of the ESEA, commit to an independent evaluation that includes a design and implementation evaluation that will, at a minimum, (1) include annual evaluations of progress achieved with the grant; (2) be used to refine and improve activities carried out through the grant; (3) collect and report data that includes, but is not limited to, the following indicators: student chronic absenteeism rates; student discipline rates, including suspensions and expulsions; school climate information, which may come from student, parent, or teacher surveys; provision of integrated student supports and stakeholder services; expanded and enriched learning time and opportunities; family and community engagement efforts and impact; information on the number, qualifications, and retention of school staff, including the number and percentage of fully certified teachers, disaggregated by race and ethnicity, rates of teacher turnover, and teacher experience; graduation rates; changes in school spending information; collaborative leadership and practice strategies, which may include building the capacity of educators, principals,

other school leaders, and other staff to lead collaborative school improvement structures, such as professional learning communities; regularly convening or engaging all initiative-level partners, such as LEA representatives, city or county officials, children's and youth's cabinets, nonprofit service providers, public housing agencies, and advocates; regularly assessing program quality and progress through individual student data, participant feedback, and aggregate outcomes to develop strategies for improvement; and organizing school personnel and community partners into working teams focused on specific issues identified in the needs and assets assessment; and (4) make results of the evaluation publicly available. (2022 FSCS NFP)

(H) Plans for sustaining the programs and services described in this subsection after the grant period. (4625(a)(4)(G))

(5) An assurance that the eligible entity and its partner entities will participate in a national evaluation assessing the implementation of the FSCS program, which may include, but is not limited to, the following:

(A) Completing surveys of grantee organizations (which may include service provider partners), grantee schools (which may include multiple individuals within each school such as the principal and the service coordinator), and potentially a sample of teachers within grantee schools;

(B) Participating in interviews of grantee organizations, grantee schools, and/or a sample of teachers within grantee schools;

(C) Providing administrative data, such as student absenteeism rates and high school graduation rates;

(D) Cooperating with data collection at several points during the grant period, such as shortly after grant award (baseline round of data collection), during the middle of the grant period (interim round of data collection), and toward the end of the grant period (final round of data collection); and

(E) Assisting in facilitating connections between each grantee's local evaluator and the national evaluation to ensure efficiency and coordination between the evaluation efforts. (2023 FSCS NFP)

(6) An assurance that the eligible entity and its partner entities will focus services on schools eligible for a schoolwide program under section 1114(b). (4625(a)(5))

Program Requirements: FSCS grantees must meet the following program requirements. These requirements are from sections 4623 and 4625 of the ESEA, the 2022 FSCS NFP, and the 2023

FSCS NFP. The source of each requirement is provided in the parentheses following each requirement. For FY 2023 and any subsequent year in which we make awards from the list of unfunded applications from this competition, the following requirements apply.

(1) *Matching Funds.* Each grantee shall provide matching funds from non-Federal sources, which may be provided in part with in-kind contributions. The BIE may meet the matching requirement using funds from other Federal sources. (ESEA section 4623(d)(2))

(2) *Use of Funds.* Each grantee shall use the grant funds for the following grant activities:

(A) Each grantee may use not more than 10 percent of the total amount of grant funds for planning purposes during the first year of the grant. (ESEA section 4625(c))

(B) Each grantee shall use the grant funds for the following grant activities:

(i) Coordinate not less than three existing pipeline services, as of the date of the grant award, and provide not less than two additional pipeline services at two or more public elementary schools or secondary schools; (ESEA section 4625(e)(1))

(ii) To the extent practicable, integrate multiple pipeline services, at two or more public elementary schools or secondary schools. Under Absolute Priorities 4 and 5, to the extent practicable, integrate multiple pipeline services at two or more public elementary schools or secondary schools in each LEA; (ESEA section 4625(e)(2) and 2022 FSCS NFP) and

(iii) If applicable, coordinate and integrate services provided by community-based organizations and government agencies with services provided by specialized instructional support personnel. (ESEA section 4625(e)(3))

(3) *Evaluation.* Each grantee shall include an independent evaluation to do the following:

(A) Conduct an annual evaluation of the progress achieved with the grant toward the purpose described in section 4621(2) of the ESEA; (ESEA section 4625(g)(1) and 2022 FSCS NFP)

(B) Use the evaluation to refine and improve activities carried out through the grant and annual measurable performance objectives and outcomes under section 4625(a)(4)(C); (4625(g)(2) and 2022 FSCS NFP) and

(C) Make the results of the evaluation publicly available, including by providing public notice of such availability. (ESEA section 4625(g)(3) and 2022 FSCS NFP)

(4) *Participate in a National Evaluation Assessing the Implementation of the FSCS Program.*

Each grantee must participate in a national evaluation assessing the implementation of the FSCS program, which may include, but is not limited to, the following:

(A) Completing surveys of grantee organizations (which may include service provider partners), grantee schools (which may include multiple individuals within each school such as the principal and the service coordinator), and potentially a sample of teachers within grantee schools;

(B) Participating in interviews of grantee organizations, grantee schools, and/or a sample of teachers within grantee schools;

(C) Providing administrative data, such as student absenteeism rates and high school graduation rates;

(D) Cooperating with data collection at several points during the grant period, such as shortly after grant award (baseline round of data collection), during the middle of the grant period (interim round of data collection), and toward the end of the grant period (final round of data collection); and

(E) Assisting in facilitating connections between each grantee's local evaluator and the national evaluation of implementation to ensure efficiency and coordination between the evaluation efforts. (2023 FSCS NFP)

(5) *Final MOU.* At the end of the first year of the grant, each grantee must submit a final MOU among all partner entities in the eligible entity that will assist the eligible entity to plan, develop, coordinate, provide, and evaluate pipeline services and that describes the roles and responsibilities that the partners, including the broadly representative consortium, will assume. (4625(a)(2) and 2022 FSCS NFP)

Definitions: The definitions of "Community-based organization," "Eligible entity," "Evidence-based," "Full-service community school," "Local educational agency," "Pipeline services," and "State educational agency" are from sections 4622 and 8101 of the ESEA. The definitions of "Baseline," "Demonstrates a rationale," "Experimental study," "Logic model," "Moderate evidence," "Nonprofit," "Performance measure," "Performance target," "Project," "Project component," "Promising evidence," "Quasi-experimental design study," "Relevant outcome," "Strong evidence," and "What Works Clearinghouse Handbook" are from 34 CFR 77.1. The definition of "School eligible for a schoolwide program" is from 34 CFR 200.25(b). The definitions of "Broadly representative

consortium,” Full-service community school coordinator,” “History of effectiveness,” and “Pillars of full-service community schools” are from the 2022 FSCS NFP. The definitions of “Children or students with disabilities,” “Disconnected youth,” “Early learning,” “Educator,” “English learner,” “Military- or veteran-connected student,” and “Underserved student” are from the Supplemental Priorities.

Baseline means the starting point from which performance is measured and targets are set.

Broadly representative consortium means stakeholders representing broad groups of people working together for the best interest of children; such stakeholders may include, but are not limited to, families and family leadership, schools, nonprofits, government, philanthropy, and the business community.

Children or students with disabilities means children with disabilities as defined in section 602(3) of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1401(3)) and 34 CFR 300.8, or students with disabilities as defined in the Rehabilitation Act of 1973 (29 U.S.C. 705(37), 705(20)(B)).

Community-based organization means a public or private nonprofit organization of demonstrated effectiveness that—

(a) Is representative of a community or significant segments of a community; and

(b) Provides educational or related services to individuals in the community.

Demonstrates a rationale means a key project component included in the project’s logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

Disconnected youth means an individual, between the ages 14 and 24, who may be from a low-income background, experiences homelessness, is in foster care, is involved in the justice system, or is not working or not enrolled in (or at risk of dropping out of) an educational institution.

Early learning means any (a) State-licensed or State-regulated program or provider, regardless of setting or funding source, that provides early care and education for children from birth to kindergarten entry, including, but not limited to, any program operated by a child care center or in a family child care home; (b) program funded by the Federal Government or State or local educational agencies (including any IDEA-funded program); (c) Early Head Start and Head Start program; (d) non-relative child care provider who is not

otherwise regulated by the State and who regularly cares for two or more unrelated children for a fee in a provider setting; and (e) other program that may deliver early learning and development services in a child’s home, such as the Maternal, Infant, and Early Childhood Home Visiting Program; Early Head Start; and Part C of IDEA.

Educator means an individual who is an early learning educator, teacher, principal, or other school leader, specialized instructional support personnel (e.g., school psychologist, counselor, school social worker, early intervention service personnel), paraprofessional, or faculty.

Eligible entity means a consortium of one or more LEAs, or the Bureau of Indian Education, and one or more community-based organizations, nonprofit organizations, or other public or private entities.

English learner means an individual who is an English learner as defined in section 8101(20) of the Elementary and Secondary Education Act of 1965, as amended, or an individual who is an English language learner as defined in section 203(7) of the Workforce Innovation and Opportunity Act.

Evidence-based, when used with respect to a State, local educational agency, or school activity, means an activity, strategy, or intervention that—

(i) Demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes based on—

(I) Strong evidence from at least one well-designed and well-implemented experimental study;

(II) Moderate evidence from at least one well-designed and well-implemented quasi-experimental study; or

(III) Promising evidence from at least one well-designed and well-implemented correlational study with statistical controls for selection bias; or

(ii)(I) Demonstrates a rationale based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes; and

(II) Includes ongoing efforts to examine the effects of such activity, strategy, or intervention.

Experimental study means a study that is designed to compare outcomes between two groups of individuals (such as students) that are otherwise equivalent except for their assignment to either a treatment group receiving a project component or a control group that does not. Randomized controlled trials, regression discontinuity design studies, and single-case design studies

are the specific types of experimental studies that, depending on their design and implementation (e.g., sample attrition in randomized controlled trials and regression discontinuity design studies), can meet What Works Clearinghouse (WWC) standards without reservations as described in the WWC Handbooks (as defined in this notice):

(i) A randomized controlled trial employs random assignment of, for example, students, teachers, classrooms, or schools to receive the project component being evaluated (the treatment group) or not to receive the project component (the control group).

(ii) A regression discontinuity design study assigns the project component being evaluated using a measured variable (e.g., assigning students reading below a cutoff score to tutoring or developmental education classes) and controls for that variable in the analysis of outcomes.

(iii) A single-case design study uses observations of a single case (e.g., a student eligible for a behavioral intervention) over time in the absence and presence of a controlled treatment manipulation to determine whether the outcome is systematically related to the treatment.

Full-service community school means a public elementary school or secondary school that—

(a) Participates in a community-based effort to coordinate and integrate educational, developmental, family, health, and other comprehensive services through community-based organizations and public and private partnerships; and

(b) Provides access to such services in school to students, families, and the community, such as access during the school year (including before- and after-school hours and weekends), as well as during the summer.

Full-service community school coordinator means an individual in a full-time position at each community school who serves to plan, integrate, coordinate, and facilitate the delivery of pipeline services at each school. The coordinator may also lead the school and community assessment of needs and assets and identify ways to sustain the services and partnerships beyond the duration of the grant.

History of effectiveness means an eligible entity demonstrating the ability to successfully implement programs and policies. Such programs and policies must include, but shall not be limited to, successfully implementing with other organizations grants, policies, and programs for students from high-need

schools (as defined in section 2221 of the ESEA).

Local educational agency (LEA):

(a) In General. The term “local educational agency” means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.

(b) Administrative Control and Direction. The term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

(c) Bureau of Indian Education Schools. The term includes an elementary school or secondary school funded by the Bureau of Indian Education but only to the extent that including the school makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the LEA receiving assistance under the ESEA with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Education.

(d) Educational Service Agencies. The term includes educational service agencies and consortia of those agencies.

(e) State Educational Agency. The term includes the SEA in a State in which the SEA is the sole educational agency for all public schools.

Logic model (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.*, the active “ingredients” that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

Military- or veteran-connected student means one or more of the following:

(a) A child participating in an early learning program, a student enrolled in preschool through grade 12, or a student enrolled in career and technical education or postsecondary education who has a parent or guardian who is a member of the uniformed services (as

defined by 37 U.S.C. 101), in the Army, Navy, Air Force, Marine Corps, Coast Guard, Space Force, National Guard, Reserves, National Oceanic and Atmospheric Administration, or Public Health Service or is a veteran of the uniformed services with an honorable discharge (as defined by 38 U.S.C. 3311).

(b) A student who is a member of the uniformed services, a veteran of the uniformed services, or the spouse of a service member or veteran.

(c) A child participating in an early learning program, a student enrolled in preschool through grade 12, or a student enrolled in career and technical education or postsecondary education who has a parent or guardian who is a veteran of the uniformed services (as defined by 37 U.S.C. 101).

Moderate evidence means that there is evidence of effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations or settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks reporting a “strong evidence base” or “moderate evidence base” for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks reporting a “positive effect” or “potentially positive effect” on a relevant outcome based on a “medium to large” extent of evidence, with no reporting of a “negative effect” or “potentially negative effect” on a relevant outcome; or

(iii) A single experimental study or quasi-experimental design study reviewed and reported by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks, or otherwise assessed by the Department using version 4.1 of the WWC Handbooks, as appropriate, and that—

(A) Meets WWC standards with or without reservations;

(B) Includes at least one statistically significant and positive (*i.e.*, favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks; and

(D) Is based on a sample from more than one site (*e.g.*, State, county, city, school district, or postsecondary campus) and includes at least 350

students or other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy the requirement in this paragraph (iii)(D).

Nonprofit, as applied to an agency, organization, or institution, means that it is owned and operated by one or more corporations or associations whose net earnings do not benefit, and cannot lawfully benefit, any private shareholder or entity.

Performance measure means any quantitative indicator, statistic, or metric used to gauge program or project performance.

Performance target means a level of performance that an applicant would seek to meet during the course of a project or as a result of a project.

Pillars of Full-Service Community Schools means all of the following:

(A) *Integrated student supports* at a community school that provide in- and out-of-school support for students, address well-being, and address out-of-school barriers to learning through partnerships with social and health service agencies, including mental and behavioral health agencies and providers, and coordinated by a community school coordinator, which may include—

(i) Medical, dental, vision care, and mental and behavioral health services, including mental health literacy for students and staff, and trauma-informed services to prevent, intervene, and mitigate adverse childhood experiences (ACEs); and

(ii) Individuals to assist with housing, transportation, nutrition, citizenship preparation, or criminal justice issues and other services.

(B) *Expanded and enriched learning time and opportunities*, through evidence-based strategies, including before-school, after-school, during-school, weekend, and summer programs that provide additional academic instruction, individualized academic support, enrichment activities, or learning opportunities, for students at a community school that—

(i) May emphasize real-world project-based learning where students can apply their learning to contexts that are relevant and engaging; and

(ii) May include art, music, drama, creative writing, hands-on experience with engineering or science (including computer science), career and technical education, tutoring that is aligned with classroom success and homework help, and recreational programs that enhance and are consistent with the school’s curriculum.

(C) *Active family and community engagement* that—

(i) Brings parents and families of students at the community school and community members and leaders into the school as partners in students' education, including meaningfully involving parents and families in the community school's decision-making processes;

(ii) Makes the community school a hub for services, activities, and programs, for students, families, and members of the neighborhood that the community school serves;

(iii) Provides adults with desired educational and employment opportunities and other supportive services; and

(iv) Provides centralized supports for families and communities in community schools, which may include English as a second language classes, citizenship preparation, computer skills, art, housing assistance, child abuse and neglect prevention supports, health and mental health, literacy programs, digital literacy training, or other programs that bring community members into a school building for meetings, events, or programming.

(D) *Collaborative leadership and practices* that build a culture of professional learning, collective trust, and shared responsibility for each community school using strategies that—

(i) At a minimum, include a school-based leadership team with representation of student, parent and family leaders and a community voice; a community school coordinator; and a community-wide leadership team; and

(ii) May include other leadership or governance teams, community school steering committees, or other community coalitions, educator learning communities, and other staff to manage the multiple, complex joint work of school and community organizations.

Pipeline services means a continuum of coordinated supports, services, and opportunities for children from birth through entry into and success in postsecondary education, and career attainment. Such services shall include, at a minimum, strategies to address through services or programs (including integrated student supports) the following:

(a) High-quality early childhood education programs.

(b) High-quality school and out-of-school-time programs and strategies.

(c) Support for a child's transition to elementary school, from elementary school to middle school, from middle school to high school, and from high school into and through postsecondary

education and into the workforce, including any comprehensive readiness assessment determined necessary.

(d) Family and community engagement and supports, which may include engaging or supporting families at school or at home.

(e) Activities that support postsecondary and workforce readiness, which may include job training, internship opportunities, and career counseling.

(f) Community-based support for students who have attended the schools in the area served by the pipeline, or students who are members of the community, facilitating their continued connection to the community and success in postsecondary education and the workforce.

(g) Social, health, nutrition, and mental health services and supports.

(h) Juvenile crime prevention and rehabilitation programs.

Project means the activity described in an application.

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (e.g., training teachers on instructional practices for English learners and follow-on coaching for these teachers).

Promising evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome, based on a relevant finding from one of the following:

(i) A practice guide prepared by WWC reporting a "strong evidence base" or "moderate evidence base" for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC reporting a "positive effect" or "potentially positive effect" on a relevant outcome with no reporting of a "negative effect" or "potentially negative effect" on a relevant outcome; or

(iii) A single study assessed by the Department, as appropriate, that—

(A) Is an experimental study, a quasi-experimental design study, or a well-designed and well-implemented correlational study with statistical controls for selection bias (e.g., a study using regression methods to account for differences between a treatment group and a comparison group); and

(B) Includes at least one statistically significant and positive (i.e., favorable) effect on a relevant outcome.

Quasi-experimental design study means a study using a design that attempts to approximate an experimental study by identifying a

comparison group that is similar to the treatment group in important respects. This type of study, depending on design and implementation (e.g., establishment of baseline equivalence of the groups being compared), can meet WWC standards with reservations, but cannot meet WWC standards without reservations, as described in the WWC Handbooks.

Relevant outcome means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of the program.

School eligible for a schoolwide program means any school eligible under 34 CFR 200.25(b) to operate a schoolwide program. Specifically,

(1) A school may operate a schoolwide program if—

(i) The school's LEA determines that the school serves an eligible attendance area or is a participating school under section 1113 of the ESEA; and

(ii) Except as provided under paragraph (b)(1)(iii) of this section, for the initial year of the schoolwide program—

(A) The school serves a school attendance area in which not less than 40 percent of the children are from low-income families; or

(B) Not less than 40 percent of the children enrolled in the school are from low-income families.

(iii) A school that does not meet the poverty percentage in paragraph (b)(1)(ii) of this section may operate a schoolwide program if the school receives a waiver from the State to do so, after taking into account how a schoolwide program will best serve the needs of the students in the school in improving academic achievement and other factors.

(2) In determining the percentage of children from low-income families under paragraph (b)(1) of this section, the LEA may use a measure of poverty that is different from the measure or measures of poverty used by the LEA to identify and rank school attendance areas for eligibility and participation under this subpart.

State educational agency (SEA) means the agency primarily responsible for the State supervision of public elementary schools and secondary schools.

Strong evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations and settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1

of the WWC Handbooks reporting a “strong evidence base” for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks reporting a “positive effect” on a relevant outcome based on a “medium to large” extent of evidence, with no reporting of a “negative effect” or “potentially negative effect” on a relevant outcome; or

(iii) A single experimental study reviewed and reported by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks, or otherwise assessed by the Department using version 4.1 of the WWC Handbooks, as appropriate, and that—

(A) Meets WWC standards without reservations;

(B) Includes at least one statistically significant and positive (*i.e.*, favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks; and

(D) Is based on a sample from more than one site (*e.g.*, State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy the requirement in this paragraph (iii)(D).

Underserved student means a student (which may include children in early learning environments, students in K–12 programs, students in postsecondary education or career and technical education, and adult learners, as appropriate) in one or more of the following subgroups:

(a) A student who is living in poverty or is served by schools with high concentrations of students living in poverty.

(b) A student of color.

(c) A student who is a member of a federally recognized Indian Tribe.

(d) An English learner.

(e) A child or student with a disability.

(f) A disconnected youth.

(g) A technologically unconnected youth.

(h) A migrant student.

(i) A student experiencing homelessness or housing insecurity.

(j) A lesbian, gay, bisexual, transgender, queer or questioning, or intersex (LGBTQI+) student.

(k) A student who is in foster care.

(l) A student without documentation of immigration status.

(m) A pregnant, parenting, or caregiving student.

(n) A student impacted by the justice system, including a formerly incarcerated student.

(o) A student who is the first in their family to attend postsecondary education.

(r) A student who is enrolled in or is seeking to enroll in postsecondary education who is eligible for a Pell Grant.

(s) A student performing significantly below grade level.

(t) A military- or veteran-connected student.

What Works Clearinghouse Handbooks (WWC Handbooks) means the standards and procedures set forth in the WWC Standards Handbook, Versions 4.0 or 4.1, and WWC Procedures Handbook, Versions 4.0 or 4.1, or in the WWC Procedures and Standards Handbook, Version 3.0 or Version 2.1 (all incorporated by reference, see § 77.2). Study findings eligible for review under WWC standards can meet WWC standards without reservations, meet WWC standards with reservations, or not meet WWC standards. WWC practice guides and intervention reports include findings from systematic reviews of evidence as described in the WWC Handbooks documentation.

Note: The What Works Clearinghouse Procedures and Standards Handbook (Version 4.1), as well as the more recent What Works Clearinghouse Handbooks released in August 2022 (Version 5.0), are available at <https://ies.ed.gov/ncee/wwc/Handbooks>.

Program Authority: Sections 4621–4625 of the ESEA, 20 U.S.C. 7271–7273, 7275.

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, 79, 81, 82, 84, 86, 97, 98, and 99. (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)

34 CFR 200.25. (e) The 2022 FSCS NFP. (f) The 2023 FSCS NFP. (g) The Supplemental Priorities.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: \$74,000,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards later in FY 2023 or in subsequent years from the list of unfunded applications from this competition.

Estimated Range of Awards: Under Absolute Priority 3, \$275,000 to \$500,000 for each 12-month budget period; \$1,375,000 to \$2,500,000 for the entire project period. Under Absolute Priority 4, \$1,000,000 to \$3,000,000 for each 12-month budget period; \$5,000,000 to \$15,000,000 for the entire project period. Under Absolute Priority 5, \$5,000,000 to \$10,000,000 for each 12-month budget period; \$25,000,000 to \$50,000,000 for the entire project period.

Estimated Average Size of Awards: Under Absolute Priority 3, \$450,000 for each 12-month period. Under Absolute Priority 4, \$2 million for each 12-month period. Under Absolute Priority 5, \$7.5 million for each 12-month period.

Maximum Award: Under Absolute Priority 3, we will not make an award exceeding \$2.5 million for the entire project period. Under Absolute Priority 4, we will not make an award exceeding \$15 million for the entire project period. Under Absolute Priority 5, we will not make an award exceeding \$50 million for the entire project period.

Minimum Award: The Secretary is prohibited by section 4625(d) of the ESEA from making a grant under the FSCS program in an amount that is less than \$75,000 for each year of the grant. Therefore, we will reject any application that proposes an amount that is less than \$75,000 for any budget period.

Estimated Number of Awards: 45.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* A consortium of—

(a)(i) One or more LEAs; or
(ii) The BIE; and

(b) One or more community-based organizations, nonprofit organizations, or other public or private entities.

A consortium must comply with the provisions governing group applications in 34 CFR 75.127 through 75.129.

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 shareholder or individual; (3) a certified copy of the 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. a. *Cost Sharing or Matching:* To be eligible for an award, an applicant shall provide matching funds through non-Federal contributions, either in cash or in-kind donations. The applicant must propose the amount of cash or in-kind resources to be contributed for each year of the grant.

The BIE may meet the matching requirement using funds from other Federal sources.

b. *Supplement not Supplant:* This competition involves supplement-not-supplant funding requirements. Grantees must use FSCS grant funds to supplement, and not supplant, any other Federal, State, and local funds that would otherwise have been available to carry out activities authorized under section 4625 of the ESEA.

c. *Indirect Cost Rate Information:* This program uses a restricted indirect cost rate. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see <http://www2.ed.gov/about/offices/list/ocfo/intro.html>.

d. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

Note: Nothing in section 4625 of the ESEA shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded school or LEA employees under Federal, State, or local laws (including applicable regulations or court orders) under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employees and their employers.

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 (84 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. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the FSCS program, your application may include business information that you consider proprietary. In 34 CFR 5.11, we define "business information" and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information. Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under "Other Attachments Form," please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

4. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *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 100 pages and (2) use the following standards:

- A "page" is 8.5" × 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; the budget section, including the narrative budget justification; the required preliminary MOU; the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the application narrative.

6. *Notice of Intent to Apply:* The Department will be able to review grant applications more efficiently if we know the approximate number of applications that intend to apply. Therefore, we strongly encourage each potential applicant to notify us of their intent to submit an application. Applicants may access this form using the link available on the Notice of Intent to Apply section of the competition website: <https://oese.ed.gov/offices/office-of-discretionary-grants-support-services/school-choice-improvement-programs/full-service-community-schools-program-fscs/fy-2023-fscs-grant-competition/>. Applicants that do not submit a notice of intent to apply may still apply for funding; applicants that do submit a notice of intent to apply are not bound to apply or bound by the information provided.

7. *Application Review Information*

1. *Selection Criteria:* The selection criteria for applicants submitting applications under Absolute Priority 3—Capacity Building and Development Grants are listed in paragraph (a) of this section. The selection criteria for applicants submitting applications

V. Application Review Information

1. *Selection Criteria:* The selection criteria for applicants submitting applications under Absolute Priority 3—Capacity Building and Development Grants are listed in paragraph (a) of this section. The selection criteria for applicants submitting applications

under Absolute Priority 4—Multi-Local Educational Agency Grants are listed in paragraph (b) of this section. The selection criteria for applicants submitting applications under Absolute Priority 5—State Scaling Grants are listed under paragraph (c) of this section. The selection criteria for this competition are from 34 CFR 75.210 and the 2022 FSCS NFP. The points assigned to each criterion are indicated in the parentheses next to the criterion. An applicant may earn up to a total of 100 points based on the selection criteria for the application.

Points awarded under these selection criteria are in addition to any points an applicant earns under the competitive preference priorities in this notice. The maximum score that an application may receive under the competitive preference priorities and the selection criteria is 110 points.

In evaluating a FSCS application, the Secretary considers the following criteria:

(a) *Selection Criteria for Absolute Priority 3—Capacity Building and Development Grants.*

(1) *Need for Project* (up to 10 points).

The Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers the extent to which the proposed project will provide support, resources, and services; close gaps in educational opportunity; or otherwise address the needs of the targeted population, including addressing the needs of underserved populations most impacted by the issue, challenge, or opportunity to be addressed by the proposed project. (2022 FSCS NFP) (10 points)

(2) *Quality of the Project Design* (up to 25 points).

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(A) The extent to which the design of the proposed project reflects relevant and evidence-based findings from existing literature and includes a high-quality plan for project implementation integrating the four pillars of full-service community schools and the use of appropriate evaluation methods to ensure successful achievement of project objectives. (2022 FSCS NFP) (15 points)

(B) The extent to which the proposed project demonstrates a rationale (as defined in this notice). (34 CFR 75.210) (10 points)

(3) *Quality of the Project Services* (up to 15 points).

The Secretary considers the quality of the services to be provided by the proposed project. In determining the quality of project services, the Secretary considers the following factors:

(A) The extent to which the applicant will ensure that a diversity of perspectives are brought to bear in the design and operation of the proposed project, including those of students, youth, families, educators and staff, beneficiaries of services, school leadership, and community leadership. (2022 FSCS NFP) (10 points)

(B) The extent to which the services provided reflect up-to-date knowledge from research and effective practice. (34 CFR 75.210) (5 points)

(4) *Adequacy of Resources* (up to 10 points).

The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(A) The extent to which the grantee has plans for a full-time coordinator at each school, including a plan to sustain the position beyond the grant period and a description of how this position will serve to plan, integrate, coordinate, and facilitate programs and services at each school. (2022 FSCS NFP) (5 points)

(B) Potential for continued support for the project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support. (34 CFR 75.210) (5 points)

(5) *Quality of the Management Plan* (up to 25 points).

The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(A) The extent to which the grantee has, or demonstrates a strong plan to have, a broadly representative consortium that reflects the needs of the community and its stakeholders, and a description of the roles and responsibilities of the broadly representative consortium outlined in the required preliminary MOU. (2022 FSCS NFP) (5 points)

(B) The extent to which the applicant demonstrates a history of effectiveness in working with a diverse range of stakeholders, including students and families. (2022 FSCS NFP) (5 points)

(C) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks. (34 CFR 75.210) (15 points)

(6) *Quality of the Project Evaluation* (up to 15 points).

The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors—

(A) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project. (34 CFR 75.210) (5 points)

(B) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes. (34 CFR 75.210) (5 points)

(C) The extent to which the methods of evaluation will provide valid and reliable performance data on relevant outcomes. (34 CFR 75.210) (5 points)

(b) *Selection Criteria for Absolute Priority 4—Multi-Local Educational Agency Grants.*

(1) *Need for Project* (up to 10 points).

The Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers the extent to which the proposed project will provide support, resources, and services; close gaps in educational opportunity; or otherwise address the needs of the targeted population, including addressing the needs of underserved populations most impacted by the issue, challenge, or opportunity to be addressed by the proposed project. (2022 FSCS NFP) (10 points)

(2) *Quality of the Project Design* (up to 25 points).

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors—

(A) The extent to which the design of the proposed project reflects relevant and evidence-based findings from existing literature and includes a high-quality plan for project implementation integrating the four pillars of full-service community schools and the use of appropriate evaluation methods to ensure successful achievement of project objectives. (2022 FSCS NFP) (15 points)

(B) The extent to which proposed project demonstrates a rationale (as defined in 34 CFR 77.1(c)). (34 CFR 75.210) (10 points)

(3) *Quality of the Project Services* (up to 15 points).

The Secretary considers the quality of the services to be provided by the proposed project. In determining the quality of project services, the Secretary considers the following factors:

(A) The extent to which the applicant will ensure that a diversity of perspectives is brought to bear in the design and operation of the proposed project, including those of students, youth, families, educators and staff, beneficiaries of services, school leadership, and community leadership. (2022 FSCS NFP) (5 points)

(B) The extent to which the services provided reflect up-to-date knowledge from research and effective practice. (34 CFR 75.210) (5 points)

(C) The extent to which the services to be provided are focused on those with greatest need. (34 CFR 75.210) (5 points).

(4) *Adequacy of Resources* (up to 10 points).

The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(A) The extent to which the grantee has plans for a full-time coordinator at each school, including a plan to sustain the position beyond the grant period and a description of how this position will serve to plan, integrate, coordinate, and facilitate programs and services at each school. (2022 FSCS NFP) (5 points)

(B) Potential for continued support for project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support. (34 CFR 75.210) (5 points)

(5) *Quality of the Management Plan* (up to 25 points).

The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(A) The extent to which the grantee has, or demonstrates a strong plan to have, a broadly representative consortium that reflects the needs of the community and its stakeholders, and a description of the roles and responsibilities of the broadly representative consortium outlined in the required preliminary MOU. (2022 FSCS NFP) (5 points)

(B) The extent to which the applicant demonstrates a history of effectiveness in working with a diverse range of stakeholders, including students and families. (2022 FSCS NFP) (5 points)

(C) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks. (34 CFR 75.210) (15 points)

(6) *Quality of the Project Evaluation* (up to 15 points).

The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors—

(A) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project. (34 CFR 75.210) (5 points)

(B) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes. (34 CFR 75.210) (5 points)

(C) The extent to which the methods of evaluation will provide valid and reliable performance data on relevant outcomes. (34 CFR 75.210) (5 points)

(c) *Selection Criteria for Absolute Priority 5—State Scaling Grants.*

(1) *Need for Project* (up to 5 points).

The Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers the extent to which the proposed project will provide support, resources, and services; close gaps in educational opportunity; or otherwise address the needs of the targeted population, including addressing the needs of underserved populations most impacted by the issue, challenge, or opportunity to be addressed by the proposed project. (2022 FSCS NFP) (5 points)

(2) *Quality of the Project Design* (up to 25 points).

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(A) The extent to which the design of the proposed project reflects relevant and evidence-based findings from existing literature and includes a high-quality plan for project implementation integrating the four pillars of full-service community schools and the use of appropriate evaluation methods to ensure successful achievement of project objectives. (2022 FSCS NFP) (15 points)

(B) The extent to which proposed project demonstrates a rationale (as defined in this notice). (34 CFR 75.210) (10 points)

(3) *Quality of the Project Services* (up to 15 points).

The Secretary considers the quality of the services to be provided by the proposed project. In determining the quality of project services, the Secretary considers the following factors:

(A) The extent to which the applicant will ensure that a diversity of perspectives is brought to bear in the design and operation of the proposed project, including those of students, youth, families, educators and staff, beneficiaries of services, school leadership, and community leadership. (2022 FSCS NFP) (5 points)

(B) The extent to which the services provided reflect up-to-date knowledge from research and effective practice. (34 CFR 75.210) (5 points)

(C) The extent to which the services to be provided are focused on those with greatest need. (34 CFR 75.210) (5 points)

(4) *Adequacy of Resources* (up to 10 points).

The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(A) The extent to which the grantee has plans for a full-time coordinator at each school, including a plan to sustain the position beyond the grant period and a description of how this position will serve to plan, integrate, coordinate, and facilitate programs and services at each school. (2022 FSCS NFP) (5 points)

(B) Potential for continued support for project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support. (34 CFR 75.210) (5 points)

(5) *Quality of the Management Plan* (up to 20 points).

The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors—

(A) The extent to which the grantee has, or demonstrates a strong plan to have, a broadly representative consortium that reflects the needs of the community and its stakeholders, and a description of the roles and responsibilities of the broadly representative consortium outlined in the required preliminary MOU. (2022 FSCS NFP) (5 points)

(B) The extent to which the applicant demonstrates a history of effectiveness in working with a diverse range of stakeholders, including students and families. (2022 FSCS NFP) (5 points)

(C) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks. (34 CFR 75.210) (10 points)

(6) *Quality of the Project Evaluation* (up to 15 points).

The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors—

(A) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project. (34 CFR 75.210) (5 points)

(B) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes. (34 CFR 75.210) (5 points)

(C) The extent to which the methods of evaluation will provide valid and reliable performance data on relevant outcomes. (34 CFR 75.210) (5 points)

(7) *Strategy to Scale* (up to 10 points).

The Secretary considers the applicant's strategy to scale the proposed project. In determining the applicant's capacity to scale the proposed project, the Secretary considers the extent to which the applicant demonstrates its commitment and strategy to scale full-service community schools at the statewide level. In determining the applicant's capacity to scale the proposed project, the Secretary considers the number and percentage of LEAs, and the number and percentage of schools within each LEA, the applicant, the SEA, and other partners propose to serve, the applicant's capacity (e.g., in terms of qualified personnel, financial resources, or management capacity) to further develop, implement, bring to scale, and sustain additional full-service community schools in multiple LEAs, and the applicant's capacity to work with others, including the broadly representative consortium and the State steering committee, to ensure that the proposed process, products, strategies, or practices can be further developed and brought to scale, based on the regular findings of the proposed project and its independent evaluation. (2022 FSCS NFP) (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).

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. 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 also may notify you informally.

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 <https://www2.ed.gov/fund/grant/apply/appforms/appforms.html>.

5. *Performance Measures*: Section 4625(a)(4)(C) of the ESEA provides the basis for one performance measure for the FSCS program: the percentage and number of individuals targeted for services and who receive services during each year of the project period. The 2022 FSCS NFP established an additional set of indicators: student chronic absenteeism rates; student discipline rates, including suspensions and expulsions; school climate information, which may come from student, parent, or teacher surveys; provision of integrated student supports and stakeholder services; expanded and enriched learning time and opportunities; family and community engagement efforts and impact; information on the number, qualifications, and retention of school staff, including the number and percentage of fully certified teachers, disaggregated by race and ethnicity, and rates of teacher turnover; graduation rates; changes in school spending information; collaborative leadership and practice strategies, which may include building the capacity of educators, principals, other school leaders, and other staff to lead collaborative school improvement structures, such as professional learning communities; regularly convening or engaging all initiative-level partners, such as LEA representatives, city or county officials, children's cabinets, nonprofit service providers, public

housing agencies, and advocates; regularly assessing program quality and progress through individual student data, participant feedback, and aggregate outcomes to develop strategies for improvement; and organizing school personnel and community partners into working teams focused on specific issues identified in the needs and assets assessment.

6. *Continuation Awards*: In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things, whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, 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).

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, 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 Department documents 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 Department documents 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 F. Lane,

Principal Deputy Assistant Secretary, Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 2023-12145 Filed 6-6-23; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas & Oil Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

- Docket Numbers*: RP23-807-000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing; Negotiated Rate Agreement—6/1/2023 to be effective 6/1/2023.
Filed Date: 6/1/23.
Accession Number: 20230601-5001.
Comment Date: 5 p.m. ET 6/13/23.
- Docket Numbers*: RP23-808-000.
Applicants: Alliance Pipeline L.P.
Description: § 4(d) Rate Filing; Form of Service Clean-up Filing to be effective 7/1/2023.
Filed Date: 6/1/23.
Accession Number: 20230601-5002.
Comment Date: 5 p.m. ET 6/13/23.
- Docket Numbers*: RP23-810-000.
Applicants: NEXUS Gas Transmission, LLC.
Description: § 4(d) Rate Filing; Negotiated Rates—Various Releases eff 6-1-2023 to be effective 6/1/2023.
Filed Date: 6/1/23.
Accession Number: 20230601-5033.
Comment Date: 5 p.m. ET 6/13/23.
- Docket Numbers*: RP23-811-000.
Applicants: Gulf South Pipeline Company, LLC.
Description: § 4(d) Rate Filing; Remove Expired Agreements eff 6-1-2023 to be effective 6/1/2023.
Filed Date: 6/1/23.
Accession Number: 20230601-5039.
Comment Date: 5 p.m. ET 6/13/23.
- Docket Numbers*: RP23-812-000.
Applicants: Gulf South Pipeline Company, LLC.
Description: § 4(d) Rate Filing; Cap Rel Neg Rate Agmt (Osaka 46429 to Texla 56328) to be effective 6/1/2023.
Filed Date: 6/1/23.
Accession Number: 20230601-5040.
Comment Date: 5 p.m. ET 6/13/23.
- Docket Numbers*: RP23-813-000.

Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—Various Releases eff 6–1–23 to be effective 6/1/2023.
Filed Date: 6/1/23.
Accession Number: 20230601–5042.
Comment Date: 5 p.m. ET 6/13/23.
Docket Numbers: RP23–814–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: TCO Negotiated Rate Agreements Eff. 6.1.23 to be effective 6/1/2023.
Filed Date: 6/1/23.
Accession Number: 20230601–5054.
Comment Date: 5 p.m. ET 6/13/23.
Docket Numbers: RP23–815–000.
Applicants: Eastern Shore Natural Gas Company.
Description: § 4(d) Rate Filing: Fuel Retention & Cash Out Adjustment 2023 to be effective 7/1/2023.
Filed Date: 6/1/23.
Accession Number: 20230601–5063.
Comment Date: 5 p.m. ET 6/13/23.
Docket Numbers: RP23–816–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rates—Various Releases eff 6–1–23 to be effective 6/1/2023.
Filed Date: 6/1/23.
Accession Number: 20230601–5064.
Comment Date: 5 p.m. ET 6/13/23.
Docket Numbers: RP23–817–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (SoCal June 2023) to be effective 6/2/2023.
Filed Date: 6/1/23.
Accession Number: 20230601–5085.
Comment Date: 5 p.m. ET 6/13/23.
Docket Numbers: RP23–818–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Negotiated Rate Capacity Release Agreements—6/1/2023 to be effective 6/1/2023.
Filed Date: 6/1/23.
Accession Number: 20230601–5096.
Comment Date: 5 p.m. ET 6/13/23.
Docket Numbers: RP23–819–000.
Applicants: Maritimes & Northeast Pipeline, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rates—Northern to Direct Energy 2875 eff 6–1–23 to be effective 6/1/2023.
Filed Date: 6/1/23.
Accession Number: 20230601–5104.
Comment Date: 5 p.m. ET 6/13/23.
Docket Numbers: RP23–820–000.
Applicants: Natural Gas Pipeline Company of America LLC.

Description: § 4(d) Rate Filing: Negotiated Rate Agreement Filing—Kiowa #156013 to be effective 6/1/2023.
Filed Date: 6/1/23.
Accession Number: 20230601–5118.
Comment Date: 5 p.m. ET 6/13/23.
Docket Numbers: RP23–821–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—Cherokee AGL—Replacement Shippers—Jun 2023 to be effective 6/1/2023.
Filed Date: 6/1/23.
Accession Number: 20230601–5128.
Comment Date: 5 p.m. ET 6/13/23.
 Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.
 The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.
 eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 1, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–12182 Filed 6–6–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER23–2027–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2023–05–31 Timeline and Process for Handling Market Implementation Errors to be effective 7/31/2023.
Filed Date: 5/31/23.
Accession Number: 20230531–5311.
Comment Date: 5 p.m. ET 6/21/23.
Docket Numbers: ER23–2028–000.
Applicants: Pacific Gas and Electric Company.

Description: § 205(d) Rate Filing: May 2023 Western WDT Service Agreement Biannual Filing (SA 17) to be effective 8/1/2023.
Filed Date: 5/31/23.
Accession Number: 20230531–5323.
Comment Date: 5 p.m. ET 6/21/23.
Docket Numbers: ER23–2029–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) Rate Filing: May 2023 Western Interconnection Biannual Filing (SA 59) to be effective 8/1/2023.
Filed Date: 5/31/23.
Accession Number: 20230531–5326.
Comment Date: 5 p.m. ET 6/21/23.
Docket Numbers: ER23–2030–000.
Applicants: Baconton Power LLC.
Description: Baconton Power, LLC submits Notice of cancellation of the Common Bus Ownership Agreement with SOWEGA Power LLC.
Filed Date: 5/30/23.
Accession Number: 20230530–5318.
Comment Date: 5 p.m. ET 6/20/23.
Docket Numbers: ER23–2031–000.
Applicants: El Paso Electric Company.
Description: § 205(d) Rate Filing: OATT Revisions Filing of Attachment M Related to Interconnection Queue to be effective 8/1/2023.
Filed Date: 5/31/23.
Accession Number: 20230531–5351.
Comment Date: 5 p.m. ET 6/21/23.
Docket Numbers: ER23–2032–000.
Applicants: Louisiana Generating LLC.
Description: Request to Recover Costs Associated with Acting as a Local Balancing Authority of Louisiana Generating LLC.
Filed Date: 5/30/23.
Accession Number: 20230530–5322.
Comment Date: 5 p.m. ET 6/20/23.
Docket Numbers: ER23–2033–000.
Applicants: ITC Midwest LLC.
Description: Request for Authorization for Abandoned Plant Incentive Rate Treatment of ITC Midwest.
Filed Date: 5/30/23.
Accession Number: 20230530–5323.
Comment Date: 5 p.m. ET 6/20/23.
Docket Numbers: ER23–2034–000.
Applicants: Louisiana Energy & Power Authority.
Description: Request to Recover Costs Associated with Acting as a Local Balancing Authority of Louisiana Energy and Power Authority.
Filed Date: 5/31/23.
Accession Number: 20230531–5425.
Comment Date: 5 p.m. ET 6/21/23.
Docket Numbers: ER23–2035–000.
Applicants: ISO New England Inc., Versant Power.
Description: § 205(d) Rate Filing: ISO New England Inc. submits tariff filing

per 35.13(a)(2)(iii): ISO-NE and Versant Power; Original Service Agreements.

Filed Date: 6/1/23.

Accession Number: 20230601–5112.

Comment Date: 5 p.m. ET 6/22/23.

Docket Numbers: ER23–2036–000.

Applicants: Niagara Mohawk Power Corporation, New York Independent System Operator, Inc.

Description: § 205(d) Rate Filing: Niagara Mohawk Power Corporation submits tariff filing per 35.13(a)(2)(iii): NMPC 205: SGIA between Niagara Mohawk and Lyons Falls, SA No. 2780 to be effective 5/2/2023.

Filed Date: 6/1/23.

Accession Number: 20230601–5152.

Comment Date: 5 p.m. ET 6/22/23.

Docket Numbers: ER23–2037–000.

Applicants: Consolidated Edison Company of New York, Inc.

Description: § 205(d) Rate Filing: Standby Rate Exemptions to be effective 6/1/2023.

Filed Date: 6/1/23.

Accession Number: 20230601–5165.

Comment Date: 5 p.m. ET 6/22/23.

Docket Numbers: ER23–2038–000; TS23–5–000.

Applicants: Chevelon Butte RE LLC, Chevelon Butte RE LLC.

Description: Request for Temporary Waiver of Open-Access Requirements of Order Nos. 888, et al. of Chevelon Butte RE LLC.

Filed Date: 5/25/23.

Accession Number: 20230525–5207.

Comment Date: 5 p.m. ET 6/15/23.

Docket Numbers: ER23–2039–000.

Applicants: Entergy Mississippi, LLC.

Description: § 205(d) Rate Filing: MDEA LBA Agreement to be effective 6/1/2023.

Filed Date: 6/1/23.

Accession Number: 20230601–5215.

Comment Date: 5 p.m. ET 6/22/23.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES23–45–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Supplement to Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Tri-State Generation and Transmission Association, Inc.

Filed Date: 5/30/23.

Accession Number: 20230530–5314.

Comment Date: 5 p.m. ET 6/9/23.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings

must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 1, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–12183 Filed 6–6–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP23–484–000]

Southern Star Central Gas Pipeline, Inc.; Notice of Application and Establishing Intervention Deadline

Take notice that on May 22, 2023, Southern Star Central Gas Pipeline, Inc. (Southern Star) 4700 State Route 56, Owensboro, KY 42301, filed an application under to section 7(b) of the Natural Gas Act (NGA) and part 157 of the Regulations of the Federal Energy Regulatory Commission requesting authorization for its Abandonment by Sale of Kansas Domestic Meters Project. The Project consists of abandon by sale to Kansas Gas Service, a Division of ONE Gas, Inc. (KGS) some 1,042 domestic meters in the State of Kansas. This project is part of Southern Star's ongoing effort to eliminate ownership and operation of domestic meters associated with farm taps on its system. Abandonment of these domestic meters by sale to a qualified local distribution company in Kansas will enable Southern Star to more effectively manage its system, reduce operating costs, and minimize potential liability, while ensuring that the landowners behind these domestic meters will not only continue to receive safe and reliable service, but receive such service from an entity whose primary business is the local distribution of natural gas. Southern Star estimates the total cost of the Project to be \$1,976,966, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (www.ferc.gov) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room. For assistance, contact the Federal Energy Regulatory Commission at FercOnlineSupport@ferc.gov or call toll-free, (866) 208–3676 or TTY (202) 502–8659.

Any questions regarding the proposed project should be directed to Cindy C. Thompson, Director, Regulatory, Compliance and Information Governance, Southern Star Central Gas Pipeline, Inc., 4700 State Route 56, Owensboro, Kentucky 42301, by phone at (270) 302–9280 or by email at cindy.thompson@southernstar.com.

Pursuant to section 157.9 of the Commission's Rules of Practice and Procedure,¹ within 90 days of this Notice the Commission staff will either: complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file comments on the project, you can protest the filing, and you can file a motion to intervene in the proceeding. There is no fee or cost for filing comments or intervening. The deadline for filing a motion to intervene is 5:00 p.m. Eastern Time on June 22, 2023. How to file protests, motions to intervene, and comments is explained below.

¹ 18 CFR (Code of Federal Regulations) 157.9.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

Comments

Any person wishing to comment on the project may do so. Comments may include statements of support or objections, to the project as a whole or specific aspects of the project. The more specific your comments, the more useful they will be.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,² any person³ or the Commission's staff may file a protest to the request. Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations.⁴ A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

To ensure that your comments or protests are timely and properly recorded, please submit your comments on or before June 22, 2023.

There are three methods you can use to submit your comments or protests to the Commission. In all instances, please reference the Project docket number CP23-484-000 in your submission.

(1) You may file your comments electronically by using the eComment feature, which is located on the Commission's website at www.ferc.gov under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments or protests electronically by using the eFiling feature, which is located on the Commission's website (www.ferc.gov) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on

"eRegister." You will be asked to select the type of filing you are making; first select "General" and then select "Comment on a Filing"; or

(3) You can file a paper copy of your comments or protests by mailing them to the following address below. Your written comments must reference the Project docket number (CP23-484-000).

To file via USPS: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426

To file via any other courier: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852

The Commission encourages electronic filing of comments (options 1 and 2 above) and has eFiling staff available to assist you at (202) 502-8258 or FercOnlineSupport@ferc.gov.

Persons who comment on the environmental review of this project will be placed on the Commission's environmental mailing list, and will receive notification when the environmental documents (EA or EIS) are issued for this project and will be notified of meetings associated with the Commission's environmental review process.

The Commission considers all comments received about the project in determining the appropriate action to be taken. However, the filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding. For instructions on how to intervene, see below.

Interventions

Any person, which includes individuals, organizations, businesses, municipalities, and other entities,⁵ has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure⁶ and the regulations under the NGA⁷ by the intervention deadline for the project, which is June 22, 2023. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as the your

interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at <https://www.ferc.gov/resources/guides/how-to-intervene.asp>.

There are two ways to submit your motion to intervene. In both instances, please reference the Project docket number CP23-484-000 in your submission.

(1) You may file your motion to intervene by using the Commission's eFiling feature, which is located on the Commission's website (www.ferc.gov) under the link to Documents and Filings. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select "General" and then select "Intervention." The eFiling feature includes a document-less intervention option; for more information, visit <https://www.ferc.gov/docs-filing/efiling/document-less-intervention.pdf>; or

(2) You can file a paper copy of your motion to intervene, along with three copies, by mailing the documents to the address below. Your motion to intervene must reference the Project docket number CP23-484-000.

To file via USPS: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426

To file via any other courier: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852

The Commission encourages electronic filing of motions to intervene (option 1 above) and has eFiling staff available to assist you at (202) 502-8258 or FercOnlineSupport@ferc.gov.

Protests and motions to intervene must be served on the applicant either by mail or email at: Cindy C. Thompson, Director, Regulatory, Compliance and Information Governance, Southern Star Central Gas Pipeline, Inc., 4700 State Route 56, Owensboro, Kentucky 42301, or at cindy.thompson@southernstar.com.

Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online. Service can be via email with a link to the document.

² 18 CFR 157.205.

³ Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

⁴ 18 CFR 157.205(e).

⁵ 18 CFR 385.102(d).

⁶ 18 CFR 385.214.

⁷ 18 CFR 157.10.

All timely, unopposed⁸ motions to intervene are automatically granted by operation of Rule 214(c)(1).⁹ Motions to intervene that are filed after the intervention deadline are untimely, and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations.¹⁰ A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208-FERC, or on the FERC website at www.ferc.gov using the "eLibrary" link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to www.ferc.gov/docs-filing/esubscription.asp.

Intervention Deadline: 5:00 p.m. Eastern Time on June 22, 2023.

Dated: June 1, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023-12181 Filed 6-6-23; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER23-1956-000; ER23-1957-000; ER23-1958-000; ER23-1959-000]

Earthrise Tilton Interconnection, LLC; Earthrise Gibson City Interconnection, LLC; Earthrise Shelby County Interconnection, LLC; Earthrise Crete Interconnection, LLC; Supplemental Notice That Shared Facilities and Use Agreement Filings Include Requests for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceedings of Earthrise Tilton Interconnection, LLC, Earthrise Gibson City Interconnection, LLC, Earthrise Shelby County Interconnection, LLC, and Earthrise Crete Interconnection, LLC's filings of Shared Facilities and Use Agreements, noting that such filings include requests for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant(s).

Notice is hereby given that the deadline for filing protests with regard to the applicants' requests for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 14, 2023.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand-delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal**

Register, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Dated: June 1, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023-12185 Filed 6-6-23; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2018-0638; FRL-10966-01-OAR]

Agency Information Collection Activities; Proposed Information Collection Request; Comment Request; Waiver From Tier 4 Emission Standards for Marine Diesel Engines (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), Waiver from Tier 4 Emission Standards for Marine Diesel Engines (Renewal) (EPA ICR Number 2602.03, OMB Control Number 2060-0726) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through January 31, 2024. This notice allows for 60 days for public comments.

DATES: Comments must be submitted on or before August 7, 2023.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA-HQ-OAR-2018-0638 to EPA online using www.regulations.gov (our

⁸ The applicant has 15 days from the submittal of a motion to intervene to file a written objection to the intervention.

⁹ 18 CFR 385.214(c)(1).

¹⁰ 18 CFR 385.214(b)(3) and (d).

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.

FOR FURTHER INFORMATION CONTACT: Maria Lennox, Assessment and Standards Division, Office of Transportation and Air Quality, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214-4025; email address: *lennox.maria@epa.gov*.

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through January 31, 2024. 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.

This notice allows 60 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*.

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate forms of information technology. EPA will consider the comments received and amend the ICR as appropriate. The final

ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: EPA adopted the Tier 4 marine diesel engine standards in June 2008, under the authority of the Clean Air Act (73 FR 37096). The Tier 4 standards were phased in, with an effective date beginning in 2016 through 2018 for most engines. In August 2020, EPA amended those regulations in response to industry concerns about the availability of suitable Tier 4 certified engines for installation in certain kinds of high-speed vessels. The amendments provided focused relief for qualifying engines and vessels in two phases, depending on engine and vessel size. Builders of qualifying vessels were required to submit to EPA information describing their need for regulatory relief and demonstrating that their vessels met the size and power conditions.

- Phase One was available through 2021 and was limited to propulsion engines with maximum power output up to 1,400 kW and power density of at least 27.0 kW per liter displacement. Additionally, the relief is limited to vessels up to 65 feet waterline length with total nameplate propulsion power at or below 2,800 kW. This includes vessels such as lobster fishing boats, pilot boats, and some research boats.

- Phase Two is available through 2023 and is limited to vessels with a single propulsion engine with maximum power output up to 1,000 kW and power density of at least 35.0 kW per liter displacement, where the vessel is made with a nonmetal hull and has a maximum length of 50 feet. These vessels are expected to be primarily lobster or other fishing boats. EPA also adopted a waiver provision that can be applied for, if necessary, beginning in 2024, if suitable engines continue to be unavailable; this waiver requires the vessel builder to submit an application which would be reviewed by EPA before issuing the waiver.

This information collection request renewal covers the reporting burden associated with applying for the waiver for vessels meeting the criteria for Phase 2 relief.

EPA will use the information requested under this collection to determine if a boat builder qualifies for a regulatory waiver from the marine diesel Tier 4 standards, allowing that manufacturer to install Tier 3 engines on a qualifying vessel.

The information described in this ICR will be collected by EPA's Compliance Division (CD) within the Office of Transportation and Air Quality (OTAQ), Office of Air and Radiation (OAR). It will be used by CD to evaluate whether companies qualify for using engines meeting less stringent standards. It is collected electronically and stored in CD's databases.

Manufacturers may assert a claim of confidentiality over information provided to EPA. Confidentiality is provided in accordance with the Freedom of Information Act and EPA regulations at 40 CFR part 2. We will release this information only as permitted or required under the Freedom of Information Act (FOIA) and EPA regulations at 40 CFR part 2 and part 1068. Non-confidential portions of the information submitted to CD are available to trade associations, importers, environmental groups, members of the public, and State and local government organizations.

Form Numbers: None.

Respondents/affected entities: Respondents are manufacturers that sell or import into the United States new marine diesel engines and manufacturers that produce for sale in the United States certain high-speed marine vessels.

Respondent's obligation to respond: Respondents (boat manufacturers) are required to respond only if they seek a waiver from the marine diesel engine Tier 4 standards due to the unavailability of suitable engines for installation on the boats they manufacture.

Estimated number of respondents: 20 (total).

Frequency of response: Respondents would apply for a Tier 4 waiver for a specific vessel or vessels. The frequency of response will depend on whether an additional waiver is needed for future vessels due to the continued unavailability of suitable engines.

Total estimated burden: 380 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: \$39,707 (per year); there are no annualized capital or operation & maintenance costs.

Changes in the Estimates: There is an increase of 380 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is due to the end of the automatic delay for application of the Tier 4 standards to affected boats and the need to request a waiver from EPA to allow use of a Tier 3 engine if

a suitable Tier 4 engine continues to be unavailable.

William Charmley,

Director, Assessment and Standards Division.

[FR Doc. 2023-12126 Filed 6-6-23; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2023-0068; FRL-10976-01-OCSPP]

Industrial Economics, Inc.; Transfer of Data March 2023

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be transferred to Industrial Economics, Inc., in accordance with the CBI regulations. Industrial Economics, Inc., has been awarded multiple contracts to perform work for OPP, and access to this information will enable Industrial Economics, Inc. to fulfill the obligations of the contract.

DATES: Industrial Economics, Inc., will be given access to this information on or before June 12, 2023.

FOR FURTHER INFORMATION CONTACT: William Northern, Information Technology and Resources Management Division (7502P), Office of Program Support, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 566-1493 email address: northern.william@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action applies to the public in general. As such, the EPA has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2023-0068, is available at <https://www.regulations.gov> or at the Office of Pesticide Programs Regulatory

Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (202) 566-0294. Please review the visitor instructions and additional information about the docket available at <https://www.epa.gov/dockets>.

II. Contractor Requirements

Under this contract number, the contractor will perform the following: The Contractor shall perform any IRM-related work under this contract in accordance with the IRM policies, standards, and procedures set forth on the Office of Environmental Information policy website. Upon receipt of a work request (*i.e.*, delivery order, task order, or work assignment), the Contractor shall check this listing of directives. The applicable directives for performance of the work request are those in effect on the date of issuance of the work request. The 2100 Series (2100-2199) of the EPA's Directive System contains the majority of the EPA's IRM policies, standards, and procedures.

These contracts involve no subcontractors.

OPP has determined that the contracts described in this document involve work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under this contract. These evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under FIFRA sections 3, 4, 6, and 7 and under FFDCA sections 408 and 409.

In accordance with the requirements of 40 CFR 2.307(h)(3), the contracts with Industrial Economics, Inc., prohibits use of the information for any purpose not specified in these contracts; prohibits disclosure of the information to a third party without prior written approval from the EPA; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the *FIFRA Information Security Manual*. In addition, Industrial Economics, Inc., is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No

information will be provided to Industrial Economics, Inc., until the requirements in this document have been fully satisfied. Records of information provided to Industrial Economics, Inc., will be maintained by EPA Contracting Officer's Representatives for these contracts. All information supplied to Industrial Economics, Inc., by EPA for use in connection with these contracts will be returned to EPA when Industrial Economics, Inc., has completed its work.

Authority: 7 U.S.C. 136 *et seq.*; 21 U.S.C. 301 *et seq.*

Dated: May 31, 2023.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Program Support.

[FR Doc. 2023-12174 Filed 6-6-23; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-XXXX; FR ID 145485]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might "further reduce the information collection burden for small business concerns with fewer than 25 employees." The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before July 7, 2023.

ADDRESSES: Comments should be sent 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. Your comment must be submitted into www.reginfo.gov per the above instructions for it to be considered. In addition to submitting in www.reginfo.gov also send a copy of your comment on the proposed information collection to Nicole Ongele, FCC, via email to PRA@fcc.gov and to Nicole.Ongele@fcc.gov. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418-2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page <https://www.reginfo.gov/public/do/PRAMain>, (2) look for the section of the web page called “Currently Under Review,” (3) click on the downward-pointing arrow in the “Select Agency” box below the “Currently Under Review” heading, (4) select “Federal Communications Commission” from the list of agencies presented in the “Select Agency” box, (5) click the “Submit” button to the right of the “Select Agency” box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (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 burden estimates; (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 the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how

it might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”

OMB Control Number: 3060–XXXX.

Title: Affordable Connectivity Program (ACP) Transparency Data Collection.

Form Number: FCC Form 5651.

Type of Review: New information collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 1,755 respondents; 1,755 responses.

Estimated Time per Response: 31 hours.

Frequency of Response: Annual reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in section 904 of Division N, Title IX of the Consolidated Appropriations Act, 2021, Public Law 116–260, 134 Stat. 1182, as amended by the Infrastructure Investment and Jobs Act, Public Law 117–58, section 60502(c), 135 Stat. 429, 1243 (2021) and 47 U.S.C. 1752.

Total Annual Burden: 54,405 hours.

Total Annual Cost: No Cost.

Needs and Uses: On November 15, 2021, the President signed the Infrastructure Investment and Jobs Act, Public Law 117–58, 135 Stat. 429 (2021), which appropriated \$14.2 billion to expand and modify the Emergency Broadband Benefit Program in the form of a new, longer-term broadband affordability program called the Affordable Connectivity Program (ACP). The Affordable Connectivity Program provides qualifying low-income households with a monthly discount of up to \$30 per month (or up to \$75 per month for households on qualifying Tribal Lands) for broadband services, and a one-time \$100 discount on a connected device (tablet, laptop, or desktop computer) from the participating provider with a co-pay of more than \$10 but less than \$50.

The Infrastructure Act also directed the Commission to “issue final rules regarding the annual collection by the Commission of data relating to the price and subscription rates of each internet service offering of a participating provider under the Affordable Connectivity Program . . . to which an eligible household subscribes.” Infrastructure Act, section 60502(c)(1). On November 23, 2022, the Commission adopted a Fourth Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 21–450, FCC 22–87 (Fourth Report and Order) establishing

the ACP Data Collection to satisfy the statutory collection requirement. The data collection also will allow the Commission to determine the value being provided by the affordable connectivity benefit.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–12197 Filed 6–6–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0161; FR ID 145262]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: 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; the accuracy of the Commission’s burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before August 7, 2023. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should

advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-0161.

Title: Section 73.61, AM Directional Antenna Field Strength Measurements.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents and Responses: 2,268 respondents and 2,268 responses.

Estimated Time per Response: 4-50 hours.

Frequency of Response: Recordkeeping requirement.

Total Annual Burden: 36,020 hours.

Total Annual Cost: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i) and 303 of the Communications Act of 1934, as amended.

Needs and Uses: The information collection requirements contained in 47 CFR 73.61 require that each AM station using directional antennas to make field strength measurement as often as necessary to ensure proper directional antenna system operation. Stations not having approved sampling systems make field strength measurements every three months. Stations with approved sampling systems must take field strength measurements as often as necessary. Also, all AM stations using directional signals must take partial proofs of performance as often as necessary. The FCC staff used the data in field inspections/investigations. AM licensees with directional antennas use the data to ensure that adequate interference protection is maintained between stations and to ensure proper operation of antennas.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023-12196 Filed 6-6-23; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0783; FR ID 144775]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: 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; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before August 7, 2023. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418-2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-0783.

Title: Section 90.176, Coordination Notification Requirements on Frequencies Below 512 MHz, at 769-775/799-805 MHz, or at 1427-1432 MHz.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 17 respondents; 8,840 responses.

Estimated Time per Response: 0.5 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection (IC) is contained in sections 47 U.S.C. 154(i), 161, 303(g), 303(r) and 332(c)(7) of the Communications Act of 1934, as amended.

Total Annual Burden: 4,420 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: This collection will be submitted as an extension after this 60 day comment period to Office of Management and Budget (OMB) in order to obtain the full three-year clearance.

Section 90.176 requires each Private Land Mobile frequency coordinator to provide, within one business day, a listing of their frequency recommendations to all other frequency coordinators in their respective pool, and if requested, an engineering analysis.

Any method can be used to ensure this compliance with the "one business day requirement" and must provide, at a minimum, the name of the applicant; frequency or frequencies recommended; antenna locations and heights; and effective radiated power; the type(s) of emissions; the description of the service area; and the date and time of the recommendation. If a conflict in recommendations arises, the effected coordinators are jointly responsible for taking action to resolve the conflict, up to and including notifying the Commission that an application may have to be returned.

This requirement seeks to avoid situations where harmful interference is created because two or more coordinators recommend the same frequency in the same area at approximately the same time to different applicants.

Federal Communications Commission.
Marlene Dortch,
Secretary, Office of the Secretary.
 [FR Doc. 2023-12195 Filed 6-6-23; 8:45 am]
BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID 146369]

Open Commission Meeting Thursday, June 8, 2023

June 1, 2023.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, June 8, 2023, which is scheduled to commence at 10:30 a.m. in the Commission Meeting Room of the

Federal Communications Commission, 45 L Street NE, Washington, DC.

While attendance at the Open Meeting is available to the public, the FCC headquarters building is not open access and all guests must check in with and be screened by FCC security at the main entrance on L Street. Attendees at the Open Meeting will not be required to have an appointment but must otherwise comply with protocols outlined at: www.fcc.gov/visit. Open Meetings are streamed live at: www.fcc.gov/live and on the FCC's YouTube channel.

Item No.	Bureau	Subject
1	Public Safety and Homeland Security	<i>Title:</i> Advancing the Transition to Next Generation 911 (PS Docket No. 21-479). <i>Summary:</i> The Commission will consider a Notice of Proposed Rulemaking that would expedite the transition to NG911 and help ensure that the nation's 911 system functions effectively and with the most advanced capabilities available.
2	Consumer and Governmental Affairs	<i>Title:</i> Strengthening Consumer Consent for Robocalls and Robotexts (CG Docket No. 02-278). <i>Summary:</i> The Commission will consider a Notice of Proposed Rulemaking proposing rules to strengthen the ability of consumers to decide which robocalls and robotexts they wish to receive by exercising their right to grant and revoke consent to callers. The item also proposes to codify the Commission's past guidance on prior express consent to make these requirements more apparent to callers and consumers.
3	Consumer and Governmental Affairs	<i>Title:</i> Access to Video Conferencing (CG Docket No. 23-161); Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010 (CG Docket No. 10-213); Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities (CG Docket No. 03-123). <i>Summary:</i> The Commission will consider a Report and Order that would find that the accessibility requirements of section 716 of the Act and Part 14 of the Commission's rules apply to all services and equipment meeting the definition of "interoperable video conferencing service." An accompanying Notice of Proposed Rulemaking would propose to amend Part 14 of the Commission's Rules to enhance the accessibility of interoperable video conferencing services and explore whether the Interstate Telecommunications Relay Services Fund can be used to support the integrated provision of relay service in video conferences.
4	Wireless Telecommunications	<i>Title:</i> Shared Use of the 42-42.5 GHz Band (WT Docket No. 23-158); Use of Spectrum Bands Above 24 GHz For Mobile Radio Services (GN Docket No. 14-177). <i>Summary:</i> The Commission will consider a Notice of Proposed Rulemaking that would explore how spectrum in the 42 GHz band (42-42.5 GHz) might be made available through one of several innovative, non-exclusive spectrum access models which have the potential to provide solutions in this evolving space.
5	Media	<i>Title:</i> Restricted Adjudicatory Matter. <i>Summary:</i> The Commission will consider a restricted adjudicatory matter.

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The meeting will be webcast at: www.fcc.gov/live. Open captioning will be provided as well as a text only version on the FCC website. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted but may be impossible to fill. Send an email to: fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530.

Press Access—Members of the news media are welcome to attend the meeting and will be provided reserved

seating on a first-come, first-served basis. Following the meeting, the Chairwoman may hold a news conference in which she will take questions from credentialed members of the press in attendance. Also, senior policy and legal staff will be made available to the press in attendance for questions related to the items on the meeting agenda. Commissioners may also choose to hold press conferences. Press may also direct questions to the Office of Media Relations (OMR): MediaRelations@fcc.gov. Questions about credentialing should be directed to OMR.

Additional information concerning this meeting may be obtained from the Office of Media Relations, (202) 418-

0500. Audio/Video coverage of the meeting will be broadcast live with open captioning over the internet from the FCC Live web page at www.fcc.gov/live.

Federal Communications Commission.
Marlene Dortch,
Secretary.
 [FR Doc. 2023-12141 Filed 6-6-23; 8:45 am]
BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION**[WC Docket No. 23–1; DA 23–471; FR ID 146330]****Next Meeting of the North American Numbering Council****AGENCY:** Federal Communications Commission.**ACTION:** Notice.**SUMMARY:** In this document, the Commission released a public notice announcing a meeting of the North American Numbering Council (NANC).**DATES:** June 28, 2023. The meeting will come to order at 2:00 p.m.**ADDRESSES:** The meeting will be conducted in person in the Commission Meeting Room of the Federal Communications Commission, 45 L Street NE, Washington, DC and available to the public via the internet at <http://www.fcc.gov/live>.**FOR FURTHER INFORMATION CONTACT:** You may also contact Christi Shewman, Designated Federal Officer, at christi.shewman@fcc.gov or 202–418–0646. More information about the NANC is available at <https://www.fcc.gov/about-fcc/advisory-committees/general/north-american-numbering-council>.**SUPPLEMENTARY INFORMATION:** The meeting will be held Wednesday, June 28 from 2:00 p.m. until 4:00 p.m. ET in person in the Commission Meeting Room of the Federal Communications Commission, 45 L Street NE, Washington, DC and via the internet at <http://www.fcc.gov/live>. While the meeting is open to the public, the FCC headquarters building is not open access, and all guests must check in with and be screened by FCC security at the main entrance on L Street. Attendees will not be required to have an appointment but must otherwise comply with protocols outlined at <https://www.fcc.gov/visit>. Additionally, the meeting will be available to the public via live feed from the FCC's web page at <http://www.fcc.gov/live>. Open captioning will be provided online for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to fcc504@fcc.gov or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530. Such requests should include a detailed description of the accommodation needed. In addition, please include a way for the FCC to contact the requester if more information is needed to fill the request.

Please allow at least five days' advance notice for accommodation requests; last minute requests will be accepted but may not be possible to accommodate. Members of the public may submit comments to the NANC in the FCC's Electronic Comment Filing System, ECFS, at www.fcc.gov/ecfs. Comments to the NANC should be filed in WC Docket No. 23–1. This is a summary of the Commission's document in WC Docket No. 23–1, DA 23–471, released June 1, 2023.

Proposed Agenda: At the June meeting, the NANC will consider and vote on two reports and recommendations from the Numbering Administration Oversight Working Group: (1) the Numbering Administration Performance Review; and (2) the North American Numbering Plan Fund Size Projections and Contribution Factor. The NANC will also hear a report from the Billing & Collection Agent, Welch LLP, and routine status reports from the North American Portability Management, LLC, and the Secure Telephone Identity Governance Authority. (5 U.S.C. App 2 10(a)(2))

Federal Communications Commission.

Jodie May,
Division Chief, Competition Policy Division,
Wireline Competition Bureau.

[FR Doc. 2023–12130 Filed 6–6–23; 8:45 am]

BILLING CODE 6712–01–P**FEDERAL HOUSING FINANCE AGENCY****[No. 2023–N–7]****Privacy Act of 1974; System of Records****AGENCY:** Federal Housing Finance Agency.**ACTION:** Notice of a new system of records.**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974, as amended, (Privacy Act), the Federal Housing Finance Agency (FHFA or Agency) is establishing FHFA–31, “Biographies” (System) in order to collect photographs and biographical information of FHFA Office of General Counsel (OGC) personnel, including Federal employees, detailees, and contractors.**DATES:** In accordance with 5 U.S.C. 552a(e)(4) and (11), this system of records will go into effect without further notice on June 7, 2023, unless otherwise revised pursuant to comments received.

Comments must be received on or before July 7, 2023. FHFA will publish a new notice if the effective date is delayed in order for the Agency to review the comments or if changes are made based on comments received.

ADDRESSES: Submit comments to FHFA, identified by “No. 2023–N–7,” using any one of the following methods:

- *Agency Website:* www.fhfa.gov/open-for-comment-or-input.
- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. If you submit your comments to the *Federal eRulemaking Portal*, please also send it by email to FHFA at RegComments@fhfa.gov to ensure timely receipt by FHFA. Please include “Comments/No. 2023–N–7,” in the subject line of the message.

- *Hand Delivered/Courier:* The hand delivery address is: Clinton Jones, General Counsel, Attention: Comments/No. 2023–N–7, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. The package should be delivered to the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m., EST.

- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Clinton Jones, General Counsel, Attention: Comments/No. 2023–N–7, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. *Please note that all mail sent to FHFA via the U.S. Postal Service is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.* See

SUPPLEMENTARY INFORMATION for additional information on submission and posting of comments.**FOR FURTHER INFORMATION CONTACT:** Stacy Easter, Privacy Act Officer, Privacy@fhfa.gov or (202) 649–3803; or Tasha Cooper, Senior Agency Official for Privacy, Privacy@fhfa.gov or (202) 649–3091 (not toll-free numbers), Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to any of the contact numbers above.**SUPPLEMENTARY INFORMATION:****I. Comments**

FHFA seeks public comments on a new system of records and will take all comments into consideration. See 5 U.S.C. 552a(e)(4) and (11). In addition to referencing “Comments/No. 2023–N–7,”

please reference “FHFA–31, Biographies.” FHFA will make all comments timely received available for examination by the public through the electronic comment docket for this notice, which is located on the FHFA website at <https://www.fhfa.gov>. All comments received will be posted without change and will include any personal information you provide, such as name, address (mailing and email), telephone numbers, and any other information you provide.

II. Introduction

This notice informs the public of FHFA’s proposal to establish and maintain a new system of records. This notice satisfies the Privacy Act requirement that an agency publishes a system of records notice in the **Federal Register** when establishing a new or making a significant change to an agency’s system of records. Congress has recognized that application of all requirements of the Privacy Act to certain categories of records may have an undesirable and often unacceptable effect upon agencies in the conduct of necessary public business. Consequently, Congress established general exemptions and specific exemptions that could be used to exempt records from provisions of the Privacy Act. Congress also required that exempting records from provisions of the Privacy Act would require the head of an agency to publish a determination to exempt a record from the Privacy Act as a rule in accordance with the Administrative Procedure Act. Records and information in this system of records are not exempt from the requirements of the Privacy Act.

As required by the Privacy Act, 5 U.S.C. 552a(r), and pursuant to section 7 of Office of Management and Budget (OMB) Circular No. A–108, “*Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act*,” prior to publication of this notice, FHFA submitted a report describing the system of records covered by this notice to the OMB, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate.

III. New System of Records

The information in this system of records will be used to facilitate the dissemination of photographs and biographical information of FHFA OGC personnel, including Federal employees, detailees, and contractors.

SYSTEM NAME AND NUMBER:

Biographies, FHFA–31.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219, and any alternate work site used by employees of FHFA, including contractors assisting agency employees, FHFA-authorized cloud service provider (Amazon Web Service, which is FedRAMP authorized).

SYSTEM MANAGER(S):

General Counsel, Office of General Counsel, (202) 649–3065, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

12 CFR 1200.1–1200.2; 5 U.S.C. 301; 12 U.S.C. 4511–4526; and 44 U.S.C. 3101.

PURPOSE(S) OF THE SYSTEM:

Records in this system are collected to enable the FHFA to distribute photographs and biographical information of FHFA OGC personnel, including Federal employees, detailees, and contractors, to provide information about the experience and background of OGC personnel, including their current roles and responsibilities within OGC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include: FHFA OGC personnel, including Federal employees; detailees; and contractors, whose photograph and biographical information is collected by FHFA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained in this system include: (1) name; (2) photograph; (3) work history and experience; (4) education background; (5) honors or awards; and (6) professional memberships.

RECORD SOURCE CATEGORIES:

The photograph and biographical information of FHFA OGC personnel, including Federal employees, detailees, and contractors are obtained directly from the individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records and information contained therein may specifically be disclosed outside of FHFA as a routine use pursuant to 5

U.S.C. 552a(b)(3) as follows, to the extent such disclosures are compatible with the purposes for which the information was collected:

(1) To appropriate agencies, entities, and persons when—(a) FHFA suspects or has confirmed that there has been a breach of the system of records; (b) FHFA has determined that as a result of a suspected or confirmed breach there is a risk of harm to individuals, FHFA (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons as reasonably necessary to assist with FHFA’s efforts to (i) respond to a suspected or confirmed breach or (ii) prevent, minimize, or remedy harm caused by such breach.

(2) To a Federal agency or Federal entity, when FHFA determines information from this system of records is reasonably necessary to assist the recipient agency or entity in: (a) responding to a suspected or confirmed breach or; (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or to national security, resulting from a suspected or confirmed breach.

(3) When there is an indication of a violation or potential violation of law (whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute or by regulation, rule or order issued pursuant thereto), the relevant records in the system of records may be referred, as a routine use, to the appropriate agency (e.g., Federal, State, local, Tribal, foreign or a financial regulatory organization) charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing a statute, rule, regulation or order issued pursuant thereto.

(4) To any individual during the course of any inquiry or investigation conducted by FHFA, or in connection with civil litigation, if FHFA has reason to believe the individual to whom the record is disclosed may have further information about the matters related thereto, and those matters appeared to be relevant and necessary at the time to the subject matter of the inquiry.

(5) To any contractor, agent, or other authorized individual performing work on a contract, service, cooperative agreement, job, or other activity on behalf of FHFA who has a need to access the information in the

performance of their official duties or activities.

(6) To appropriate third parties contracted by FHFA to facilitate mediation or other dispute resolution procedures or programs.

(7) To outside counsel contracted by FHFA, the U.S. Department of Justice (DOJ), (including United States Attorney Offices), or other Federal agencies conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is relevant and necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

- a. FHFA;
- b. Any employee of FHFA in his/her official capacity;
- c. Any employee of FHFA in his/her individual capacity where DOJ or FHFA has agreed to represent the employee; or
- d. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and FHFA determines that the records are both relevant and necessary to the litigation.

(8) To the National Archives and Records Administration or other Federal agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(9) To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as relevant and necessary to such audit or oversight functions.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained in electronic format. Electronic records are stored on FHFA's secured network, FHFA-authorized cloud service providers, and FHFA authorized contractor networks located within the Continental United States.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records will be retrieved primarily by an individual's name but may also be retrieved by a variety of fields including, without limitation, name, work experience, educational background, or by some combination thereof.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with FHFA's Comprehensive Record Schedule, Item 1.3a.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic records are protected by controlled access procedures. Only FHFA staff (and FHFA contractors assisting such staff), whose official duties require access, are allowed to view, administer, and control these records. The System Owner controls access to this System and limits access in accordance with the above.

RECORD ACCESS PROCEDURES:

See "Notification Procedures" Below.

CONTESTING RECORD PROCEDURES:

See "Notification Procedures" Below.

NOTIFICATION PROCEDURES:

Individuals seeking notification of any records about themselves contained in this System should address their inquiry to the Privacy Act Officer, via email to Privacy@fhfa.gov or by mail to the Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219, or in accordance with the procedures set forth in 12 CFR part 1204. *Please note that all mail sent to FHFA via the U.S. Postal Service is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.*

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Clinton Jones,

General Counsel, Federal Housing Finance Agency.

[FR Doc. 2023-12175 Filed 6-6-23; 8:45 am]

BILLING CODE 8070-01-P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, with revision, the Survey of Small Business and Farm Lending (FR 2028; OMB No. 7100-0061).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, nuha.elmaghrabi@frb.gov, (202) 452-3884.

Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. The OMB inventory, as well as copies of the PRA Submission, supporting statements (which contain more detailed information about the information collections and burden estimates than this notice), and approved collection of information instrument(s) are available at <https://www.reginfo.gov/public/do/PRAMain>. These documents are also available on the Federal Reserve Board's public website at <https://www.federalreserve.gov/apps/reportingforms/home/review> or may be requested from the agency clearance officer, whose name appears above.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, With Revision, of the Following Information Collection

Collection title: Survey of Small Business and Farm Lending.

Collection identifier: FR 2028.

OMB control number: 7100-0061.

Effective Date: September 30, 2023, as of date with the transmission period beginning on October 1, 2023, based on loan activity over the third quarter 2023.

General description of collection: The Survey of Small Business and Farm Lending (SSBFL) comprises the following three reports:

- Survey of Terms of Bank Lending to Farmers (FR 2028B)
- Prime Rate Supplement of Survey of Terms of Lending (FR 2028S)
- Small Business Lending Survey (FR 2028D)

The SSBFL collects unique information concerning price and certain nonprice terms of loans made to businesses and farmers each quarter (February, May, August, and November) from a sample of banks. The FR 2028B collects detailed data on individual loans funded during the first full business week of the mid-month of each quarter, and the FR 2028S collects the prime interest rate for each day of the

survey week from FR 2028B respondents. The FR 2028D provides focused and enhanced information on small business lending including rates, terms, credit availability, and reasons for their changes. The FR 2028D collects quarterly average quantitative data on terms of small business loans and qualitative information on changes and the reasons for changes in the terms of lending. From these sample SSBFL data, estimates of the terms of business loans and farm loans extended are constructed. The aggregate estimates for business loans are published in the Federal Reserve Bank of Kansas City's quarterly release, *Small Business Lending Survey*, and aggregate estimates for farm loans are published in the statistical release, *Agricultural Finance Databook*.

Frequency: Quarterly.

Respondents: The FR 2028B and FR 2028S panels have an authorized size of 250 domestically chartered commercial banks. The panel of banks has been drawn from a random sample of banks stratified according to farm loan volumes since 1989. The authorized panel for the FR 2028D panel is 398 domestically chartered commercial banks. The size is based on obtaining survey results with a 95% confidence level and 5% standard error, allowing for a 10% nonresponse rate. The panel of banks is a random sample of banks stratified according to the dollar volumes of commercial and industrial loans with original amounts of \$1,000,000 or less.

Total estimated number of respondents:

FR 2028B—250.

FR 2028S—250.

FR 2028D—398.

Estimated average hours per response:

FR 2028B—1.4.

FR 2028S—0.1.

FR 2028D—2.8.

Total estimated change in burden: (318).

Total estimated annual burden hours: 5,958.¹

Current actions: On March 1, 2023, the Board published a notice in the **Federal Register** (88 FR 12934) requesting public comment for 60 days on the extension, with revision, of the FR 2028. The Federal Reserve proposed to revise the FR 2028D form and instructions, to be effective for the

September 30, 2023, as of date with the transmission period beginning on October 1, 2023, based on loan activity over the third quarter 2023. The proposed revisions would add clarity in reporting instructions and requirements, improve data quality, and make slight reductions in reporting burden. These changes include removing items related to credit card lending and net drawdowns on lines of credit. A question requesting information on how respondents define small businesses for the purposes of small business lending would be added. Additionally, three questions were modified to add open-ended text fields offering respondents the opportunity to provide additional information on reasons for changes in lending. Minor wording changes are proposed to the form and instructions to add clarity to the survey or address changes to the form. Additionally, minor changes are proposed to the Frequently Asked Questions section to increase clarity of form definitions. The comment period for this notice expired on May 1, 2023. The Board did not receive any comments. The revisions will be implemented as proposed.

Board of Governors of the Federal Reserve System, June 1, 2023.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023–12103 Filed 6–6–23; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the

standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than June 20, 2023.

A. Federal Reserve Bank of Minneapolis (Stephanie Weber, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291. Comments can also be sent electronically to MA@mpls.frb.org:

1. *The Richard C Baker Irrevocable Trust, William L. Baker, as business advisor, Sioux Falls, South Dakota;* to become a member of the Baker Family Group, a group acting in concert; to retain voting shares of Minnehaha Banshares Inc., and thereby indirectly retain voting shares of First National Bank in Sioux Falls, both of Sioux Falls, South Dakota.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023–12105 Filed 6–6–23; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, with revision, the Registration of Mortgage Loan Originators (CFPB G; OMB No. 7100–0328).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, nuha.elmaghrabi@frb.gov, (202) 452–3884.

Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and

¹ More detailed information regarding this collection, including more detailed burden estimates, can be found in the OMB Supporting Statement posted at <https://www.federalreserve.gov/apps/reportingforms/home/review>. On the page displayed at the link, you can find the OMB Supporting Statement by referencing the collection identifier, FR 2028.

assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. The OMB inventory, as well as copies of the PRA Submission, supporting statements (which contain more detailed information about the information collections and burden estimates than this notice), and approved collection of information instrument(s) are available at <https://www.reginfo.gov/public/do/PRAMain>. These documents are also available on the Federal Reserve Board's public website at <https://www.federalreserve.gov/apps/reportingforms/home/review> or may be requested from the agency clearance officer, whose name appears above.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, With Revision, of the Following Information Collection

Collection title: Registration of Mortgage Loan Originators.
Collection identifier: CFPB G.
OMB control number: 7100–0328.
Effective Date: July 7, 2023.
General description of collection: In accordance with the Secure and Fair Enforcement for Mortgage Licensing Act, the Consumer Financial Protection Bureau's (CFPB) Regulation G requires residential mortgage loan originators (MLOs) to register with the Nationwide Multistate Licensing System (NMLS),¹ maintain this registration, obtain a unique identifier, and disclose to consumers upon request and through the NMLS their unique identifier and the MLO's employment history and publicly adjudicated disciplinary and enforcement actions. The CFPB's regulation also requires the institutions employing MLOs to adopt and follow written policies and procedures to ensure that their employees comply with these requirements and to conduct annual independent compliance tests.

Frequency: Annually.

Respondents: The Board's CFPB G panel comprises state member banks (SMBs) with \$10 billion or less in total assets that are not affiliates of insured depository institutions with total assets of more than \$10 billion; subsidiaries of such SMBs that are not functionally regulated within the meaning of section 5(c)(5) of the Bank Holding Company Act of 1956; branches and agencies of foreign banks (other than federal branches, federal agencies, and insured

state branches of foreign banks); commercial lending companies owned or controlled by foreign banks (collectively, banking organizations); and the employees of these banking organizations who act as residential MLOs.

Total estimated number of respondents: 17,467.

Total estimated change in burden: (63,951).

Total estimated annual burden hours: 23,366.²

Current actions: On January 27, 2023, the Board published an initial notice in the **Federal Register** (88 FR 5343) requesting public comment for 60 days on the extension, with revision, of the CFPB G. The Board proposed to revise the CFPB G to (1) account for Section 1007.103(e) banking organization disclosure of registration information requirements burden separately from Section 1007.104 banking organization recordkeeping requirements burden, (2) revise the average annual estimated hourly burden per banking organization (for both banking organizations already subject to these requirements and banking organizations newly subject to these requirements) associated with Section 1007.103(e) disclosure of registration information, and (3) reflect the information collection burden associated with Section 1007.105 requirements as disclosure requirements instead of as recordkeeping requirements, as was done previously.

The comment period for this notice expired on March 28, 2023. The Board did not receive any comments. The revisions will be implemented as proposed.

Board of Governors of the Federal Reserve System, June 1, 2023.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023–12107 Filed 6–6–23; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is

² More detailed information regarding this collection, including more detailed burden estimates, can be found in the OMB Supporting Statement posted at <https://www.federalreserve.gov/apps/reportingforms/home/review>. On the page displayed at the link, you can find the OMB Supporting Statement by referencing the collection identifier, CFPB G.

adopting a proposal to extend for three years, without revision, the Filings Related to the Gramm-Leach-Bliley Act (FR 4010, FR 4011, FR 4012, FR 4017, FR 4019, FR 4023; OMB No. 7100–0292).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, nuha.elmaghrabi@frb.gov, (202) 452–3884.

Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. The OMB inventory, as well as copies of the PRA Submission, supporting statements (which contain more detailed information about the information collections and burden estimates than this notice), and approved collection of information instrument(s) are available at <https://www.reginfo.gov/public/do/PRAMain>. These documents are also available on the Federal Reserve Board's public website at <https://www.federalreserve.gov/apps/reportingforms/home/review> or may be requested from the agency clearance officer, whose name appears above.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collections

Collection title: Filings Related to the Gramm-Leach-Bliley Act.

Collection identifiers: FR 4010, FR 4011, FR 4012, FR 4017, FR 4019, FR 4023.

OMB control number: 7100–0292.

General description of collection: The reporting and recordkeeping requirements in this collection, which are related to amendments made by the Gramm-Leach-Bliley Act to the Bank Holding Company Act of 1956 and the Federal Reserve Act, are composed of the following parts:

- Declarations to Become a Financial Holding Company (FR 4010)

¹ <https://mortgage.nationwidelicensing.org/Pages/default.aspx>.

- Requests for Determinations and Interpretations Regarding Activities Financial in Nature (FR 4011)
- Notices of Failure to Meet Capital or Management Requirements (FR 4012)
- Notices by State Member Banks to Invest in Financial Subsidiaries (FR 4017)
- Regulatory Relief Requests Associated with Merchant Banking Activities (FR 4019)
- Recordkeeping Requirements Associated with Merchant Banking Activities (FR 4023)

There are no formal reporting forms for these information collections (the FR designations are for internal purposes only). In each case, the information required to be filed is described in the Board's regulations. The reporting and recordkeeping requirements are necessary to enable the Board to determine eligibility, provide appropriate determinations and interpretations, stay apprised of financial conditions, and assess that certain activities are done in accordance with the applicable regulatory requirements.

Frequency: On occasion.

Respondents: Bank holding companies, savings and loan holding companies, foreign banks, and state member banks, as well as other interested parties with respect to the FR 4011.

Total estimated number of respondents: 87.

Total estimated annual burden hours: 1,698.¹

Current actions: On January 27, 2023, the Board published a notice in the **Federal Register** (88 FR 5340) requesting public comment for 60 days on the extension, without revision, of the FR 4010, FR 4011, FR 4012, FR 4017, FR 4019, FR 4023. The comment period for this notice expired on March 28, 2023. The Board did not receive any comments.

Board of Governors of the Federal Reserve System, June 1, 2023.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023-12104 Filed 6-6-23; 8:45 am]

BILLING CODE 6210-01-P

¹ More detailed information regarding this collection, including more detailed burden estimates, can be found in the OMB Supporting Statement posted at <https://www.federalreserve.gov/apps/reportingforms/home/review>. On the page displayed at the link, you can find the OMB Supporting Statement by referencing the collection identifier, FR 4010, FR 4011, FR 4012, FR 4017, FR 4019, or FR 4023.

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, Notification of Nonfinancial Data Processing Activities (FR 4021; OMB No. 7100-0306).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrahi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, nuha.elmaghrahi@frb.gov, (202) 452-3884.

Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW Washington, DC 20503, or by fax to (202) 395-6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. The OMB inventory, as well as copies of the PRA Submission, supporting statements (which contain more detailed information about the information collections and burden estimates than this notice), and approved collection of information instrument(s) are available at <https://www.reginfo.gov/public/do/PRAMain>. These documents are also available on the Federal Reserve Board's public website at <https://www.federalreserve.gov/apps/reportingforms/home/review> or may be requested from the agency clearance officer, whose name appears above.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection

Collection title: Notification of Nonfinancial Data Processing Activities.

Collection identifier: FR 4021.

OMB control number: 7100-0306.

General description of collection: Generally, a bank holding company (BHC) may, directly or through a subsidiary, engage in data processing

activities if, among other requirements, the company or subsidiary earns not more than 49 percent of its data processing revenue from nonfinancial data processing activities. However, the Board has stated that a BHC may file with the Board a request for permission to administer this 49 percent revenue limit on a business-line or multiple-entity basis, rather than on a company-by-company basis. The FR 4021 information collection consists of this filing for prior approval.

Frequency: As needed.

Respondents: BHCs.

Total estimated number of respondents: 1.

Total estimated annual burden hours: 2.¹

Current actions: On January 27, 2023, the Board published a notice in the **Federal Register** (88 FR 5343) requesting public comment for 60 days on the extension, without revision, of the FR 4021. The comment period for this notice expired on March 28, 2023. The Board did not receive any comments.

Board of Governors of the Federal Reserve System, June 1, 2023.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023-12108 Filed 6-6-23; 8:45 am]

BILLING CODE 6210-01-P

GENERAL SERVICES ADMINISTRATION

[Notice-ID-2023-08; Docket No. 2023-0002; Sequence No. 15]

Privacy Act of 1974; System of Records

AGENCY: Office of the Deputy Chief Privacy Officer, General Services Administration, (GSA).

ACTION: Rescindment of a system of records notice.

SUMMARY: Pursuant to the Privacy Act of 1974 and Office of Management and Budget (OMB) Circular No. A-108, notice is hereby given that GSA proposes to rescind the system Federal Acquisition Institute (FAI) Online University (GSA/OAP-5). The rescinded system of records described in this notice no longer maintains any Personally Identifiable Information (PII).

¹ More detailed information regarding this collection, including more detailed burden estimates, can be found in the OMB Supporting Statement posted at <https://www.federalreserve.gov/apps/reportingforms/home/review>. On the page displayed at the link, you can find the OMB Supporting Statement by referencing the collection identifier, FR 4021.

DATES: Submit comments on or before July 7, 2023.

ADDRESSES: Submit comments identified by “Notice-ID–2023–15, Rescindment of a System of Records” via <http://www.regulations.gov>. Submit comments by searching for “Notice-ID–2023–08, Rescindment of a System of Records.” Select the link “Comment Now” that corresponds with “Notice-ID–2023–08, Rescindment of a System of Records.” Follow the instructions provided on the screen. Please include your name, company name (if any), and “Notice-ID–2023–08, Rescindment of a System of Records” on your attached document.

FOR FURTHER INFORMATION CONTACT: Call or email the GSA Chief Privacy Officer, Richard Speidel. Telephone 202–969–5830, or email gsa.privacyact@gsa.gov.

SUPPLEMENTARY INFORMATION:

The GSA FAI Online University (GSA/OAP–5) is no longer stores any PII data.

SYSTEM NAME AND NUMBER:

FAI Online University. GSA/OAP–5.

HISTORY:

73 FR 22409, May 27, 2008.

Richard Speidel,

Chief Privacy Officer, Office of the Deputy Chief Information Officer, General Services Administration.

[FR Doc. 2023–12167 Filed 6–6–23; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3445–N]

Request for Nominations of Members to Serve on the Air Ambulance Quality and Patient Safety Advisory Committee

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS; Federal Aviation Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: The No Surprises Act, enacted as part of the Consolidated Appropriations Act, 2021, requires the Secretary of Health and Human Services and the Secretary of Transportation to establish and convene an advisory committee for the purpose of reviewing options to establish quality, patient safety, and clinical capability standards for each clinical capability level of air ambulances. This notice announces the establishment of the Air Ambulance

Quality and Patient Safety Advisory Committee and solicits nominations for membership on the Advisory Committee.

DATES: Nominations must be received no later than June 28, 2023.

ADDRESSES: To be considered for an HHS appointment, nominations must be submitted electronically (by Email) to AAQPS@cms.hhs.gov. The subject line should state “Air Ambulance Quality and Patient Safety Advisory Committee Nomination.”

To be considered for a Department of Transportation (DOT) appointment, nominations must be submitted electronically (by Email) to Johann Hadian at Johann.Hadian@faa.gov. The subject line should state “Air Ambulance Quality and Patient Safety Advisory Committee Nomination.”

FOR FURTHER INFORMATION CONTACT:

For questions directed to CMS, please contact Ashley Spence, (410) 786–8123; Ashley.Spence@cms.hhs.gov. Press inquiries are handled through press@cms.hhs.gov.

For questions directed to DOT, Federal Aviation Administration, please contact Johann Hadian, (202) 267–2793; Johann.Hadian@faa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 106(g) of the No Surprises Act, enacted as part of the Consolidated Appropriations Act, 2021, div. BB, tit. I, Public Law 116–260 (Dec. 27, 2020), requires the Secretary of Health and Human Services and the Secretary of the Transportation (the Secretaries) to establish and convene an advisory committee for the purpose of reviewing options to establish quality, patient safety, and clinical capability standards for each clinical capability level of air ambulances. The Advisory Committee is governed by the provisions of the Federal Advisory Committee Act (FACA), Public Law 92–463 (Oct. 6, 1972), as amended, 5 United State Code Appendix.

II. Charter and General Responsibilities

The Advisory Committee, established on August 24, 2022, is tasked with reviewing options to establish quality, patient safety, and clinical capability standards for each clinical capability level of air ambulances. As outlined in Section 106(g) of the No Surprises Act, the Advisory Committee shall study and make recommendations, as appropriate, to the Congress regarding each of the following with respect to air ambulance services:

- Qualifications of different clinical capability levels and tiering of such levels.
- Patient safety and quality standards.
- Options for improving service reliability during poor weather, night conditions, or other adverse conditions.
- Differences between air ambulance vehicle types, services, and technologies, and other flight capability standards, and the impact of such differences on patient safety.
- Clinical triage criteria for air ambulances.

The Advisory Committee must submit these recommendations no later than 180 days after the date of its first meeting.

III. Eligibility for Membership

The Advisory Committee shall consist of not more than 13 members, including:

- The Secretary of Health and Human Services, or the Secretary’s designee, who shall serve as Chair of the Committee;
- The Secretary of the Transportation, or the Secretary’s designee;
- One representative, to be appointed by the Secretary of Health and Human Services, of each of the following:
 - ++ State insurance regulators;
 - ++ Health care providers;
 - ++ Group health plans and health insurance issuers offering group or individual health insurance coverage;
 - ++ Patient advocacy groups;
 - ++ Accrediting bodies with experience in quality measures.
- Three representatives of the air ambulance industry, to be appointed by the Secretary of Transportation, and
 - Three additional representatives, not covered above, as determined necessary and appropriate by the Secretary of Health and Human Services and Secretary of Transportation.

Individuals applying for membership should keep in mind that Committee members will be selected based on their ability and willingness to effectively represent the interests of all stakeholders in their category, as distinct from their parochial or personal interests. For example, an individual selected to serve on the Committee as a representative of consumer advocacy groups would represent not only his or her own organization, but all consumer advocacy groups. As such, the individual would be expected to consult with other consumer groups in bringing issues to the table and making decisions on proposals before the Committee.

IV. Nomination Process

The Secretaries are requesting nominations for membership on the

Advisory Committee. Any interested person may nominate one or more qualified individuals for membership on the Advisory Committee. Self-nominations are also accepted. Nominations must include, in full, the following materials to be considered for membership. Failure to submit the required information may disqualify a candidate from the review process.

- A letter of nomination that contains contact information for both the nominator and nominee (if not the same).

- A statement from the nominee that they are willing to serve on the Advisory Committee for its duration and an explanation of interest in serving on the Advisory Committee. The nominee should also indicate which category or categories they are willing to represent. (For self-nominations, this information may be included in the nomination letter.)

- A biography, including professional and academic credentials.

- A resume or curriculum vitae that indicates the nominee's educational experience, as well as relevant professional experience.

- Two letters of reference that support the nominee's qualifications for participation on the Advisory Committee. (For nominations other than self-nominations, a nomination letter that includes information supporting the nominee's qualifications may be counted as one of the letters of reference.)

- For health care providers applying for the HHS appointments, nominees should include physicians, other clinicians, and health care operations professionals experienced with air ambulance critical care transport services and/or experience in addressing the challenges associated with transport in rural areas.

- For nominees applying for the DOT appointments, please address the following:

- ++ Current experience with a Part 135 operator, operating helicopters and/or airplanes in air ambulance operations. Preference will be given to those with experience operating both helicopters and airplanes in air ambulance operations.

- ++ Whether the applicant currently holds a management or operational position with a part 135 certificate holder operating air ambulance aircraft.

- ++ Knowledge of the differences between air ambulance vehicle types, services, and technologies, and other flight capability standards, and the impact of such differences on patient safety.

- ++ Size and scope of the operations from which operational experience was obtained.

Finally, nominees should state their previous experience on a Federal advisory committee and/or aviation rulemaking committee (if any), their level of knowledge in the stakeholder groups listed above, and the size of their constituency they represent or are able to reach.

Materials submitted should total five pages or less. Should more information be needed, Department staff will contact the applicant/nominee, obtain information from the applicant's/nominee's past affiliations, or obtain information from publicly available sources.

The Secretaries will make every effort to appoint members to serve on the Advisory Committee from among those candidates determined to have the technical expertise required to meet specific statutory categories and Departmental needs, and in a manner to ensure an appropriate balance of membership. Selection of committee members will be consistent with achieving the greatest impact, scope, and credibility among diverse stakeholders. The diversity in such membership includes, but is not limited to, race, gender, disability, sexual orientation, and gender identity.

The Secretaries reserve discretion to appoint members to serve on the Advisory Committee who did not respond to this notice if necessary to meet specific statutory categories and Departmental needs in a manner to ensure an appropriate balance of membership.

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Chiquita Brooks-LaSure, having reviewed and approved this document, authorizes Evell J. Barco Holland, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Dated: June 2, 2023.

Evell J. Barco Holland,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2023-12180 Filed 6-2-23; 4:15 pm]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Personal Responsibility Education Program (PREP)—Extension (OMB #0970-0497)

AGENCY: Office of Planning, Research, and Evaluation (OPRE), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Request for public comments.

SUMMARY: OPRE and the Family and Youth Services Bureau (FYSB) in ACF request an extension to a currently approved information collection of performance measures data for the PREP Program (OMB No. 0970-0497; expiration date: 06/30/2023). The purpose of the request is to continue the ongoing data collection and submission of the performance measures by PREP grantees and eliminate the requirement for grantees to aggregate participant survey data to the program level for submission.

DATES: *Comments due within 30 days of publication.* OMB must make a decision about the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function. You can also obtain copies of the proposed collection of information by emailing OPREinfocollection@acf.hhs.gov. Identify all requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: This notice is specific to a request for an extension of data collection activities for the PREP Performance Measures Study component, which includes collection and analysis of performance measure data from State PREP (SPREP), Tribal PREP (TPREP), Competitive PREP (CPREP), and Personal Responsibility Education Innovative Strategies (PREIS) grantees. PREP grants support evidence-based programs to reduce teen

pregnancy and sexually transmitted infections. The programs are required to provide education on both abstinence and contraceptive use and to offer information on adulthood preparation subjects. Data will be used to determine

if the PREP grantees are meeting their programs' mission and priorities. This request includes revisions to the program-level data collection forms (Instruments 3 and 4) to no longer require grantees to aggregate participant

survey data to the program level for submission.

Respondents: SPREP, TPREP, CPREP, and PREIS grantees; their subrecipients; and program participants.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents (total over request period)	Number of responses per respondent (total over request period)	Average burden per response (in hours)	Total burden (in hours)	Annual burden (in hours)
Instrument 1					
Participant entry survey	351,001	1	0.13333	46,799	15,600
Instrument 2					
Participant exit survey	320,203	1	0.11667	37,358	12,453
Instrument 3: Performance Reporting System Data Entry Form					
SPREP grantees	51	6	18	5,508	1,836
TPREP grantees	8	6	18	864	288
CPREP grantees	27	6	14	2,268	756
PREIS grantees	12	6	14	1,008	336
Instrument 4: Subrecipient Data Collection and Reporting Form					
SPREP subrecipients	259	6	14	21,756	7,252
TPREP subrecipients	27	6	14	2,268	756
CPREP subrecipients	54	6	12	3,888	1,296
PREIS subrecipients	20	6	12	1,440	480

Estimated Total Annual Burden Hours: 41,053.

Authority: Sec. 50503, Pub. L. 115-123.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2023-12160 Filed 6-6-23; 8:45 am]

BILLING CODE 4184-37-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2023-N-2057]

Revocation of Emergency Use of a Drug During the COVID-19 Pandemic; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of the Emergency Use Authorization (EUA) issued to B. Braun Melsungen AG (B. Braun Melsungen) for Propofol-Lipuro 1% injectable emulsion (Propofol-Lipuro 1% emulsion). The EUA was issued on March 12, 2021. B. Braun Melsungen informed FDA that

the inventory of the Propofol-Lipuro 1% emulsion within the United States has been depleted and that B. Braun Melsungen does not intend to offer this product in the United States anymore. Because B. Braun Melsungen has notified FDA that it does not intend to offer the Propofol-Lipuro 1% emulsion in the United States anymore and requested FDA revoke the EUA for the Propofol-Lipuro 1% emulsion, FDA has determined that it is appropriate to protect the public health or safety to revoke this authorization. The revocation, which includes an explanation of the reasons for the revocation, is reprinted in this document.

DATES: The Authorization is revoked as of April 12, 2023.

ADDRESSES: Submit written requests for a single copy of the EUA to the Office of Executive Programs, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, 6th Floor, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your request or include a Fax number to which the Authorization may be sent. See the **SUPPLEMENTARY INFORMATION**

section for electronic access to the Authorization.

FOR FURTHER INFORMATION CONTACT:

Johanna McLatchy, Office of Executive Programs, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, 6th Floor, Silver Spring, MD 20993-0002, 301-796-3200 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

Section 564 of the FD&C Act (21 U.S.C. 360bbb-3) allows FDA to strengthen the public health protections against biological, chemical, nuclear, and radiological agents. Among other things, section 564 of the FD&C Act allows FDA to authorize the use of an unapproved medical product or an unapproved use of an approved medical product in certain situations. With this EUA authority, FDA can help ensure that medical countermeasures may be used in emergencies to diagnose, treat, or prevent serious or life-threatening diseases or conditions caused by biological, chemical, nuclear, or radiological agents when there are no adequate, approved, and available alternatives. On March 12, 2021, FDA

issued an Authorization (EUA 096) to B. Braun Melsungen for Propofol-Lipuro 1% emulsion, subject to the terms of the Authorization. Notice of the issuance of the Authorization was published in the **Federal Register** on June 23, 2021 (86 FR 32938), as required by section 564(h)(1) of the FD&C Act.

II. The Revocation

Because B. Braun Melsungen has notified FDA that it does not intend to

offer the Propofol-Lipuro 1% emulsion in the United States anymore and requested FDA revoke the EUA for the Propofol-Lipuro 1% emulsion, FDA has determined that it is appropriate to protect the public health or safety to revoke this authorization. The revocation in its entirety follows and provides an explanation of the reasons for revocation, as required by section 564(h)(1) of the FD&C Act.

III. Electronic Access

An electronic version of this document and the full text of the Authorizations and revocation are available on the internet at <https://www.fda.gov/drugs/emergency-preparedness-drugs/emergency-use-authorizations-drugs-and-non-vaccine-biological-products>.

BILLING CODE 4164-01-P



April 12, 2023

B. Braun Melsungen AG
Attention: Kamaal Anas
Registered Agent
901 Marcon Boulevard
Allentown, PA 18109

Re: Revocation of EUA 096 – Propofol-Lipuro 1%

Dear Mr. Anas:

This letter is in response to the request from B. Braun Melsungen AG (B. Braun Melsungen), received on February 27, 2023, that the U.S. Food and Drug Administration (FDA) revoke the EUA for the Propofol-Lipuro 1% injectable emulsion (Propofol-Lipuro 1% emulsion) issued on March 12, 2021. B. Braun Melsungen has informed the FDA that the inventory of the Propofol-Lipuro 1% emulsion within the United States has been depleted and that B. Braun Melsungen does not intend to offer this product in the United States anymore. FDA understands that B. Braun Melsungen has notified healthcare facilities and providers that have received the Propofol-Lipuro 1% emulsion under the EUA to also stop using product that remains in distribution with instructions for product return.

The authorization of a drug for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360bbb-3) may, pursuant to section 564(g)(2) of the Act, be revoked when circumstances make such revocation appropriate to protect the public health or safety (section 564(g)(2)(C) of the Act). Because B. Braun Melsungen has notified FDA that it does not intend to offer the Propofol-Lipuro 1% emulsion in the United States anymore and requested that FDA revoke the EUA for the Propofol-Lipuro 1% emulsion, FDA has determined that it is appropriate to protect the public health or safety to revoke this authorization.

Accordingly, FDA hereby revokes EUA 096 for the Propofol-Lipuro 1% emulsion, pursuant to section 564(g)(2)(C) of the Act. As of the date of this letter, the Propofol-Lipuro 1% emulsion is no longer authorized for emergency use by FDA.

Notice of this revocation will be published in the *Federal Register*, pursuant to section 564(h)(1) of the Act.

Page 2 – B. Braun Melsungen

Sincerely,

-/S/-

Patrizia Cavazzoni, M.D.
 Director
 Center for Drug Evaluation and Research
 U.S. Food and Drug Administration

Dated: June 1, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–12100 Filed 6–6–23; 8:45 am]

BILLING CODE 4164–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Food and Drug Administration**[Docket No. FDA–2023–D–1955]**
E6(R3) Guideline for Good Clinical Practice; International Council for Harmonisation; Draft Guidance for Industry; Availability
AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled “E6(R3) Guideline for Good Clinical Practice.” The draft guidance was prepared under the auspices of the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use (ICH). The draft guidance outlines modernized Good Clinical Practice considerations to guide thoughtful design and responsible conduct of clinical trials in a manner that ensures participant safety and the reliability of trial results. This draft guidance encourages innovation, focuses on quality, and establishes proportionate and risk-based approaches for conducting clinical trials, while minimizing unnecessary complexities. The draft guidance is intended to provide flexible, modern, and clear Good Clinical Practice for conducting clinical trials.

DATES: Submit either electronic or written comments on the draft guidance by September 5, 2023 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA–2023–D–1955 for “E6(R3) Guideline for Good Clinical Practice.” Received

comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993-0002, or the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your requests. The guidance may also be obtained by mail by calling Center for Biologics Evaluation and Research at 800-835-4709 or 240-402-8010. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT:

Regarding the guidance: Amy Chi, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6334, Silver Spring, MD 20993-0002, 240-402-0992, amy.chi@fda.hhs.gov; or Diane Maloney, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993-0002, 240-402-7911, diane.maloney@fda.hhs.gov.

Regarding the ICH: Jill Adleberg, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6364, Silver Spring, MD 20993-0002, 301-796-5259, Jill.Adleberg@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled “E6(R3) Guideline for Good Clinical Practice.” The draft guidance was prepared under the auspices of ICH. ICH seeks to achieve greater regulatory harmonization worldwide to ensure that safe, effective, high-quality medicines are developed, registered, and maintained in the most resource-efficient manner.

By harmonizing the regulatory requirements in regions around the world, ICH guidelines enhance global drug development, improve manufacturing standards, and increase the availability of medications. For example, ICH guidelines have substantially reduced duplicative

clinical studies, prevented unnecessary animal studies, standardized the reporting of important safety information, and standardized marketing application submissions.

The six Founding Members of the ICH are FDA; the Pharmaceutical Research and Manufacturers of America; the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labour, and Welfare; and the Japanese Pharmaceutical Manufacturers Association. The Standing Members of the ICH Association include Health Canada and Swissmedic. ICH membership continues to expand to include other regulatory authorities and industry associations from around the world (refer to <https://www.ich.org/>).

ICH works by engaging global regulatory and industry experts in a detailed, science-based, and consensus-driven process that results in the development of ICH guidelines. The regulators around the world are committed to consistently adopting these consensus-based guidelines, realizing the benefits for patients and for industry.

As a Founding Regulatory Member of ICH, FDA plays a major role in the development of each of the ICH guidelines, which FDA then adopts and issues as guidance for industry. FDA’s guidance documents do not establish legally enforceable responsibilities. Instead, they describe the Agency’s current thinking on a topic and should be viewed only as recommendations, unless specific regulatory or statutory requirements are cited.

In May 2023, the ICH Assembly endorsed the draft guideline entitled “E6(R3) Guideline for Good Clinical Practice” and agreed that the guideline should be made available for public comment. The draft guideline is the product of the Efficacy Expert Working Group of the ICH. Comments about this draft will be considered by FDA and the Efficacy Expert Working Group.

The draft guidance on Good Clinical Practice is intended to support the responsible conduct of clinical trials in a manner that safeguards participant safety and the reliability of trial results. This guidance facilitates the use of innovations and encourages a focus on the important aspects in trial, while minimizing unnecessary complexities.

This draft guidance has been left in the original ICH format. The final guidance will be reformatted and edited to conform with FDA’s good guidance practices regulation (21 CFR 10.115) and style before publication. The draft guidance, when finalized, will represent the current thinking of FDA on “E6(R3)

Guideline for Good Clinical Practice.” It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information found in 21 CFR part 312 for investigational new drug applications have been approved under OMB control number 0910-0014. The collections of information under 21 CFR part 312.145 pertaining to good clinical practice have been approved under OMB control number 0910-0843. The collections of information found in 21 CFR parts 50 and 56 pertaining to protection of human subjects, institutional review boards and informed consent have been approved under OMB control number 0910-0130. The collections of information found in 21 CFR part 314 relating to the review of new drug applications have been approved under OMB control number 0910-0001. The collections of information found in 21 CFR part 601 relating to the review of biologic licensing applications have been approved under OMB control number 0910-0338. The collections of information found in 21 CFR part 11 pertaining to electronic records and electronic signatures have been approved under OMB control number 0910-0303. The collections of information found in 21 CFR parts 210 and 211 pertaining to current good manufacturing practice have been approved under OMB control number 0910-0139.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at <https://www.regulations.gov>, <https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs>, <https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances>, or <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>.

Dated: June 1, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023-12099 Filed 6-6-23; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA-2023-0015; OMB No. 1660-0040]

Agency Information Collection Activities: Proposed Collection; Comment Request; Standard Flood Hazard Determination Form (SFHDF)

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: 60-Day notice of renewal and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on an extension, without change, of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning this instrument, which is used by Federally-regulated lending institutions when making, increasing, extending, renewing or purchasing each loan for the purpose of determining whether flood insurance is required and available.

DATES: Comments must be submitted on or before August 7, 2023.

ADDRESSES: To avoid duplicate submissions to the docket, please submit comments at www.regulations.gov under Docket ID FEMA-2023-0015. Follow the instructions for submitting comments.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at <http://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Susan Bernstein, Insurance Specialist, Federal Insurance and Mitigation

Administration, Marketing and Outreach Branch at (303) 701-3595 or Susan.Bernstein@fema.dhs.gov. You may contact the Information Management Division for copies of the proposed collection of information at email address: FEMAInformation-Collections-Management@fema.dhs.gov.

SUPPLEMENTARY INFORMATION: Section 1365 of the National Flood Insurance Act of 1968 (NFIA) (42 U.S.C. 4104b), as added by section 528 of the National Flood Insurance Reform Act of 1994 (Pub. L. 103-325, title V), requires that FEMA develop a standard hazard determination form for recording the determination of whether a structure is located within an identified Special Flood Hazard Area and whether flood insurance is available. Regulated lending institutions, Federal Agency lenders, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Government National Mortgage Association must complete this form for any loan made, increased, extended, renewed or purchased by these entities. The requirement for Federally-regulated lending institutions to determine whether a building or mobile home securing a loan is located in an area having special flood hazards and whether flood insurance is available has been in effect since the enactment of the Flood Disaster Protection Act of 1973, although the use of a standard form was not required until the enactment of the section 1365 of the NFIA. The establishment of the SFHDF has enabled lenders to provide consistent information.

Collection of Information

Title: Standard Flood Hazard Determination Form (SFHDF).

Type of Information Collection: Extension, without change, of a currently approved information collection.

OMB Number: 1660-0040.

FEMA Forms: FEMA Form FF-119-FY-22-128 (formerly 086-0-32), Standard Flood Hazard Determination Form (SFHDF).

Abstract: This form is used by Federally-regulated lending institutions, Federal Agency lenders, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Government National Mortgage Association. Federally-regulated lending institutions complete this form when making, increasing, extending, renewing or purchasing each loan for the purpose of determining whether flood insurance is required and available. FEMA is

responsible for maintaining the form and making it available.

Affected Public: Business and other for-profit; and Individuals or Households.

Estimated Number of Respondents: 26,616,265.

Estimated Number of Responses: 26,616,265.

Estimated Total Annual Burden Hours: 8,871,200.

Estimated Total Annual Respondent Cost: \$254,426,016.

Estimated Respondents' Operation and Maintenance Costs: \$0.

Estimated Respondents' Capital and Start-Up Costs: \$0.

Estimated Total Annual Cost to the Federal Government: \$1,764.

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. 2023-12154 Filed 6-6-23; 8:45 am]

BILLING CODE 9111-52-P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. CISA-2023-0016]

Agency Information Collection Activities: Technical Assistance Request and Evaluation

AGENCY: Cybersecurity and Infrastructure Security Agency (CISA), Department of Homeland Security (DHS).

ACTION: 60-Day notice and request for comments; extension/renewal.

SUMMARY: The Emergency Communications Division (ECD) within Cybersecurity and Infrastructure Security Agency (CISA) will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted until August 7, 2023.

ADDRESSES: You may submit comments, identified by docket number Docket # CISA-2023-0016, at:

○ *Federal eRulemaking Portal:* <http://www.regulations.gov>. Please follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number Docket # CISA-2023-0016. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Kendall Carpenter, 703-705-6376, or Kendall.Carpenter@cisa.dhs.gov.

SUPPLEMENTARY INFORMATION: The Emergency Communications Division, formed under title XVIII of the Homeland Security Act of 2002, 6 U.S.C. 571 *et seq.*, as amended, provides emergency communications-related technical assistance at no charge to State, regional, local, and tribal government officials. To receive this technical assistance, stakeholders must submit a request form identifying their priorities. In order for ECD to assess the value of the services it provides through technical assistance; an evaluation form is also requested of those receiving technical assistance.

ECD uses the Technical Assistance Request Form (DHS Form 9043) to identify the number and type of technical assistance services needed by the State, territory, local, and tribal agencies. This information enables ECD to plan and align resources accordingly. ECD considers each request based on the priority indicated by the State, as well as the anticipated impact of the service offering on the implementation of the Statewide Communication Interoperability Plan (SCIP) and the applicability to National Emergency Communications Plan (NECP). The evaluation form (DHS Form 9042) is completed by stakeholders at the completion of ECD technical assistance services and enables ECD to assess the

quality of technical assistance services provided and, in a holistic fashion, measure the value of the services. The information collected through these evaluations is used by ECD for continued improvement planning.

Approximately 100 percent of request and evaluation forms are submitted electronically by logging into the portal at <https://www.cisa.cisa.gov/safecom/ictapscip-resources>.

From the website, users are able to select the appropriate form, either the Technical Assistance Requests (DHS Form 9043) and/or the TA Evaluation forms (DHS Form 9042), to complete as a fillable PDF. Each form is then submitted by email to either TARequest@cisa.dhs.gov or TAevaluations@cisa.dhs.gov, respectively.

The changes to the collection since the previous OMB approval include:

Updating the web address, decreasing the estimated number of responses, decreasing the burden time, and increasing the cost estimates.

This is a renewal of the existing information collection. There are no substantial changes to the current approval. TA services by category type (NAME) have been added or removed throughout the form lifecycle. The current approval is set to expire on 7/31/2023.

The Office of Management and Budget is particularly interested in comments which:

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

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

Analysis

Agency: Cybersecurity and Infrastructure Security Agency (CISA), Department of Homeland Security (DHS).

Title: Technical Assistance Request and Evaluation.

OMB Number: 1670-0023.

Frequency: Annually.

Affected Public: State, Local, Tribal, and Territorial Governments and Private Sector Individuals.

Number of Respondents: 175.

Estimated Time per Respondent: 0.25 hours.

Total Burden Hours: 50 hours.

Robert J. Costello,

Chief Information Officer, Department of Homeland Security, Cybersecurity and Infrastructure Security Agency.

[FR Doc. 2023-12150 Filed 6-6-23; 8:45 am]

BILLING CODE 9110-9P-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-7070-N-30]

30-Day Notice of Proposed Information Collection: Family Report, MTW Family Report, MTW Expansion Family Report; OMB Control No. 2577-0083

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 30 days of public comment.

DATES: *Comments Due Date:* July 7, 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 www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 7th Street SW, Room 8210, Washington, DC 20410; email Colette Pollard at PaperworkReductionActOffice@hud.gov or telephone 202-402-3400. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities.

To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on February 28 2023 at 88 FR 8301.

A. Overview of Information Collection

Title of Information Collection: Family Report, MTW Family Report, MTW Expansion Family Report.

OMB Approval Number: 2577–0083.

Type of Request: Revision of a currently approved collection.

Form Number: Form HUD–50058 Family Report, HUD–50058 MTW Family Report, Form HUD–50058 MTW Expansion Family Report.

Description of the need for the information and proposed use: The

Office of Public and Indian Housing of the Department of Housing and Urban Development (HUD) provides funding to public housing agencies (PHAs) to administer assisted housing programs. Form HUD–50058, Form HUD–50058 MTW, and Form HUD–50058 MTW Expansion Family Reports solicit demographic, family profile, income, and housing information on the entire nationwide population of tenants residing in assisted housing. The information collected through the Form HUD–50058 will be used to monitor and evaluate the Public Housing, Section 8 Housing Choice Voucher, Section 8 Project-Based Vouchers, and Section 8 Moderate Rehabilitation programs. The information collected through the Form HUD–50058 MTW will be used to monitor and evaluate current Moving to Work (MTW) PHAs participating in the MTW Demonstration program which includes the Public Housing, Section 8 Housing Choice Voucher, and Section 8 Project-Based Vouchers programs. The information collected through the Form HUD–50058 MTW Expansion will be used to monitor and evaluate the expansion MTW PHAs (PHAs

designated as MTW pursuant to the 2016 Expansion Statute, Section 239 of the Fiscal Year 2016 Appropriations Act, Pub. L. 114–113), that are participating in the MTW Demonstration program, which includes the Public Housing, Section 8 Housing Choice Voucher, Section 8 Project-Based Vouchers, Local, Non-Traditional Property-Based, and Local, Non-Traditional Tenant-Based programs.

Tenant data is collected to understand demographic, family profile, income, and housing information for participants in the Public Housing, Section 8 Housing Choice Voucher, Section 8 Project Based Certificate, Section 8 Moderate Rehabilitation, and MTW Demonstration programs. This data also allows HUD to monitor the performance of programs and the performance of public housing agencies that administer the programs.

Respondents: Public Housing Agencies, State and local governments, individuals and households.

Total Estimated Burden Matrix: Increase in burden expected to 5 minutes per response for a total of 244,493 hours.

Information collection	Number of respondents (PHA) (with responses)	* Average number of responses per respondent (with responses)	Total annual responses	Minutes per response	Total hours	Regulatory reference (24 CFR) * see attached
Form HUD–50058 New Admission	4,014	87	349,218	50	291,015	908.101
Form HUD–50058 Recertification	4,014	583	2,340,162	30	1,170,081	908.101
Form HUD–50058 MTW New Admission	39	529	20,631	50	17,192.50	908.101
Form HUD–50058 MTW Recertification ..	39	4,018	156,702	30	78,351	908.101
Form HUD–50058 MTW Expansion New Admission	100	87	8,700	50	7,250	908.101
Form HUD–50058 MTW Expansion Recertification	100	583	58,300	30	29,150	908.101
Totals	4,153	.....	2,933,713	.....	1,593,039.50	.....

*Average Number of Responses per Respondents = Total Annual Responses/Number of Respondents.

Estimated annualized hourly cost to respondents (PHA); Form HUD–50058: To report using Form HUD–50058 Family Report, it will cost the average PHA \$1,268.75 annually to enter and submit all data for New Admission and \$5,101.25 annually for Recertification.

Estimated annualized hourly cost to respondents (PHA); Form HUD–50058 MTW: To report using Form HUD–50058 MTW Family Report, it will cost the average PHA \$7,714.58 annually to enter and submit all data for New Admissions and \$35,157.50 annually for Recertification.

Estimated annualized hourly cost to respondents (PHA); Form HUD–50058 MTW Expansion: To report using Form HUD–50058 MTW Expansion Family Report, it will cost the average PHA \$1,268.75 annually to enter and submit all data for New Admissions and \$5,101.25 annually for Recertification.

B. 60-Day Notice for Comment

HUD proposed changes in the 60-day notice to the HUD–50058 Family Report and necessary corresponding changes to the HUD–50058 MTW and HUD–50058 MTW Expansion Reports for consistency, along with a few minor revisions. More information about those changes are found in the February 8, 2023, 60-Day Notice of Proposed Information Collection: Family Report, MTW Family Report, MTW Expansion

Family Report; OMB Control No. 2577–0083. 88 FR 8301.

In response to the 60-day notice, HUD received 16 public comments. HUD responds to comments received below for those comments received in response to specific questions asked by HUD in the 60-day notice, and HUD responses to other comments are in the 30-day notice Supporting Statement and can be found at www.reginfo.gov/public/do/PRAMain by finding this particular information collection by selecting

“Currently under 30-day Review—Open for Public Comments” or by using the search function.

C. 30-Day Notice for Comment

In response to public comments on the 60-day notice, HUD is proposing a few minor changes. HUD welcomes comments on the proposed changes or additional changes that should be considered when renewing this information collection, especially relevant to burden reduction. One

significant change proposed in the 60-day notice which HUD maintains is moving the codes from the Forms themselves and placing them in the instruction booklet to ease the use of the Forms and allow for non-significant future updates. While HUD still updates the instruction booklet, HUD has made sample forms and instructions available for the public to see updated codes during the 30-day comment period. The forms and sample instructions can be viewed at www.reginfo.gov/public/do/PRAMain by finding this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

HUD-50058 Forms: The following provides a general overview of the changes that HUD is considering:

Section 1: Agency

HUD maintains the proposal from the 60-day notice to update the program types and add the unit real estate ID number to this section.

Section 2: Action

HUD maintains the proposal from the 60-day notice to update the codes for special programs and type of actions. For the type of action codes, HUD would remove the “Historical Adjustment” code, and add codes for PBV Transfer to Tenant-Based Voucher and two action types that will allow PHAs to record changes when the family will not receive an interim income reexamination due to Housing Opportunity Through Modernization Act of 2016, Public Law 114–201, (HOTMA) rulemaking—Household Composition Change Only; and Other Change, Non-Income Threshold. In addition, HUD would change the FSS participation question to a Supportive Service program participation question to align with the changes in Section 17. HUD also would add questions to list the primary reason for a family’s end of participation, similar to the current HUD–50058 MTW Expansion, but add additional “Tenant Initiated” code and “Nonpayment of Rent” as a code. Lastly, HUD would add a question on reasons for a family’s interim reexamination (already on the HUD–50058 MTW Expansion); the type of HCV voucher issued, if applicable; and a date a participant vacated an HCV unit, if applicable.

Section 3: Household

HUD at the 30-day notice is adding a new special status code at question 30 to allow PHAs to enter when there is a joint child custody arrangement. HUD has also decided to proceed with

changes in the 30-day notice to the questions on Sex and Race asked at the 60-day comment period. HUD responds to comments received on changes to section 3 and explains the changes below:

Sex and Sexual Orientation

HUD asked for comment on updating the field for “Sex” to “Gender” and allow for inclusion of “other” responses. Similarly, HUD asked for comment on including a request for information about a household member’s Sexual Orientation on the form. Some commenters supported improved demographic information collection on Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) participants by updating the field for gender and sexual orientation. Commenters requested HUD provide more information on how collecting information about gender identity and sexual orientation is relevant to the subsidy or qualifications for the program, and how HUD would use the data. One commenter suggested that data be used directly to enhance services and strengthen housing stability. Another commenter requested that respondents be told how the data would be used. Commenters asked what safeguards HUD would put in place to maintain security of individuals’ information. One commenter asked whether the information would impact transferability and cross-program applications. One commenter asked how HUD planned to protect individuals and ensure protections in states where legislative efforts are specifically working against LGBTQ individuals, and other commenters noted concern for targeting of those in the LGBTQ community. One commenter noted HUD should consider the administrative burden of adding the questions. Commenters requested more guidance and training from HUD on implementing these changes and ensuring safeguards for the data. Specifically, guidance as requested on how to determine bedroom size eligibility for minors and training for staff on asking the questions appropriately.

One commenter suggested HUD engage advocacy organizations to consider how vital this information is at program enrollment versus at another point of time. One commenter noted the importance of the information for understanding LGBTQ older adults and their experience accessing housing, and that statistics support respondents wanting to answer Sexual Orientation and Gender Identity (SOGI) questions. One commenter noted without this data

HUD would be unable to determine how to target limited agency resources to better serve the LGBTQ community. Another commenter suggested HUD make changes to other HUD forms.

While commenters supported more inclusive gender options, commenters also proposed additional alternatives for gender to include “did not disclose/did not know,” “other,” separating transgender and non-binary options, asking sex assigned at birth separately from current gender identity, intersex, or multiple selection. One commenter specifically noted the need to include “intersex” consistent with Executive Order 14075 “Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals.” Some commenters opposed adding additional options, removing sex, or making it multiple select because it could impact occupancy standards. Commenters supportive of the change recognized the benefit of having the gender codes align with State requirements. Commenters also asked how the change to gender would work in determining bedroom sizes under HCV. The commenters also asked HUD to analyze the reliability of the data.

Commenters both supported and opposed adding questions about sexual orientation. One commenter recommended assessing sexual orientation at the household rather than individual level. While some commenters supported adding sexual orientation, commenters also proposed additional alternatives to include “did not disclose/did not know,” “other” or multiple selection. Another commenter felt that the information may create distrust with clients, that some clients may refrain from answering or accessing services, and that the information was not relevant to the application. One commenter noted that statistics show that including questions on sexual orientation makes individual’s experiences seem valued and are not typically viewed as invasive. The commenter also noted that such questions should include clear privacy standards and provide answering the question as optional.

HUD appreciates the comments supporting the additional changes on collecting “Gender” and proposed changes to how to collect “gender identity” and “sex.” HUD recognizes the importance of aligning with other HUD programs and State law. HUD also recognizes the importance of allowing individuals to select multiple options and to change the options to allow more choice. HUD received many different proposals on options to provide and commenters flagged that adding more

options could complicate statistical reporting, increase administrative burden, and impact unit size determinations. HUD also received concerns about making this change and question around the need for such information.

In an effort to address all these concerns and still align with other programs, consistent with HUD's proposed change, HUD will maintain a question on "Gender" and no longer collect "Sex." HUD has always collected "Sex" for determining bedroom size but recognized that changes in State laws and for accurate representation of the people we serve that the current collection options around "Sex" were flawed. In addition, HUD has settled on adding a response for "X-Other/Non-Binary/Gender Non-Conforming" in addition to existing "Male" and "Female" choices. HUD believes this aligns closely to Census Bureau standards and provides an alternative consistent with States that recognize X gender codes. HUD also recognizes this change will require technical assistance and guidance to help implement, which HUD plans to provide.

HUD received comments both in support and opposition to adding a question on "sexual orientation." Commenters raised questions on the need for the information, administrative burden, the impact on the privacy of respondents, analysis of the value of collecting the data, information about data security and accuracy, impact on transferability, invasiveness of question, and lack of trust that may result between PHAs and clients. In addition, commenters noted that HUD should provide best practices on how PHAs could have responsible data collection practices and training on how to collect the information and ensure no discriminatory impact on clients.

Given all the responses HUD received, HUD believes that collecting of this information at this point before addressing the multiple questions raised about impacts on privacy, accuracy, and appropriateness of this vehicle to collect this information and data security is premature. HUD will consider in what form this question should be added in the future and how HUD can address all the questions raised prior to adding this question.

Disability

HUD asked for comment on adding a "No Response" code to the Disability question. HUD received a couple of comments in support and other comments suggesting a "did not disclose" answer. One commenter noted that the change could impact

allowances provided to tenant, require additional training for both providers and tenants, and could result in incorrect data collection and rent calculation.

HUD appreciates the general support on adding a "no disability" response option on the Forms and other suggested additions. HUD agrees with the commenter that raised concerns that making this change would require additional training and could result in incorrect data collection and rent calculation. Therefore, given the additional changes HUD is making to comply with HOTMA and the potential for errors when providing accurate allowances, HUD has decided to hold on making this change.

Race

HUD asked for comment on updating the codes for Race to include a new code for "Other". HUD received comments in support of adding "Other" in the race field. Other commenters recommended changing "Other" to "Another Race" or "Some other race" because of the negative connotation of "Other." Other commenters suggested the inclusion of "Middle East and North African," "Did not disclose," or "Multiracial." Commenters supported HUD's effort to align with OMB's race and ethnicity statistical standards, and others requested that HUD ensure consistency across PIH and Multifamily. Commenters also asked that HUD consider the impact on uniform data in making changes.

HUD recognizes the importance of aligning our codes with Multifamily and government-wide efforts being undertaken by OMB. HUD agrees that there are many other options that could be added but believes aligning with other government and HUD information collections is important. Therefore, until OMB completes its update of race and ethnicity statistical standards HUD intends not to add the few suggested new categories. However, HUD appreciates the comments on changing "other" to "Some Other Race" and thinks doing so still aligns with Multifamily and other agency use of the word "Other" and limiting the number of changes. Having moved these codes to the Instruction Booklet, HUD can make additional changes in the future when OMB completes its update.

Alien Registration

HUD asked for comment on changing the Alien Registration number at the 60-day notice. HUD received a comment proposing that HUD maintain the Alien Registration Number because it is used to request SAVE verification and

confirm immigration status and another comment that noted the PHA could not use the USCIS case number as a substitute in the SAVE system. Given the comments, HUD will not make a change to the form but intends to provide further guidance in the Instruction Booklet.

Section 4: Background at Admission

HUD maintains the proposal from the 60-day notice to include a date when the family was selected from the waiting list; if the family was formerly homeless; if the family transitioned out of an institutional setting; and whether there was a special non-waiting list admission.

Section 5: Unit To Be Occupied on Effective Date of Action

HUD maintains the proposal from the 60-day notice to add an urbanization code to accommodate Puerto Rican addresses; provide for the type of accessible unit identified by the PHA; and include whether the last inspection passed by the unit was an alternative inspection.

Section 6: Assets

HUD maintains the proposal from the 60-day notice to delineate actual income from imputed income for each family member consistent with HUD's HOTMA rulemaking. HUD, at this 30-day notice, proposes to include a new field that would ask whether such asset listed was included in new family assets. Additional instructions on this will be provided in the 50058 Instruction Booklet.

Section 7: Income

HUD is maintaining the 60-day notice proposal to add questions required to be supplied by the PHA to help determine whether a family is subject to HOTMA's public housing over-income rule: what the applicable over-income limit for families of the application's size is; whether the family is over-income; and the date the over-income family began the 24 consecutive month grace period. These questions have been moved to Section 7, since PHAs will be asked to compare the family's annual income to the over-income limit.

Section 8: Expected Income Per Year

HUD, at this 30-day notice, is proposing to expand the "Permissive Deductions" question at 8b beyond Public Housing only. HUD maintains the proposal from the 60-day notice to rename this section "Deductions and Allowances." HUD notes this name change follows an identical proposal already made on the HUD-50058-

MTW–Expansion. HUD believes that this term accurately reflects the content of the section and clearly delineates it from the preceding section.

HUD also maintains the proposals from the 60-day notice to include a new question for families to indicate whether a family is eligible for a medical hardship expense, childcare hardship expense or both, consistent with HUD's HOTMA rulemaking.

Section 10: Public Housing and Turnkey III

HUD maintains the proposal from the 60-day notice to revise Section 10 heading to remove “and Turnkey III” and remove the income-based ceiling rent question and replace the “income-based ceiling rent” reference with “flat rent.”

Section 11: Section 8: Project Based Certificates and Vouchers

HUD, at this 30-day notice, is proposing to include items requesting information on whether the family received mobility-related services; whether a security deposit was paid by the PHA on behalf of the family; and whether the family received additional financial assistance consistent with the 60-day notice proposed changes to Section 12.

HUD maintains the proposal from the 60-day notice to revise Section 11 heading to remove reference to “Certificates” and add a question to include the HAP Contract ID Number, as assigned by the PBV HAP Contract Collection module in the Housing Information Portal (HIP).

Section 12: Housing Choice Vouchers: Tenant Based Vouchers

HUD maintains the proposal from the 60-day notice to remove the question about whether the family qualifies as “Hard to House.” In addition, HUD maintains the request for information on whether the family received mobility-related services; whether a security deposit was paid by the PHA on behalf of the family; and whether the family received a higher payment standard as reasonable accommodation. In addition, HUD maintains the request to add from the HUD–50058 MTW Expansion, the questions about additional Payments, not HAP Payments, for tenant-based voucher family and financial incentives for property owners.

Section 17: Family Self-Sufficiency (FSS)/Welfare to Work (WtW) Voucher Addendum

HUD maintains the proposal from the 60-day notice to revise Section 17 heading to read “Supportive Services

Programs,” and remove the Welfare to Work voucher questions. Additionally, HUD maintains the other changes to require information on effective date; add options to the question of why a participant exited the FSS program; information on employment; services for other supportive services programs, such as ROSS and Jobs Plus; amend the list of benefits a participating family receives; and update the services needed by/provided to participating families. In addition, HUD maintains the proposal to remove the questions about who provides the services, and whether the family received a selection preference.

HUD–50058 MTW and HUD–50058 MTW Expansion Form: HUD maintains the proposal from the 60-day notice to make conforming changes mentioned above. In addition, HUD maintains the proposal to: remove the date of admission to the MTW program because it was unnecessary; add in a question on the total homeownership assistance payment (HAP); and to remove reference to “Local, Non-Traditional Assistance.”

D. 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.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Colette Pollard,

*Department Reports Management Officer,
Office of Policy Development and Research,
Chief Data Officer.*

[FR Doc. 2023–12162 Filed 6–6–23; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX23EE000101100]

Public Meeting of the National Geospatial Advisory Committee

AGENCY: U.S. Geological Survey, Department of Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (FACA) of 1972, the U.S. Geological Survey (USGS) is publishing this notice to announce that a Federal Advisory Committee meeting of the National Geospatial Advisory Committee (NGAC) will take place.

DATES: The meeting will be held on Tuesday, June 27, 2023, from 9 a.m. to 5 p.m. and on Wednesday, June 28, 2023, from 9:00 a.m. to 5:00 p.m. (Eastern Daylight Time).

ADDRESSES: The meeting will be held at the Department of the Interior Building, 1849 C Street NW, Washington, DC 20240 in the South Penthouse Conference Room. Members of the public may attend the meeting via webinar/conference line. Instructions for registration to attend the meeting will be posted at www.fgdc.gov/ngac. Comments can be sent by email to gs-faca@usgs.gov.

FOR FURTHER INFORMATION CONTACT: Mr. John Mahoney, Federal Geographic Data Committee (FGDC), USGS, by mail at 909 First Avenue, Room 703, Seattle, WA 98104; by email at jmahoney@usgs.gov; or by telephone at (206) 375–2565.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the FACA of 1972 (5 U.S.C. ch. 10), 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 NGAC provides advice and recommendations related to management of Federal and national geospatial programs, the development of the National Spatial Data Infrastructure (NSDI), and the implementation of the Geospatial Data Act of 2018 (GDA) and the Office of Management and Budget Circular A–16. The NGAC reviews and comments on geospatial policy and management issues and provides a forum to convey views representative of non-federal stakeholders in the geospatial community. The NGAC meeting is one of the primary ways that the FGDC collaborates with its broad network of partners. Additional information about

the NGAC meeting is available at: www.fgdc.gov/ngac.

Agenda Topics

- FGDC Update
- Landsat Advisory Group
- 3D Elevation Program
- GDA Reporting and Implementation
- Geospatial Excellence and Innovation
- NSDI Strategic Planning
- NGAC 2023 Activities
- Public Comment

Meeting Accessibility/Special Accommodations: The meeting is open to the public via webinar/conference line and will take place from 9 a.m. to 5 p.m. on June 27, 2023, and from 9 a.m. to 5 p.m. June 28, 2023. Members of the public wishing to attend the meeting should visit www.fgdc.gov/ngac or contact Mr. John Mahoney (see **FOR FURTHER INFORMATION CONTACT**). Seating may be limited due to room capacity. Members of the public may also attend the meeting via webinar. Webinar/conference line instructions will be provided to registered attendees prior to the meeting.

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 **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.

Individuals in the United States who are deaf, blind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to the point-of-contact in the United States.

Public Disclosure of Comments: There will be an opportunity for public comment during both days of the meeting. Depending on the number of people who wish to speak and the time available, the time for individual comments may be limited. Written comments may also be sent to the Committee for consideration. To allow for full consideration of information by Committee members, written comments must be provided to John Mahoney (see **FOR FURTHER INFORMATION CONTACT**) at least three (3) business days prior to the meeting. Any written comments received will be provided to Committee members before the meeting.

Before including your address, phone number, email address, or other

personally identifiable information (PII) in your comment, you should be aware that your entire comment—including your PII—may be made publicly available at any time. While you may ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so.

Authority: 5 U.S.C. ch. 10.

Dated: June 2, 2023.

Joshua J. Delmonico,
Acting Executive Director, Federal Geographic Data Committee.

[FR Doc. 2023–12177 Filed 6–6–23; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[234A2100DD/AAKC001030/
AOA501010.999900]

Advisory Board of Exceptional Children

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bureau of Indian Education (BIE) is announcing that the Advisory Board for Exceptional Children will hold a two-day in-person and online meeting. The purpose of the meeting is to meet the mandates of the Individuals with Disabilities Education Act of 2004 (IDEA) for Indian children with disabilities.

DATES: The BIE Advisory Board meeting will be held Thursday, June 22, 2023, from 8 a.m. to 3:15 p.m., Pacific Daylight Time (PDT) and Friday, June 23, 2023, from 8 a.m. to 4:30 p.m., Pacific Daylight Time (PDT).

ADDRESSES:

- *Meeting:* All Advisory Board activities and meetings will be conducted in-person with corresponding online access. The onsite meeting location will be at the Chemawa Indian School located at 3700 Chemawa Road NE, Salem, Oregon. For online access, see the **SUPPLEMENTARY INFORMATION** section of this notice.

- *Comments:* Public comments can be emailed to the Designated Federal Officer (DFO) at Jennifer.davis@bie.edu; or faxed to (602) 265–0293 Attention: Jennifer Davis, DFO; or mailed or hand delivered to the Bureau of Indian Education, Attention: Jennifer Davis, DFO, 2600 N Central Ave., 12th floor, Suite 250, Phoenix, AZ 85004.

FOR FURTHER INFORMATION CONTACT: Jennifer Davis, DFO, Bureau of Indian Education, 2600 N Central Ave., 12th floor, Suite 250, Phoenix, AZ 85004,

Jennifer.Davis@bie.edu, or mobile phone (202) 860–7845. 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: In accordance with the Federal Advisory Committee Act (5 U.S.C. Ch. 10), the BIE is announcing the Advisory Board will hold its next meeting in-person and online. The Advisory Board was established under the Individuals with Disabilities Act of 2004 (20 U.S.C. 1400 *et seq.*) to advise the Secretary of the Interior, through the Assistant Secretary-Indian Affairs, on the needs of Indian children with disabilities. All meetings, including virtual sessions, are open to the public in their entirety.

Meeting Agenda Items

The following agenda items will be for the June 22, 2023 and June 23, 2023 meetings. The reports are regarding special education topics.

- Chemawa Indian School—School leadership team, teachers, school improvement team, parent advisory board. Report on the successes and concerns at your school. What do you see as an opportunity to improve services for children and families in the local community?

- A panel discussion with BIE Off Reservation Board Schools (ORBS), Chemawa Indian School, Flandreau Indian School, Riverside Indian School, and Sherman Indian School.

Discussions will include the COVID pandemic and post-COVID, how it affected the school's ability to provide educational services to all students and specifically students with disabilities?

- BIE Special Education Program. Dr. Eugene Thompson, Supervisory Education Specialist. Provide updates about BIE regional conferences, progress update about the U.S. Government Accountability Office (GAO) 2020 report regarding Students with Disabilities Receiving Special Education Services, update about the BIE's Special Education Policy and Procedures Manual, and report on the special education findings regarding the BIE's Fiscal and Programmatic Monitoring for SY22–23.

- State Departments Office of Indian Education. Tribal-State liaison Offices of Indian Education Panel. To discuss services and supports provided to BIE funded schools in each state. Discuss

the relationship between the State's Office of Indian Education and BIE funded schools within each state. What funding does the state provide to BIE funded schools when a student does not meet Indian School Equalization Program (ISEP) eligibility criteria?

- Advisory board members will work on identifying priority topics for problems that could be creating barriers for children with disabilities within the BIE school system.

- Advisory board members will work on the developing the agenda for the next board meeting scheduled for September 21–22, 2023.

- Four Public Commenting Sessions will be provided during both meeting days.

- On Thursday, June 22, 2023 two sessions (15 minutes each) will be provided, 11 to 11:15 a.m. MST and 2 to 2:15 p.m. PDT. Public comments can be provided via webinar or telephone conference call. Please use the online access codes as listed below.

- On Friday, June 23, 2023 two sessions (15 minutes each) will be provided, 10:30 to 10:45 a.m. PDT and 12:45 to 1 p.m. PDT. Public comments can be provided during the meeting or telephone conference call. Please register for each meeting day to obtain the online meeting access codes as listed below.

Online Meeting Access

To attend the June 22–23, 2023, advisory board meeting please register using this link: <https://www.zoomgov.com/meeting/register/vJlsd-2urTtoGYqvBQdLsCW2XyFzejfriFU>. Attendees register once and can attend both meeting events. After registering, you will receive a confirmation email containing information about joining the meeting.

Accessibility Request

Please make requests in advance for sign language interpreter services, assistive listening devices, or other reasonable accommodations. Please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT** 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.

Authority: 5 U.S.C. Ch. 10.

Wizipan Garriott,

Principal Deputy Assistant Secretary—Indian Affairs, Exercising by delegation the authority of the Assistant Secretary—Indian Affairs.

[FR Doc. 2023–12200 Filed 6–6–23; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_NM_FRN_MO4500170661]

Public Land Order No. 7923 for Public Lands Withdrawal Surrounding Chaco Culture National Historical Park Boundary; San Juan, Sandoval, and McKinley Counties, New Mexico

AGENCY: Bureau of Land Management.

ACTION: Public land order.

SUMMARY: This Order withdraws approximately 336,404.42 acres of public lands surrounding Chaco Culture National Historical Park from location and entry under the United States mining laws and from leasing under the mineral leasing laws, but not the mineral materials laws, subject to valid existing rights. The purpose of this withdrawal is to protect these public lands and the greater connected landscape with a rich Puebloan, Tribal Nation, and cultural legacy in the New Mexico counties of San Juan, Sandoval, and McKinley for a period of 20 years.

DATES: This Order takes effect on June 7, 2023.

FOR FURTHER INFORMATION CONTACT:

Sarah N. Scott, Bureau of Land Management (BLM) Farmington Field Office, telephone: 505–564–7689, email: sscott@blm.gov, during regular business hours, 8 a.m. to 4:30 p.m. MT, Monday through Friday, except holidays. 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: This Order does not apply to non-Federal interests within the boundaries of the area described herein. If the non-Federal interests within the boundaries of the area described in this Order are subsequently acquired by the United States, the non-Federal interests will become subject to this withdrawal.

Order

By virtue of the authority vested in the Secretary of the Interior by section 204(c) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(c), it is ordered as follows:

1. Subject to valid existing rights, the public lands, and all non-Federal lands that are subsequently acquired by the Federal government, within the

Townships identified below, as depicted in the attached map, are hereby withdrawn from location and entry under the United States mining laws and from leasing under the Mineral Leasing Act of 1920, for a 20-year term in order to protect these public lands and the greater connected landscape with a rich Puebloan and Tribal Nation legacy from the potential impacts associated with oil and gas development activities and from adverse effects of locatable mineral exploration and mining, subject to valid existing rights.

New Mexico Principal Meridian, New Mexico

T. 20 N., R. 6 W.,
 Sec. 6, lots 3 thru 7, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 7; Sec. 8, W $\frac{1}{2}$;
 Secs. 17 thru 20 and Sec. 30.
 T. 21 N., R. 6 W.,
 Sec. 18, lot 4;
 Sec. 19, lots 3 and 4, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 30, lots 1 thru 4, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 31, lots 1 thru 4, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ and E $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 32, SW $\frac{1}{4}$ NW $\frac{1}{4}$ and W $\frac{1}{2}$ SW $\frac{1}{4}$.
 T. 19 N., R. 7 W.,
 Sec. 1, lots 5 thru 7 and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 5, S $\frac{1}{2}$;
 Sec. 6, lots 1, 2, 6, and 7, S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Secs. 7 and 8;
 Sec. 11, S $\frac{1}{2}$;
 Sec. 12, lots 1 and 2, W $\frac{1}{2}$ NE $\frac{1}{4}$, and NW $\frac{1}{4}$;
 Secs. 17 thru 19;
 Sec. 20, N $\frac{1}{2}$ and SW $\frac{1}{4}$;
 Sec. 21;
 Sec. 22, W $\frac{1}{2}$;
 Sec. 27, NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 28, N $\frac{1}{2}$, SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 30.
 T. 20 N., R. 7 W.,
 Sec. 1;
 Sec. 2, lots 1 thru 4, S $\frac{1}{2}$ NE $\frac{1}{4}$, and SW $\frac{1}{4}$;
 Sec. 3;
 Sec. 4, SW $\frac{1}{4}$;
 Secs. 5 thru 7;
 Sec. 8, N $\frac{1}{2}$ and SW $\frac{1}{4}$;
 Secs. 9 thru 12, and Secs. 17, 19, 21, and 29;
 Sec. 30, lots 1 thru 4, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 31;
 Sec. 32, N $\frac{1}{2}$ and SW $\frac{1}{4}$;
 Sec. 33, SW $\frac{1}{4}$.
 T. 21 N., R. 7 W.,
 Sec. 2, lot 4, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Secs. 3 thru 5;
 Sec. 6, lots 1 and 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Secs. 7 thru 11;
 Sec. 12, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 13, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, and S $\frac{1}{2}$;
 Secs. 14, 15, 17, and 18;
 Sec. 19, lots 1 thru 4, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 20, N $\frac{1}{2}$;
 Secs. 21 thru 23;

- Sec. 24, SW¹/₄;
 Sec. 25, W¹/₂;
 Sec. 26, N¹/₂ and SE¹/₄;
 Sec. 27, N¹/₂;
 Sec. 28, N¹/₂ and SW¹/₄;
 Sec. 29, NE¹/₄ and S¹/₂;
 Sec. 33, W¹/₂;
 Sec. 35, E¹/₂.
- T. 22 N., R. 7 W.,
 Sec. 28, S¹/₂SW¹/₄;
 Sec. 29, S¹/₂NW¹/₄ and S¹/₂;
 Secs. 30, 31, and 33;
 Sec. 34, SW¹/₄NW¹/₄, SW¹/₄, and S¹/₂SE¹/₄.
- T. 19 N., R. 8 W.,
 Secs. 1 and 2;
 Sec. 3, lots 3 and 4, S¹/₂NW¹/₄, and S¹/₂;
 Sec. 9, E¹/₂ and E¹/₂SW¹/₄;
 Secs. 10 thru 15;
 Sec. 16, lots 3 thru 7, NE¹/₄, NE¹/₄SW¹/₄,
 and N¹/₂SE¹/₄;
 Sec. 18, lots 3 and 4 and E¹/₂SW¹/₄;
 Sec. 19;
 Sec. 20, N¹/₂ and SW¹/₄;
 Sec. 21, S¹/₂SE¹/₄;
 Secs. 23 thru 25, and Secs. 27 and 29;
 Sec. 30, lots 1 and 4, E¹/₂, NE¹/₄NW¹/₄, and
 SE¹/₄SW¹/₄;
 Secs. 33 thru 35.
- T. 20 N., R. 8 W.,
 tracts 37, 40, 41, and 48;
 tracts 52 thru 55;
 tract 58;
 tracts 61 thru 67;
 tracts 69, 73, 77, 78, 85, 86, and 92;
 tracts 94 thru 98;
 tracts 102, 104, and 105.
- T. 21 N., R. 8 W.,
 Secs. 3 thru 9;
 Sec. 10, N¹/₂ and SW¹/₄;
 Sec. 11, N¹/₂ and SE¹/₄;
 Sec. 13;
 Sec. 14, E¹/₂;
 Secs. 17 and 18;
 Secs. 22 thru 24;
 Sec. 26, N¹/₂ and SE¹/₄;
 Sec. 34, lots 1 thru 8 and NE¹/₄;
 Sec. 35.
- T. 22 N., R. 8 W.,
 Sec. 7, lots 1 thru 4, SE¹/₄NW¹/₄, E¹/₂SW¹/₄,
 NW¹/₄SE¹/₄, and S¹/₂SE¹/₄;
 Sec. 17, NW¹/₄NW¹/₄, S¹/₂NW¹/₄, SW¹/₄,
 NW¹/₄SE¹/₄, and S¹/₂SE¹/₄;
 Sec. 18;
 Sec. 20, N¹/₂ and SW¹/₄;
 Sec. 21, SW¹/₄NE¹/₄, NW¹/₄NW¹/₄,
 S¹/₂NW¹/₄, and SE¹/₄;
 Sec. 22, S¹/₂;
 Sec. 23, S¹/₂;
 Sec. 24, S¹/₂SW¹/₄ and S¹/₂SE¹/₄;
 Secs. 25 thru 27;
 Sec. 28, E¹/₂;
 Sec. 31, lots 3 thru 8 and E¹/₂SW¹/₄;
 Secs. 32 thru 35.
- T. 19 N., R. 9 W.,
 Sec. 3, lots 1 thru 4, S¹/₂NE¹/₄, S¹/₂NW¹/₄,
 and SW¹/₄;
 Sec. 12;
 Sec. 14, N¹/₂ and SE¹/₄;
 Sec. 15, NW¹/₄ and S¹/₂;
 Sec. 23;
 Sec. 24, NW¹/₄ and S¹/₂;
 Sec. 27;
 Sec. 30, lots 1 and 2;
 Sec. 35.
- T. 20 N., R. 9 W.,
 Sec. 4;
- Sec. 5, SW¹/₄;
 Sec. 6;
 Sec. 7, lots 1 and 2, E¹/₂, and E¹/₂NW¹/₄;
 Secs. 8 and 9;
 Sec. 17, N¹/₂;
 Sec. 18, NE¹/₄;
 Sec. 30.
- T. 22 N., R. 9 W.,
 Sec. 1, SW¹/₄NW¹/₄, NW¹/₄SE¹/₄, and
 S¹/₂SE¹/₄;
 Secs. 3 thru 9;
 Secs. 12 thru 15;
 Sec. 17;
 Sec. 18, lots 3 and 4, E¹/₂, and E¹/₂SW¹/₄;
 Secs. 19 and 20;
 Sec. 21, NE¹/₄ and S¹/₂;
 Secs. 22 thru 24;
 Sec. 26, W¹/₂;
 Secs. 27 thru 34.
- T. 23 N., R. 9 W.,
 Sec. 18, SW¹/₄SE¹/₄;
 Sec. 19;
 Sec. 20, SW¹/₄NE¹/₄;
 Sec. 27, SW¹/₄NW¹/₄, SW¹/₄, and
 SW¹/₄SE¹/₄;
 Secs. 28 and 30;
 Sec. 31, lots 1 thru 4, E¹/₂NW¹/₄, E¹/₂SW¹/₄,
 and SE¹/₄;
 Sec. 33, E¹/₂;
 Sec. 34;
 Sec. 35, SW¹/₄NW¹/₄, SW¹/₄, and
 SW¹/₄SE¹/₄.
- T. 17 N., R. 10 W.,
 Sec. 30, lot 3, NE¹/₄SW¹/₄, and N¹/₂SE¹/₄.
- T. 19 N., R. 10 W.,
 Sec. 10, SW¹/₄NE¹/₄, SE¹/₄NW¹/₄,
 NE¹/₄SW¹/₄, and NW¹/₄SE¹/₄;
 Sec. 28, SE¹/₄SE¹/₄.
- T. 20 N., R. 10 W.,
 Sec. 1;
 Sec. 2, lots 1 thru 3, lots 5 thru 19, and
 S¹/₂NE¹/₄;
 Sec. 3, lots 5 and 6;
 Sec. 6;
 Sec. 12, lots 1 thru 4;
 Secs. 20 and 28;
 Sec. 30, NE¹/₄SW¹/₄.
- T. 21 N., R. 10 W.,
 Sec. 4;
 Sec. 5, lot 2 and W¹/₂SW¹/₄;
 Secs. 6 thru 9;
 Secs. 16 thru 30;
 Sec. 33, lots 1 thru 4;
 Sec. 34, NE¹/₄ and S¹/₂;
 Secs. 35 and 36.
- T. 22 N., R. 10 W.,
 Sec. 1;
 Secs. 3 thru 9;
 Sec. 10, NW¹/₄ and N¹/₂SW¹/₄;
 Sec. 11, S¹/₂;
 Secs. 12 and 13;
 Sec. 14, W¹/₂SW¹/₄;
 Sec. 15, S¹/₂;
 Sec. 16, N¹/₂;
 Secs. 17 thru 19;
 Sec. 20, SE¹/₄;
 Sec. 21, N¹/₂;
 Sec. 22;
 Sec. 23, W¹/₂NE¹/₄, NW¹/₄, and S¹/₂;
 Secs. 24 and 25;
 Sec. 28, NE¹/₄ and SW¹/₄;
 Sec. 30, lots 1 and 2, NE¹/₄, and E¹/₂NW¹/₄;
 Sec. 34, N¹/₂ and SW¹/₄.
- T. 23 N., R. 10 W.,
 Secs. 5 thru 8;
 Sec. 9, SW¹/₄ and SW¹/₄SE¹/₄;
- Sec. 13, S¹/₂NW¹/₄ and S¹/₂;
 Sec. 14, S¹/₂NE¹/₄, NW¹/₄, and S¹/₂;
 Sec. 15, NE¹/₄ and S¹/₂;
 Secs. 17 thru 22;
 Sec. 24, NE¹/₄ and S¹/₂;
 Sec. 25, E¹/₂;
 Sec. 27, N¹/₂;
 Sec. 28, N¹/₂ and SW¹/₄;
 Secs. 29 thru 31;
 Secs. 33 and 34.
- T. 24 N., R. 10 W.,
 Secs. 17 thru 20;
 Sec. 29;
 Sec. 30, lot 1, E¹/₂, E¹/₂NW¹/₄, and
 NE¹/₄SW¹/₄;
 Sec. 31.
- T. 15 N., R. 11 W.,
 Sec. 9, N¹/₂NW¹/₄ and SW¹/₄NW¹/₄.
- T. 16 N., R. 11 W.,
 Sec. 2, lots 1 thru 4, SW¹/₄, NW¹/₄SE¹/₄, and
 S¹/₂SE¹/₄;
 Sec. 14, SW¹/₄;
 Sec. 21, SW¹/₄;
 Sec. 22, NE¹/₄ and SW¹/₄;
 Sec. 26, E¹/₂NE¹/₄, W¹/₂NW¹/₄, SW¹/₄, and
 W¹/₂SE¹/₄;
 Secs. 28 and 29;
 Sec. 30, lots 1 and 2, E¹/₂NW¹/₄, and SE¹/₄;
 Sec. 31, lots 1 thru 4, NE¹/₄, E¹/₂NW¹/₄, and
 E¹/₂SW¹/₄;
 Sec. 33, N¹/₂NE¹/₄, SE¹/₄NE¹/₄, W¹/₂,
 NE¹/₄SE¹/₄, S¹/₂NW¹/₄SE¹/₄, and S¹/₂SE¹/₄;
 Sec. 34, N¹/₂, SW¹/₄, N¹/₂SE¹/₄, and
 SW¹/₄SE¹/₄.
- T. 17 N., R. 11 W.,
 Sec. 2, SE¹/₄;
 Sec. 4, SE¹/₄;
 Sec. 10, N¹/₂SW¹/₄ and N¹/₂SE¹/₄;
 Secs. 12, 14, and 18;
 Sec. 22, S¹/₂;
 Sec. 24;
 Sec. 34, NW¹/₄ and S¹/₂.
- T. 18 N., R. 11 W.,
 Sec. 18.
- T. 20 N., R. 11 W.,
 Sec. 22, NE¹/₄NE¹/₄;
 Sec. 23, W¹/₂NW¹/₄NW¹/₄;
 Sec. 26, E¹/₂SE¹/₄.
- T. 21 N., R. 11 W.,
 Secs. 1 thru 3;
 Sec. 4, lots 3 and 4, S¹/₂NW¹/₄, and S¹/₂;
 Sec. 5, lots 3 and 4 and S¹/₂NW¹/₄;
 Sec. 6, lots 1 thru 5, S¹/₂NE¹/₄, and
 SE¹/₄NW¹/₄;
 Secs. 7 thru 25;
 Sec. 26, NE¹/₄;
 Secs. 28 and 30.
- T. 22 N., R. 11 W.,
 Sec. 6;
 Sec. 10, SE¹/₄;
 Sec. 12;
 Sec. 14, SW¹/₄;
 Sec. 18, lots 1 thru 4, E¹/₂NW¹/₄, and
 E¹/₂SW¹/₄;
 Sec. 22;
 Sec. 24, SW¹/₄NE¹/₄ and W¹/₂;
 Sec. 26, NE¹/₄ and S¹/₂;
 Sec. 28, W¹/₂;
 Sec. 30;
 Sec. 34, SE¹/₄.
- T. 23 N., R. 11 W.,
 Secs. 1, 3, 4, and 6;
 Sec. 7, lots 1 and 2, NE¹/₄, and E¹/₂NW¹/₄;
 Sec. 8, S¹/₂;
 Secs. 9 thru 11;
 Sec. 12, N¹/₂ and SE¹/₄;

- Secs. 13 thru 15;
 Sec. 17;
 Secs. 21 thru 23;
 Sec. 24, N¹/₂ and SE¹/₄;
 Sec. 25, NW¹/₄ and S¹/₂;
 Sec. 26;
 Sec. 27, N¹/₂ and SE¹/₄;
 Sec. 28, NE¹/₄ and N¹/₂NW¹/₄;
 Sec. 33, S¹/₂NE¹/₄, S¹/₂NW¹/₄, and S¹/₂;
 Sec. 34, S¹/₂SW¹/₄;
 Sec. 35, NE¹/₄;
 Sec. 36, S¹/₂.
- T. 24 N., R. 11 W.,
 Sec. 13, NW¹/₄;
 Sec. 14;
 Sec. 15, lot 1, lots 5 thru 8, lot 10, and S¹/₂;
 Sec. 16, lots 10, 13, and 14;
 Sec. 20, lots 3, 5, and 6;
 Sec. 21, lots 7 thru 10 and SE¹/₄;
 Sec. 22, NE¹/₄ and S¹/₂;
 Sec. 23;
 Sec. 24, NE¹/₄ and S¹/₂;
 Sec. 25, W¹/₂;
 Secs. 26 thru 28;
 Sec. 29, lots 1 and 2, lots 5 thru 8, lots 10 thru 14, and SE¹/₄;
 Sec. 30, lots 6 thru 13;
 Sec. 31;
 Secs. 33 thru 35.
- T. 15 N., R. 12 W.,
 Sec. 8, SW¹/₄NE¹/₄;
 Sec. 10, SW¹/₄.
- T. 16 N., R. 12 W.,
 Secs. 6 and 8;
 Sec. 10, NW¹/₄;
 Sec. 14, NW¹/₄ and S¹/₂;
 Sec. 20, N¹/₂ and SW¹/₄;
 Secs. 22 and 24;
 Sec. 26, N¹/₂ and SE¹/₄;
 Secs. 28 and 30;
 Sec. 32, E¹/₂.
- T. 17 N., R. 12 W.,
 Sec. 4, SE¹/₄;
 Sec. 6, lots 1 thru 5, S¹/₂NE¹/₄, and SE¹/₄NW¹/₄;
 Sec. 8, NE¹/₄ and S¹/₂;
 Sec. 10, NW¹/₄;
 Sec. 20, W¹/₂;
 Sec. 22, N¹/₂;
 Sec. 24, NE¹/₄;
 Sec. 26, E¹/₂;
 Sec. 28, SE¹/₄;
 Sec. 30;
 Sec. 32, W¹/₂ and SE¹/₄SE¹/₄;
 tract 37.
- T. 18 N., R. 12 W.,
 Sec. 1;
 Sec. 2, lots 1 thru 4, S¹/₂NW¹/₄, and SW¹/₄;
 Sec. 4, SE¹/₄;
 Secs. 11 thru 13;
 Sec. 14, N¹/₂;
 Sec. 20, N¹/₂ and SW¹/₄;
 Secs. 22 thru 25;
 Sec. 30, SE¹/₄;
 Sec. 32, SW¹/₄, NW¹/₄SE¹/₄, and S¹/₂SE¹/₄.
- T. 19 N., R. 12 W.,
 Sec. 1;
 Sec. 16, SW¹/₄NE¹/₄, SE¹/₄NW¹/₄, NE¹/₄SW¹/₄, and NW¹/₄SE¹/₄;
 Sec. 21; sec. 30, E¹/₂;
 Secs. 31 and 32.
- T. 20 N., R. 12 W.,
 Sec. 4, lots 5 thru 16;
 Sec. 5, lots 3 and 4, S¹/₂NW¹/₄, SW¹/₄, and W¹/₂SE¹/₄;
 Sec. 6, lots 8 thru 11;
- Sec. 8, SW¹/₄;
 Sec. 17, NW¹/₄NE¹/₄ and N¹/₂NW¹/₄;
 Sec. 18;
 Sec. 20, SE¹/₄;
 Sec. 22, N¹/₂ and SE¹/₄;
 Sec. 26;
 Sec. 30, lots 3 and 4 and E¹/₂SW¹/₄.
- T. 21 N., R. 12 W.,
 Secs. 4 and 10;
 Sec. 22, NW¹/₄;
 Sec. 24, SW¹/₄;
 Sec. 25;
 Sec. 28, NE¹/₄ and S¹/₂;
 Sec. 31, E¹/₂SE¹/₄;
 Secs. 32 and 34.
- T. 22 N., R. 12 W.,
 Sec. 1, S¹/₂;
 Secs. 3 thru 6;
 Sec. 7, SE¹/₄;
 Sec. 8;
 Sec. 9, NW¹/₄ and S¹/₂;
 Secs. 10 thru 15;
 Sec. 17, SW¹/₄;
 Sec. 18;
 Sec. 19, lots 1 and 2, NE¹/₄, and E¹/₂NW¹/₄;
 Sec. 21, N¹/₂;
 Secs. 22 thru 27;
 Sec. 28, N¹/₂;
 Sec. 29;
 Sec. 30, lots 3 and 4, E¹/₂SW¹/₄, and SE¹/₄;
 Secs. 33 and 34;
 Sec. 35, N¹/₂ and SE¹/₄.
- T. 23 N., R. 12 W.,
 Sec. 1;
 Sec. 5, lot 9;
 Sec. 6, lots 12 thru 15;
 Sec. 9, E¹/₂;
 Sec. 10, lots 1 thru 8;
 Sec. 13;
 Sec. 14, lots 1 thru 8 and NW¹/₄;
 Sec. 15, lots 1 thru 8;
 Sec. 17, lot 5 and W¹/₂SW¹/₄;
 Sec. 18, lots 3, 4, and 6, SE¹/₄NE¹/₄, E¹/₂SW¹/₄, and SE¹/₄;
 Sec. 19;
 Sec. 20, lots 4 thru 6 and lots 9 thru 16;
 Sec. 21, lots 1 thru 3 and lots 6 thru 16;
 Secs. 22 thru 24;
 Sec. 25, E¹/₂;
 Secs. 26 thru 30;
 Sec. 33, W¹/₂;
 Sec. 35, SE¹/₄SE¹/₄.
- T. 24 N., R. 12 W.,
 Sec. 35, lots 9 and 10 and lots 13 thru 16;
 Sec. 36, lots 1 and 2 and lots 5 thru 18.
- T. 15 N., R. 13 W.,
 Sec. 2, lots 3 and 4 and S¹/₂NW¹/₄.
- T. 16 N., R. 13 W.,
 Sec. 10, NW¹/₄;
 Sec. 18, lots 1 and 2 and E¹/₂NW¹/₄;
 Sec. 26, NW¹/₄.
- T. 17 N., R. 13 W.,
 Sec. 2, lots 1 and 2 and S¹/₂NE¹/₄;
 Sec. 5, lots 3 and 4, S¹/₂NW¹/₄, and S¹/₂;
 Sec. 9, NW¹/₄;
 Secs. 10 and 12;
 Sec. 15, SE¹/₄;
 Sec. 19;
 Sec. 21, NW¹/₄;
 Sec. 24, NE¹/₄ and S¹/₂;
 Sec. 25, NE¹/₄;
 Sec. 26, SW¹/₄;
 Sec. 28, SW¹/₄;
 Secs. 32 and 33;
 Sec. 34, NW¹/₄.
- T. 18 N., R. 13 W.,
 Sec. 1;
 Sec. 2, lots 1 and 2, S¹/₂NE¹/₄, SW¹/₄, and E¹/₂SE¹/₄;
 Secs. 3, 5, 9, 11, 13, and 15;
 Sec. 19, SE¹/₄;
 Secs. 20, 21, 23, 25, 27, 29, and 31;
 Sec. 32, NE¹/₄ and SW¹/₄;
 Sec. 33;
 Sec. 34, W¹/₂;
 Sec. 35;
 Sec. 36, SW¹/₄.
- T. 19 N., R. 13 W.,
 Secs. 2 and 4;
 Sec. 6, SE¹/₄;
 Sec. 15, S¹/₂SW¹/₄ and S¹/₂SE¹/₄;
 Sec. 18, lots 5 thru 12 and NE¹/₄;
 Sec. 19, lot 3, and lots 5 thru 8, E¹/₂, and E¹/₂SW¹/₄;
 Secs. 20 thru 22;
 Secs. 28 and 29;
 Sec. 32, NE¹/₄, N¹/₂NW¹/₄, SE¹/₄NW¹/₄, SW¹/₄, and N¹/₂SE¹/₄;
 Sec. 33;
 Sec. 34, N¹/₂ and SW¹/₄;
 Sec. 36.
- T. 20 N., R. 13 W.,
 Sec. 4;
 Sec. 7, lot 2, W¹/₂SW¹/₄NE¹/₄, and SE¹/₄NW¹/₄;
 Secs. 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, and 30;
 Sec. 32, N¹/₂;
 Sec. 34.
- T. 21 N., R. 13 W.,
 Secs. 3 thru 6;
 Sec. 8, N¹/₂ and SW¹/₄;
 Sec. 9;
 Sec. 10, NE¹/₄;
 Secs. 11 and 13;
 Sec. 14, lots 1 thru 12;
 Sec. 15;
 Sec. 17, N¹/₂ and SE¹/₄;
 Secs. 18, 19, and 21;
 Sec. 22, N¹/₂;
 Sec. 23;
 Sec. 24, NE¹/₄ and S¹/₂;
 Secs. 25 and 27;
 Sec. 28, NE¹/₄ and SW¹/₄;
 Sec. 29;
 Sec. 30, lots 5 thru 8, E¹/₂NW¹/₄, and E¹/₂SW¹/₄;
 Secs. 31 and 33;
 Sec. 34, NW¹/₄;
 Sec. 35.
- T. 22 N., R. 13 W.,
 Sec. 1, lots 3 and 4 and S¹/₂NW¹/₄;
 Sec. 3, SW¹/₄;
 Sec. 4, lots 3 and 4, S¹/₂NW¹/₄, and S¹/₂;
 Sec. 5;
 Sec. 8, NW¹/₄ and S¹/₂;
 Sec. 9, NE¹/₄ and SW¹/₄;
 Sec. 10;
 Sec. 11, NW¹/₄ and S¹/₂;
 Sec. 12, S¹/₂;
 Sec. 13, NE¹/₄, NE¹/₄SW¹/₄, N¹/₂SE¹/₄, and SE¹/₄SE¹/₄;
 Sec. 14, N¹/₂ and W¹/₂SE¹/₄;
 Sec. 15, NE¹/₄;
 Sec. 17;
 Sec. 19, lot 4, NE¹/₄NE¹/₄, S¹/₂NE¹/₄, E¹/₂SW¹/₄, and SE¹/₄;
 Sec. 20, W¹/₂;
 Sec. 21, N¹/₂NW¹/₄;
 Sec. 23;
 Sec. 24, N¹/₂NE¹/₄, SE¹/₄NE¹/₄, NW¹/₄, and S¹/₂;

Sec. 25, E¹/₂;
 Sec. 27, SW¹/₄;
 Secs. 28 thru 30;
 Sec. 31, lots 1 thru 3, E¹/₂, E¹/₂NW¹/₄, and
 NE¹/₄SW¹/₄;
 Sec. 33;
 Sec. 34, E¹/₂;
 Sec. 35.

T. 23 N., R. 13 W.,

Sec. 2, N¹/₂SW¹/₄, SE¹/₄SW¹/₄, and SE¹/₄;
 Sec. 3, S¹/₂SE¹/₄;
 Sec. 10, lots 7 and 8;
 Sec. 15, S¹/₂NW¹/₄ and S¹/₂;
 Sec. 20, E¹/₂SW¹/₄ and SE¹/₄;
 Sec. 21, S¹/₂;
 Sec. 22, SW¹/₄;
 Sec. 26;
 Sec. 27, NE¹/₄ and S¹/₂;
 Sec. 28;
 Sec. 29, NE¹/₄, NE¹/₄NW¹/₄, S¹/₂NW¹/₄, and
 S¹/₂;
 Sec. 34;
 Sec. 35, NE¹/₄ and SW¹/₄.

The areas described aggregate 336,404.42 acres.

1. The withdrawal made by this Order does not alter the applicability of laws governing the use of BLM-managed lands other than the Mining Law of 1872 and the mineral leasing laws.

2. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

(Authority: 43 U.S.C. 1714)

Dated: June 2, 2023.

Deb Haaland,
 Secretary.

[FR Doc. 2023-12158 Filed 6-6-23; 8:45 am]

BILLING CODE 4331-23-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_OR_FRN_MO4500170988]

Notice of Public Meeting of the Western Oregon Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) announces that the Western Oregon Resource Advisory Council (RAC) will host a meeting and field tour.

DATES: The Western Oregon RAC will meet virtually and in person on June 22 from 8:30 a.m. to 12:30 p.m. Pacific Time (PT). In addition, a field tour will occur on the same day from 1 p.m. to 4:30 p.m. PT. The field tour and meeting are open to the public.

ADDRESSES: The RAC will meet at the Glide Ranger Station, 18782 N Umpqua Highway, Glide, OR 97443, and will take a field tour of BLM Roseburg District lands along the North Umpqua River, east of Roseburg, Oregon, to see Archie Creek Fire recovery efforts the group will travel to public lands east of Glide, Oregon, then proceed to the Lone Pine and Millpond Recreation Sites.

The June 22 meeting will be held virtually over the Zoom platform. Please contact Megan Harper, Public Affairs Specialist for the Coos Bay District, at (541) 751-4353 or m1harper@blm.gov to receive a link to attend the Zoom meeting.

FOR FURTHER INFORMATION CONTACT:

Megan Harper, Public Affairs Specialist, Coos Bay District, 1300 Airport Lane, North Bend, OR 97459; phone: (541) 751-4353; email: m1harper@blm.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 15-member Western Oregon RAC advises the Secretary of the Interior, through the BLM, on a variety of public land issues across public lands in Western Oregon, including the Coos Bay, Medford, Northwest Oregon, and Roseburg Districts and part of the Lakeview District. At the June 22 meeting, the RAC will receive information on the Federal Lands Recreation Enhancement Act, hear from the District Managers about current events in Western Oregon, and provide feedback to the BLM on re-development of recreation sites that were damaged in the 2020 western Oregon wildfires.

On the field tour, the RAC will visit public lands east of Roseburg, Oregon, along the North Umpqua River to review completed Secure Rural School Title II projects, post-Archie Creek Fire forest management, and recreation site rehabilitation.

The public is welcome to attend the meeting and the field tour but must provide their own transportation and meals. Individuals who plan to attend must RSVP to the BLM Coos Bay

District Office at least 1 week in advance of the field tour to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. 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 7 business days prior to the meeting to give the BLM sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis.

The meeting is open to the public, and a public comment period will be held on June 22, 2023, at 12 p.m. Depending on the number of persons wishing to comment and the time available, time allotted for individual oral comments may be limited. The public may submit written comments to the RAC by emailing the RAC coordinator at m1harper@blm.gov.

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.

Previous minutes, membership information, and upcoming agendas are available at: <https://www.blm.gov/get-involved/resource-advisory-council/near-you/oregon-washington>. Detailed minutes for the RAC meetings are also maintained in the Coos Bay District Office and will be available for public inspection and reproduction during regular business hours within 90 days following the meeting.

(Authority: 43 CFR 1784.4-2)

Heather L. Whitman,

Roseburg District Manager, (Designated Federal Officer).

[FR Doc. 2023-12094 Filed 6-6-23; 8:45 am]

BILLING CODE 4331-24-P

DEPARTMENT OF THE INTERIOR**National Park Service**

[NPS—WASO—OIA—DTS—35557;
PPWODIREIO—PIN00IO15.XI0000—
234P104215]

U.S. Nominations to the World Heritage List; 21-Day Notice of Opportunity for Public Comment

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: This notice requests public comment on the next potential U.S. nominations from the U.S. World Heritage Tentative List (“Tentative List”) to the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage List. The public may also make suggestions for future additions to the Tentative List. This notice complies with applicable World Heritage Program regulations.

DATES: Comments will be accepted on or before June 28, 2023.

ADDRESSES: You may submit comments by either of the following methods—Mailing to Jonathan Putnam, Office of International Affairs, National Park Service, 1849 C Street NW, Room 2415, Washington, DC 20240 (202) 354–1809, or sending electronic mail (Email) to: jonathan_putnam@nps.gov.

Comments will not be accepted in any way other than those specified above.

Information on the U.S. World Heritage program can be found at: <https://www.nps.gov/subjects/internationalcooperation/worldheritage.htm>.

To request paper copies of documents discussed in this notice, contact April Brooks, Office of International Affairs, National Park Service, 1849 C St. NW, Room 2415, Washington, DC 20240, (202) 354–1808, or sending electronic mail (Email) to: april_brooks@nps.gov.

FOR FURTHER INFORMATION CONTACT: Jonathan Putnam, (202) 354–1809. For the World Heritage nomination format, see the World Heritage Centre website at: <http://whc.unesco.org/en/nominations>.

SUPPLEMENTARY INFORMATION:**Background**

The World Heritage List is an international list of cultural and natural properties nominated by the signatories to the World Heritage Convention (1972), an international treaty for the preservation of natural and cultural heritage sites of global significance. U.S. participation and the roles of the Department of the Interior and the

National Park Service are authorized by title IV of the Historic Preservation Act Amendments of 1980 and conducted in accordance with 36 CFR part 73—World Heritage Convention. The National Park Service serves as the principal technical agency for the U.S. Government to the Convention.

A Tentative List is a national list of natural and cultural properties appearing to meet the World Heritage Committee eligibility criteria for nomination to the World Heritage List. It is a list of candidate sites which a country may consider for nomination within a given time period, but does not guarantee future nomination. The World Heritage Committee’s *Operational Guidelines* ask participating nations to provide Tentative Lists, which aid in evaluating properties for the World Heritage List on a comparative international basis and help the Committee to schedule its work over the long term. A country cannot nominate a property unless it has been on its Tentative List for a minimum of a year. Countries also are limited at this time to nominating no more than one site in any given year.

Neither inclusion in the Tentative List nor inscription as a World Heritage Site imposes legal restrictions on owners or neighbors of sites, nor does it give the United Nations any management authority or ownership rights in U.S. World Heritage Sites, which continue to be subject to U.S. laws.

Current U.S. World Heritage Tentative List

The current U.S. World Heritage Tentative List includes the following properties:

Cultural Sites

Civil Rights Movement Sites, Alabama [Other Properties Would Be Added for a Complete Nomination]

- Dexter Avenue King Memorial Baptist Church, Montgomery
- Bethel Baptist Church, Birmingham
- 16th Street Baptist Church, Birmingham

Dayton Aviation Sites, Ohio

- Dayton Aviation Heritage National Historical Park

Hopewell Ceremonial Earthworks, Ohio

- Fort Ancient State Memorial, Warren County
- Hopewell Culture National Historical Park, near Chillicothe
- Newark Earthworks State Historic Site, Newark and Heath

Jefferson (Thomas) Buildings, Virginia (Proposed Jointly as an Extension to the World Heritage Listing of Monticello and the University of Virginia Historic District)

- Poplar Forest, Bedford County
- Virginia State Capitol, Richmond

Mount Vernon, Virginia

Serpent Mound, Ohio

Ellis Island, New Jersey and New York

Chicago Early Skyscrapers, Illinois, Including: [Other Properties May Be Added in the Course of Developing a Nomination]

- Rookery
- Auditorium Building
- Monadnock Building
- Ludington Building
- Marquette Building
- Old Colony Building
- Schlesinger & Mayer (Carson, Pirie Scott) Department Store
- Second Leiter Building
- Fisher Building

Central Park, New York

Brooklyn Bridge, New York

Moravian Bethlehem District, Pennsylvania

Natural Sites

National Marine Sanctuary of American Samoa (Formerly Fagatele Bay National Marine Sanctuary, American Samoa)

Okefenokee National Wildlife Refuge, Georgia

Petrified Forest National Park, Arizona

White Sands National Monument, New Mexico

Marianas Trench National Monument, U.S. Territory, Commonwealth of the Northern Mariana Islands, Guam

Central California Current, California, Including

- Cordell Bank National Marine Sanctuary
- Monterey Bay National Marine Sanctuary
- Greater Farallones National Marine Sanctuary
- Farallon Islands National Wildlife Refuge
- Point Reyes National Seashore
- Golden Gate National Recreation Area

Big Bend National Park, Texas

Pacific Remote Islands National Monument, U.S. Territorial Waters

Notes: (1) A nomination for the Hopewell Ceremonial Earthworks was submitted by the United States to the World Heritage Committee in January 2022 and will be considered by the

Committee at its upcoming annual session in September 2023. (2) A nomination of the Moravian Bethlehem District in Bethlehem, Pennsylvania as part of multi-country serial nomination of Moravian Settlements was submitted by the United States to the World Heritage Committee in January 2023 for consideration by the Committee in 2024. The nomination includes Herrnhut in Germany and Gracehill in Northern Ireland and was proposed as an extension to the World Heritage listing of Christiansfeld, a Moravian Church Settlement in Denmark. (3) The Department is now awaiting advice from the International Council on Monuments and Sites (ICOMOS) on adding other properties to the proposal for the Civil Rights Movement Sites and its overall justification.

Request for Public Comments

Comments on whether to authorize the preparation of a World Heritage nomination for any of the properties on the Tentative List should address the readiness and ability of the property owner(s) to prepare a satisfactory nomination document. Suggestions for additions to the Tentative List not previously submitted must address: (i) How the property(ies) would meet the World Heritage nomination criteria, requirements for authenticity, integrity, legal protection and management. Information on these criteria and requirements can be found on the website noted in the **FOR FURTHER INFORMATION CONTACT** section of this notice; and (ii) The U.S. legal prerequisites that include the agreement of all property owners to the nomination of their property, an official determination that the property is nationally significant (such as by designation as a National Historic or National Natural Landmark), and effective legal protection.

All previous suggestions for the Tentative List made during previous comment periods or otherwise submitted since 2008, have been retained and considered and should not be resubmitted at this time.

Selection and Nomination

All public comments will be summarized and provided to Department of the Interior officials, who will obtain the advice of the Federal Interagency Panel for World Heritage before making any selection of properties for authorization to prepare a World Heritage nomination. The selection may include relevant factors, such as the likelihood of being able to complete a satisfactory nomination, and the fact that the United States is in

arrears in its payments of dues to the World Heritage Fund. Once authorized, the property owners may prepare a draft nomination.

The Department does not have a fixed schedule for completing or submitting World Heritage nominations. No more than one nomination from any country may be submitted per year, per the UNESCO World Heritage *Operational Guidelines*. Completed nominations, if approved by the Department for submission, may be submitted to the UNESCO World Heritage Centre by February 1 of any year.

Public Availability of Comments

All comments will be a matter of public record. Before including an address, phone number, email address, or other personal identifying information in a comment, members of the public should be aware that the entire comment—including personal identifying information—may be made public at any time. While commenters can request that personal identifying information be withheld from public review, it may not be possible to comply with this request.

Authority: 54 U.S.C. 307101; 36 CFR part 73.

Shannon A. Estenoz,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2023–12139 Filed 6–6–23; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1293]

Certain Automated Put Walls and Automated Storage and Retrieval Systems, Associated Vehicles, Associated Control Software, and Component Parts Thereof Notice of Commission Determination To Review in Part a Final Initial Determination Finding a Violation of Section 337; Schedule for Filing Written Submissions on Remedy, The Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that on March 31, 2023, the presiding chief administrative law judge (“CALJ”) issued a combined final initial determination (“ID”) finding a violation of section 337 and a recommended determination (“RD”) on remedy and bonding in the above-captioned investigation. The Commission has

determined to review the final ID in part. The Commission also requests briefing from the parties, interested government agencies, and interested persons on the issues of remedy, the public interest, and bonding.

FOR FURTHER INFORMATION CONTACT: Richard P. Hadorn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3179. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal, telephone (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 27, 2022, based on a complaint filed by OPEX Corporation (“OPEX”) of Moorestown, New Jersey. 87 FR 4290–91 (Jan. 27, 2022). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), based on the importation into the United States, the sale for importation, and the sale within the United States after importation of certain automated put walls and automated storage and retrieval systems, associated vehicles, associated control software, and component parts thereof by reason of infringement of certain claims of U.S. Patent Nos. 8,104,601 (“the ‘601 patent”), 8,276,740 (“the ‘740 patent”), 8,622,194 (“the ‘194 patent”), and 10,576,505 (“the ‘505 patent”). *Id.* at 4291. The complaint further alleges that a domestic industry exists. *Id.* The notice of investigation named two respondents: (1) HC Robotics (a.k.a. Huicang Information Technology Co., Ltd.) of Hangzhou City, Zhejiang Province, China; and (2) Invata, LLC (d/b/a Invata Intralogistics) of Conshohocken, Pennsylvania (collectively, “Respondents”). *Id.* The Office of Unfair Import Investigations is not named as a party. *Id.*

On September 13, 2022, the Commission terminated the investigation as to the OmniSort Generation 1 products based on a consent order. Order No. 10 (Aug. 12, 2022), *unreviewed by Comm’n Notice* (Sept. 13, 2022). On October 11, 2022, the Commission terminated the

investigation as to (i) the '601 patent, (ii) the '740 patent, (iii) asserted claims 2–4, 6, 10, 12–17, 19, and 20 of the '194 patent, and (iv) asserted claims 14, 17, and 21 of the '505 patent based on OPEX's partial withdrawal of the complaint. Order No. 12 (Sept. 23, 2022), *unreviewed by Comm'n Notice* (Oct. 11, 2022). On December 19, 2022, the Commission determined that the technical prong of the domestic industry requirement is satisfied in this investigation as to the remaining asserted patents—*i.e.*, the '194 and '505 patents. *See* Order No. 17 (Nov. 23, 2022), *unreviewed by Comm'n Notice* (Dec. 19, 2022).

On March 31, 2023, the CALJ issued the subject final ID on violation and RD on remedy and bonding. The ID finds violations of section 337 with respect to asserted claims 1 and 5 of the '194 patent and asserted claims 1–5, 7–9, 11–13, 15–16, and 18–20 of the '505 patent. Specifically, the ID finds that: (i) OPEX has standing to assert both the '194 and '505 patents; (ii) the asserted claims listed above are directly infringed by Respondents; (iii) Respondents both induced and contributed to the infringement of each of the asserted claims listed above; (iv) no asserted claim is invalid; and (v) OPEX has satisfied the economic prong of the domestic industry requirement as to both patents. The RD recommends that, should the Commission determine that violations of section 337 occurred, the Commission should: (i) issue a limited exclusion order against the Respondents' infringing products; (ii) issue a cease and desist order against the Respondents; and (iii) set a 100 percent bond for importations of infringing products during the period of Presidential review.

On April 14, 2023, Respondents filed a petition for review of the ID on violation, including the ID's findings concerning claim construction, infringement, validity, and satisfaction of the economic prong of the domestic industry requirement. On April 26, 2023, OPEX filed a response opposing Respondents' petition.

The Commission did not receive submissions on the public interest from the parties pursuant to Commission Rule 210.50(a)(4) (19 CFR 210.50(a)(4)). The Commission also did not receive any submissions on the public interest from members of the public in response to the Commission's **Federal Register** notice. *See* 88 FR 23689 (Apr. 18, 2023).

The Commission has determined to review the ID in part. Specifically, the Commission has determined to review the ID's finding that OPEX has satisfied the economic prong of the domestic

industry requirement. The Commission has also determined to correct typographical errors on pages 8, 35, and 38 of the ID. The Commission has determined not to review the remaining findings in the ID.

In connection with the final disposition of this investigation, the statute authorizes issuance of, *inter alia*, (1) an exclusion order that could result in the exclusion of the subject articles from entry into the United States; and/or (2) cease and desist orders that could result in the respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843, Comm'n Op. at 7–10 (Dec. 1994).

The statute requires the Commission to consider the effects of that remedy upon the public interest. The public interest factors the Commission will consider include the effect that an exclusion order and cease and desist orders would have on: (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve, disapprove, or take no action on the Commission's determination. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the CALJ on remedy and bonding.

In its initial written submission, OPEX is also requested to identify the remedy sought and to submit proposed remedial orders for the Commission's consideration. OPEX is further requested to state the dates that the asserted patents expire, to provide the HTSUS subheadings under which the accused products are imported, and to supply the identification information for all known importers of the products at issue in this investigation.

The initial written submissions and proposed remedial orders must be filed no later than close of business on June 15, 2023. Reply submissions must be filed no later than the close of business on June 22, 2023. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (Mar. 19, 2020). Submissions should refer to the investigation number (Inv. No. 337-TA-1293) in a prominent place on the cover page and/or the first page. (*See Handbook for Electronic Filing Procedures*, https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. Any non-party wishing to submit comments containing confidential information must serve those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed with the Commission and served on any parties to the investigation within two business

days of any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

The Commission vote for this determination took place on June 1, 2023.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: June 2, 2023.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2023-12149 Filed 6-6-23; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1308]

Certain Power Semiconductors, and Mobile Devices and Computers Containing Same; Notice of Request for Submissions on the Public Interest

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that on May 18, 2023, the presiding administrative law judge ("ALJ") issued an Initial Determination on Violation of section 337. On June 1, 2023, the ALJ issued a Recommended Determination on remedy and bonding should a violation be found in the above-captioned investigation. The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation. This notice is soliciting comments from the

public and interested government agencies only.

FOR FURTHER INFORMATION CONTACT: Paul Lall, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2043. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that, if the Commission finds a violation, it shall exclude the articles concerned from the United States unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry. (19 U.S.C. 1337(d)(1)). A similar provision applies to cease and desist orders. (19 U.S.C. 1337(f)(1)).

The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation, specifically: a limited exclusion order directed to certain power semiconductors with envelope tracking modules, and products such as mobile devices, tablets, and laptop computers containing the same imported, sold for importation, and/or sold after importation by respondent Apple, Inc. ("Apple") and cease and desist orders directed to Apple. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public and interested government agencies are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the ALJ's Recommended Determination on Remedy and Bonding issued in this investigation on June 1, 2023. Comments should address whether issuance of the recommended remedial

orders in this investigation, should the Commission find a violation, would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the recommended remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third-party suppliers have the capacity to replace the volume of articles potentially subject to the recommended orders within a commercially reasonable time; and

(v) explain how the recommended orders would impact consumers in the United States.

Written submissions must be filed no later than by close of business on July 3, 2023.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (Mar. 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1308") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, https://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf). Persons with questions regarding filing should contact the Secretary (202-205-2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. Any non-party wishing to submit comments containing confidential information must serve

those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing and must be served in accordance with Commission Rule 210.4(f)(7)(ii)(A) (19 CFR 210.4(f)(7)(ii)(A)). All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: June 2, 2023.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2023-12176 Filed 6-6-23; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1265 (Rescission)]

Certain Fitness Devices, Streaming Components Thereof, and Systems Containing Same; Institution of Rescission Proceeding; Issuance of Order Rescinding Remedial Orders as to a Respondent; Termination of Rescission Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission ("Commission") has determined to institute a rescission proceeding, issue an order rescinding the remedial orders directed to one

respondent, and then terminate the rescission proceeding.

FOR FURTHER INFORMATION CONTACT:

Ronald A. Traud, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-3427. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: On May 19, 2021, the Commission instituted the underlying investigation based on a complaint filed on behalf of complainants DISH DBS Corporation of Englewood, Colorado; DISH Technologies L.L.C. of Englewood, Colorado; and Sling TV L.L.C. of Englewood, Colorado (collectively, "DISH"). 86 FR 27106, 27106-07 (May 19, 2021). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain fitness devices, streaming components thereof, and systems containing the same by reason of infringement of certain claims of U.S. Patent Nos. 9,407,564 ("the '564 patent"); 10,469,554 ("the '554 patent"); 10,469,555 ("the '555 patent"); 10,757,156 ("the '156 patent"); and 10,951,680 ("the '680 patent"). *Id.* The complaint further alleged that a domestic industry exists. *Id.* The Commission's notice of investigation named as respondents Peloton Interactive, Inc. of New York, New York ("Peloton"); iFIT Inc., f/k/a ICON Health & Fitness, Inc. of Logan, Utah; FreeMotion Fitness, Inc. of Logan, Utah; NordicTrack, Inc. of Logan, Utah (together with iFIT Inc. and FreeMotion Fitness, Inc., "iFIT"); lululemon athletica inc. of Vancouver, Canada; and Curiouser Products Inc. d/b/a MIRROR of New York, New York (together with lululemon athletica inc., "MIRROR;" and together with the other respondents, "Respondents"). *Id.*; Order No. 14 (Nov. 4, 2021), *unreviewed by* Comm'n Notice (Dec. 6, 2021), 86 FR 70532 (Dec. 10, 2021). The Office of Unfair Import

Investigations ("OUII") participated in the investigation. 86 FR at 27106-07.

Prior to the issuance of the final initial determination ("Final ID") by the Chief Administrative Law Judge ("CALJ"), the investigation was terminated in part as to claims 6, 11, and 12 of the '156 patent, claim 22 of the '554 patent, and claim 17 of the '555 patent. *See* Order No. 15 (Nov. 19, 2021), *unreviewed by* Comm'n Notice (Dec. 20, 2021). In addition, DISH withdrew its allegations that iFIT and Peloton infringe claims 9 and 12 of the '156 patent, claim 19 of the '554 patent, claims 12 and 13 of the '555 patent, and claim 6 of the '564 patent. The investigation was further terminated as to claims 6-8, 10, and 13-15 of the '564 patent, claims 3 and 6-12 of the '156 patent, claims 18, 19, 21-25, and 30 of the '554 patent, claims 12, 13, 16, 17, 26, and 27 of the '555 patent, and all asserted claims of the '680 patent. Order No. 21 (Mar. 3, 2022), *unreviewed by* Comm'n Notice (Mar. 23, 2022).

On September 9, 2022, the CALJ issued the Final ID, which found that Respondents violated section 337.

On November 18, 2022, after considering the parties' petitions and the responses thereto, the Commission determined to review the Final ID in part. 87 FR 72510, 72510-12 (Nov. 25, 2022).

On February 13, 2023, MIRROR and DISH filed a joint, unopposed motion to partially terminate the investigation as to MIRROR based on a settlement agreement between DISH and MIRROR.

On March 8, 2023, the Commission issued its final determination, finding respondents Peloton and iFIT in violation of section 337 as to the asserted claims of the '156, '554, and '555 patents, but not as to the asserted claims of the '564 patent. 88 FR 15736-38 (Mar. 14, 2023). As a remedy for that violation, the Commission issued an LEO and CDOs directed to Peloton and iFIT. *Id.* The Commission's final determination also terminated MIRROR from the investigation. *Id.*

On May 5, 2023, the Commission modified the remedial orders in certain respects. 88 FR 30158 (May 10, 2023).

On May 3, 2023, DISH filed a petition requesting that the Commission rescind the LEO and the CDO issued against Peloton based on settlement. DISH also filed confidential and public supplements to the petition that included confidential and public versions of the settlement agreement between DISH and Peloton. The petition asserts that rescission is warranted based on changed conditions of fact and law stemming from DISH and Peloton reaching a settlement agreement that

fully resolves the dispute between DISH and Peloton concerning the subject matter of the underlying investigation. The petition does not request rescission as to Respondents other than Peloton. The petition states that Respondents do not oppose the motion.

DISH also filed a motion to terminate Peloton based on settlement; a motion to stay the proceedings and suspend the Commission's remedial orders as to Peloton; and a Notice acknowledging that the two motions will become moot upon grant of the Petition for Rescission. See Complainants' Motion to Terminate the Investigation as to Respondent Peloton Interactive, Inc. Based on a Settlement Agreement (May 3, 2023); Complainants' Motion to Stay Proceedings and Suspend Remedial Orders as to Respondent Peloton Interactive, Inc., Based on a Settlement Agreement, and for Expedited Consideration of Same (May 2, 2023); Complainants' Notice to the Comm'n (May 5, 2023).

On May 8, 2023, OUII filed a response supporting DISH's petition. No other responses were received in response to the petition.

In consideration of the petition and the response thereto, the Commission has determined to institute a rescission proceeding in this investigation. Consistent with an order issued concurrently herewith, the Commission has determined to rescind the modified remedial orders issued in this investigation to the extent they apply to Peloton. The settlement agreement fully resolves the dispute between DISH and Peloton concerning the subject matter of this investigation, the settlement agreement constitutes changed circumstances warranting rescission under section 337(k), (19 U.S.C. 1337(k)), and the petition complies with the procedural requirements of Commission Rule 210.76 (19 CFR 210.76). The Commission has further determined to find the motion to terminate respondent Peloton and the motion to stay the proceedings moot. The Commission has further determined to terminate this rescission proceeding.

The Commission vote for these determinations took place on June 1, 2023.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: June 1, 2023.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2023–12101 Filed 6–6–23; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–895 (Fourth Review)]

Pure Granular Magnesium From China; Scheduling of an Expedited Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to the Tariff Act of 1930 (“the Act”) to determine whether revocation of the antidumping duty order on pure granular magnesium from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: May 8, 2023.

FOR FURTHER INFORMATION CONTACT: Ahdia Bavari ((202) 205–3191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—On May 8, 2023, the Commission determined that the domestic interested party group response to its notice of institution (88 FR 6784, February 1, 2023) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.¹ Accordingly,

¹ A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's website.

the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)).²

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Staff report.—A staff report containing information concerning the subject matter of the review has been placed in the nonpublic record, and will be made available to persons on the Administrative Protective Order service list for this review on August 9, 2023. A public version will be issued thereafter, pursuant to § 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in § 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,³ and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before August 17, 2023 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by August 17, 2023. However, should the Department of Commerce (“Commerce”) extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures*, available on the Commission's website at https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf, elaborates

² Chairman David S. Johanson voted to conduct a full review.

³ The Commission has found the response submitted on behalf of US Magnesium LLC, Magpro LLC, and The United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Local 8319 to be individually adequate. Comments from other interested parties will not be accepted (see 19 CFR 207.62(d)(2)).

upon the Commission's procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination.—The Commission has determined this review is extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: June 2, 2023.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2023–12168 Filed 6–6–23; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1215]

Bulk Manufacturer of Controlled Substances Application: AMPAC Fine Chemicals, LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: AMPAC Fine Chemicals, LLC has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before August 7, 2023. Such persons may also file a written request for a hearing on the application on or before August 7, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow

the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on April 13, 2023, AMPAC Fine Chemicals, LLC, Highway 50 & Hazel Avenue, Rancho Cordova, California 95670, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Norlevorphanol	9634	I
Methylphenidate	1724	II
Levomethorphan	9210	II
Levorphanol	9220	II
Thebaine	9333	II
Remifentanyl	9739	II
Tapentadol	9780	II

The company plans to bulk manufacture the listed controlled substances for distribution to its customers. No other activities for these drug codes are authorized for this registration.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2023–12137 Filed 6–6–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1211]

Importer of Controlled Substances Application: Catalent Greenville, Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Catalent Greenville, Inc. has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before July 7, 2023. Such persons may also file a written request for a

hearing on the application on or before July 7, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrisette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on April 21, 2023, Catalent Greenville, Inc., 1240 Sugg Parkway, Greenville, North Carolina 27834–9006, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Lysergic Acid Diethylamide	7315	I

The company plans to import the listed controlled substance for the development of bulk dosage formulations for research and clinical studies. No other activities for this drug code are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2023–12128 Filed 6–6–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE**Drug Enforcement Administration**

[Docket No. DEA-1214]

Importer of Controlled Substances Application: Arizona Department of Corrections**AGENCY:** Drug Enforcement Administration, Justice.**ACTION:** Notice of application.

SUMMARY: Arizona Department of Corrections has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before July 7, 2023. Such persons may also file a written request for a hearing on the application on or before July 7, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrisette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on May 5, 2023, Arizona Department of Corrections, 1305 East Butte Avenue, ASPC-Florence, Florence, Arizona 85132-9221, applied to be registered as an importer of the

following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Pentobarbital	2270	II

The facility intends to import the above-listed controlled substance for legitimate needs. This particular controlled substance is not available for the intended legitimate need within the current domestic supply of the United States. No other activities for this drug code is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Matthew Strait,*Deputy Assistant Administrator.*

[FR Doc. 2023-12131 Filed 6-6-23; 8:45 am]

BILLING CODE P**DEPARTMENT OF JUSTICE****Drug Enforcement Administration**

[Docket No. DEA-1212]

Bulk Manufacturer of Controlled Substances Application: Biopharmaceutical Research Company**AGENCY:** Drug Enforcement Administration, Justice.**ACTION:** Notice of application.

SUMMARY: Biopharmaceutical Research Company, has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before August 7, 2023. Such persons may also file a written request for a hearing on the application on or before August 7, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for

submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on April 28, 2023, Biopharmaceutical Research Company, 11045 Commercial Parkway, Castroville, California 95012-3209, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Marihuana Extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I

The company plans to bulk manufacture the listed controlled substances to provided Pharmaceutical-grade marihuana in order to facilitate research in a manner that complies with local, state, and federal regulations. No other activities for these drug codes are authorized for this registration.

Matthew Strait,*Deputy Assistant Administrator.*

[FR Doc. 2023-12127 Filed 6-6-23; 8:45 am]

BILLING CODE P**DEPARTMENT OF JUSTICE****Drug Enforcement Administration**

[Docket No. DEA-1210]

Bulk Manufacturer of Controlled Substances Application: Bright Green Corporation**AGENCY:** Drug Enforcement Administration, Justice.**ACTION:** Notice of application.

SUMMARY: Bright Green Corporation, has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before August 7, 2023. Such persons may also file a written request for a hearing on the application on or before August 7, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on April 28, 2023, 103 George Hanosh Boulevard, Grants, New Mexico 87020, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Tetrahydrocannabinols ..	7370	I

The company plans to bulk manufacture the listed controlled substance for research purposes. No other activities for these drug codes are authorized for this registration.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2023-12125 Filed 6-6-23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA-1213]

Bulk Manufacturer of Controlled Substances Application: Usona Institute, Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Usona Institute, Inc. has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration

on or before August 7, 2023. Such persons may also file a written request for a hearing on the application on or before August 7, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to <https://www.regulations.gov> and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on <https://www.regulations.gov>. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on May 20, 2023, Usona Institute, Inc., 2780 Woods Hollow Road, Room 2413, Fitchburg, Wisconsin 53711, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Psilocybin	7437	I
Psilocin	7438	I

The company plans to bulk manufacture the listed controlled substances for use in chemical process development as well as pre-clinical and clinical research.

Matthew J. Strait,

Deputy Assistant Administrator.

[FR Doc. 2023-12134 Filed 6-6-23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

[OMB Number 1190-0020]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Reinstatement of a Previously Approved Collection; Reporting Portal for Civil Rights Violations

AGENCY: Civil Rights Division, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Civil Rights Division, will be submitting the following information collection request to the Office of

Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until August 7, 2023.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Daniel Yi, Senior Counsel for Innovation, Civil Rights Division, U.S. Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20009; telephone number 202-514-4701 (Note: This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;
- Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Abstract: This collection is authorized by 18 U.S.C. 245, Federally Protected Activities and 18 U.S.C. 241, 242, Official Misconduct. Civil Rights Division of the U.S. Department of Justice enforces the nation’s federal civil rights statutes. Members of the public play a critical role in this effort by reporting civil rights violations to the Division. To facilitate this reporting process, the Division is developing a streamlined online Reporting Portal for Civil Rights Violations. This Portal is designed to facilitate and enhance individual complainant’s reporting opportunities.

Overview of This Information Collection

1. *Type of Information Collection:* Reinstatement of a previously approved collection.
2. *The Title of the Form/Collection:* Reporting Portal for Civil Rights Violations.
3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

There is no agency form number for this collection. The applicable component within the Department of Justice is the Civil Rights Division.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Affected Public: Individuals or households. The obligation to respond is voluntary.
5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to*

respond: The total or estimated number of respondents for this collection is 132,655. The time per response is 6 minutes.

6. *An estimate of the total annual burden (in hours) associated with the collection:* The total annual burden hours for this collection is 13,266 hours.

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* \$666,000.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency	Total annual responses	Time per response	Total annual burden (hours)
Reporting Portal for Civil Rights Violations	132,655	1/annually	132,655	6 min (.1)	13,266
<i>Unduplicated Totals</i>	<i>132,655</i>	.....	<i>132,655</i>	.....	<i>13,266</i>

If additional information is required contact: John R. Carlson, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W-218, Washington, DC.

Dated: May 26, 2023.

John Carlson,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2023-11713 Filed 6-6-23; 8:45 am]

BILLING CODE 4410-14-P

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free by contacting Lea Clary by telephone at 202-693-3894 (this is not a toll-free number), TTY 1-877-889-5627 (this is not a toll-free number), or by email at *Clary.Lea.R@dol.gov*.

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, ETA, Office of Unemployment Insurance, DUA Program, Room S-4520, 200 Constitution Ave. NW, Washington, DC 20210; by email: *Clary.Lea.R@dol.gov*; or by fax (202) 693-3975.

FOR FURTHER INFORMATION CONTACT: Lea Clary by telephone at 202-693-3894 (this is not a toll-free number) or by email at *Clary.Lea.R@dol.gov*.

Authority: 44 U.S.C. 3506(c)(2)(A).

SUPPLEMENTARY INFORMATION: DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

This ICR seeks to extend PRA authority for the Disaster Unemployment Assistance Activities Report information collection. Sections

410 and 423 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act provide for Disaster Unemployment Assistance (DUA) to eligible applicants who are unemployed as a direct result of a major disaster. State Workforce Agencies, through individual agreements with the Secretary of Labor, act as agents of the Federal Government in providing DUA. Form ETA 902 is a monthly report that a State submits on DUA program activities once the President declares a disaster. 20 CFR 625.19 and section 303(a)(6) of the Social Security Act (42 U.S.C. 503(a)(6)) authorize this information collection.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention 1205-0051.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; Disaster Unemployment Assistance Activities Report

ACTION: Notice.

SUMMARY: The Department of Labor’s (DOL) Employment and Training Administration (ETA) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, “Disaster Unemployment Assistance Activities Report.” This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by August 7, 2023.

redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;
- Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, (e.g., permitting electronic submission of responses).

Agency: DOL–ETA.

Type of Review: Extension without changes.

Title of Collection: Disaster Unemployment Assistance Activities Report.

Form: ETA 902, Disaster Unemployment Assistance Activities.

OMB Control Number: 1205–0051.

Affected Public: State, local, and Tribal governments.

Estimated Number of Respondents: 30.

Frequency: Monthly.

Total Estimated Annual Responses: 210.

Estimated Average Time per Response: 60 minutes.

Estimated Total Annual Burden Hours: 210 hours.

Total Estimated Annual Other Cost Burden: \$0.

Brent Parton,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2023–12118 Filed 6–6–23; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

[OMB Control No. 1225–0087]

Proposed Extension of Information Collection; Application for Use of Public Space by Non-DOL Agencies in the Frances Perkins Building

AGENCY: Office of the Assistant Secretary for Administration and Management, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance request for comment to provide the public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995. This request helps to ensure that: requested data can be provided in the desired format; reporting burden (time and financial resources) is minimized; collection instruments are clearly understood; and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of the Assistant Secretary for Administration and Management (OASAM) is soliciting comments on the information collection for Application for Use of Public Space by Non-DOL Agencies in the Frances Perkins Building.

DATES: All comments must be received on or before August 7, 2023.

ADDRESSES: Electronic submission: You may submit comments and attachments electronically at <http://www.regulations.gov>. Follow the online instructions for submitting comments. A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free by contacting Nora Hernandez by telephone at (202) 693–8633 (this is not a toll-free number), or by email at DOL_PRA_PUBLIC@dol.gov. Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Office of the Assistant Secretary for Administration and Management, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; by email: DOL_PRA_PUBLIC@dol.gov.

All submissions received must include the agency name and OMB Control Number 1225–0087.

FOR FURTHER INFORMATION CONTACT: Nora Hernandez, *Departmental Clearance Officer* by telephone at 202–693–8633 (this is not a toll-free

number), or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Consistent with 40 U.S.C. 581(h)(2), Federal Management Regulation (FMR) part 102, Public Law 102–74, subpart D, and the GSA Delegation under which the Department of Labor (DOL) operates the Frances Perkins Building (FPB), DOL allows the use of public space within the FPB for non-commercial purposes. As provided by FMR 102–74, subpart D, (41 CFR 102–74–460) any person or entity that wishes to use public space in a Federal building is required to submit an application for a permit. To capture the nature of the request, information such as the requester, description of event, date, time, and approvals are collected in order to review the appropriateness of the request and make a determination of the availability of the requested public space.

DOL experience shows that the agency receives fewer than 10 non-DOL Agency requests to use FPB public space in any given year; however, as the information is contained in a rule of general applicability, the information collection is deemed to involve 10 or more persons. See 5 CFR 1320.3(c)(4)(ii). DOL, consequently, must maintain PRA authority to conduct this information collection.

II. Desired Focus of Comments

OASAM is soliciting comments concerning the proposed information collection related to the Application for Use of Public Space by Non-DOL Agencies in the Frances Perkins Building. OASAM is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of OASAM's estimate of the burden related to the information collection, including the validity of the methodology and assumptions used in the estimate;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the information collection 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.

Background documents related to this information collection request are

available at <https://regulations.gov> and at DOL–OASAM, located at Office of the Assistant Secretary for Administration and Management, Room N1301, Washington, DC 20210. Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

III. Current Actions

This information collection request concerns Application for Use of Public Space by Non-DOL Agencies in the Frances Perkins Building. OASAM has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request from the previous information collection request.

Type of Review: Extension.

Agency: DOL–OASAM.

Title of Collection: Application for Use of Public Space by Non-DOL Agencies in the Frances Perkins Building.

Form: Application for Use of Public Space by Non-DOL Agencies in the Frances Perkins Building (Form DL1–6062B).

OMB Number: 1225–0087.

Affected Public: Private Sector, not-for-profit institutions.

Number of Respondents: 10.

Number of Responses: 10.

Annual Burden Hours: 1 hour.

Annual Respondent or Recordkeeper Cost: \$0.

Comments submitted in response to this notice will be summarized in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and will be available at <https://www.reginfo.gov>.

(Authority: 44 U.S.C. 3507(a)(1)(D).)

Nora Hernandez,

Departmental Clearance Officer.

[FR Doc. 2023–12119 Filed 6–6–23; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Information Collection Activities; Comment Request

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden,

conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the “BLS Data Sharing Program.” A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the Addresses section of this notice on or before August 7, 2023.

ADDRESSES: Send comments to Erin Good, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room G225, 2 Massachusetts Avenue, NE, Washington, DC 20212. Written comments also may be transmitted by email to BLS_PRA_Public@bls.gov.

FOR FURTHER INFORMATION CONTACT: Erin Good, BLS Clearance Officer, at 202–691–7628 (this is not a toll free number). (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

An important aspect of the mission of the BLS is to disseminate to the public the maximum amount of information possible. Not all data are publicly available because of the importance of maintaining the confidentiality of BLS data. However, the BLS has opportunities available on a limited basis for eligible researchers to access confidential data for purposes of conducting valid statistical analyses that further the mission of the BLS as permitted in the Confidential Information Protection and Statistical Efficiency Act (CIPSEA).

The BLS makes confidential data available to eligible researchers through three major programs:

1. The National Longitudinal Surveys of Youth (NLSY) is designed to document the transition from school to work and into adulthood. The NLSY collects extensive information about youths’ labor market behavior and educational experiences over time. The NLSY includes three different cohorts: the National Longitudinal Survey of

Youth 1979 (NLSY79), the NLSY79 Young Adult Survey, and the National Longitudinal Survey of Youth 1997 (NLSY97). NLSY data beyond the public use data are made available in greater detail through an offsite program to eligible researchers.

2. The Census of Fatal Occupational Injuries (CFOI), as part of the BLS occupational safety and health statistics program, compiles a count of all fatal work injuries occurring in the U.S. in each calendar year. Multiple sources are used in order to provide as complete and accurate information concerning workplace fatalities as possible. A research file containing CFOI data is made available offsite to eligible researchers.

3. Additionally, the BLS makes available data from several employment, prices, compensation, and working conditions surveys to eligible researchers for onsite use. Eligible visiting researchers can access these data in researcher rooms at the BLS national office in Washington, DC or at a Federal Statistical Research Data Center (FSRDC).

II. Current Action

Office of Management and Budget clearance is being sought for a revision of the BLS Data Sharing Program. In order to provide access to confidential data under CIPSEA, the BLS must enter into legal agreements with approved researchers’ institutions. This information collection allows the BLS to obtain the necessary details for those legal agreements which are not captured through the Standard Application Process (SAP).

An Emergency OMB Clearance Package 1220–0199 approved collection of an additional Special Agreement Check Information Form for 180 days. This form is used to fulfill a Department of Labor (DOL) security requirement that all visitors require a minimal background check to access Federal facilities. Continued collection of this information is essential to granting approved researchers access to restricted data at the BLS National Office. Package 1220–0199 expires on December 31, 2023, after which time the form will be covered under this package 1220–0180.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility.

- Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or

other forms of information technology, e.g., permitting electronic submissions of responses.

Title of Collection: BLS Data Sharing Program.
OMB Number: 1220–0180.
Type of Review: Revision.
Affected Public: Individuals.

Form	Total respondents	Frequency	Total responses	Average time per response (minutes)	Estimated total burden hours
NLSY	95	Once (on occasion)	95	15	23.75
CFOI	3	Once (on occasion)	3	15	0.75
FSRDC Researcher	10	Once (on occasion)	10	15	2.5
Onsite Researcher	20	Once (on occasion)	20	25	8.33
Totals	128	.....	128	.....	35.33

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, on June 2, 2023.
Leslie A. Bennett,
Chief, Division of Management Systems.
 [FR Doc. 2023–12198 Filed 6–6–23; 8:45 am]
BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control Number: 1219–0138]

Proposed Extension of Information Collection; Safety Standards for Underground Coal Mine Ventilation—Belt Entry Used as an Intake Air Course To Ventilate Working Sections and Areas Where Mechanized Mining Equipment Is Being Installed or Removed

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be

properly assessed. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for Safety Standards for Underground Coal Mine Ventilation—Belt Entry Used as an Intake Air Course to Ventilate Working Sections and Areas Where Mechanized Mining Equipment is Being Installed or Removed.

DATES: All comments must be received by the Office of Standards, Regulations and Variances on or before August 7, 2023.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- *Federal E-Rulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments for docket number MSHA–2023–0013.
- *Mail/Hand Delivery:* DOL–MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202–5452. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor’s COVID–19 policy. Special health precautions may be required.
- MSHA will post all comments as well as any attachments, except for information submitted and marked as confidential, in the docket at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances, MSHA, at MSHA.information.collections@dol.gov (email); (202) 693–9440 (voice); or (202) 693–9441 (facsimile). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811, authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal and metal and nonmetal mines.

MSHA safety standards for ventilation of underground coal mines establish additional protective measures that mine operators must follow if they want to use belt air for ventilation purposes. 30 CFR 75.350, 75.351, 75.352, and 75.371 contain paperwork requirements to ensure that mine operators are in compliance with the ventilation standards.

30 CFR 75.350(a)(2) requires that the air velocity in the belt entry must be at least 50 feet per minute. When requested by the mine operator, the district manager may approve lower velocities in the ventilation plan based on specific mine conditions.

30 CFR 75.350(b) requires that the use of air from a belt air course to ventilate a working section, or an area where mechanized mining equipment is being installed or removed, is permitted only when evaluated and approved by the district manager in the mine ventilation plan. The mine operator must include in a ventilation plan a justification that the use of air from a belt entry would afford at least the same measure of protection as where belt haulage entries are not used to ventilate working places.

30 CFR 75.350(b)(2) requires all miners to be trained annually in the

basic operating principles of the AMS, including the actions required in the event of activation of any AMS alert or alarm signal. It must be conducted as part of a miner's new miner training (30 CFR 48.5), experienced miner training (30 CFR 48.6), or annual refresher training (30 CFR 48.8).

30 CFR 75.350(b)(3)(iii) sets the average concentration of respirable dust in the belt air course and requires that permanent designated areas for dust measurement must be specified and approved in the ventilation plan.

30 CFR 75.350(b)(6) requires that the ventilation plan must include the locations for measuring air quantities.

30 CFR 75.350(b)(7) and (8) requires that the air velocity in the belt entry must be at least 100 feet per minute and not exceed 1,000 feet per minute. When requested by the mine operator, the district manager may approve lower or higher velocities in the ventilation plan based on specific mine conditions.

30 CFR 75.350(c) requires that the mine ventilation plan must include the location and use of point-feed regulators, if additional intake air is added to the belt air course through a point-feed regulator.

30 CFR 75.350(d)(1) requires that the ventilation plan must include the district manager approval of a second point monitored for carbon monoxide (CO) or smoke at a distance less than 1,000 feet upwind of the point-feed regulator, based on mine specific conditions.

30 CFR 75.350(d)(5) requires that the ventilation plan must include information regarding the location(s) and use of point-feed regulator(s) if the air through the point-feed regulator enters a belt air course. The location(s) and use of point-feed regulator(s) must be shown on the mine ventilation map.

30 CFR 75.351(b)(3) requires a mine operator to post a map or schematic, at a designated surface location, which shows the locations and type of Atmospheric Monitoring System (AMS) sensors at each location and the intended air flow direction at these locations. This map or schematic must be updated within 24 hours of any change in this information.

30 CFR 75.351(b)(4) requires that contact information for AMS operator and other appropriate personnel must be provided at the designated surface location.

30 CFR 75.351(e) requires that the locations in any entry that is part of the belt air course to be specified in the mine ventilation plan.

30 CFR 75.351(i)(2) establishes that reduced alert and alarm setting approved by the district manager may

be required for carbon monoxide sensors identified in the mine ventilation plan.

30 CFR 75.351(j) requires approved carbon monoxide ambient levels and the means to determine those levels in the mine ventilation plan.

30 CFR 75.351(m) permits a mine to incorporate time delays into the AMS, when a demonstrated need exists. These time delays must only be used to account for non-fire related carbon monoxide alert and alarm sensor signals. These time delays are limited to no more than three minutes. The use and length of any time delays, or other techniques or methods which eliminate or reduce the need for time delays, must be specified and approved in the mine ventilation plan.

30 CFR 75.351(n)(2) and 30 CFR 75.351(n)(3) require that alarms for AMS be tested every 7 days and carbon monoxide, smoke, or methane sensors be calibrated every 31 days, respectively.

30 CFR 75.351(o)(1)(i) requires that a record be made if the AMS emits an alert or alarm signal. The record would consist of the date, time, location, and type of sensor, and the reason for its activation.

30 CFR 75.351(o)(1)(ii) requires that, if an AMS malfunctions, a record be made of the date, the extent and cause of the malfunction, and the corrective action taken to return the system to proper operating condition.

30 CFR 75.351(o)(1)(iii) requires that the persons doing the weekly test of alert and alarm signals, the monthly calibration, or maintenance of the system make a record of these tests, calibrations, or maintenance.

30 CFR 75.351(o)(2) requires the recordkeeper entering the record must include their name, date and signature in the record.

30 CFR 75.351(o)(3) requires that all records concerning the AMS be kept in a book or electronically in a computer system that is secure and not susceptible to alteration.

30 CFR 75.351(p) requires the mine operator to keep these records for at least one year at a surface location and to make them available for inspection by authorized representatives of the Secretary and representatives of miners.

30 CFR 75.351(q)(1) requires that all AMS operators must be trained annually in the proper operation of the AMS.

30 CFR 75.351(q)(3) requires that a record of annual AMS operator training be kept. The record includes the content of training, the person conducting the training, and the date the training was conducted. The record needs to be

maintained at the mine site by the mine operator for at least one year.

30 CFR 75.352(a), (b), and (c) require the designated AMS operator or other appropriate personnel to notify, investigate, or evacuate when malfunction, alert, or alarm signals are received.

30 CFR 75.352(e) requires that immediate action must be taken to return the system to proper operation if any components of the AMS malfunctions or are inoperative.

30 CFR 75.352(e)(7) allows continuous operation of the belt when the AMS components are made for those AMSs using sensors other than carbon monoxide sensors, when an alternative detector and the alert and alarm levels associated with that detector must be specified in the approved mine ventilation plan.

30 CFR 75.371(hh) requires reporting within the mine ventilation plan of the "ambient level in parts per million of carbon monoxide, and the method for determining the ambient level, in all areas where carbon monoxide sensors are installed."

30 CFR 75.371(ii) requires the ventilation plan to include the locations (designated areas) where dust measurements would be made in the belt entry when belt air is used to ventilate working sections or areas where mechanized mining equipment is being installed or removed, in accordance with 30 CFR 75.350(b)(3).

30 CFR 75.371(jj) requires the location and approved velocities at dust measurement locations where air velocities in the belt entry are above or below the limits in accordance with 30 CFR 75.350(a)(2) or 30 CFR 75.350(b)(7) and 30 CFR 75.350(b)(8).

30 CFR 75.371(kk) requires the locations where air quantities are measured in accordance with 30 CFR 75.350(b)(6) be included in the mine ventilation plan.

30 CFR 75.371(ll) requires the locations and use of point feed regulators, in accordance with 30 CFR 75.350(c) and (d)(5), to be in the mine ventilation plan.

30 CFR 75.371(mm) requires the location of any diesel-discriminating sensor and additional carbon monoxide or smoke sensors installed in the belt air course to be included in the mine ventilation plan.

30 CFR 75.371(nn) requires modification of the mine ventilation plan to show the length of the time delay or any other method used for the lower non-fire related alert and alarm setting for carbon monoxide sensors.

30 CFR 75.371(oo) requires modification of the mine ventilation

plan to show the lower alert and alarm setting for carbon monoxide sensors, in accordance with 30 CFR 75.351(i)(2).

30 CFR 75.371(pp) requires modification of the mine ventilation plan to show the alternate detector and the alert and alarm levels associated with the detector, in accordance with 30 CFR 75.352(e)(7).

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to Safety Standards for Underground Coal Mine Ventilation—Belt Entry Used as an Intake Air Course to Ventilate Working Sections and Areas Where Mechanized Mining Equipment is Being Installed or Removed. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The information collection request will be available on <http://www.regulations.gov>. MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on www.regulations.gov and www.reginfo.gov.

The public may also examine publicly available documents at DOL-MSHA, 201 12th South, Suite 4E401, Arlington, VA 22202-5452. Sign in at the receptionist's desk on the 4th floor via the East elevator. Before visiting MSHA in person, call 202-693-9455 to make an appointment, in keeping with the Department of Labor's COVID-19 policy. Special health precautions may be required.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

III. Current Actions

This request for collection of information contains provisions for Safety Standards for Underground Coal Mine Ventilation—Belt Entry Used as an Intake Air Course to Ventilate Working Sections and Areas Where Mechanized Mining Equipment is Being Installed or Removed. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219-0138.

Affected Public: Business or other for-profit.

Number of Respondents: 14.

Frequency: On occasion.

Number of Responses: 157.

Annual Burden Hours: 656 hours.

Annual Respondent or Recordkeeper Cost: \$280.

Respondents or Recordkeeping Costs: The estimated annual cost decreased from \$38,640 to \$280 due to changes in cost assumptions.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Song-ae Aromie Noe,

Certifying Officer, Mine Safety and Health Administration.

[FR Doc. 2023-12146 Filed 6-6-23; 8:45 am]

BILLING CODE 4510-43-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Control No. 1219-0042]

Proposed Extension of Information Collection; Representative of Miners, Notification of Legal Identity, and Notification of Commencement of Operations and Closing of Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of

1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments on the information collection for: (1) designation of miner representative; (2) notification of mine operator's legal identity; and (3) notification of commencement of operations and closing of mines.

DATES: All comments must be received by the Office of Standards, Regulations and Variances on or before August 7, 2023.

ADDRESSES: Comments concerning the information collection requirements of this notice may be sent by any of the methods listed below.

- *Federal E-Rulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments for docket number MSHA-2023-0019.

- *Mail/Hand Delivery:* DOL-MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, VA 22202-5452. Before visiting MSHA in person, call 202-693-9455 to make an appointment, in keeping with the Department of Labor's COVID-19 policy. Special health precautions may be required.

- MSHA will post all comments as well as any attachments, except for information submitted and marked as confidential, in the docket at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances, MSHA, at MSHA.information.collections@dol.gov (email); (202) 693-9440 (voice); or (202) 693-9441 (facsimile). This not a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Background

Section 103(h) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 813(h), authorizes MSHA to collect information necessary to carry out its duty in protecting the safety and health of miners. Further, section 101(a) of the Mine Act, 30 U.S.C. 811, authorizes the Secretary of Labor (Secretary) to develop, promulgate, and revise as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines. Below are explained regulatory provisions

relevant to this request for collection of information.

Representative of Miners. Section 103(f) and (g) of the Mine Act establishes miners' rights that may be exercised through a representative. 30 CFR 40 contains procedures that a person or organization must follow to be identified by the Secretary as a representative of miners. 30 CFR 40 defines what is meant by "representative of miners," a term that is not defined in the Mine Act.

30 CFR 40.2 requires a representative of miners to file the information specified in MSHA Form 2000–238 in 30 CFR 40.3 with the MSHA district manager and the mine operator. All filed information shall be maintained by the appropriate MSHA district office and made available for public inspection.

30 CFR 40.3 requires the following information to be filed by the representative of miners with MSHA and the mine operator:

(1) The name, address, and telephone number of the representative of miners. If the representative is an organization, the name, address, and telephone number of the organization and the title of the person or position, who is to serve as the representative, and his or her telephone number.

(2) The name and address of the operator of the mine where the represented miners work and the name, address, and MSHA identification number, if known, of the mine.

(3) A copy of the document evidencing the designation of the representative of miners.

(4) A statement that the person or position named as the representative of miners is the representative for all purposes of the Act; or if the representative's authority is limited, a statement of the limitation.

(5) The names, addresses, and telephone numbers of any additional or alternate representatives to serve in the representative of miners' absence.

(6) A statement that copies of all information filed pursuant to this section have been delivered to the operator of the affected mine, prior to, or concurrently with, the filing of this statement.

(7) A statement certifying that all information filed is true and correct followed by the signature of the representative of miners.

30 CFR 40.4 requires that a copy of the information provided the mine operator pursuant to 30 CFR 40.3 be posted upon receipt by the operator on the mine bulletin board and maintained in a current status. Once the required information has been filed, a

representative retains his or her status unless and until his or her designation is terminated.

30 CFR 40.5(a) requires that a representative who is unable to comply with the requirements of 30 CFR 40 must file a written statement with the appropriate MSHA district manager terminating his or her designation.

30 CFR 40.5(b) requires that MSHA shall terminate and remove all designations of the terminated representatives of miners. MSHA must notify the mine operator of the termination.

Notification of Mine Operator's Legal Identity. Section 109(d) of the Mine Act requires each operator of a coal or other mine to file with the Secretary, the name and address of such mine, the name and address of the person who controls or operates the mine, and any changes in such names and addresses.

30 CFR 41 requires the mandatory use of MSHA Form 2000–7, Legal Identity Report, for notifying MSHA of the legal identity of the mine operator. The legal identity of a mine operator enables the Secretary to properly ascertain the identity of persons and entities charged with violations of mandatory standards. It is also used in the assessment of civil penalties. Because of turnover in mining company ownership, and because of the statutory considerations regarding penalty assessments, the operator is required to file information regarding ownership interest in other mines held by the operator and relevant persons in a partnership, corporation, or other organization. This information is also necessary to the Department of Labor's Office of the Solicitor in determining proper parties to actions arising under the Mine Act.

Additionally, MSHA Form 7000–51, Mine Operator Identification Request, is used to allow mine operators to request an MSHA mine identification number for each mine. Mine operators request mine identification numbers prior to completing and submitting the required MSHA Form 2000–7. MSHA requires Form 7000–51 to be submitted electronically, facilitating this legal identity reporting process.

Notification of Commencement of Operations and Closing of Mines. Under 30 CFR 56.1000 (Surface) and 57.1000 (Underground), operators of metal and nonmetal mines must notify MSHA when the operation of a mine will commence or when a mine will be closed.

MSHA must be made aware of mine openings and closings so that the Agency can plan to use its resources efficiently to achieve the requirements of the Mine Act. Section 103(a) of the

Mine Act requires that each underground mine to be inspected in its entirety at least four times a year, and each surface mine at least two times per year. Mines that operate only during warmer weather must be scheduled for inspection during the spring, summer, and autumn seasons. Mines are sometimes located a great distance from MSHA field offices, and the notification required by this standard can prevent wasted time and trips.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection related to representative of miners, notification of mine operator's legal identity, and notification of commencement of operations and closing of mines. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, 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).

The information collection request will be available on <http://www.regulations.gov>. MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on www.regulations.gov and www.reginfo.gov.

The public may also examine publicly available documents at DOL–MSHA, 201 12th South, Suite 4E401, Arlington, VA 22202–5452. Sign in at the receptionist's desk on the 4th floor via the East elevator. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

III. Current Actions

This request for collection of information is necessitated by regulatory provisions concerning representative of miners, notification of mine operator's legal identity, and notification of commencement of operations and closing of mines. MSHA has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219-0042.

Affected Public: Business or other for-profit.

Number of Respondents: 9,595.

Frequency: On occasion.

Number of Responses: 9,595.

Annual Burden Hours: 1,823 hours.

Annual Respondent or Recordkeeper Cost: \$780.

MSHA Forms:

MSHA Form 2000-7, Legal Identity Report;

MSHA Form 7000-51, Mine Operator Identification Request;

MSHA Form 2000-238, Representative of Miners Designation Form.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Song-ae Aromie Noe,

Certifying Officer, Mine Safety and Health Administration.

[FR Doc. 2023-12121 Filed 6-6-23; 8:45 am]

BILLING CODE 4520-43-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2013-0016]

Nemko North America, Inc.: Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of Nemko North America, Inc., for expansion of the recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before June 22, 2023.

ADDRESSES: Submit comments by any of the following methods:

Electronically: Submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693-1648.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA-2013-0016). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at <http://www.regulations.gov>. Therefore, the agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

Docket: To read or download comments or other material in the docket, go to <http://www.regulations.gov> or the OSHA Docket Office. All documents in the docket (including this **Federal Register** notice) 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.

Extension of comment period: Submit requests for an extension of the comment period on or before June 22, 2023 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N-3653, Washington, DC 20210, or by fax to (202) 693-1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of

Communications, phone: (202) 693-1999 or email: meilinger.francis2@dol.gov.

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, phone: (202) 693-2110 or email: robinson.kevin@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice that Nemko North America, Inc. (NNA), is applying for expansion of the current recognition as a NRTL. NNA requests the addition of eight test standards to the NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within the scope of recognition. Each NRTL's scope of recognition includes: (1) the type of products the NRTL may test, with each type specified by the applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the agency provides a final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including NNA, which details the NRTL's scope of recognition. These pages are available from the OSHA website at <http://www.osha.gov/dts/otpc/nrtl/index.html>.

NNA currently has two facilities (sites) recognized by OSHA for product testing and certification, with the

headquarters located at: Nemko North America, Inc., 303 River Road, Ottawa, Ontario K1V 1H2 Canada. A complete list of NNA's scope of recognition is available at <https://www.osha.gov/nationally-recognized-testing-laboratory-program/ccl>.

II. General Background on the Application

NNA submitted an application on October 14, 2020 (OSHA–2013–0016–0019), to expand the recognition to include ten additional test standards. This application was revised on January 18, 2022, to remove two standards from the original request. This expansion covers the remaining eight standards.

OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1, below, lists the appropriate test standards found in NNA's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED APPROPRIATE TESTS STANDARDS FOR INCLUSION IN NNA'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 61010–2–010	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–010: Particular Requirements for Laboratory Equipment for the Heating of Materials.
UL 61010–2–020	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–020: Particular Requirements for Laboratory Centrifuges.
UL 61010–2–091	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–091: Particular Requirements for Cabinet X-Ray Systems.
UL 61010–2–030	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–030: Particular Requirements for Equipment Having Testing or Measuring Circuits.
UL 61010–031	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 031: Safety Requirements for Hand-Held and Hand-Manipulated Probe Assemblies for Electrical Test and Measurement.
UL 61010–2–051	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–051: Particular Requirements for Laboratory Equipment for Mixing and Stirring.
UL 61010–2–081	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–081: Particular Requirements for Automatic and Semi-Automatic Laboratory Equipment for Analysis and Other Purposes.
UL 61010–2–101	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–101: Particular Requirements for In Vitro Diagnostic (IVD) Medical Equipment.

III. Preliminary Findings on the Application

NNA submitted an acceptable application for expansion of the scope of recognition. OSHA's review of the application file, and pertinent documentation, indicates that NNA has met the requirements prescribed by 29 CFR 1910.7 for expanding the recognition to include the addition of the eight test standards for NRTL testing and certification listed in Table 1. This preliminary finding does not constitute an interim or temporary approval of NNA's application.

IV. Public Participation

OSHA welcomes public comment as to whether NNA meets the requirements of 29 CFR 1910.7 for expansion of recognition as a NRTL. Comments should consist of pertinent written documents and exhibits.

Commenters needing more time to comment must submit a request in writing, stating the reasons for the request by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer time period. OSHA may deny a request for an extension if it is not adequately justified.

To review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Occupational Safety and Health Administration, U.S.

Department of Labor. These materials also are generally available online at <https://www.regulations.gov> under Docket No. OSHA–2013–0016 (for further information, see the “Docket” heading in the section of this notice titled ADDRESSES).

OSHA staff will review all comments to the docket submitted in a timely manner. After addressing the issues raised by these comments, staff will make a recommendation to the Assistant Secretary of Labor for Occupational Safety and Health on whether to grant NNA's application for expansion of the scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of the final decision in the **Federal Register**.

V. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 8–2020 (85 FR 58393, Sept. 18, 2020), and 29 CFR 1910.7.

Signed at Washington, DC, on May 26, 2023.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2023–12153 Filed 6–6–23; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2023–0012]

Federal Advisory Council on Occupational Safety and Health (FACOSH); Notice of Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of FACOSH meeting.

SUMMARY: The Federal Advisory Committee on Occupational Safety and Health (FACOSH) will meet July 13, 2023.

DATES: FACOSH will meet from 1 p.m.–4 p.m. EST, July 13, 2023, virtually via WebEx.

ADDRESSES:

Submission of comments and requests to speak: Submit comments and requests to speak at the FACOSH meeting by June 23, 2023, identified by the docket number for this **Federal Register** notice (Docket No. OSHA–

2023–0012), using the following method:

Electronically: Comments and requests to speak, including attachments, must be submitted electronically at www.regulations.gov, the Federal eRulemaking Portal. Follow the online instructions for submitting comments.

Requests for special accommodations: Submit requests for special accommodations for this FACOSH meeting by June 23, 2023, to Ms. Mikki Holmes, Directorate of Enforcement Programs, OSHA, U.S. Department of Labor; telephone: (202) 693–2491; email: holmes.mikki@dol.gov.

Instructions: All submissions must include the agency name and the OSHA docket number for this **Federal Register** notice (Docket No. OSHA–2023–0012). OSHA will place comments and requests to speak, including personal information, in the public docket, which may be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates.

Docket: To read or download documents in the public docket for this FACOSH meeting, go to www.regulations.gov. All documents in the public docket are listed in the index; however, some documents (e.g., copyrighted material) are not publicly available to read or download through www.regulations.gov. 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.

Participation in the FACOSH meeting: Members of the public may attend the FACOSH meeting by going to the website: <https://usdolee.webex.com/usdolee/j.php?MTID=m0aa4b3e67abdc8faa0067d34b4896b0c>. However, any participation by the public will be in listen-only mode.

FOR FURTHER INFORMATION CONTACT:

Press inquiries: Mr. Frank Meilinger, Director, OSHA Office of Communications; telephone: (202) 693–1999; email: meilinger.francis2@dol.gov.

General information: Ms. Mikki Holmes, Director, OSHA Office of Federal Agency Programs; telephone (202) 693–2122; email: ofap@dol.gov.

Copies of this Federal Register document: Electronic copies of this **Federal Register** document are available at <http://www.regulations.gov>. This document, as well as news releases and other relevant information are also available on the OSHA web page at <http://www.osha.gov>.

SUPPLEMENTARY INFORMATION:

I. Background

FACOSH is authorized to advise the Secretary of Labor (Secretary) on all matters relating to the occupational safety and health of Federal employees (Occupational Safety and Health Act of 1970 (29 U.S.C. 668), 5 U.S.C. 7902, Executive Orders 12196 and 13511). This includes providing advice on how to reduce and keep to a minimum the number of injuries and illnesses in the Federal workforce and how to encourage the establishment and maintenance of effective occupational safety and health programs in each Federal agency.

II. Meeting Information

FACOSH Meeting

FACOSH will meet from 1:00 p.m. to 4:00 p.m., EST, Thursday, July 13, 2023. The meeting is open to the public.

Meeting agenda: The tentative agenda for this meeting includes:

- OSHA’s Warehouse Initiative.
- Update from FACOSH’s Subcommittee on identification of best practices and lessons learned.

Member and public attendance at the FACOSH meeting will be virtual only. The public can listen in to the FACOSH meeting at: <https://usdolee.webex.com/usdolee/j.php?MTID=m0aa4b3e67abdc8faa0067d34b4896b0c>. In addition, meeting information will be posted to Office of Federal Agency’s website at: <https://www.osha.gov/advisorycommittee/facosh>.

Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice under the authority granted by section 19 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 668), 5 U.S.C. 7902, the Federal Advisory Committee Act (5 U.S.C. 10), Executive Order 12196 and 13511, Secretary of Labor’s Order 8–2020 (85 FR 58393, 9/18/2020), 29 CFR part 1960 (Basic Program Elements of for Federal Employee Occupational Safety and Health Programs), and 41 CFR part 102–3.

Signed at Washington, DC, on May 30, 2023.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2023–12152 Filed 6–6–23; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of Workers’ Compensation Programs

[OMB Control No. 1240–0016]

Proposed Extension of Information Collection; Request for Information on Earnings, Dual Benefits, Dependents and Third Party Settlement (CA–1032)

AGENCY: Office of Workers’ Compensation Programs, Division of Federal Employees’ Longshore and Harbor Workers’ Compensation, (OWCP/DFELHWC) Labor.

ACTION: Request for public comments.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance request for comment to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995. This request helps to ensure that requested data can be provided in the desired format; reporting burden (time and financial resources) is minimized; collection instruments are clearly understood; and the impact of collection requirements on respondents can be properly assessed. Currently, OWCP/DFELHWC is soliciting comments on the information collection for the Request for Information on Earnings, Dual Benefits, Dependents and Third Party Settlement (CA–1032).

DATES: All comments must be received on or before August 7, 2023.

ADDRESSES: You may submit comment as follows. Please note that late, untimely filed comments will not be considered.

Written/Paper Submissions: Submit written/paper submissions in the following way:

- *Mail/Hand Delivery:* Mail or visit DOL–OWCP/DFELHWC, Office of Workers’ Compensation Programs, Division of Federal Employees’ Longshore and Harbor Workers’ Compensation, U.S. Department of Labor, 200 Constitution Ave. NW, Room S–3323, Washington, DC 20210.

- OWCP/DFELHWC will post your comment as well as any attachments, except for information submitted and marked as confidential, in the docket at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Anjanette Suggs, Office of Workers’ Compensation Programs, Division of Federal Employees’ Longshore, and Harbor Workers’ Compensation, OWCP/DFELHWC, at suggs.anjanette@dol.gov @dol.gov (email); (202) 354–9660.

SUPPLEMENTARY INFORMATION:**I. Background**

The Federal Employees' Compensation Act (FECA) provides, under 5 U.S.C. 8124 and 8149, that a claimant receiving workers' compensation benefits over an extended period of time provide information concerning their employment earnings, dependents, third party settlements, other Federal benefits, and other benefits they are receiving to verify their entitlement to FECA benefits. The OWCP uses the response to determine whether the claimant is entitled to continue receiving benefits and whether the benefit amount should be adjusted. The collection is necessary to help verify that the beneficiary receives the correct compensation. Information requested on the CA-1032 is obtained from each claiming receiving continuing compensation on the periodic disability roll. The form requests information on the claimant's earnings, dependents, third party settlements, and other Federal benefits received.

II. Desired Focus of Comments

OWCP/DFELHWC is soliciting comments concerning the proposed information collection (ICR) titled, "Request for Information on Earnings, Dual Benefits, Dependents and Third Party Settlement", CA-1032. OWCP/DFELHWC is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of OWCP/DFELHWC's estimate of the burden related to the information collection, including the validity of the methodology and assumptions used in the estimate;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the information collection 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.

Background documents related to this information collection request are available at <https://regulations.gov> and at DOL-OWCP/DFELHWC located at 200 Constitution Ave., NW, Room S-3323, Washington, DC 20210. Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER**

INFORMATION CONTACT section of this notice.

III. Current Actions

This information collection request concerns the Request for Information on Earnings, Dual Benefits, Dependents and Third Party Settlement, CA-1032.

OWCP/DFELHWC has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request from the previous information collection request.

Type of Review: Extension, without change, of a currently approved collection.

Agency: Office of Workers' Compensation Programs, Division of Federal Employees' Longshore, and Harbor Workers' Compensation, OWCP/DFELHWC.

OMB Number: 1240-0016.

Affected Public: Individuals or households.

Number of Respondents: 33,372.

Frequency: Once a year.

Number of Responses: 33,372.

Annual Burden Hours: 11,013 hours.

Annual Respondent or Recordkeeper Cost: \$15,198.00.

OWCP Forms: Form CA-1032, Request for Information on Earnings, Dual Benefits, Dependents and Third-Party Settlement.

Comments submitted in response to this notice will be summarized in the request for Office of Management and Budget approval of the proposed information collection request; they will become a matter of public record and will be available at <https://www.reginfo.gov>.

Anjanette Suggs,
Certifying Officer.

[FR Doc. 2023-12120 Filed 6-6-23; 8:45 am]

BILLING CODE 4510-CH-P

OFFICE OF MANAGEMENT AND BUDGET**Proposed OMB Circular No. A-4 Modernization—Extension of Public Comment Period**

AGENCY: Office of Information and Regulatory Affairs, Office of Management and Budget, Executive Office of the President.

ACTION: Notice of extension of public comment period.

SUMMARY: On April 7, 2023, the Office of Management and Budget (OMB) published a notice entitled "Request for Comments on Proposed OMB Circular No. A-4, 'Regulatory Analysis.'" OMB is

extending the public comment period announced in that notice, which currently closes on June 6, 2023, by 14 days. The comment period will now remain open until June 20, 2023, to allow additional time for the public to review and comment on the initial proposals.

DATES: With the extension provided by this notice, comments on the proposed Circular No. A-4, "Regulatory Analysis," published April 7, 2023, at 88 FR 20915, must be provided in writing to OMB no later than June 20, 2023, to ensure consideration during the final decision-making process.

ADDRESSES: The proposed Circular itself is available at <https://www.whitehouse.gov/wp-content/uploads/2023/04/DraftCircularA-4.pdf>. A preamble to the proposed Circular is available at <https://www.whitehouse.gov/wp-content/uploads/2023/04/DraftCircularA-4Preamble.pdf>.

Please submit comments via <https://www.regulations.gov>, a Federal website that allows the public to find, review, and submit comments on documents that agencies have published in the **Federal Register** and that are open for comment. Simply type "OMB-2022-0014" in the Comment or Submission search box, click Go, and follow the instructions for submitting comments. All comments received will be posted to <https://www.regulations.gov>, so commenters should not include information they do not wish to be posted (e.g., personal or confidential business information).

Electronic Availability: This document is available on the internet at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Office of Management and Budget, Office of Information and Regulatory Affairs, at MBX.OMB.OIRA.A4Modernization@omb.eop.gov.

SUPPLEMENTARY INFORMATION: *Rationale:* Based on consideration of requests received from stakeholders, which are available for the public to view in the docket on www.regulations.gov for OMB's April 7, 2023 notice, OMB is extending the public comment period announced in that notice for an additional 14 days. Therefore, the public comment period will close on June 20, 2023.

Docket: OMB has established a docket for the April 7, 2023 notice under Docket ID No. OMB-2022-0014.

Richard L. Revesz,

Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 2023-12231 Filed 6-5-23; 4:15 pm]

BILLING CODE 3110-01-P

NATIONAL CREDIT UNION ADMINISTRATION

Renewal of Agency Information Collections for Comments Request: Proposed Collections

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice and request for comments.

SUMMARY: The National Credit Union Administration (NCUA) 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.

DATES: Written comments should be received on or before August 7, 2023 to be assured consideration.

ADDRESSES: Interested persons are invited to submit written comments on the information collection to Mahala Vixamar, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314, Suite 5067; Fax No. 703-519-8579; or Email at PRAComments@NCUA.gov.

FOR FURTHER INFORMATION CONTACT:

Copies of the submission may be obtained by contacting Mahala Vixamar at (703) 518-6540, emailing PRAComments@ncua.gov, or viewing the entire information collection request at www.reginfo.gov.

SUPPLEMENTARY INFORMATION:

OMB Number: 3133-0134.

Title: Account Based Disclosures in Connection with 12 CFR part 707 (Truth in Savings).

Type of Review: Extension of a previously approved collection.

Abstract: NCUA's TISA regulation requires credit unions to provide specific disclosures when an account is opened, when a disclosed term changes or a term account is close to renewal, on periodic statements of account activity, in advertisements, and upon a member's or potential member's request. Credit unions that provide periodic statements are required to include information about fees imposed, the annual

percentage yield earned during those statement periods, and other account terms. The requirements for creating and disseminating account disclosures, change in terms notices, term share renewal notices, statement disclosures, and advertising disclosures are necessary to implement TISA's purpose of providing the public with information that will permit informed comparisons of accounts at depository institutions.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Total Annual Burden Hours: 373,870.

OMB Number: 3133-0154.

Type of Review: Extension of a previously approved collection.

Title: Prompt Corrective Action, 12 CFR 702 (Subparts A-D).

Abstract: Section 216 of the Federal Credit Union Act mandates prompt corrective action (PCA) requirements for federally insured credit unions (FICUs) that become less than well capitalized. Section 216 requires the NCUA Board to (1) adopt, by regulation, a system of prompt corrective action to restore the net worth of inadequately capitalized FICUs and (2) develop an alternative system of prompt corrective action for new credit unions that carries out the purpose of PCA while allowing an FICU reasonable time to build its net worth to an adequately capitalized level. The purpose of PCA is to resolve the problems of FICUs at the least possible long-term loss to the National Credit Union Share Insurance Fund (NCUSIF).

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Total Annual Burden Hours: 569.

OMB Number: 3133-0166.

Type of Review: Extension of a previously approved collection.

Title: Home Mortgage Disclosure Act (HMDA), 12 CFR 1003 (Regulation C).

Abstract: The collection of this data is required under the Home Mortgage Disclosure Act. The information collection is intended to provide the public with loan data that can be used to help determine whether financial institutions are serving the housing needs of their communities; to assist public officials in distributing public-sector investments so as to attract private investment to areas where it is needed; and to assist in identifying possible discriminatory lending patterns and enforcing anti-discrimination statutes.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Total Annual Burden Hours: 108,175.

OMB Number: 3133-0167.

Type of Review: Extension of a previously approved collection.

Title: Foreign Branching, 12 CFR 741.11.

Abstract: This collection covers the additional information a credit union must provide to establish a branch office outside the United States (except for U.S. embassies and military installations). The application must include (1) a business plan, (2) written approval by the state supervisory agency if the applicant is a state-chartered credit union, and (3) documentation evidencing written permission from the host country to establish the branch that explicitly recognizes NCUA's authority to examine and take any enforcement actions, including conservatorship and liquidation actions.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Total Annual Burden Hours: 33.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit comments concerning: (a) whether the collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including the use of automated collection techniques or other forms of information technology.

By the National Credit Union Administration Board.

Melane Conyers-Ausbrooks,

Secretary of the Board.

[FR Doc. 2023-12116 Filed 6-6-23; 8:45 am]

BILLING CODE 7535-01-P

NATIONAL CREDIT UNION ADMINISTRATION

Renewal of Agency Information Collection of a Previously Approved Collection; Request for Comments

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of submission to the Office of Management and Budget.

SUMMARY: As required by the Paperwork Reduction Act of 1995, The National Credit Union Administration (NCUA) is submitting the following extensions of currently approved collections to the Office of Management and Budget (OMB) for renewal.

DATES: Written comments should be received on or before July 7, 2023 to be assured consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submission may be obtained by contacting Mahala Vixamar at (703) 718–1155, emailing PRAComments@ncua.gov, or viewing the entire information collection request at www.reginfo.gov.

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0033.

Title: Security Program, 12 CFR 748.

Type of Review: Extension of a previously approved collection.

Abstract: In accordance with Title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 *et seq.*), as implemented by 12 CFR part 748, federally insured credit unions (FICU) are required to develop and implement a written security program to safeguard sensitive member information. This information collection requires that such programs be designed to respond to incidents of unauthorized access or use, in order to prevent substantial harm or serious inconvenience to members.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Total Annual Burden Hours: 240,397.

OMB Number: 3133–0101.

Type of Review: Extension of a previously approved collection.

Title: 12 CFR part 723, Member Business Loans; Commercial Lending.

Abstract: As part of NCUA’s Regulatory Modernization Initiative, the NCUA Board amends its member business loan (MBL) rule (part 723) to provide federally insured credit unions with greater flexibility and individual autonomy in safely and soundly providing commercial and business loans to serve their members. The rule modernizes the regulatory requirements that govern credit union commercial lending activities by replacing the current rule’s prescriptive requirement and limitations with a broad principles-based regulatory approach.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Total Annual Burden Hours: 3,656.

OMB Number: 3133–0103.

Type of Review: Extension of a previously approved collection.

Title: Recordkeeping and Disclosure Requirements Associated with Regulations B, E, M, and CC.

Abstract: The third-party disclosure and recordkeeping requirements in this collection are required by statute and regulation. The regulations prescribe certain aspects of the credit application and notification process, making certain disclosures, uniform methods for computing the costs of credit, disclosing credit terms and cost, resolving errors on certain types of credit accounts, and timing requirements and disclosures relating to the availability of deposited funds.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Total Annual Burden Hours: 3,039,328.

OMB Number: 3133–0152.

Type of Review: Extension of a previously approved collection.

Title: Management Official Interlocks.

Abstract: NCUA requires this information collection to ensure federally insured credit unions comply with NCUA’s Management Official Interlocks regulation at 12 CFR part 711, implementing the Depository Institution Management Interlocks Act (“Interlocks Act”) (12 U.S.C. 3201–3208). The Interlocks Act generally prohibits financial institution management officials from serving simultaneously with two unaffiliated depository institutions or their holding companies. For credit unions, the Interlocks Act restricts interlocks between credit unions and other types of financial institutions. 12 U.S.C. 3204(3).

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Total Annual Burden Hours: 6.

OMB Number: 3133–0196.

Type of Review: Extension of a previously approved collection.

Title: Contractor’s Diversity Profile.

Abstract: In accordance with section 342 of the Dodd-Frank Act, each new contract award whose dollar value exceeds \$100,000 will include a Good Faith Effort (GFE) certification that a contractor ensures the fair inclusion of women and minorities in the workforce of the contractor and, as applicable, subcontractors. As part of this compliance review, selected contractors will be sent a Contractor’s Diversity Profile to provide documentation outlined in the GFE certification to NCUA.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Total Annual Burden Hours: 26.7.

Request for Comments: NCUA published a notice requesting comments on renewal of those information collections under 88 FR 23691 and comments were not received. NCUA requests that comments on this collection to the location listed in the **ADDRESSES** section. The public is invited to submit comments concerning: (a) whether the collection of information is necessary for the proper execution of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency’s estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including the use of automated collection techniques or other forms of information technology.

By the National Credit Union Administration Board.

Melane Conyers-Ausbrooks,

Secretary of the Board.

[FR Doc. 2023–12117 Filed 6–6–23; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Arts Advisory Panel Meetings

AGENCY: National Endowment for the Arts.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the Federal Advisory Committee Act, as amended, notice is hereby given that 21 meetings of the Arts Advisory Panel to the National Council on the Arts will be held by teleconference or videoconference.

DATES: See the **SUPPLEMENTARY INFORMATION** section for individual meeting times and dates. All meetings are Eastern time and ending times are approximate.

ADDRESSES: National Endowment for the Arts, Constitution Center, 400 7th St. SW, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Further information with reference to these meetings can be obtained from David Travis, Office of Guidelines & Panel Operations, National Endowment

for the Arts, Washington, DC 20506; travisd@arts.gov, or call 202-682-5001.

SUPPLEMENTARY INFORMATION: The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chair of March 11, 2022, these sessions will be closed to the public pursuant to 5 U.S.C. 10.

The upcoming meetings are:

Research Grants in the Arts (review of applications): This meeting will be closed.

Date and time: July 7, 2023; 10:00 a.m. to 12:00 p.m.

Research Grants in the Arts (review of applications): This meeting will be closed.

Date and time: July 7, 2023; 1:00 p.m. to 3:00 p.m.

Research Grants in the Arts (review of applications): This meeting will be closed.

Date and time: July 10, 2023; 1:00 p.m. to 3:00 p.m.

Museums (review of applications): This meeting will be closed.

Date and time: July 11, 2023; 11:30 a.m. to 1:30 p.m.

Musical Theater (review of applications): This meeting will be closed.

Date and time: July 11, 2023; 1:00 p.m. to 3:00 p.m.

Museums (review of applications): This meeting will be closed.

Date and time: July 11, 2023; 2:30 p.m. to 4:30 p.m.

Theater (review of applications): This meeting will be closed.

Date and time: July 11, 2023; 4:00 p.m. to 6:00 p.m.

Museums (review of applications): This meeting will be closed.

Date and time: July 12, 2023; 11:30 a.m. to 1:30 p.m.

Theater (review of applications): This meeting will be closed.

Date and time: July 13, 2023; 1:00 p.m. to 3:00 p.m.

Theater (review of applications): This meeting will be closed.

Date and time: July 13, 2023; 4:00 p.m. to 6:00 p.m.

Folk & Traditional Arts (review of applications): This meeting will be closed.

Date and time: July 19, 2023; 2:00 p.m. to 4:00 p.m.

Theater (review of applications): This meeting will be closed.

Date and time: July 20, 2023; 1:00 p.m. to 3:00 p.m.

Folk & Traditional Arts (review of applications): This meeting will be closed.

Date and time: July 20, 2023; 2:00 p.m. to 4:00 p.m.

Theater (review of applications): This meeting will be closed.

Date and time: July 20, 2023; 4:00 p.m. to 6:00 p.m.

Arts Education (review of applications): This meeting will be closed.

Date and time: July 21, 2023; 11:30 a.m. to 1:30 p.m.

Folk & Traditional Arts (review of applications): This meeting will be closed.

Date and time: July 21, 2023; 2:00 p.m. to 4:00 p.m.

Arts Education (review of applications): This meeting will be closed.

Date and time: July 21, 2023; 2:30 p.m. to 4:30 p.m.

Research Grants in the Arts (review of applications): This meeting will be closed.

Date and time: July 24, 2023; 10:00 a.m. to 12:00 p.m.

Research Labs (review of applications): This meeting will be closed.

Date and time: July 25, 2023; 10:00 a.m. to 12:00 p.m.

Theater (review of applications): This meeting will be closed.

Date and time: July 25, 2023; 1:00 p.m. to 3:00 p.m.

Theater (review of applications): This meeting will be closed.

Date and time: July 25, 2023; 4:00 p.m. to 6:00 p.m.

Dated: June 2, 2023.

David Travis,

Specialist, National Endowment for the Arts.

[FR Doc. 2023-12163 Filed 6-6-23; 8:45 am]

BILLING CODE 7537-01-P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

National Council on the Arts 210th Meeting

AGENCY: National Endowment for the Arts, National Foundation on the Arts and Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, as amended, notice is hereby given that a meeting of the National Council on the Arts will be held open to the public for in-person attendance as well as by videoconference. Additional sessions

will be closed to the public for reasons stated below.

DATES: See the **SUPPLEMENTARY INFORMATION** section for meeting time and date. The meeting is located in Central Daylight time and the ending time is approximate.

ADDRESSES: The National Endowment for the Arts, Constitution Center, 400 Seventh Street SW, Washington, DC 20560. Public portions of this meeting will be held in-person and by videoconference at the location specified in the **SUPPLEMENTARY INFORMATION** section of this notice. Please see [arts.gov](https://www.arts.gov) for the most up-to-date information.

FOR FURTHER INFORMATION CONTACT: Liz Auclair, Office of Public Affairs, National Endowment for the Arts, Washington, DC 20506, at 202-682-5744.

SUPPLEMENTARY INFORMATION: The meeting will take place on June 21, 22, and 23, 2023 in New Orleans, LA. The meeting on June 23, 2023, from 9:30 a.m. to 1:30 p.m., will be open to the public. If, in the course of the open session discussion, it becomes necessary for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b, and in accordance with the March 11, 2022 determination of the Chair. Additionally, discussion concerning purely personal information about individuals, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c)(6) of 5 U.S.C. 552b. Meeting sessions that occur on June 21 and June 22, 2023 will be closed to the public for the aforementioned reasons.

Detailed Meeting Information

Closed Session: June 21, 2023; 1:00 p.m. to 6:00 p.m. Location: Intercontinental Hotel, 444 St. Charles Avenue, New Orleans, LA 70130 followed by a site visit to a local arts venue.

Closed Session: June 22, 2023; 9:00 a.m. to 5:00 p.m. Location: Intercontinental Hotel, 444 St. Charles Avenue, New Orleans, LA 70130 followed by site visits to local arts venues.

Open Session: June 23, 2023; 11:00 a.m. to 1:30 p.m. Location: Please see [arts.gov](https://www.arts.gov) for the most up-to-date meeting location information. There will be opening remarks and voting on recommendations for grant funding and rejection, updates from NEA Chair

Maria Rosario Jackson, and presentations or performances by area artists. This session will be held open to the public for in-person attendance and by videoconference. To view the webcasting of this open session of the meeting, go to: <https://www.arts.gov/>. If you need special accommodations due to a disability, please contact Beth Bienvenu, Office of Accessibility, National Endowment for the Arts, Constitution Center, 400 7th St. SW, Washington, DC 20506, 202/682-5733, Voice/T.T.Y. 202/682-5496, at least seven (7) days prior to the meeting.

Dated: June 2, 2023.

Daniel Beattie,

Director, Office of Guidelines and Panel Operations.

[FR Doc. 2023-12138 Filed 6-6-23; 8:45 am]

BILLING CODE 7537-01-P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2018-98; MC2023-165 and CP2023-169]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* June 12, 2023.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the Market Dominant or

the Competitive product list, or the modification of an existing product currently appearing on the Market Dominant or the Competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.¹

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s):* CP2018-98; *Filing Title:* USPS Notice of Amendment to First-Class Package Service Contract 87, Filed Under Seal; *Filing Acceptance Date:* May 31, 2023; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* June 12, 2023.

2. *Docket No(s):* MC2023-165 and CP2023-169; *Filing Title:* USPS Request to Add USPS Ground Advantage Contract 1 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* May 31, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* June 12, 2023.

¹ See Docket No. RM2018-3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19-22 (Order No. 4679).

This Notice will be published in the **Federal Register**.

Erica A. Barker,
Secretary.

[FR Doc. 2023-12188 Filed 6-6-23; 8:45 am]

BILLING CODE 7710-FW-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-97639; File No. SR-CboeBYX-2023-008]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.24(e) To Modify When the Exchange Will Disseminate the Retail Liquidity Identifier

June 1, 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 May 19, 2023, Cboe BYX Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as constituting a "non-controversial" rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder,⁴ which renders the proposal effective upon receipt of this filing by 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

Cboe BYX Exchange, Inc. (the "Exchange" or "BYX") is filing with the Securities and Exchange Commission ("Commission") a proposal to modify Rule 11.24(e). The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (http://markets.cboe.com/us/equities/regulation/rule_filings/byx/), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange currently operates a Retail Price Improvement Program ("RPI Program")⁵ that permits Retail Member Organizations ("RMOs")⁶ to submit Retail Orders⁷ to the Exchange. Exchange Users⁸ are permitted to provide potential price improvement for Retail Orders through the use of Retail Price Improvement Orders ("RPI Orders").⁹ When there is an RPI Order in a particular security that meets certain requirements (further described below), the Exchange disseminates an

⁵ See Securities Exchange Act Release No. 68303 (November 27, 2012), 77 FR 71652 (December 3, 2012), SR-BYX-2012-019 ("Order Granting Approval to Proposed Rule Change, as Modified by Amendment No. 2, To Adopt a Retail Price Improvement Program").

⁶ See Rule 11.24(a)(1). An RMO is a Member (or a division thereof) that has been approved by the Exchange under Rule 11.24 to submit Retail Orders.

⁷ See Rule 11.24(a)(2). A Retail Order is an agency or riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by an RMO, provided that no change is made to the terms of an order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. A Retail Order is an Immediate or Cancel ("IOC") Order and shall operate in accordance with Rule 11.24(f). A Retail Order can be an odd lot, round lot, or mixed lot.

⁸ See Rule 1.5. The term "User" shall mean any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.

⁹ See Rule 11.24(a)(3). An RPI Order consists of non-displayed interest on the Exchange that is priced better than the Protected NBB or Protected NBO by at least \$0.001 and that is identified as such. The System will monitor whether RPI buy or sell interest, adjusted by any offset and subject to the ceiling or floor price, is eligible to interact with incoming Retail Orders. An RPI Order remains non-displayed in its entirety (the buy or sell interest, the offset, and the ceiling or floor). An RPI Order may also be entered in a sub-penny increment with an explicit limit price. Any User is permitted, but not required, to submit RPI Orders. An RPI Order may be an odd lot, round lot or mixed lot.

indicator, known as the Retail Liquidity Identifier (the "Identifier").¹⁰ The Exchange now proposes to amend Rule 11.24(e), which describes when the Exchange will disseminate the Identifier.

Currently, Rule 11.24(e) states that the Exchange may disseminate the Identifier "when RPI interest priced at least \$0.001 better than the Exchange's Protected Bid or Protected Offer for a particular security is available in the System." Exchange Rule 1.5(t) defines Protected Bid and Protected Offer as a bid or offer in a stock that is (i) displayed by an automated trading center; (ii) disseminated pursuant to an effective national market system plan; and (iii) an automated quotation that is the best bid or best offer of a national securities exchange or association.¹¹ In other words, the Protected Bid or Protected Offer referenced in Rule 11.24(e) is the Protected Bid or Protected Offer on the Exchange and does not contemplate the Protected Bid or Protected Offer on any other exchanges.

The Exchange now proposes to amend Rule 11.24(e) so that the Identifier will be disseminated when there is RPI interest priced at least \$0.001 better than the Protected NBB ("PBB") or Protected NBO ("PBO")¹² available in the System. The Exchange notes that its proposed functionality is substantively identical to NYSE Rule 7.44(j), NYSE Arca Rule 7.44-E(j), and Nasdaq BX Rule 4780(e).¹³ The Exchange believes that removing the reference to the "Exchange's Protected Bid or Protected

¹⁰ See Rule 11.24(e). The Retail Liquidity Identifier shall be disseminated through proprietary data feeds or as appropriate through the Consolidated Quotation System when RPI interest priced at least \$0.001 better than the Exchange's Protected Bid or Protected Offer for a security is available in the System. The Retail Liquidity Identifier shall reflect the symbol for the particular security and the side (buy or sell) of the RPI interest, but shall not include the price or size of the RPI interest.

¹¹ See Rule 1.5(t).

¹² See Rule 1.5(s). "Protected NBB" shall mean the national best bid that is a Protected Quotation and the term "Protected NBO" shall mean the national best offer that is a Protected Quotation. The term "Protected Quotation" is defined in Rule 1.5(t) and means a quotation that is a Protected Bid or a Protected Offer.

¹³ See e.g., NYSE Rule 7.44(j) and NYSE Arca Rule 7.44-E(j). A Retail Liquidity Identifier will be disseminated through proprietary data feeds and through the Consolidated Quotation System or the UTP Quote Data Feed when RPI interest priced at least \$0.001 better than the PBB or PBO for a particular security is available in the applicable exchange systems. See also Nasdaq BX Rule 4780(e), which states that an identifier shall be disseminated through proprietary data feeds and through the Securities Information Processor when RPI interest priced at least \$0.001 better than the NBO for a particular security is available in the Nasdaq BX system.

Offer" and providing for the dissemination of the Identifier to occur when there is RPI interest priced at least \$0.001 better than PBB or PBO may decrease the amount of false signals provided by the Identifier,¹⁴ as the Identifier would no longer be disseminated only when there is an RPI Order priced \$0.001 better than the Exchange's (emphasis added) Protected Bid¹⁵ or Protected Offer.¹⁶ The Exchange further believes that permitting the Identifier to display when there is RPI interest priced at least \$0.001 better than the PBB or PBO may attract additional retail order flow and create greater retail order flow competition, which helps ensure that retail investors benefit from competitive price improvement that liquidity providers provide.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁷ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁸ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁹ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

¹⁴ The Exchange has been made aware of instances where the Identifier is disseminated because of an RPI Order priced better than the Exchange's Protected Bid or Protected Offer, but because the RPI Order is not priced at least \$0.001 better than the PBB or PBO, it is ineligible to execute. When this occurs, Retail Orders submitted to the Exchange to execute against the RPI interest identified by the Identifier are rejected. The Exchange believes that by amending Rule 11.24(e), fewer false signals will occur because the Identifier will only display when there is RPI interest priced at least \$0.001 better than the PBB or PBO.

¹⁵ *Supra* note 11.

¹⁶ *Id.*

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(5).

¹⁹ *Id.*

In particular, the proposed change promotes just and equitable principles of trade and removes impediments to and perfects the mechanism of a free and open market and a national market system because the proposed change is reasonably designed to attract retail order flow to the Exchange, which in turn may allow retail investors to benefit from the better price that liquidity providers are willing to give their orders. The Exchange believes its proposed amendment to Rule 11.24(e) will provide fewer false signals, as the RPI interest signaled by the Identifier would no longer be based on the Exchange's Protected Bid or Protected Offer, but rather will be based on the PBB or PBO. By displaying the Identifier based on the PBB or PBO, the Exchange expects fewer instances in which Retail Orders submitted to execute against RPI Orders based on the Identifier would be rejected due to the RPI Order being inexecutable.²⁰ This may help attract additional retail order flow to the Exchange, which will create greater retail order flow competition amongst exchanges and provide more opportunities for competitive price improvement for retail orders, benefitting market participants as a whole.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposal does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposal will apply equally to all RPI interest on the Exchange that is priced at least \$0.001 better than the PBB or PBO. Furthermore, the Exchange believes its proposal will promote intramarket competition as additional retail order flow may be submitted to the Exchange with the potential to interact with other price improving liquidity or resting orders, subject to RMO order designation.

The Exchange also believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the Act. As discussed above, NYSE, NYSE Arca, and Nasdaq BX each disseminate similar indicators of RPI interest under their respective retail price improvement programs and the Exchange believes that its proposed

rule change will allow it to compete for additional retail order flow with the aforementioned exchanges.²¹ Given that the Exchange's Identifier is proposed to be displayed in an almost identical manner to the competitor exchanges mentioned above rather than its current state of being displayed only when there is RPI interest priced \$0.001 better than the Exchange's (emphasis added) Protected Best Bid or Protected Best Offer, the Exchange believes its proposal to permit the Identifier to display when there is RPI interest priced at least \$0.001 better than the PBB or PBO will promote competition between the exchanges, hence fostering innovation within the market, and increasing the quality of the national market system by allowing national securities exchanges to compete both with each other and with off-exchange venues for order flow.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange 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 after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act²² and Rule 19b-4(f)(6)²³ thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)²⁴ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),²⁵ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day

operative delay so that the proposed rule change may become operative upon filing. The Exchange states that waiver of the operative delay does not present market participants with any new or novel issues, as other exchanges already utilize the PBB, PBO, or NBBO to determine when to disseminate their retail liquidity identifiers, and that accordingly, the proposed rule change does not significantly affect the protection of investors or the public interest.²⁶ The Exchange also states that the proposed amendment to its Rule 11.24(e) will result in fewer instances in which Retail Orders submitted to execute against RPI Orders based on the Identifier would be rejected due to the RPI Order being inexecutable. For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.²⁷

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CboeBYX-2023-008 on the subject line.

²⁶ The Exchange also states that NYSE, NYSE Arca, and Nasdaq BX each disseminate similar indicators of RPI interest under their respective retail price improvement programs, and the Exchange believes that its proposed rule change will allow it to compete for additional retail order flow with the aforementioned exchanges. See *supra* note 21 and accompanying text.

²⁷ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²¹ *Supra* note 13.

²² 15 U.S.C. 78s(b)(3)(A).

²³ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) 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.

²⁴ 17 CFR 240.19b-4(f)(6).

²⁵ 17 CFR 240.19b-4(f)(6)(iii).

²⁰ *Supra* note 14.

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-CboeBYX-2023-008. 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR-CboeBYX-2023-008 and should be submitted on or before June 28, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁸

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2023-12110 Filed 6-6-23; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IA-6322]

Notice of Intention To Cancel Registrations of Certain Investment Advisers Pursuant to Section 203(H) of the Investment Advisers Act of 1940

June 1, 2023.

Notice is given that the Securities and Exchange Commission (the "Commission") intends to issue an order, pursuant to section 203(h) of the Investment Advisers Act of 1940 (the "Act"), cancelling the registrations of the investment advisers whose names appear in the attached Appendix, hereinafter referred to as the "registrants."

Section 203(h) of the Act provides, in pertinent part, that if the Commission finds that any person registered under section 203, or who has pending an application for registration filed under that section, is no longer in existence, is not engaged in business as an investment adviser, or is prohibited from registering as an investment adviser under section 203A, the Commission shall by order cancel the registration of such person.

Each registrant listed in the attached Appendix either (a) has not filed a Form ADV amendment with the Commission as required by rule 204-1 under the Act¹ and appears to be no longer engaged in business as an investment adviser or (b) has indicated on Form ADV that it is no longer eligible to remain registered with the Commission as an investment adviser but has not filed Form ADV-W to withdraw its registration. Accordingly, the Commission believes that reasonable grounds exist for a finding that these registrants are no longer in existence, are not engaged in business as investment advisers, or are prohibited from registering as investment advisers under section 203A, and that their registrations should be cancelled pursuant to section 203(h) of the Act.

Notice is also given that any interested person may, by June 26, 2023,

at 5:30 p.m., submit to the Commission in writing a request for a hearing on the cancellation of the registration of any registrant listed in the attached Appendix, accompanied by a statement as to the nature of such person's interest, the reason for such person's request, and the issues, if any, of fact or law proposed to be controverted, and the writer may request to be notified if the Commission should order a hearing thereon. Any such communication should be emailed to the Commission's Secretary at Secretarys-Office@sec.gov.

At any time after June 26, 2023, the Commission may issue an order or orders cancelling the registrations of any or all of the registrants listed in the attached Appendix, upon the basis of the information stated above, unless an order or orders for a hearing on the cancellation shall be issued upon request or upon the Commission's own motion. Persons who requested a hearing, or who requested to be advised as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. Any registrant whose registration is cancelled under delegated authority may appeal that decision directly to the Commission in accordance with rules 430 and 431 of the Commission's rules of practice (17 CFR 201.430 and 431).

ADDRESSES: The Commission:
Secretarys-Office@sec.gov.

FOR FURTHER INFORMATION CONTACT: Priscilla Dao, Senior Counsel, or Scott Jameson, Senior Counsel, at 202-551-6825; SEC, Division of Investment Management, Chief Counsel's Office, 100 F Street NE, Washington, DC 20549-8549.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.²

Sherry R. Haywood,
Assistant Secretary.

Appendix

SEC No.	Full legal name
801-72074	BAY MUTUAL FINANCIAL LLC.
801-75390	PROPHECY ASSET MANAGEMENT LP.
801-71058	FUSION ANALYTICS INVESTMENT PARTNERS LLC.
801-72514	PLATINUM MANAGEMENT (NY) LLC.
801-67384	ASSET MANAGEMENT ADVISORY GROUP LLC.
801-66695	COASTAL PARTNERS LTD.
801-70770	AZZARA THOMAS PETER.
801-116672	BRYAN ADVISORY SERVICES, LLC.
801-74069	ACCIPITER CAPITAL MANAGEMENT, LLC.

²⁸ 17 CFR 200.30-3(a)(12).

¹ Rule 204-1 under the Act requires any adviser that is required to complete Form ADV to amend

the form at least annually and to submit the amendments electronically through the Investment Adviser Registration Depository.

² 17 CFR 200.30-5(e)(2).

SEC No.	Full legal name
801-80422	MILLER, JOHN, STENNING.
801-101538	KENT COSTELLO.
801-107076	DVDENDO, INC.
801-112509	INVICTUS CAPITAL INVESTORS.
801-108994	CAPITECT, INC.
801-112008	ALPHAMALL LLC.
801-111893	BARREL PARK INVESTMENTS, LLC.
801-114014	INVESTIFAI LLC.
801-114489	SAVYON ASSET MANAGEMENT ADVISORY, LLC.
801-117990	ALTERNATIVE ASSET MANAGEMENT, LLC.
801-117752	VITA INTELLECTUS INSTITUTIONAL, INC.
801-118705	CARTA FINANCIERA SA.
801-118711	DAYUAN INFORMATION TECH LIMITED.
801-119791	AN IDEAL LIFE FINANCIAL PLANNING, LLC.
801-120471	CLOUT CAPITAL ADVISORS LLC.
801-121726	UNION ACQUISITION GROUP, LLC.
801-122357	JORDAN CHAPLIN.
801-126261	ALL BLUE LABS MANAGEMENT, LLC.
801-126071	PF ADVISORS, LLC.

[FR Doc. 2023-12106 Filed 6-6-23; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-805, OMB Control No. 3235-0756]

Submission for OMB Review; Comment Request; Extension: Rule 147(f)(1)(iii) Written Representation as to Purchaser Residency

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“Commission”) has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Rule 147 is a safe harbor under the Securities Act Section 3(a)(11)(15 U.S.C. 77c(a)(11)) exemption from registration. To qualify for the safe harbor, Rule 147(f)(1)(iii) (17 CFR 230.147) will require the issuer to obtain from the purchaser a written representation as to the purchaser’s residency. Under Rule 147, the purchaser in the offering must be a resident of the same state or territory in which the issuer is a resident. While the formal representation of residency by itself is not sufficient to establish a reasonable belief that such purchasers are in-state residents, the representation requirement, together with the reasonable belief standard, may result in better compliance with the rule and

maintaining appropriate investor protections. The representation of residency is not provided to the Commission. Approximately 700 respondents provide the information required by Rule 147(f)(1)(iii) at an estimated 2.75 hours per response for a total annual reporting burden of 1,925 hours (2.75 hours × 700 responses).

An agency may conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view background documentation for this information collection at the following website: www.reginfo.gov. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by July 7, 2023 to (i) www.reginfo.gov/public/do/PRAMain and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: PRA_Mailbox@sec.gov.

Dated: June 1, 2023.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2023-12096 Filed 6-6-23; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34935; File No. 812-15145]

Arca U.S. Treasury Fund and Arca Capital Management, LLC

June 2, 2023.

AGENCY: Securities and Exchange Commission (“Commission” or “SEC”).

ACTION: Notice.

Notice of application for an order under sections 6(c) and 23(c)(3) of the Investment Company Act of 1940 (the “Act”) for an exemption from rule 23c-3 under the Act.

SUMMARY OF APPLICATION: Applicants request an order under sections 6(c) and 23(c)(3) of the Act for an exemption from certain provisions of rule 23c-3 to permit certain registered closed-end investment companies to make repurchase offers on a monthly basis.

APPLICANTS: Arca U.S. Treasury Fund (the “Fund”) and Arca Capital Management, LLC (the “Adviser”).

FILING DATES: The application was filed on May 24, 2023.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC’s Secretary at Secretarys-Office@sec.gov and serving the relevant applicant with a copy of the request by email, if an email address is listed for the relevant applicant below, or personally or by mail, if a physical address is listed for the relevant applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on June 27, 2023, and should be accompanied by proof of

service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission’s Secretary.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*. Applicants: c/o Kelley A. Howes, by email to *KHowes@mofo.com*.

FOR FURTHER INFORMATION CONTACT: Aaron Ellias, Acting Branch Chief, or Robert Shapiro, Assistant Director, at (202) 551–6825 (Division of Investment Management, Chief Counsel’s Office).

SUPPLEMENTARY INFORMATION: For Applicants’ representations, legal analysis, and conditions, please refer to Applicants’ application, dated May 24, 2023, which may be obtained via the Commission’s website by searching for the file number at the top of this document, or for an Applicant using the Company name search field on the SEC’s EDGAR system. The SEC’s EDGAR system may be searched at <https://www.sec.gov/edgar/searchedgar/legacy/companysearch.html>. You may also call the SEC’s Public Reference Room at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2023–12193 Filed 6–6–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–806 OMB Control No. 3235–0757]

Submission for OMB Review; Comment Request; Extension: Rule 147A(f)(1)(iii) Written Representation as to Purchaser Residency

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (“Commission”) has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Rule 147A(f)(1)(iii) (17 CFR 230.147A(f)(1)(iii)) requires the issuer to obtain from the purchaser a written representation as to the purchase’s residency in order to qualify for safe harbor under Securities Act Rule 147A (17 CFR 230.147A). Rule 147A is an exemption from registration under Securities Act Section 28 (15 U.S.C. 77z–3). Under Rule 147A, the purchaser in the offering must be a resident of the same state or territory in which the issuer is a resident. While the formal representation of residency by itself is not sufficient to establish a reasonable belief that such purchasers are in-state residents, the representation requirement, together with the reasonable belief standard, may result in better compliance with the rule and maintaining appropriate investor protections. The representation of residency is not provided to the Commission. Approximately 700 respondents provide the information required by Rule 147A(f)(1)(iii) at an estimated 2.75 hours per response for a total annual reporting burden of 1,925 hours (2.75 hours × 700 responses).

An agency may conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view background documentation for this information collection at the following website: www.reginfo.gov. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by July 7, 2023 to (i) www.reginfo.gov/public/do/PRAMain and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: PRA_Mailbox@sec.gov.

Dated: June 1, 2023.

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2023–12095 Filed 6–6–23; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17955 and #17956; INDIANA Disaster Number IN–00081]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Indiana

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Indiana (FEMA–4704–DR), dated 06/01/2023.

Incident: Severe Storms, Straight-line Winds, and Tornadoes.

Incident Period: 03/31/2023 through 04/01/2023.

DATES: Issued on 06/01/2023.

Physical Loan Application Deadline Date: 07/31/2023.

Economic Injury (EIDL) Loan Application Deadline Date: 03/01/2024.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Recovery & Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President’s major disaster declaration on 06/01/2023, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Benton, Brown, Clinton, Johnson, Monroe, Morgan, Owen, Sullivan, White

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Non-Profit Organizations with Credit Available Elsewhere ...	2.375
Non-Profit Organizations without Credit Available Elsewhere	2.375
<i>For Economic Injury:</i>	
Non-Profit Organizations without Credit Available Elsewhere	2.375

The number assigned to this disaster for physical damage is 17955 C and for economic injury is 17956 0.

(Catalog of Federal Domestic Assistance Number 59008)

Francisco Sánchez, Jr.,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2023-12161 Filed 6-6-23; 8:45 am]

BILLING CODE 8026-09-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2007-28700]

Petition for Modification of Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on December 12, 2022, Kansas City Southern Railway Company (now known as CPKC),¹ on behalf of the Kansas City Southern Railway Company and Kansas City Southern de Mexico, petitioned the Federal Railroad Administration (FRA) for a modification of an existing waiver of compliance in Docket Number FRA-2007-28700. That waiver provides KCSR limited, conditional relief from certain provisions of the Federal railroad safety regulations contained at 49 CFR parts 215 (Railroad Freight Car Safety Standards) and 232 (Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices). Additionally, CPKC requested certification under section 416 of the Rail Safety Improvement Act of 2008 (RSIA), that brake inspections conducted in Mexico meet FRA requirements. FRA notes that CPKC's request under RSIA Section 416 will be handled separately from its waiver modification request and accordingly this notice only addresses CPKC's request to modify the existing waiver in Docket Number FRA-2007-28700.

Specifically, in its petition CPKC requests a modification of the existing relief in Docket Number FRA-2007-28700 involving 49 CFR 232.205, *Class I brake test-initial terminal inspection*, and certain provisions of 49 CFR part 215, regarding freight cars received in interchange from KCSM at the U.S./Mexico border crossing and international bridge in Laredo, Texas. CPKC requests that FRA permit the inspections and brake tests currently required to be conducted at the point of interchange between CPKC and KCSM

¹ On April 14, 2023, Kansas City Southern (KCS) merged with Canadian Pacific Railway forming CPKC. Accordingly, this notice refers to KCS as CPKC.

and at CPKC's Laredo Yard in Texas to be conducted in KCSM's Sanchez Yard in Mexico.

In support of its petition, CPKC states that the existing waiver has contributed to border security and that no incidents have been attributed to the relief in the past fourteen years. Additionally, CPKC proposes to implement new technology, Duo Technologies rip® Railcar Inspection (DTRI) that will (a) allow FRA to confirm remotely at the time a train arrives at the international bridge that the train has passed the Class I or Class III brake test in Sanchez Yard, and (b) allow CPKC qualified mechanical inspectors to use the DTRI data to confirm the "mechanical soundness" of any train interchanged from KCSM to CPKC. CPKC also explains that "[a]voiding stopping trains on the Bridge will also reduce the incidence of vandalism to brake systems that occurs when trains stop on the Bridge waiting to cross into the U.S."

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Communications received by August 7, 2023 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), the U.S. Department of Transportation (DOT) solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-

14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of [regulations.gov](https://www.regulations.gov).

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety Chief Safety Officer.

[FR Doc. 2023-12189 Filed 6-6-23; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2022-0077]

Agency Information Collection Activities; Notice and Request for Comment; Alcohol-Impaired Driving Segmentation Study

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments on a request for approval of a new information collection.

SUMMARY: NHTSA invites public comments about our intention to request approval from the Office of Management and Budget (OMB) for a new information collection. Before a federal agency can collect certain information from the public, it must receive approval from OMB. Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections. This document describes a collection of information for which NHTSA intends to seek OMB approval on a segmentation study related to alcohol-impaired driving and riding (motorcycles). This study's objective is to better understand alcohol-consumption behaviors and how they relate to potential alcohol-impaired driving/riding. The results of this study will help NHTSA inform its consumer messages to reduce fatalities and injuries on US roadways.

DATES: Comments must be submitted on or before August 7, 2023.

ADDRESSES: You may submit comments identified by the Docket No. NHTSA-2022-0077 through any of the following methods:

- *Electronic submissions:* Go to the Federal eRulemaking Portal at <http://www.regulations.gov>

www.regulations.gov. Follow the online instructions for submitting comments.

- *Fax:* (202) 493-2251.

- *Mail or Hand Delivery:* Docket Management, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on federal holidays. To be sure someone is there to help you, please call (202) 366-9322 before coming.

Instructions: All submissions must include the agency name and docket number for this notice. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into 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.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78) or you may visit <https://www.transportation.gov/privacy>.

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

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Kil-Jae Hong, Marketing Specialist, Office of Communications and Consumer Information (NCO-0200), (202) 493-0524, National Highway Traffic Safety Administration, 1200 New Jersey Ave. SE, W52-232, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the

agency, including whether the information will have practical utility; (b) 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) how to enhance the quality, utility and clarity of the information to be collected; and (d) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information for which the agency is seeking approval from OMB.

Title: Alcohol-Impaired Driving Segmentation Study.

OMB Control Number: New.

Form Number(s): N/A.

Type of Request: Comments on a new information collection.

Type of Review Requested: Regular.

Requested Expiration Date of Approval: Three (3) years from date of approval.

Summary of the Collection of Information:

NHTSA is seeking approval to conduct a nationwide alcohol-impaired driving segmentation study to learn about alcohol-consumption behaviors and how they relate to potential impaired driving. The one-time voluntary study will be used to obtain information to better understand attitudes and behaviors related to alcohol-impaired driving that will be used to enhance and refine communication strategy and tactics (*i.e.*, more effectively target and message at-risk drivers and motorcycle riders). The study will survey drivers and motorcycle riders ages 21- to 54-years-old because this age range represents the greatest number of alcohol-related driving/riding fatalities according to NHTSA's Fatality Analysis Reporting System (FARS).¹

The research study will include two components, both being one-time collections. The first component will involve a series of online webcam interviews that will collect qualitative information that will serve as a cognitive test to improve the quantitative survey that will be administered in the second component. The quantitative survey will be administered online and by phone. After collecting the data, segmentation

¹ 2020 Alcohol Impaired Driving (Traffic Safety Facts. Report No. DOT HS 813 294).

analysis will be done to classify drivers and motorcycle riders according to segments based on common demographics, drinking behaviors, attitudes about drinking and driving/ motorcycle riding, and lifestyle characteristics.

Description of the Need for the Information and Proposed Use of the Information: This alcohol-impaired driving segmentation study will help NHTSA better understand its impaired driving campaign audience to communicate messages most effectively about being safe and decreasing impaired driving.

The National Highway Traffic Safety Administration (NHTSA), under the U.S. Department of Transportation (USDOT), was established to reduce the number of deaths, injuries and economic losses resulting from motor vehicle crashes on the nation's highways. In keeping with this mission and to fulfill a congressional mandate to improve highway traffic safety, NHTSA's Office of Communications and Consumer Information (OCCI) is dedicated to eliminating risky behaviors on our nation's roads through public awareness campaigns. One of the most significant NHTSA's OCCI seeks to address through these efforts is drunk driving.

Drunk driving is a significant cause of highway fatalities, injuries and economic losses. Alcohol-impaired driving fatalities totaled 11,654 in 2020, accounting for 30% of all motor-vehicle-crash fatalities.² On average, in 2020, there was an alcohol-impaired driving fatality every 45 minutes.³ Among motorcycle riders, in particular, 27% of riders in fatal crashes were legally drunk—a rate exceeding that of passenger car drivers (23%) and the highest among all vehicle types measured.⁴ Aside from the fatalities, alcohol-impaired driving crashes carried an economic cost of an estimated \$44 billion in 2010 (the most recent year for which cost data is available).⁵

In order for NHTSA's public awareness campaigns on drunk driving to be effective they must effectively "compete" for audience attention in the public domain among hundreds of other major marketers, including those in the alcoholic beverage industry that strategically target messages to

² 2020 Alcohol Impaired Driving (Traffic Safety Facts. Report No. DOT HS 813 294).

³ *Ibid.*

⁴ *Ibid.*

⁵ National Center for Statistics and Analysis. (2015, July). Overview: 2013 data. (Traffic Safety Facts. Report No. DOT HS 812 169). Washington, DC: National Highway Traffic Safety Administration.

particular groups of the public marketplace. In the consumer marketing context and environment, NHTSA must work to convince members of the driving/riding public not to operate vehicles when impaired by alcohol. Accordingly, NHTSA finds that it is necessary to conduct research, as authorized by the National Traffic Motor Vehicle Safety Act, to conduct research that will allow NHTSA to better tailor its communication strategies.

Specifically, NHTSA believes a segmentation analysis such as the one described above would be especially useful to NHTSA. More closely understanding and segmenting drunk drivers and motorcycle riders will enable more effective communications programs. Insights about drunk drivers' motorcycle riders' lifestyle characteristics, alcohol-consumption behaviors and attitudes towards drunk driving will provide useful, pragmatic information for NHTSA's continuing efforts to address the drunk driving/motorcycle riding issue responsible for so many deaths.

The segmentation profiles will be used by NHTSA's Office of Communications and Consumer Information (OCCI) to better target and reach intended audiences with communications messages and techniques that are relevant and meaningful to people within the target market.

Affected Public: Vehicle Drivers and Motorcycle Riders ages 21–54 (English and Spanish-speaking).

Estimated Number of Respondents: 5,400.

Frequency: One time.

Estimated Total Annual Burden

Hours: 3,574.67.

Estimated Total Annual Burden Cost: \$119,250.99.

Public Comments Invited: You are asked to comment on any aspects of this information collection, including (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29A.

Issued on June 1, 2023.

Juliette Marie Vallese,
*Associate Administrator, Office of
Communications and Consumer Information.*

[FR Doc. 2023–12102 Filed 6–6–23; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2022–0117]

Privacy Act of 1974; System of Records

AGENCY: Office of the Departmental Chief Information Officer, Office of the Secretary of Transportation, DOT.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Transportation (DOT), Federal Aviation Administration (FAA), proposes to establish a new system of records titled, “DOT/FAA 856 Airmen Medical Records.” 14 Code of Federal Regulations (CFR) 61.23 Medical Certificates: Requirement and Duration specify operations requiring medical certificates. Collectively, for the purposes of this system of records notice, individuals required to obtain medical certificates are referred to as applicants. This Notice covers records maintained for the required airmen medical certification process which is initiated by the airman medical certificate application. In addition to the initial medical records obtained at time of certification, FAA also maintains information on post-certification medical changes including failed drug and substance abuse testing results that could disqualify certificated airmen. Finally, this system of records supports regulatory enforcement activities and other legal actions, such as denial of medical certifications, so records including, but not limited to, pre-decisional notes in airmen medical files, are exempted from certain access and disclosure requirements of the Privacy Act of 1974.

DATES: Submit comments on or before July 7, 2023. The Department may publish an amended systems of records notice considering any comments received. This new system will be effective immediately upon publication. The routine uses will be effective July 7, 2023.

ADDRESSES: You may submit comments, identified by docket number 2022–0117 by any of the following methods:

- *Federal e-Rulemaking Portal:* <http://www.regulations.gov>. Follow the 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, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays.

- *Fax:* (202) 493–2251.

Instructions: You must include the agency name and docket number DOT–OST–2022–0117. All comments received will be posted without change to <http://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.).

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

FOR FURTHER INFORMATION CONTACT: For questions, please contact: Karyn Gorman, Departmental Chief Privacy Officer, Privacy Office, Department of Transportation, Washington, DC 20590; privacy@dot.gov; or 202–366–3140.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, DOT/FAA proposes to issue a new system of records notice titled, DOT/FAA 856 “Airmen Medical Records” (hereafter referred to as “Notice”).

Airmen Medical Certification Process

Records maintained in this system of records were previously covered under DOT/FAA 847, Aviation Records on Individuals (75 FR 68849—November 9, 2010). To provide the public with greater transparency and accountability to its business processes and data collection, FAA created this new Notice to more precisely consolidate records with similar purpose, authorities, categories of individuals, sources of information, and retention timeframes. This system of records covers all facets of the medical clearance process for airmen and non-FAA Air Traffic Control Specialists (ATCSs) with privileges under specific certifications. This Notice solely covers airmen and non-

FAA ATCSs as FAA ATCSs' medical clearances are covered under the Office of Personnel Management (OPM)/ Government (GOVT)–10 Employee Medical File System Records SORN (80 FR 74815—November 30, 2015).

The airmen medical certification process includes applicants for medical certificates, FAA Office of Aerospace Medicine (AAM) employees and contractors, and Aviation Medical Examiners (AMEs). Applicants consist of airmen and ATCSs who electronically submit the airman medical certificate application to apply for FAA medical certification. Applicants then select AMEs who are private physicians designated by FAA to conduct medical examinations. These AMEs review applicants' medical history and complete the requisite physical examinations. The examination results are integrated into the airman medical certificate application. Any issues or concerns regarding the medical examinations are directed by AMEs to FAA AAM employees to resolve. The employees also perform duties such as processing completed medical applications and issuing medical certificates. When requested by applicants or FAA AAM, external medical consultants, clinics and hospitals conduct certain testing, such as psychological or cardiac evaluations, and submit their medical findings to FAA AAM for inclusion in the airmen files.

This system of records covers airmen medical records associated with the required medical certification process and includes airman medical history, physical examinations, various specialized medical exams, such as psychiatric and/or psychological testing, vision and hearing exams, cardiology reports, and diagnostic laboratory testing and imaging studies. Other records in the airmen medical file include items such as substance abuse violations committed by certificated airmen. These types of records are obtained through DOT employer requirements and through the National Drivers' Registry and are used to help determine whether or not the airman is eligible to hold an airman medical certificate. Additional medical records are provided by external physicians, hospitals and other clinicians, if there are changes to the airman's medical history, for review in case this negatively impacts the medical certificate holder. Pathological and toxicological records resulting from aviation mishaps involving medical certificate holders are also incorporated into the airman's file. Records that support FAA legal actions (*i.e.*,

revocation of medical certifications), such as pre-decisional notes in airmen medical files that are incorporated into investigatory files, are exempted from certain access and disclosure requirements of the Privacy Act of 1974, pursuant to 5 U.S.C. 552a(k)(2).

DOT has included both system specific and departmental general routine uses, as they align with the purpose of this system of records to support decision-making and regulatory enforcement activities related to medical certification of airmen. As recognized by the Office of Management and Budget (OMB) in its Privacy Act Implementation Guidance and Responsibilities (65 FR 19746 (July 9, 1975)), the routine uses include proper and necessary uses of information in the system, even if such uses occur infrequently. The system specific routine uses include the following:

1. Sharing of information with the National Transportation Safety Board (NTSB) for purposes of investigating accidents and incidents involving certificated airmen;
2. Sharing with the general public information relating to an individual's eligibility for medical certification, requests for exemptions from medical requirements, and requests for review of certificate denials;
3. Sharing personal information of airmen with other federal agencies for the purpose of verifying the accuracy and completeness of medical information provided to FAA;
4. Sharing past medical certification history with AMEs, so they may render the best medical certification decision regarding airmen;
5. Providing information about airmen to Federal, State, local and Tribal law enforcement agencies when engaged in an official investigation in which an airman is involved;
6. Sharing records of an individual's positive drug test result, alcohol test result of 0.04 or greater breath alcohol concentration, or refusal to submit to testing required under a DOT-required testing program, available to third parties, including employers and prospective employers of such individuals. Such records will also contain the names and titles of individuals who, in their commercial capacity, administer the drug and alcohol testing programs of aviation entities; and

7. Providing information about airmen to Federal, State, local, and Tribal law enforcement, national security or homeland security agencies whenever such agencies are engaged in the performance of threat assessments

affecting the safety of transportation or national security.

Privacy Act

The Privacy Act (5 U.S.C. 552a) governs the means by which the Federal Government collects, maintains, and uses personally identifiable information (PII) in a System of Records. A "System of Records" is a group of any records under the control of a Federal agency from which information about individuals is retrieved by name or other personal identifier. The Privacy Act requires each agency to publish in the **Federal Register** a System of Records Notice (SORN) identifying and describing each System of Records the agency maintains, including the purposes for which the agency uses PII in the system, the routine uses for which the agency discloses such information outside the agency, and how individuals to whom a Privacy Act record pertains can exercise their rights under the Privacy Act (*e.g.*, to determine if the system contains information about them and to contest inaccurate information). In accordance with 5 U.S.C. 552a(r), DOT has provided a report of this system of records to the Office of Management and Budget and to Congress.

SYSTEM NAME AND NUMBER:

DOT/FAA 856 Airmen Medical Records

SECURITY CLASSIFICATION:

Sensitive, unclassified

SYSTEM LOCATION:

Federal Aviation Administration, Office of Information Technology, Enterprise Data Center (AIT-EDC), Mike Monroney Aeronautical Center, 6500 S MacArthur Blvd., Oklahoma City, OK 73169. Federal Aviation Administration, Office of Information Technology, Enterprise Data Center (AIT-EDC), William J. Hughes Technical Center, Atlantic City, NJ 08405.

SYSTEM MANAGER(S):

Manager, Aerospace Medical Certification Division, AAM-300, Federal Aviation Administration, Civil Aerospace Medical Institute, 6500 S MacArthur Blvd., Oklahoma City, OK 73169; (405) 954-4821.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

49 U.S.C. 40101, 40113, 44701 and 44703.

PURPOSE(S) OF THE SYSTEM:

The purpose of the system is to facilitate the medical fitness decision-making process for medical certifications and to support regulatory

enforcement activities as it relates to medical certification.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and previous applicants for medical certificates.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records maintained in this system consist of applicant personal records which include the following: names; social security number (full or pseudo-SSN); address; phone number; email address; date of birth; citizenship; physical characteristics (eye color, hair color, height and weight); gender; employer; arrests, convictions and/or administrative history (with explanations), and authorization to National Driver Register (NDR) to provide FAA with driving record results. Applicant medical history and examination records consist of names of prescriptions, near vision contacts (Y/N), medical history (check boxes for applicable conditions), healthcare professionals visited (name, address, type of professional, reason), medical examination findings and notes, hearing, vision, blood pressure, pulse, urine test results, electrocardiogram, other tests given, comments on medical history and findings, and statement of demonstrated ability (SODA) serial number. Health professional records consist of name and contact information (address and phone number), and AME serial number in the case of AMEs. Other medical records may include substance abuse test results or refusals to submit to testing, pathological and toxicological records (if applicable), unique identifiers/reference numbers, such as pathology index (PI), certificate number, applicant identification number (ID), medical identification number (MID), and federal tracking number (FTN). Finally, FAA employee information consists of name and examiner designation number.

RECORD SOURCE CATEGORIES:

Information is collected directly from the applicants and AMEs, FAA employees, and when authorized by the applicants, from external sources, such as the NDR, hospitals and physicians/clinicians.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to other disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside of DOT as a routine

use pursuant to 5 U.S.C. 552a(b)(3) as follows:

System Specific Routine Use

1. To the National Transportation Safety Board (NTSB), entire records related to the medical suitability of specific airmen for purposes of aircraft investigation responsibilities and regulatory enforcement activities as it relates to medical certification.
2. To the general public, upon request, records such as information relating to an individual's physical status or condition used to determine statistically the validity of FAA medical standards; and information relating to an individual's eligibility for medical certification, requests for exemptions from medical requirements, and requests for review of certificate denials.
3. To other federal agencies, personally identifiable information about airmen for the purpose of verifying the accuracy and completeness of medical information provided to FAA in connection with applications for airmen medical certification.
4. To Aviation Medical Examiners (AMEs), past airmen medical certification history data on a routine basis so that AMEs may render the best medical certification decision.
5. To Federal, State, local and Tribal law enforcement agencies, information about airmen when engaged in an official investigation in which an airman is involved;
6. To third parties, including employers and prospective employers of such individuals, records of an individual's positive drug test result, alcohol test result of 0.04 or greater breath alcohol concentration, or refusal to submit to testing required under a DOT-required testing program. Such records will also contain the names and titles of individuals who, in their commercial capacity, administer the drug and alcohol testing programs of aviation entities; and
7. To Federal, State, local, and Tribal law enforcement, national security or homeland security agencies, information about airmen whenever such agencies are engaged in the performance of threat assessments affecting the safety of transportation or national security.

Departmental Routine Uses

8. In the event that a system of records maintained by DOT to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program pursuant thereto, the relevant records in the system of records

may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a DOT decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

10. A record from this system of records may be disclosed, as a routine use, to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

11a. Routine Use for Disclosure for Use in Litigation. It shall be a routine use of the records in this system of records to disclose them to the Department of Justice or other Federal agency conducting litigation when (a) DOT, or any agency thereof, or (b) Any employee of DOT or any agency thereof, in his/her official capacity, or (c) Any employee of DOT or any agency thereof, in his/her individual capacity where the Department of Justice has agreed to represent the employee, or (d) The United States or any agency thereof, where DOT determines that litigation is likely to affect the United States, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or other Federal agency conducting the litigation is deemed by DOT to be relevant and necessary in the litigation, provided, however, that in each case, DOT determines that disclosure of the records in the litigation is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

11b. Routine Use for Agency Disclosure in Other Proceedings. It shall be a routine use of records in this system to disclose them in proceedings before any court or adjudicative or administrative body before which DOT or any agency thereof, appears, when (a)

DOT, or any agency thereof, or (b) Any employee of DOT or any agency thereof in his/her official capacity, or (c) Any employee of DOT or any agency thereof in his/her individual capacity where DOT has agreed to represent the employee, or (d) The United States or any agency thereof, where DOT determines that the proceeding is likely to affect the United States, is a party to the proceeding or has an interest in such proceeding, and DOT determines that use of such records is relevant and necessary in the proceeding, provided, however, that in each case, DOT determines that disclosure of the records in the proceeding is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

12. The information contained in this system of records will be disclosed to the Office of Management and Budget, OMB in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

13. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual. In such cases, however, the Congressional office does not have greater rights to records than the individual. Thus, the disclosure may be withheld from delivery to the individual where the file contains investigative or actual information or other materials which are being used, or are expected to be used, to support prosecution or fines against the individual for violations of a statute, or of regulations of the Department based on statutory authority. No such limitations apply to records requested for Congressional oversight or legislative purposes; release is authorized under 49 CFR 10.35(9).

14. One or more records from a system of records may be disclosed routinely to the National Archives and Records Administration in records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

15. Routine Use for disclosure to the Coast Guard and to Transportation Security Administration. A record from this system of records may be disclosed as a routine use to the Coast Guard and to the Transportation Security Administration if information from this system was shared with either agency when that agency was a component of the Department of Transportation before its transfer to the Department of Homeland Security and such disclosure

is necessary to accomplish a DOT, TSA or Coast Guard function related to this system of records.

16. DOT may make available to another agency or instrumentality of any government jurisdiction, including State and local governments, listings of names from any system of records in DOT for use in law enforcement activities, either civil or criminal, or to expose fraudulent claims, regardless of the stated purpose for the collection of the information in the system of records. These enforcement activities are generally referred to as matching programs because two lists of names are checked for match using automated assistance. This routine use is advisory in nature and does not offer unrestricted access to systems of records for such law enforcement and related antifraud activities. Each request will be considered on the basis of its purpose, merits, cost effectiveness and alternatives using Instructions on reporting computer matching programs to the Office of Management and Budget, OMB, Congress, and the public, published by the Director, OMB, dated September 20, 1989.

17. It shall be a routine use of the information in any DOT system of records to provide to the Attorney General of the United States, or his/her designee, information indicating that a person meets any of the disqualifications for receipt, possession, shipment, or transport of a firearm under the Brady Handgun Violence Prevention Act. In case of a dispute concerning the validity of the information provided by DOT to the Attorney General, or his/her designee, it shall be a routine use of the information in any DOT system of records to make any disclosures of such information to the National Background Information Check System, established by the Brady Handgun Violence Prevention Act, as may be necessary to resolve such dispute.

18a. To appropriate agencies, entities, and persons when (1) DOT suspects or has confirmed that there has been a breach of the system of records; (2) DOT has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DOT (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DOT's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

18b. To another Federal agency or Federal entity, when DOT determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

19. DOT may disclose records from this system, as a routine use, to the Office of Government Information Services for the purpose of (a) resolving disputes between FOIA requesters and Federal agencies and (b) reviewing agencies' policies, procedures, and compliance in order to recommend policy changes to Congress and the President.

20. DOT may disclose records from this system, as a routine use, to contractors and their agents, experts, consultants, and others performing or working on a contract, service, cooperative agreement, or other assignment for DOT, when necessary to accomplish an agency function related to this system of records.

21. DOT may disclose records from this system, as a routine use, to an agency, organization, or individual for the purpose of performing audit or oversight operations related to this system of records, but only such records as are necessary and relevant to the audit or oversight activity. This routine use does not apply to intra-agency sharing authorized under section (b)(1) of the Privacy Act.

22. DOT may disclose from this system, as a routine use, records consisting of, or relating to, terrorism information (6 U.S.C. 485(a)(5)), homeland security information (6 U.S.C. 482(f)(1)), or law enforcement information (Guideline 2 Report attached to White House Memorandum, "Information Sharing Environment, November 22, 2006) to a Federal, State, local, tribal, territorial, foreign government and/or multinational agency, either in response to its request or upon the initiative of the Component, for purposes of sharing such information as is necessary and relevant for the agencies to detect, prevent, disrupt, preempt, and mitigate the effects of terrorist activities against the territory, people, and interests of the United States of America, as contemplated by the Intelligence Reform and Terrorism Prevention Act of 2004 (Pub. L. 108-458) and Executive Order 13388 (October 25, 2005).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system of records are stored in hard copy format in a secure facility and in an electronic database system.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Applicant medical records in this system are primarily retrieved by name, SSN, and unique identifiers/reference numbers, such as PI, MID, FTN, applicant ID, and certificate number.

POLICIES AND PRACTICE FOR RETENTION AND DISPOSAL OF RECORDS:

A new National Archives and Records Administration (NARA) records schedule requesting 100-year retention for airmen medical certification records is being developed. The FAA will treat these records as permanent records until it receives an approval of record disposition authority from NARA. Any previous schedules attributed to this record type are superseded.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DOT automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RECORD ACCESS PROCEDURES:

Individuals seeking notification of whether this system of records contains information about them may contact the System Manager at the address provided in the section "System Manager." When seeking records about yourself from this system of records or any other Departmental system of records your request must conform to the Privacy Act regulations set forth in 49 CFR part 10. You must sign your request and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

CONTESTING RECORD PROCEDURE:

See "Record Access Procedures" above.

NOTIFICATION PROCEDURE:

See "Record Access Procedures" above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Records that support FAA legal actions (*i.e.*, revocation of medical certifications), such as pre-decisional notes in airmen medical files that are incorporated into investigatory files, are exempted from certain access and disclosure requirements of the Privacy Act of 1974, pursuant to 5 U.S.C. 552a(k)(2).

HISTORY:

None.

Issued in Washington, DC.

Karyn Gorman,

Departmental Chief Privacy Officer.

[FR Doc. 2023-12155 Filed 6-6-23; 8:45 am]

BILLING CODE 4910-9X-P

DEPARTMENT OF THE TREASURY**Office of the Comptroller of the Currency****Agency Information Collection Activities: Revision of an Approved Information Collection; Comment Request; Conversions From Mutual to Stock Form**

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC).

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites comment on a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning a revision to a currently approved information collection.

DATES: Comments must be received by August 7, 2023.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email:* prainfo@occ.treas.gov.
- *Mail:* Chief Counsel's Office,

Attention: Comment Processing, Office

of the Comptroller of the Currency, Attention: 1557-0347, 400 7th Street SW, Suite 3E-218, Washington, DC 20219.

- *Hand Delivery/Courier:* 400 7th Street, SW, Suite 3E-218, Washington, DC 20219.

- *Fax:* (571) 465-4326.

Instructions: You must include "OCC" as the agency name and "1557-0347" in your comment. In general, the OCC will publish comments on www.reginfo.gov without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection by the method set forth in the next bullet. Following the close of this notice's 60-day comment period, the OCC will publish a second notice with a 30-day comment period.

- *Viewing Comments Electronically:* Go to www.reginfo.gov. Hover over the "Information Collection Review" tab and click on "Information Collection Review" dropdown. Underneath the "Currently under Review" section heading, from the drop-down menu select "Department of Treasury" and then click "submit." This information collection can be located by searching by OMB control number "1557-0347" or "Conversions from Mutual to Stock Form." Upon finding the appropriate information collection, click on the related "ICR Reference Number." On the next screen, select "View Supporting Statement and Other Documents" and then click on the link to any comment listed at the bottom of the screen.

- For assistance in navigating www.reginfo.gov, please contact the Regulatory Information Service Center at (202) 482-7340.

FOR FURTHER INFORMATION CONTACT:

Shaquita Merritt, OCC Clearance Officer, (202) 649-5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7 St. SW, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

The OCC is requesting comment on the following revision to an approved information collection:

Title: Conversions from Mutual to Stock Form.

OMB Control No.: 1557-0347.

Abstract: Part 192 governs the process through which a savings association may convert from the mutual to the stock form of ownership and sets forth the procedures and submissions required in connection with that process.

Twelve CFR 192.5(c) provides that the appropriate Federal banking agency may waive any requirement of part 192 or any provision of a prescribed form. To obtain such a waiver, a savings association must file a written request with the agency that (1) specifies the requirement(s) or provision(s) for which the waiver is sought; (2) demonstrates that the waiver is equitable; is not detrimental to the savings association, its account holders, or other savings associations; and is not contrary to the public interest; and (3) includes a legal opinion demonstrating that the waiver sought does not conflict with applicable law.

Twelve CFR 192.105(a) sets forth the minimum requirements for the business plan a savings association must adopt prior to filing an application for conversion. The plan must include projections and activities for three years following the conversion; the plan for deploying conversion proceeds to meet credit and lending needs in proposed market areas; the risks associated with the plan for deployment of conversion proceeds, and the effect of the plan on management resources, staffing, and facilities; and the expertise of the savings association's management and board of directors, or plans for adequate staffing and controls to prudently manage the growth, expansion, new investment, and other operations and activities proposed in the business plan.

Twelve CFR 192.110(b) provides that upon review and approval of the savings association's business plan, the chief executive officer and at least two-thirds of the board must certify that the plan accurately reflects the intended plans for deployment of conversion proceeds, and that any new initiatives reflected in the business plan are reasonably achievable. The savings association must submit these certifications with its business plan as part of its application for conversion under § 192.150.

Twelve CFR 192.130 provides that a savings association must include information included in §§ 192.320 (order of priority to purchase conversion shares), 192.485 (liquidation account

provision), and 192.505 (restrictions on trading of shares) in its conversion plan.

Twelve CFR 192.135(a) provides that a savings association must notify its members that its board of directors has adopted a plan of conversion. This notification may be accomplished by mail or email, the posting of notices in local newspapers, or the posting of a notice on its website. Twelve CFR 192.135(b) sets forth the minimum requirements for the required notice, including information about the rights of account holders in connection with the conversion and the processes available to exercise those rights.

Twelve CFR 192.150 sets forth the information to be required in a savings association's application for conversion. The application must include: (1) the plan for conversion; (2) pricing materials meeting the requirements of § 192.200(b); (3) proxy materials under § 192.270; (4) an offering circular described in § 192.300; (5) documents and information required by Form AC; (6) any necessary written consents; (7) the savings association's business plan, submitted as a separately bound, confidential exhibit; and (8) any other information requested by the appropriate Federal banking agency.

Twelve CFR 192.180(a) requires a savings association to publish a public notice of its application for conversion by simultaneously posting the notice prominently in its home and branch offices. Twelve CFR 192.180(b) provides that a savings association must publish and post a new notice and allow an additional 30 days for comment if the savings association must refile.

Twelve CFR 192.225(a) requires that after the appropriate Federal banking agency approves the plan of conversion, the savings association must submit the plan to its members for approval and obtain approval at a special or annual meeting of its members. Twelve CFR 192.225(d) provides that a savings association may notify eligible account holders or supplemental eligible account holders who are not voting members of its proposed conversion and include only the information in § 192.135 in its notice.

Twelve CFR 192.235(a) provides that a savings association must notify its members of the meeting to consider its conversion by sending the members a proxy statement cleared by the appropriate Federal banking agency. Twelve CFR 192.235(c) requires the savings association to also notify each beneficial holder of an account held in a fiduciary capacity if the savings association is a Federal savings association and the name of the beneficial holder is disclosed on the

savings association's records or if the savings association is a State-chartered savings association and the beneficial holder possesses voting rights under State law.

Twelve CFR 192.240(a) requires that, after the members meeting, the savings association file with the appropriate OCC licensing office (Federally-chartered) or FDIC region (State-chartered) the following information: (1) a certified copy of each adopted resolution on the conversion; (2) the total votes eligible to be cast; (3) the total votes represented in person or by proxy; (4) the total votes cast in favor of and against each matter; (5) the percentage of votes necessary to approve each matter; and (6) an opinion of counsel that the meeting was conducted in compliance with all applicable State or Federal laws and regulations. Twelve CFR 192.240(b) requires that, upon completion of the conversion, the savings association submit an opinion of counsel that it complied with all applicable laws.

Twelve CFR 192.250(b)(2) requires that if, in complying with proxy solicitation provisions, the savings association solicits proxies through newspaper advertisements, the advertisements may include only (i) the name of the savings association; (ii) the reason for the advertisement; (iii) the proposal or proposals to be voted upon; (iv) where a member may obtain a copy of the proxy solicitation material; and (v) a request for the savings association's members to vote at the meeting.

Twelve CFR 192.255 sets forth the form of proxy requirements. The form of proxy must include the following: (a) a statement in bold face type stating that management is soliciting the proxy; (b) blank spaces where the member must date and sign the proxy; (c) clear and impartial identification of each matter or group of related matters that members will vote upon; (d) the phrase "Revocable Proxy" in bold face type (at least 18 point); (e) a description of any charter or State law requirement that restricts or conditions votes by proxy; (f) an acknowledgment that the member received a proxy statement before he or she signed the form of proxy; (g) the date, time, and the place of the meeting, when available; (h) a way for the member to specify by ballot whether he or she approves or disapproves of each matter that members will vote upon; (i) a statement that management will vote the proxy in accordance with the member's specifications; and (j) a statement in bold face type indicating how management will vote the proxy if the member does not specify a choice for a matter.

Twelve CFR 192.270(a) requires that a savings association prepare its proxy statement in compliance with part 192 and Form PS.

Twelve CFR 192.275(a) provides that a savings association must file revised proxy solicitation materials as an amendment to its application for conversion. The proxy solicitation materials must be in the form in which it furnished the materials to its members. Twelve CFR 192.275(b) provides that to revise its proxy a savings association must file (1) revised proxy materials as required by Form PS; (2) a revised form of proxy, if applicable; (3) any additional proxy solicitation material subject to § 192.270; and (4) a copy of the revised proxy solicitation materials marked to clearly indicate changes from the prior filing.

Twelve CFR 192.280 sets out the rules for mailing proxy solicitation materials. Twelve CFR 192.280(a) provides that a savings association must mail the member's cleared proxy solicitation material if upon written request by a member if the savings association's board of directors has adopted a plan of conversion, the appropriate Federal banking agency has cleared the member's proxy solicitation and the member agrees to defray the savings association's reasonable expenses. Twelve CFR 192.280(b) provides that upon receipt of such a request, the savings association must promptly furnish to the member the approximate number of members that the savings association solicited or will solicit (or the approximate number of members of any group of account holders that the member designates) and the estimated cost of mailing the proxy solicitation material.

Twelve CFR 192.295 provides that if a savings association amends its application for conversion, the appropriate Federal banking agency may require the savings association to re-solicit proxies for its members' meeting as a condition of approval of the amendment.

Twelve CFR 192.300 sets forth the requirements governing offering circulars. Twelve CFR 192.300(a) provides that a Federal savings association must file its offering circular with the appropriate OCC licensing office and a State savings association must file its offering circular with the appropriate FDIC region. Twelve CFR 192.300(b) provides that a savings association must condition its stock offering upon member approval of its plan of conversion.

Twelve CFR 192.305 sets forth rules governing the distribution of the

offering circular. Twelve CFR 192.305(a) provides that a savings association may distribute a preliminary offering circular at the same time as or after it mails the proxy statement to its members. Twelve CFR 192.305(c) provides that a savings association must distribute a final offering circular for stock issued in the transaction to persons listed in its plan of conversion within 10 calendar days after the appropriate Federal banking agency declares the offering circular effective or the Securities and Exchange Commission declares the registration statement for the offering circular effective.

Twelve CFR 192.310 sets forth the rules governing post-effective amendments to an offering circular. Twelve CFR 192.310(b) provides that after the appropriate Federal banking agency or the Securities and Exchange Commission declares the post-effective amendment effective, the savings association must immediately have the amendment to the offering circular delivered to each person who subscribed for or ordered shares in the offering. Twelve CFR 192.310(c) provides that the post-effective amendment must indicate that each person may increase, decrease, or rescind their subscription or order.

Twelve CFR 192.320 provides that a savings association must offer to sell its shares in the following order: (a) eligible account holders; (b) tax-qualified employee stock ownership plans; (c) supplemental eligible account holders; (d) other voting members who have subscription rights; and (e) the savings association's community or the general public.

Twelve CFR 192.335 sets forth the procedures for the sale of conversion shares. Twelve CFR 192.335(a) provides that savings association must distribute order forms to all eligible account holders, supplemental eligible account holders, and other voting members to enable them to subscribe for the conversion shares they are permitted under the plan of conversion. The savings association may either send the order forms with its offering circular or after the savings association distributes its offering circular.

Twelve CFR 192.405 sets forth the rules governing extensions of the offering period. Twelve CFR 192.405(b) provides that if the appropriate Federal banking agency grants a savings association's request for an extension of the offering period, the savings association must provide a post-effective amendment to the offering circular to each person who subscribed for or ordered stock. The amendment must indicate that the appropriate

Federal banking agency extended the offering period and that each person who subscribed for or ordered stock may increase, decrease, or rescind their subscription or order within the time remaining in the extension period.

Twelve CFR 192.430 sets forth the rules governing charter amendments. Twelve CFR 192.430(a) provides that if the savings association is a Federally-chartered mutual savings association or savings bank and it converts to a Federally-chartered stock savings association or savings bank, it must apply to the OCC to amend its charter and bylaws consistent with 12 CFR 5.22 as part of the savings association's application for conversion.

Twelve CFR 192.450(a) provides that a liquidation account represents the potential interest of eligible account holders and supplemental eligible account holders in the savings association's net worth at the time of conversion. A savings association must maintain a sub-account to reflect the interest of each account holder.

Twelve CFR 192.470 sets forth the rules governing adjustments to liquidation sub-accounts. Twelve CFR 192.470(a) provides that a savings association must reduce the balance of an eligible account holder's or supplemental eligible account holder's liquidation sub-account if the deposit balance in the account holder's savings account at the close of business on any annual closing date, falls below the lesser of: (i) the deposit balance in the account holder's savings account as of the relevant eligibility record date; or (ii) the deposit balance in the account holder's savings account as of its lowest balance as of any subsequent annual closing date. The reduction in the liquidation sub-account from its balance at the time of conversion must be proportionate to the reduction in the account holder's savings account from its balance at the time of conversion. Twelve CFR 192.470(c) provides that a savings association is not required to adjust the liquidation account and sub-account balances at each annual closing date if the savings association maintains sufficient records to make the computations if a liquidation subsequently occurs. Twelve CFR 192.470(d) provides that a savings association must maintain the liquidation sub-account for each account holder as long as the account holder maintains an account with the same social security number.

Twelve CFR 192.485 provides that if a savings association converts to Federal stock form, it must include a specific provision regarding the maintenance of a liquidation account in its new charter.

Twelve CFR 192.500(a) provides that during the 12 months after its conversion, a savings association may implement a stock option plan (Option Plan), an employee stock ownership plan or other tax-qualified employee stock benefit plan (collectively, ESOP), and a management recognition plan (MRP), provided that the savings association meets a set of requirements, including disclosure requirements and percentage limitations, and vesting restrictions.

Twelve CFR 192.505 sets forth the rules governing restrictions on trading. Twelve CFR 192.505(b) provides that the savings association must include a notice of an applicable restriction on each certificate of stock that a director or officer purchases during the conversion or receives in connection with a stock dividend, stock split, or otherwise with respect to such restricted shares.

Twelve CFR 192.515 details the information that must be filed with the Federal banking agency prior to the repurchase of shares. Twelve CFR 192.515(a) provides that in order to repurchase stock in the first year following conversion, a savings association generally must file a written notice with the appropriate OCC licensing office if Federally-chartered and with the appropriate FDIC region if State-chartered. The savings association must provide the following information: (1) the proposed repurchase program; (2) the effect of the repurchases on regulatory capital; and (3) the purpose of the repurchases and, if applicable, an explanation of the extraordinary circumstances necessitating the repurchases. Twelve CFR 192.515(b) provides that a Federal savings association must file its notice with the appropriate OCC licensing office, and a State savings association must file its notice with the appropriate regional director of the FDIC, at least 10 calendar days before the savings association begins its repurchase program. Twelve CFR 192.515(c) provides that a savings association may not repurchase its shares if the appropriate Federal banking agency objects to the repurchase program.

Twelve CFR 192.525 sets forth the restrictions on the acquisition of shares after conversion. Twelve CFR 192.525(c)(5) provides that an acquiror does not have to file a separate application to obtain the appropriate Federal banking agency's approval under 12 CFR 192.525(a) if the acquiror files an application under 12 CFR 5.50 that specifically addresses the criteria listed under 12 CFR 192.525(d) and the savings association does not oppose the

proposed acquisition. Twelve CFR 192.525(d) provides conditions under which the appropriate Federal banking agency may deny an application to acquire shares.

Twelve CFR 192.530 sets forth other post conversion requirements. Twelve CFR 192.530(a) provides that after a savings association converts, it must promptly register its shares under the Securities Exchange Act of 1934 (15 U.S.C. 78a–78jj, as amended). The savings association may not deregister the shares for three years. Twelve CFR 192.530(c) provides that a savings association must also use its best efforts to list its shares on a national or regional securities exchange or on the National Association of Securities Dealers Automated Quotation system. Finally, 12 CFR 192.530(d) requires the savings association to file all post-conversion reports required by the appropriate Federal banking agency.

Twelve CFR 192.550(a) provides that a savings association may contribute some of its conversion shares or proceeds to a charitable organization if its plan of conversion provides for the proposed contribution.

Twelve CFR 192.565 provides that the charter of a charitable organization's charter (or trust agreement) and the gift instrument itself must provide that: (a) the charitable organization's primary purpose is to serve and make grants in the savings association's local community; (b) as long as the charitable organization controls shares, it must vote those shares in the same ratio as all other shares voted on each proposal considered by the savings association's shareholders; (c) for at least five years after its organization, one seat on the charitable organization's board of directors (or board of trustees) is reserved for an independent director (or trustee) from the savings association's local community who is not affiliated with the savings association and experienced with local community charitable organizations and grant making; and (d) for at least five years after its organization, one seat on the charitable organization's board of directors (or board of trustees) is reserved for a director from the savings association's board of directors.

Twelve CFR 192.575(a) provides that the charitable organization's charter (or trust agreement) and the gift instrument for the contribution must provide that: (1) the appropriate Federal banking agency may examine the charitable organization at the charitable organization's expense; (2) the organization must comply with all supervisory directives that the appropriate Federal banking agency

imposes; (3) the organization must operate according to written policies adopted by its board of directors (or board of trustees), including a conflict of interest policy; (4) the organization must not engage in self-dealing; and (5) the organization must comply with all laws necessary to maintain its tax-exempt status under the Internal Revenue Code. Twelve CFR 192.575(b) provides that the savings association must include a specific legend in the stock certificates of shares that the savings association contributes to the charitable organization or that the charitable organization otherwise acquires.

Twelve CFR 192.650 provides that a majority of the board of directors of the savings association must adopt a plan of voluntary supervisory conversion. The savings association must include in its plan of voluntary supervisory conversion: (a) the savings association's name and address; (b) a description of the proposed voluntary supervisory conversion transaction that also describes plans for any liquidation account; and (c) certified copies of all resolutions relating to the conversion adopted by the board of directors of the savings association.

Twelve CFR 192.660 provides that a savings association must include all of the following information and documents in a voluntary supervisory conversion application to the appropriate OCC licensing office if it is a Federal savings association and to the appropriate FDIC region if it is a State savings association under this subpart: (a) information establishing eligibility; (b) a plan of conversion that complies with § 192.650; (c) a business plan that complies with § 192.105, when required by the appropriate Federal banking agency; (d) financial data, including financial statements and call reports, to support the transaction; (e) proposed documents for the conversion (charter, bylaws, stock certificate, securities disclosure materials); (f) any agreements between the savings association and proposed purchasers and all existing and proposed employment contracts; (g) all related filings and applications including, filings required under the securities offering rules of 12 CFR parts 16 and 192, Change in Bank Control Act submissions, subordinated debt applications, applications for permission to organize a stock association and for approval of a merger, applications for FDIC insurance of accounts; and (h) other information, including a statement describing post-conversion roles for officers, directors, and affiliates and waiver requests.

Type of Review: Revision.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 1.

Estimated Total Annual Burden: 512 hours.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

- Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;
- The accuracy of the OCC's estimate of the burden of the collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected;
- Ways to minimize the burden of the collection on respondents, including the use of automated collection techniques or other forms of information technology; and
- Estimates of capital or start-up costs and costs of operation, maintenance,

and purchase of services to provide information.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2023-12147 Filed 6-6-23; 8:45 am]

BILLING CODE 4810-33-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons

are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT:

OFAC: Andrea Gacki, Director, tel.: 202-622-2490; Associate Director for Global Targeting, tel.: 202-622-2420; Assistant Director for Licensing, tel.: 202-622-2480; Assistant Director for Regulatory Affairs, tel.: 202-622-4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202-622-2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website: (<https://www.treasury.gov/ofac>).

Notice of OFAC Action

On June 1, 2023, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

BILLING CODE 4810-AL-P

Individuals

1. AMINI, Hossein Hafez (a.k.a. AMINI, Hosein Hafez; a.k.a. AMINI, Huseyin Hafez; a.k.a. AMINI, Hussein Hafiz; a.k.a. HAFEMAZAMINI, Huseyin; a.k.a. HAFEZAMINI, Huseyin), Turkey; DOB 23 Aug 1969; nationality Iran; alt. nationality Turkey; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport A3784761 (Iran) expires 11 Aug 2021; alt. Passport U12438217 (Turkey) expires 30 Mar 2026 (individual) [SDGT] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224 of September 23, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism," 66 FR 49079, as amended by Executive Order 13886 of September 9, 2019, "Modernizing Sanctions To Combat Terrorism," 84 FR 48041 (E.O. 13224, as amended), for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE, a person whose property and interests in property are blocked pursuant to E.O. 13224.

2. ANSARI, Mohammad Reza (a.k.a. ANSARI BARKIRSAGHI, Mohammadreza; a.k.a. ANSARI, Mohammadreza; a.k.a. ANSARI, Mohammad-Reza; a.k.a. NASERI, Mostafa), Syria; DOB 22 Nov 1975; nationality Iran; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886 (individual) [SDGT] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for having acted or purported to act for or on behalf of, directly or indirectly, ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE, a person whose property and interests in property are blocked pursuant to E.O. 13224.

3. BAZGHANDI, Rouhollah (Arabic: روح اله بازقندی) (a.k.a. AZIMI, Ruhollah), Basement Floor 1, No. 51, 51 Sadoughi Alley, Shahid Sadoughi Boulevard, Qom, Zanbilabad District 3716945864, Iran; DOB 20 Sep 1981; POB Sabzevar, Iran; nationality Iran; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; National ID No. 0793640271 (Iran); Birth Certificate Number 4697 (Iran) (individual) [SDGT] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for having acted or purported to act for or on behalf of, directly or indirectly, ISLAMIC

REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE, a person whose property and interests in property are blocked pursuant to E.O. 13224.

4. POURSAFI, Shahram (a.k.a. MEHDI, Rezaei; a.k.a. PORSAFI, Shahram; a.k.a. PURSAFI, Shahram; a.k.a. REZAYI, Mehdi), Syria; DOB 21 Sep 1976; POB Iran; nationality Iran; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886 (individual) [SDGT] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for having acted or purported to act for or on behalf of, directly or indirectly, ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE, a person whose property and interests in property are blocked pursuant to E.O. 13224.

5. SERAJ, Reza, Iran; DOB 09 Aug 1965; nationality Iran; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport U50683554 (Iran) expires 18 Sep 2024; alt. Passport D10009891 (Iran) expires 28 May 2027 (individual) [SDGT] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for having acted or purported to act for or on behalf of, directly or indirectly, ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE, a person whose property and interests in property are blocked pursuant to E.O. 13224.

Entity

1. REY HAVACILIK ITHALAT IHRACAT SANAYI VE TICARET ANONIM SIRKETI (a.k.a. REY AIRLINES), NO: 38-6, COBANCESME MAHALLESİ, Istanbul 34197, Turkey; No: 3, D: 4 K. Cekmece, Besyol Mh. Florya Is Merkezi, Istanbul, Turkey; Website www.reyairlines.com; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Tax ID No. 7340772541 (Turkey); Registration Number 939568-0 (Turkey) issued 19 Sep 2014; alt. Registration Number 937110 (Turkey) issued 19 Sep 2014 [SDGT] (Linked To: AMINI, Hossein Hafez).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, directly or indirectly, HOSSEIN HAFEZ AMINI, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

Dated: June 1, 2023.

Andrea M. Gacki,

*Director, Office of Foreign Assets Control,
U.S. Department of the Treasury.*

[FR Doc. 2023-12143 Filed 6-6-23; 8:45 am]

BILLING CODE 4810-AL-C

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's List of Specially Designated Nationals and Blocked Persons (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property

subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT:

OFAC: Andrea Gacki, Director, tel.: 202-622-2490; Associate Director for Global Targeting, tel.: 202-622-2420;

Assistant Director for Licensing, tel.: 202-622-2480; Assistant Director for Regulatory Affairs, tel.: 202-622-4855; or Assistant Director for Sanctions Compliance & Evaluation, tel.: 202-622-2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions

programs are available on OFAC's website (<https://www.treasury.gov/ofac>).

Notice of OFAC Actions

On June 2, 2023, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

BILLING CODE 4810-AL-P

Individuals

1. FATEMI, Farhad (Arabic: فرهاد فاطمی), Iran; DOB 21 Sep 1990; POB Mashhad, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 0920992226 (Iran) (individual) [IRAN-EO13846] (Linked To: NAVYAN ABR ARVAN PRIVATE LIMITED COMPANY).

Designated pursuant to 7(a)(vii) of Executive Order 13846 of August 6, 2018, "Reimposing Certain Sanctions With Respect to Iran" (E.O. 13846), 83 FR 38939, 3 CFR, 2018 Comp., p. 854, for having acted or purported to act for or on behalf of, directly or indirectly, NAVYAN ABR ARVAN PRIVATE LIMITED COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13846.

2. PIRHOSSEINLOO, Pouya (Arabic: پویا پیرحسینلو) (a.k.a. PIRHOSEINLU, Puya), Tehran, Iran; DOB 10 Jan 1990; POB Tehran, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 0011395036 (Iran) (individual) [IRAN-EO13846] (Linked To: NAVYAN ABR ARVAN PRIVATE LIMITED COMPANY).

Designated pursuant to 7(a)(vii) of E.O. 13846 for having acted or purported to act for or on behalf of, directly or indirectly, NAVYAN ABR ARVAN PRIVATE LIMITED COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13846.

Entities

1. ARVANCLOUD GLOBAL TECHNOLOGIES L.L.C., Naif-Deira, Dubai 394815, United Arab Emirates; Organization Established Date 17 Oct 2022; Business Number 1108938 (United Arab Emirates); Business Registration Number 11955950 (United Arab Emirates) [IRAN-EO13846] (Linked To: NAVYAN ABR ARVAN PRIVATE LIMITED COMPANY).

Designated pursuant to 7(a)(vii) of E.O. 13846 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, NAVYAN ABR ARVAN PRIVATE LIMITED COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13846.

2. NAVYAN ABR ARVAN PRIVATE LIMITED COMPANY (Arabic: شرکت ویان ابرآروان شرکت سهامی خاص) (a.k.a. ABR ARVAN; a.k.a. ARVAN

CLOUD; a.k.a. ARVANCLOUD; a.k.a. NOYAN ABR ARVAN CO.), No. 247, Shahid Dastgerdi (Zafar) St., Nelson Mandela Boulevard (Africa), Tehran 1917717553, Iran; Website www.arvancloud.com; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 2015; National ID No. 14005500319 (Iran); Business Registration Number 489175 (Iran) [IRAN-EO13846].

Designated pursuant to 7(a)(v) of E.O. 13846 for having engaged in censorship or other activities with respect to Iran on or after June 12, 2009, that prohibit, limit, or penalize the exercise of freedom of expression or assembly by citizens of Iran, or that limit access to print or broadcast media, including the facilitation or support of intentional frequency manipulation by the Government of Iran or an entity owned or controlled by the Government of Iran that would jam or restrict an international signal.

Dated: June 2, 2023.

Andrea M. Gacki,

*Director, Office of Foreign Assets Control,
U.S. Department of the Treasury.*

[FR Doc. 2023-12157 Filed 6-6-23; 8:45 am]

BILLING CODE 4810-AL-C

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Meetings

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public meetings.

SUMMARY: The Commission is mandated by Congress to investigate, assess, and report to Congress annually on the “the national security implications of the economic relationship between the United States and the People’s Republic of China.” Pursuant to this mandate, the Commission will hold a series of public meetings to review and edit drafts of the 2023 Annual Report to Congress.

DATES: These meetings of the Commission for review and edit of draft reports are called to order or adjourned by the Chairman as needed between the initial opening session on June 22, 2023 and the planned final session to be completed by October 5, 2023. The current schedule for review and editing sessions are planned for Thursday, June 22, 2023, from 9:30 a.m. to 5:00 p.m.; Thursday, July 27, 2023, from 9:30 a.m. to 5:00 p.m.; Friday, July 28, 2023, from 9:30 a.m. to 5:00 p.m. (as needed); Tuesday, August 22, 2023 from 9:30 a.m. to 5:00 p.m.; Thursday, September 7, 2023, from 9:30 a.m. to 5:00 p.m.; Friday, September 8, 2023, from 9:30 a.m. to 5:00 p.m. (as needed); Wednesday, October 4, 2023, from 9:30 a.m. to 5:00 p.m.; and Thursday, October 5, 2023, from 9:30 a.m. to 5:00 p.m. (as needed).

Reach out to the below contact for any updates to this schedule.

ADDRESSES: 444 North Capitol Street NW, Room 233/235, Washington, DC 20001. Public seating is limited and will be available on a “first-come, first-served” basis. *Reservations are not required to attend the meetings.*

FOR FURTHER INFORMATION CONTACT: Any member of the public seeking further information concerning the meetings should contact Jameson Cunningham, 444 North Capitol Street NW, Suite 602, Washington DC 20001; telephone: 202-624-1496, or via email at jcunningham@uscc.gov. *Reservations are not required to attend the meetings.*

ADA Accessibility: For questions about the accessibility of the event or to request an accommodation, please contact Jameson Cunningham at 202-624-1496, or via email at jcunningham@uscc.gov. Requests for an accommodation should be made as soon as possible, and at least five business days prior to the event.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: Pursuant to the Commission’s mandate, members of the Commission will meet to review and edit drafts of the 2023 Annual Report to Congress. The Commission is subject to the Federal Advisory Committee Act (FACA) with the enactment of the Science, State, Justice, Commerce and Related Agencies Appropriations Act, 2006 that was signed into law on November 22, 2005 (Pub. L. 109-108). In accordance with FACA, the Commission’s meetings to make decisions concerning the substance and recommendations of its 2023 Annual Report to Congress are open to the public.

Topics To Be Discussed: Review and editing sessions will cover material prepared for the 2023 Annual Report, including: a review of economics, trade, security and foreign affairs developments in China and the U.S.-China relationship since the Commission’s last Annual Report in

November 2022; China’s use of lawfare to change global norms; China’s influence and interference; China’s economy and the risks to U.S. investment; how China educates and trains its next generation workforce; the People’s Liberation Army’s military diplomacy; weapons technology and export controls; changing relations between China and Europe, Taiwan, and Hong Kong; and other matters within the Commission’s mandate as the Commission chooses to take up in deliberation of the Annual Report.

Required Accessibility Statement: These meetings will be open to the public. The Commission may recess the meetings to address administrative issues in closed session. The Commission will also recess the meetings around noon for a lunch break or for other reasons as necessary. At the beginning of any break, the Chairman will announce what time the meetings will reconvene.

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Pub. L. 106-398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108-7), as amended by Public Law 109-108 (November 22, 2005), as amended by Public Law 113-291 (December 19, 2014).

Dated: June 2, 2023.

Daniel W. Peck,

Executive Director, U.S.-China Economic and Security Review Commission.

[FR Doc. 2023-12190 Filed 6-6-23; 8:45 am]

BILLING CODE 1137-00-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

Agency Information Collection Activity: Department of Veterans Affairs (VA) Network of Support Pilot Survey #2**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.**ACTION:** Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Refer to “OMB Control No. 2900–NEW”.

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–NEW” in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 13571—Streamlining Service Delivery and Improving Customer Service.

Title: Department of Veterans Affairs (VA) Network of Support Pilot Survey #2 (DEC2023).

OMB Control Number: 2900–NEW.

Type of Review: New collection.

Abstract: The Network of Support Pilot Survey #2 will be administered by VA to participants of the NoS Pilot to assess their satisfaction with the Program and their perception of its utility. The NoS Pilot is a legislatively mandated Pilot Program that invites transitioning service members (TSMs) to opt-in to the Program and then nominate up to 10 close friends and family members to received regular VA-provided information on Veteran benefits and resources. While the

legislation focuses on TSMs, separated Veterans may also choose to participate in the Pilot. The intent is to increase the likelihood that new Veterans will see, understand, and take advantage of their earned benefits, thereby easing what can be a difficult transition out of the military. This information collection request (ICR) will be the second of two surveys in the two-year pilot program—the first being NoS Survey #1 (Reference number 202007–2900–004) which was administered in December of 2022 and was legislatively mandated by Public Law (Pub. L.) 116–214, section 101. The survey population includes all members of the pilot—maximum of 3,000 TSMs/Veterans and 30,000 of their nominated NoS members for a maximum total of 33,000. VA will use email with hyperlink to administer the electronic (*i.e.*, Qualtrics) survey, limiting the burden on respondents. The survey will aid in VA’s assessment of the effectiveness of the NoS Pilot by: (1) examining the self-reported satisfaction and perceived utility via a series of closed and open-ended questions; (2) analyzing the relationship between participation in the NoS Pilot and certain characteristics of military service (*e.g.*, military occupation specialty [MOS], time in service [TIS], combat exposure) and certain demographics and personal characteristic known or believed to be associated with negative post-transition mental health and/or life outcomes; (3) analyzing the relationship between participation in the NoS Pilot and the use of VA Benefits and resources; (4) identifying areas of improvement for the NoS Program. This assessment will inform a report to the Congress mandated by Public Law 116–214, Section 101.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on 03/29/2023.

Affected Public: Individuals.

Estimated Annual Burden: 75 hours.

Estimated Average Burden per

Respondent: 15 minutes.

Frequency of Response: Annual.

Estimated Number of Respondents: 300.

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. 2023–12133 Filed 6–6–23; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS**Privacy Act of 1974; System of Records****AGENCY:** Veterans Health Administration (VHA), Department of Veterans Affairs (VA).**ACTION:** Rescindment of a system of records notice.

SUMMARY: VA is rescinding a system of records entitled, “All Employee Survey-VA” (160VA10A2) as set forth in the **Federal Register**. This system was used for applied managerial as well as scientific statistical analysis of employee satisfaction on quality and quantity of work, personal safety, promotion and training opportunity, fair and equitable treatment, and work/family balance.

DATES: The system was discontinued on September 1, 2012. Comments on this rescinded system of records must be received no later than 30 days after date of publication in the **Federal Register**. If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by VA, the rescindment will become effective a minimum of 30 days after date of publication in the **Federal Register**. If VA receives public comments, VA shall review the comments to determine whether any changes to the notice are necessary.

ADDRESSES: Comments may be submitted through www.Regulations.gov or mailed to VA Privacy Service, 810 Vermont Avenue NW, (005X6F), Washington, DC 20420. Comments should indicate that they are submitted in response to “All Employee Survey-VA” (160VA10A2). Comments received will be available at regulations.gov for public viewing, inspection or copies.

FOR FURTHER INFORMATION CONTACT: Stephania Griffin, Veterans Health Administration (VHA) Chief Privacy Officer, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420; Stephania.Griffin@va.gov, telephone (704) 245–2492 (Note: this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Categories of individuals covered by the system were all VA employees. Records were maintained on the server with a backup copy on compact disk in the VHA National Center for Organization Development (NCOD) Program Office, 11500 Northlake Drive, Suite 260, Cincinnati, OH 45249.

This system of records notice is being rescinded since the All Employee

Survey (AES) system does not use personal identifiers that can be connected to individuals. The de-identified, completely anonymized version of the older AES data is retained on the NCOD server behind the VA firewall. These versions will be retained indefinitely given their archival value as sources of establishing historical trends of VA employee perceptions, if needed or requested by VA leadership. Currently, the new vendor and system for AES does not use individual identifiers. Both the older AES system as well as the newer AES system do not use identifiers for individuals. Survey responses can not be used to identify specific individuals; therefore, a system

of records is not required. Since there is no records retention schedule for any AES records, AES records will continue to be maintained indefinitely until scheduled.

Signing Authority

The Senior Agency Official for Privacy, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Kurt D. DelBene, Assistant Secretary for Information and Technology and Chief Information

Officer, approved this document on May 31, 2023 for publication.

Dated: June 2, 2023.

Amy L. Rose,

Program Analyst, VA Privacy Service, Office of Information Security, Office of Information and Technology, Department of Veterans Affairs.

SYSTEM NAME AND NUMBER:

“All Employee Survey-VA”
160VA10A2.

HISTORY:

75 FR 3787 (January 22, 2010) and 78 FR 36035 (June 14, 2013).

[FR Doc. 2023-12140 Filed 6-6-23; 8:45 am]

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Part II

Federal Communications Commission

47 CFR Part 2

Table of Frequency Allocations and Radio Regulations; Final Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket No. 23–108, DA 23–241; FR ID 145484]

Table of Frequency Allocations and Radio Regulations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission's (Commission) Office of Engineering and Technology (OET) makes non-substantive editorial revisions to conform certain of the Commission's rules to the formatting requirements of the Code of Federal Regulations (CFR). The purpose of this administrative action is to implement formatting revisions to the Table of Frequency Allocations (Allocation Table) footnotes to comply with the standard CFR codification structure. This document also makes non-substantive, editorial revisions to the descriptions of the Radio Regulations of the International Telecommunication Union; the United States Table of Frequency Allocations; and the United States, Non-Federal Government, and Federal Government Footnotes, and adds descriptions of the Allocation Table and International Footnotes to clarify the descriptions of the contents and structure of the Allocation Table.

DATES: Effective July 7, 2023.

FOR FURTHER INFORMATION CONTACT: Patrick Forster, Office of Engineering and Technology, at (202) 418–7061, Patrick.Forster@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of OET's *Order* in ET Docket No. 23–108, DA 23–241, adopted and released on March 31, 2023. The full text of this document is available on the FCC's website at <https://www.fcc.gov/document/oet-makes-non-substantive-editorial-revisions-part-2>. To request materials in accessible formats for people with disabilities, send an email to FCC504@fcc.gov (mail to: FCC504@fcc.gov), or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Synopsis

By this administrative action, the Commission makes non-substantive, editorial revisions to conform Commission rules to formatting requirements of the Code of Federal Regulations (CFR). These actions do not modify or otherwise change any entity's

underlying rights or responsibilities. Specifically, this action implements formatting revisions to the § 2.106 Table of Frequency Allocations (Allocation Table) footnotes to conform to the Office of the Federal Register's (OFR) standard CFR codification structure. This action also makes non-substantive, editorial revisions to descriptions of the Radio Regulations of the International Telecommunication Union (Radio Regulations) (ITU); the United States Table of Frequency Allocations (U.S. Table); and the United States, Non-Federal Government, and Federal Government Footnotes categories in §§ 2.100, 2.105, and 2.106 of the rules, respectively; and adds descriptions of the Allocation Table and International Footnotes categories in § 2.106, to clarify the descriptions of the contents and structure of the International Table and the U.S. Table and describe the structure and contents of the Allocation Table.

The Allocation Table in § 2.106 of the Commission's rules is the Commission's means of organizing and presenting the use of radiofrequency spectrum in the United States and its insular areas by radio services under specified conditions. The Allocation Table consists of six columns that are divided into cells, with each cell representing a specific frequency band(s). The Allocation Table is comprised of the International Table, administered by the International Telecommunication Union (ITU) (columns 1–3), the United States Table of Frequency Allocations (U.S. Table) (columns 4 and 5), and cross-references to FCC rule part(s) (column 6). The International Table is subdivided into the Region 1, Region 2, and Region 3 columns, which reflect the corresponding regional or worldwide frequency allocations in the ITU Radio Regulations. The U.S. Table is subdivided into the Federal Table of Frequency Allocations in column 4 (Federal Table) and the non-Federal Table of Frequency Allocations in column 5 (non-Federal Table). The FCC rule part(s) column contains cross-references to the relevant service rules in the Code of Federal Regulations, where applicable. The International Table, the Federal Table, and the FCC rule part(s) are included in the Allocation Table for informational purposes only.

The U.S. Table contains references to U.S., non-Federal, Federal, and certain international footnotes. The footnotes denote specific use restrictions affecting radiofrequency operations in the particular frequency band. The text of the international, U.S., non-Federal, and Federal footnotes immediately follows

the Allocation Table in § 2.106. Any footnote number consisting of “5.” followed by one or more digits/letters (e.g., “5.53”) denotes an international footnote that is binding on users in the band. Any footnote consisting of the letters “US” followed by one or more digits/letters (e.g., “US7”) denotes a stipulation affecting both Federal and non-Federal radiofrequency operations in the particular frequency band in the United States. Any footnote consisting of the letters “NG” followed by one or more digits/letters (e.g., “NG3”) denotes a stipulation applicable only to non-Federal radiofrequency operations in the particular frequency band in the United States. Any footnote consisting of the letter “G” followed by one or more digits/letters (e.g., “G2”) denotes a stipulation applicable only to Federal radiofrequency operations in the particular frequency band in the United States. In some cases, a letter has, or letters have, been appended to the digit(s) of a footnote number to preserve the sequential order.

The Federal Register Act and its implementing regulations require that regulatory material be codified in the CFR in standard codified structure. As currently structured, the international, U.S., non-Federal, and Federal footnotes that follow the Allocation Table in § 2.106 are not formatted in the standard CFR codification structure contained in 1 CFR 21.11—Standard organization of the Code of Federal Regulations. This Order implements formatting revisions to all of the Allocation Table footnotes to comply with the standard CFR organizational structure.

Through the process of reformatting § 2.106, the Commission found additional issues in § 2.106 that must be addressed to conform to the Office of the Federal Register's (OFR's) standard CFR codification structure. Specifically, Appendix C of the OFR's Document Drafting Handbook lists certain drafting conventions that are no longer permitted in the CFR and states that agencies must make conforming changes unless they have a formally approved deviation. In this Order, the Commission addresses the following issues: (1) Footnotes that are “[Reserved];” (2) Footnotes or notes that include multiple paragraphs; (3) Footnotes or notes with multiple paragraph levels; (4) Footnotes or notes that include regulatory content; and (5) Paragraph designations in the middle of a paragraph.

Discussion

Section 553(b)(B) of the Administrative Procedure Act (APA) provides exceptions to the notice and

comment rulemaking procedures when, among other things, the agency finds for good cause that the notice and comment requirements are “impracticable, unnecessary, or contrary to the public interest” with respect to the rules at issue. This Final Rule consists of several non-substantive, editorial actions to add new or revise existing explanatory paragraphs before the Allocation Table and footnote categories in § 2.106, revise the format used for the footnotes that are listed after the Allocation Table in § 2.106, and provide descriptions of the International Table and the U.S. Table portions of the Allocation Table in §§ 2.100 and 2.105 of the rules, respectively. The rules adopted in the *Order* do not modify or otherwise change any entity’s underlying rights or responsibilities and, as such, entail no substantive regulatory decisions of any consequence or significance to industry or the general public. Accordingly, there is good cause to find that it is “unnecessary,” within the meaning of section 553(b)(B), to provide notice and an opportunity for public comment before implementing these rule revisions. The Acting Chief, Office of Engineering and Technology (OET) adopted the *Order* under delegated authority.

First, in § 2.106, the Commission adds paragraphs (a) through (e) to the existing table and footnotes categories, in accordance with the OFR’s standard CFR codification structure contained in 1 CFR 21.11(h), to describe the structure and contents of the Allocation Table. The addition of paragraph (a) before the Allocation Table is administrative in nature because it merely notes that the Allocation Table is comprised of the International Table and the United States Table, and notes where those tables, the ITU Radio Regulations, and the terms and acronyms used in the Allocation Table are described in the Commission’s rules.

In accordance with the OFR’s standard CFR codification structure, the Commission adds paragraph (b) in § 2.106 before the list of international footnotes to provide a description of these footnotes’ numbering format and their use in the Federal Table and non-Federal Table. The addition of this paragraph before the international footnotes is administrative in nature since it is based on descriptions contained in §§ 2.104 and 2.105 of the Commission’s rules, and simply notes where the ITU Radio Regulations, and the terms and abbreviations used in the international footnotes, are described in the Commission’s rules. The Commission also move the existing parenthetical text currently located

before the lists of United States footnotes, non-Federal footnotes, and Federal footnotes to paragraphs (c), (d), and (e) of § 2.106, respectively, to provide a description of these footnotes’ numbering format and their use in the Federal and non-Federal Tables.

Second, the Commission observe that: (1) most footnotes to the Allocation Table contain regulatory content; (2) many of these footnotes are multiple paragraphs long or contain multiple paragraph levels; and (3) some footnotes contain paragraph designations in the middle of a paragraph. The Commission addresses these issues by fully implementing the OFR’s standard CFR codification structure formatting in the footnotes to the Allocation Table. For certain international footnotes with separate paragraphs, the Commission merges the paragraphs to form a single paragraph. The Commission labels the tables and notes within footnotes in ascending numerical order, and if there is not an additional paragraph, the Commission moves the table to the end of the footnote text. Consistent with the Radio Regulations, the Commission adds a space between the fourth and third digits for five and six digit numbers within international and domestic footnotes.

Third, as required in the standard CFR codification structure, the Commission updates the cross-references in the footnotes in § 2.106 to conform to the OFR’s standard CFR codification structure.

The Commission also amends §§ 2.100 and 2.105, respectively, to clarify the descriptions of the contents and structure of the International Table and the U.S. Table. Specifically, the Commission adds paragraph (a) to section 2.100 to provide a brief description of the structure of the ITU and its regulations for informational purposes. These consist of: (1) Articles 1–59 in volume 1; Article 5 includes the ITU’s Table of Frequency Allocations, which is the basis for the International Table in § 2.106, as well as the text of the footnotes to the ITU’s Table of Frequency Allocations, which is the basis for the list of international footnotes in § 2.106; (2) Appendices (with Annexes) in volume 2; (3) Resolutions and Recommendations in volume 3; and (4) ITU–R Recommendations referenced in volume 4. The ITU Radio Regulations are available at <https://www.itu.int/pub/R-REG-RR/en>.

Finally, the Commission revises § 2.105(d)(5) to clarify that the footnotes to the Allocation Table are listed in ascending numerical order in paragraphs (b) through (e) of § 2.106 and

to remove footnote 7 from paragraphs (d)(5)(i) through (iv) and include the text of the footnote in paragraph (d)(5). In section 2.105, the Commission replaces “consisting of” in the first line of paragraph (d)(5)(i) and “consisting of the letters” in each of the paragraphs (d)(5)(ii) through (iv) with “in the format.” In paragraphs (d)(5)(iii) and (iv), the Commission replaces “Non-Federal footnotes” and “Federal footnotes” with “Non-Federal Government (non-Federal) footnotes” and “Federal Government (Federal) footnotes.”

Paperwork Reduction Act Analysis

This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burdens for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

Congressional Review Act

The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is “non-major” under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of the *Order* to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Administrative Procedure Act Requirements

The Commission amends part 2 of the Commission’s rules herein by incorporating non-substantive, editorial revisions only. Therefore, there is good cause for not employing the notice and comment procedure in this case. Specifically, the Commission finds that the normal procedures for notice and comment and for publication as required under section 553 of the Administrative Procedure Act would be impracticable, unnecessary, or contrary to the public interest. See 5 U.S.C. 553(b)(3)(B); *Kessler v. FCC*, 326 F.2d 673 (D.C. Cir. 1963).

Ordering Clause

It is ordered that part 2 of the Commission’s rules, 47 CFR part 2, *is amended* as set forth in the Appendix of the *Order*, effective 30 days after publication in the **Federal Register**. This action is taken pursuant to authority found in sections 4(i) and 303 of the Communications Act of 1934, as

amended, 47 U.S.C. 154(i) and 303, and in §§ 0.11, 0.31, 0.231(b) and 0.241(i) of the Commission’s rules, 47 CFR 0.11, 0.31, 0.231(b) and 0.241(i).

Petitions for reconsideration under 47 CFR 1.429 or applications for review by the Commission under 47 CFR 1.115 may be filed within 30 days after publication in the **Federal Register**. Should no petitions for reconsideration or applications for review be timely filed, this proceeding shall be terminated, and its docket closed.

List of Subjects in 47 CFR Part 2

Radio.

Federal Communications Commission.

Ronald T. Repasi,

Chief, Office of Engineering and Technology.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 2 as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

- 1. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

- 2. Revise § 2.100 to read as follows:

§ 2.100 International Radio Regulations.

The United States is a Member State of the International Telecommunication Union (ITU). The legal framework of the ITU is comprised of the Constitution and Convention of the International Telecommunication Union—which have treaty status and are binding on ITU Member States—and the Administrative Regulations—which complement the Constitution and the Convention. The Radio Regulations form an integral part of the Administrative Regulations.

(a) The Radio Regulations are available at <https://www.itu.int/pub/R-REG-RR/en> and consist of:

(1) Articles in volume 1. Article 5 includes the ITU’s Table of Frequency Allocations, which is the basis for the International Table in § 2.106, as well as the text of the footnotes to the ITU’s Table of Frequency Allocations, which is the basis for the list of international footnotes in § 2.106. A description of terms and abbreviations used in the international footnotes is as follows:

(i) ITU–R (ITU Radiocommunication Sector).

(ii) No. (composite number indicating the number of the ITU Article and the provision number within that Article

(e.g., No. 9.2B means provision No. 2B of Article 9).

(iii) Radio Regulations (ITU Radio Regulations).

(iv) WRC (World Radiocommunication Conference).

(2) Appendices (with Annexes) in volume 2.

(3) Resolutions and Recommendations in volume 3.

(4) ITU Radiocommunication Sector (ITU–R) Recommendations as referenced in volume 4.

(b) The Radio Regulations (Edition of 2012) have been incorporated to the extent practicable in this part, except that the International Table within § 2.106 has been updated to reflect the Radio Regulations (Edition of 2016).

- 3. Amend § 2.105 by revising paragraphs (b), (c) introductory text, (c)(1) introductory text, (d) introductory text, (d)(5), and (e) introductory text to read as follows:

§ 2.105 United States Table of Frequency Allocations.

* * * * *

(b) In the United States, radio spectrum may be allocated to either Federal or non-Federal use exclusively, or for shared use. In the case of shared use, the type of service(s) permitted need not be the same (e.g., Federal FIXED, non-Federal MOBILE). The terms used to designate categories of services and allocations in columns 4 and 5 of § 2.106 correspond to the terms in the ITU Radio Regulations.

(c) Any segment of the radio spectrum may be allocated to the Federal and/or non-Federal sectors either on an exclusive or shared basis for use by one or more radio services.

(1) In the case where an allocation has been made to more than one service, such services are listed in the following order:

* * * * *

(d) The format of the United States Table is as follows:

* * * * *

(5) The footnotes to the Allocation Table are listed in ascending numerical order in § 2.106(b) through (e); however, in some cases, a letter(s) has/have been appended after the digit(s) of a footnote number in order to preserve the sequential order. The following symbols are used to designate footnotes in the United States Table:

(i) Any footnote number in the format “5.” followed by one or more digits, e.g., 5.53, denotes an international footnote. Where an international footnote is applicable, without modification, to both Federal and non-Federal operations, the Commission places the

footnote in both the Federal Table and the non-Federal Table (columns 4 and 5) and the international footnote is binding on both Federal users and non-Federal licensees. If, however, an international footnote pertains to a service allocated only for Federal or non-Federal use, the international footnote will be placed only in the relevant Table. For example, footnote 5.142 pertains only to the amateur service, and thus, footnote 5.142 is shown only in the non-Federal Table.

(ii) Any footnote in the format “US” followed by one or more digits, e.g., US7, denotes a stipulation affecting both Federal and non-Federal operations. United States footnotes appear in both the Federal Table and the non-Federal Table.

(iii) Any footnote in the format “NG” followed by one or more digits, e.g., NG2, denotes a stipulation applicable only to non-Federal operations. Non-Federal Government (non-Federal) footnotes appear solely in the non-Federal Table (column 5).

(iv) Any footnote in the format “G” followed by one or more digits, e.g., G2, denotes a stipulation applicable only to Federal operations. Federal Government (Federal) footnotes appear solely in the Federal Table (column 4).

* * * * *

(e) If a frequency or frequency band has been allocated to a radiocommunication service in the non-Federal Table, then a cross reference may be added to the pertinent FCC Rule part (column 6 of § 2.106) or, where greater specificity would be useful, to the pertinent subpart. For example, the band 849–851 MHz is allocated to the aeronautical mobile service for non-Federal use, rules for the use of the 849–851 MHz band have been added to part 22—Public Mobile Services (47 CFR part 22), and a cross reference, Public Mobile (22), has been added in column 6 of § 2.106. The exact use that can be made of any given frequency or frequency band (e.g., channeling plans, allowable emissions, etc.) is given in the FCC Rule part(s) so indicated. The FCC Rule parts in this column are not allocations, may apply to only a portion of a band, and are provided for informational purposes only. This column also may contain explanatory notes for informational purposes only.

* * * * *

- 4. Amend § 2.106 by:

- a. Adding paragraph (a) before the Table of Frequency Allocations;

- b. Removing the “International Footnotes,” “United States (US) Footnotes,” “Non-Federal Government

(NG) Footnotes,” and “Federal Government (G) Footnotes;” and ■ c. Adding paragraphs (b) through (e) following the Table of Frequency Allocations.

The additions read as follows:

§ 2.106 Table of Frequency Allocations.

(a) *Allocation Table.* The Table of Frequency Allocations (Allocation Table) consists of the International Table of Frequency Allocations (International Table), the United States Table of Frequency Allocations (United States Table), and the FCC rule part(s) cross references as described in §§ 2.104 and 2.105, respectively. The International Telecommunication Union (ITU) Radio Regulations are described in § 2.100. The definitions of terms and acronyms used in the Allocation Table are specified in § 2.1. The footnotes to the Allocation Table are listed in ascending numerical order in paragraphs (b) through (e) of this section; however, in some cases, a letter(s) has/have been appended to the digit(s) of a footnote number in order to preserve the sequential order.

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(b) *International footnotes.* International footnotes, each in the format “5.” followed by one or more digits, denote stipulations applicable in the relationship between the United States and other nations and thus appear at a minimum in the International Table. Where an international footnote is applicable, without modification, to both Federal and non-Federal operations, the footnote is placed in both the Federal Table and the non-Federal Table (columns 4 and 5) and the international footnote is binding on both Federal users and non-Federal licensees. If, however, an international footnote pertains to a service allocated only for Federal or non-Federal use, the international footnote will be placed only in the relevant Table. Annex, Appendix, Article, No., and Resolution are cross references to provisions in the International Telecommunication Union (ITU) Radio Regulations (see § 2.100 for descriptions of the structure of the ITU Radio Regulations and the terms and abbreviations used in the international footnotes). The ITU–R Recommendations referenced in certain of the international footnotes are available at <https://www.itu.int/pub/R-REC>. The list of international footnotes follows:

(1)–(52) [Reserved]

(53) 5.53 Administrations authorizing the use of frequencies below 8.3 kHz shall ensure that no harmful interference is caused to services to

which the bands above 8.3 kHz are allocated.

(54) 5.54 Administrations conducting scientific research using frequencies below 8.3 kHz are urged to advise other administrations that may be concerned in order that such research may be afforded all practicable protection from harmful interference.

(i) 5.54A Use of the 8.3–11.3 kHz frequency band by stations in the meteorological aids service is limited to passive use only. In the band 9–11.3 kHz, meteorological aids stations shall not claim protection from stations of the radionavigation service submitted for notification to the Bureau prior to 1 January 2013. For sharing between stations of the meteorological aids service and stations in the radionavigation service submitted for notification after this date, the most recent version of Recommendation ITU–R RS.1881 should be applied.

(ii) 5.54B *Additional allocation:* in Algeria, Saudi Arabia, Bahrain, Egypt, the United Arab Emirates, the Russian Federation, Iran (Islamic Republic of), Iraq, Kuwait, Lebanon, Morocco, Qatar, the Syrian Arab Republic, Sudan and Tunisia, the frequency band 8.3–9 kHz is also allocated to the radionavigation, fixed and mobile services on a primary basis.

(iii) 5.54C *Additional allocation:* in China, the frequency band 8.3–9 kHz is also allocated to the maritime radionavigation and maritime mobile services on a primary basis.

(55) 5.55 *Additional allocation:* in Armenia, the Russian Federation, Georgia, Kyrgyzstan, Tajikistan and Turkmenistan, the frequency band 14–17 kHz is also allocated to the radionavigation service on a primary basis.

(56) 5.56 The stations of services to which the bands 14–19.95 kHz and 20.05–70 kHz and in Region 1 also the bands 72–84 kHz and 86–90 kHz are allocated may transmit standard frequency and time signals. Such stations shall be afforded protection from harmful interference. In Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan and Turkmenistan, the frequencies 25 kHz and 50 kHz will be used for this purpose under the same conditions.

(57) 5.57 The use of the bands 14–19.95 kHz, 20.05–70 kHz and 70–90 kHz (72–84 kHz and 86–90 kHz in Region 1) by the maritime mobile service is limited to coast radiotelegraph stations (A1A and F1B only). Exceptionally, the use of class J2B or J7B emissions is authorized subject to the necessary bandwidth not exceeding that normally

used for class A1A or F1B emissions in the band concerned.

(58) 5.58 *Additional allocation:* in Armenia, Azerbaijan, the Russian Federation, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan and Turkmenistan, the band 67–70 kHz is also allocated to the radionavigation service on a primary basis.

(59) 5.59 *Different category of service:* in Bangladesh and Pakistan, the allocation of the bands 70–72 kHz and 84–86 kHz to the fixed and maritime mobile services is on a primary basis (see No. 5.33).

(60) 5.60 In the bands 70–90 kHz (70–86 kHz in Region 1) and 110–130 kHz (112–130 kHz in Region 1), pulsed radionavigation systems may be used on condition that they do not cause harmful interference to other services to which these bands are allocated.

(61) 5.61 In Region 2, the establishment and operation of stations in the maritime radionavigation service in the bands 70–90 kHz and 110–130 kHz shall be subject to agreement obtained under No. 9.21 with administrations whose services, operating in accordance with the Table, may be affected. However, stations of the fixed, maritime mobile and radiolocation services shall not cause harmful interference to stations in the maritime radionavigation service established under such agreements.

(62) 5.62 Administrations which operate stations in the radionavigation service in the band 90–110 kHz are urged to coordinate technical and operating characteristics in such a way as to avoid harmful interference to the services provided by these stations.

(63) [Reserved]

(64) 5.64 Only classes A1A or F1B, A2C, A3C, F1C or F3C emissions are authorized for stations of the fixed service in the bands allocated to this service between 90 kHz and 160 kHz (148.5 kHz in Region 1) and for stations of the maritime mobile service in the bands allocated to this service between 110 kHz and 160 kHz (148.5 kHz in Region 1). Exceptionally, class J2B or J7B emissions are also authorized in the bands between 110 kHz and 160 kHz (148.5 kHz in Region 1) for stations of the maritime mobile service.

(65) 5.65 *Different category of service:* in Bangladesh, the allocation of the bands 112–117.6 kHz and 126–129 kHz to the fixed and maritime mobile services is on a primary basis (see No. 5.33).

(66) 5.66 *Different category of service:* in Germany, the allocation of the band 115–117.6 kHz to the fixed and maritime mobile services is on a primary basis (see No. 5.33) and to the

radionavigation service on a secondary basis (see No. 5.32).

(67) 5.67 *Additional allocation:* in Mongolia, Kyrgyzstan and Turkmenistan, the band 130–148.5 kHz is also allocated to the radionavigation service on a secondary basis. Within and between these countries this service shall have an equal right to operate.

(i) 5.67A Stations in the amateur service using frequencies in the band 135.7–137.8 kHz shall not exceed a maximum radiated power of 1 W (e.i.r.p.) and shall not cause harmful interference to stations of the radionavigation service operating in countries listed in paragraph (b)(67) of this section.

(ii) 5.67B The use of the band 135.7–137.8 kHz in Algeria, Egypt, Iran (Islamic Republic of), Iraq, Lebanon, Syrian Arab Republic, Sudan, South Sudan and Tunisia is limited to the fixed and maritime mobile services. The amateur service shall not be used in the above-mentioned countries in the band 135.7–137.8 kHz, and this should be taken into account by the countries authorizing such use.

(68) 5.68 *Alternative allocation:* in Congo (Rep. of the), the Dem. Rep. of the Congo and South Africa, the frequency band 160–200 kHz is allocated to the fixed service on a primary basis.

(69) 5.69 *Additional allocation:* in Somalia, the band 200–255 kHz is also allocated to the aeronautical radionavigation service on a primary basis.

(70) 5.70 *Alternative allocation:* in Angola, Botswana, Burundi, the Central African Rep., Congo (Rep. of the), Ethiopia, Kenya, Lesotho, Madagascar, Malawi, Mozambique, Namibia, Nigeria, Oman, the Dem. Rep. of the Congo, South Africa, Swaziland, Tanzania, Chad, Zambia and Zimbabwe, the band 200–283.5 kHz is allocated to the aeronautical radionavigation service on a primary basis.

(71) 5.71 *Alternative allocation:* in Tunisia, the band 255–283.5 kHz is allocated to the broadcasting service on a primary basis.

(72) [Reserved]

(73) 5.73 The band 285–325 kHz (283.5–325 kHz in Region 1) in the maritime radionavigation service may be used to transmit supplementary navigational information using narrow-band techniques, on condition that no harmful interference is caused to radiobeacon stations operating in the radionavigation service.

(74) 5.74 *Additional allocation:* in Region 1, the frequency band 285.3–285.7 kHz is also allocated to the maritime radionavigation service (other than radiobeacons) on a primary basis.

(75) 5.75 *Different category of service:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Moldova, Kyrgyzstan, Tajikistan, Turkmenistan, Ukraine and the Black Sea areas of Romania, the allocation of the band 315–325 kHz to the maritime radionavigation service is on a primary basis under the condition that in the Baltic Sea area, the assignment of frequencies in this band to new stations in the maritime or aeronautical radionavigation services shall be subject to prior consultation between the administrations concerned.

(76) 5.76 The frequency 410 kHz is designated for radio direction-finding in the maritime radionavigation service. The other radionavigation services to which the band 405–415 kHz is allocated shall not cause harmful interference to radio direction-finding in the band 406.5–413.5 kHz.

(77) 5.77 *Different category of service:* in Australia, China, the French overseas communities of Region 3, Korea (Rep. of), India, Iran (Islamic Republic of), Japan, Pakistan, Papua New Guinea and Sri Lanka, the allocation of the frequency band 415–495 kHz to the aeronautical radionavigation service is on a primary basis. In Armenia, Azerbaijan, Belarus, the Russian Federation, Kazakhstan, Latvia, Uzbekistan and Kyrgyzstan, the allocation of the frequency band 435–495 kHz to the aeronautical radionavigation service is on a primary basis. Administrations in all the aforementioned countries shall take all practical steps necessary to ensure that aeronautical radionavigation stations in the frequency band 435–495 kHz do not cause interference to reception by coast stations of transmissions from ship stations on frequencies designated for ship stations on a worldwide basis.

(78) 5.78 *Different category of service:* in Cuba, the United States of America and Mexico, the allocation of the band 415–435 kHz to the aeronautical radionavigation service is on a primary basis.

(79) 5.79 The use of the bands 415–495 kHz and 505–526.5 kHz (505–510 kHz in Region 2) by the maritime mobile service is limited to radiotelegraphy.

(i) 5.79A When establishing coast stations in the NAVTEX service on the frequencies 490 kHz, 518 kHz and 4209.5 kHz, administrations are strongly recommended to coordinate the operating characteristics in accordance with the procedures of the International Maritime Organization (IMO) (see Resolution 339 (Rev.WRC-07)).

(ii) [Reserved]

(80) 5.80 In Region 2, the use of the band 435–495 kHz by the aeronautical

radionavigation service is limited to non-directional beacons not employing voice transmission.

(i) 5.80A The maximum equivalent isotropically radiated power (e.i.r.p.) of stations in the amateur service using frequencies in the band 472–479 kHz shall not exceed 1 W. Administrations may increase this limit of e.i.r.p. to 5 W in portions of their territory which are at a distance of over 800 km from the borders of Algeria, Saudi Arabia, Azerbaijan, Bahrain, Belarus, China, Comoros, Djibouti, Egypt, United Arab Emirates, the Russian Federation, Iran (Islamic Republic of), Iraq, Jordan, Kazakhstan, Kuwait, Lebanon, Libya, Morocco, Mauritania, Oman, Uzbekistan, Qatar, Syrian Arab Republic, Kyrgyzstan, Somalia, Sudan, Tunisia, Ukraine and Yemen. In this frequency band, stations in the amateur service shall not cause harmful interference to, or claim protection from, stations of the aeronautical radionavigation service.

(ii) 5.80B The use of the frequency band 472–479 kHz in Algeria, Saudi Arabia, Azerbaijan, Bahrain, Belarus, China, Comoros, Djibouti, Egypt, United Arab Emirates, the Russian Federation, Iraq, Jordan, Kazakhstan, Kuwait, Lebanon, Libya, Mauritania, Oman, Uzbekistan, Qatar, Syrian Arab Republic, Kyrgyzstan, Somalia, Sudan, Tunisia and Yemen is limited to the maritime mobile and aeronautical radionavigation services. The amateur service shall not be used in the above-mentioned countries in this frequency band, and this should be taken into account by the countries authorizing such use.

(81) [Reserved]

(82) 5.82 In the maritime mobile service, the frequency 490 kHz is to be used exclusively for the transmission by coast stations of navigational and meteorological warnings and urgent information to ships, by means of narrow-band direct-printing telegraphy. The conditions for use of the frequency 490 kHz are prescribed in Articles 31 and 52. In using the frequency band 415–495 kHz for the aeronautical radionavigation service, administrations are requested to ensure that no harmful interference is caused to the frequency 490 kHz. In using the frequency band 472–479 kHz for the amateur service, administrations shall ensure that no harmful interference is caused to the frequency 490 kHz.

(83) [Reserved]

(84) 5.84 The conditions for the use of the frequency 518 kHz by the maritime mobile service are prescribed in Articles 31 and 52.

(85) [Reserved]

(86) 5.86 In Region 2, in the band 525–535 kHz the carrier power of broadcasting stations shall not exceed 1 kW during the day and 250 W at night.

(87) 5.87 *Additional allocation:* in Angola, Botswana, Lesotho, Malawi, Mozambique, Namibia, Niger and Swaziland, the band 526.5–535 kHz is also allocated to the mobile service on a secondary basis.

(i) 5.87A *Additional allocation:* in Uzbekistan, the band 526.5–1606.5 kHz is also allocated to the radionavigation service on a primary basis. Such use is subject to agreement obtained under No. 9.21 with administrations concerned and limited to ground-based radiobeacons in operation on 27 October 1997 until the end of their lifetime.

(ii) [Reserved]

(88) 5.88 *Additional allocation:* in China, the band 526.5–535 kHz is also allocated to the aeronautical radionavigation service on a secondary basis.

(89) 5.89 In Region 2, the use of the band 1605–1705 kHz by stations of the broadcasting service is subject to the Plan established by the Regional Administrative Radio Conference (Rio de Janeiro, 1988). The examination of frequency assignments to stations of the fixed and mobile services in the band 1625–1705 kHz shall take account of the allotments appearing in the Plan established by the Regional Administrative Radio Conference (Rio de Janeiro, 1988).

(90) 5.90 In the band 1605–1705 kHz, in cases where a broadcasting station of Region 2 is concerned, the service area of the maritime mobile stations in Region 1 shall be limited to that provided by ground-wave propagation.

(91) 5.91 *Additional allocation:* in the Philippines and Sri Lanka, the band 1606.5–1705 kHz is also allocated to the broadcasting service on a secondary basis.

(92) 5.92 Some countries of Region 1 use radiodetermination systems in the bands 1606.5–1625 kHz, 1635–1800 kHz, 1850–2160 kHz, 2194–2300 kHz, 2502–2850 kHz and 3500–3800 kHz, subject to agreement obtained under No. 9.21. The radiated mean power of these stations shall not exceed 50 W.

(93) 5.93 *Additional allocation:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Hungary, Kazakhstan, Latvia, Lithuania, Mongolia, Nigeria, Uzbekistan, Poland, Kyrgyzstan, Slovakia, Tajikistan, Chad, Turkmenistan and Ukraine, the frequency bands 1625–1635 kHz, 1800–1810 kHz and 2160–2170 kHz are also allocated to the fixed and land mobile

services on a primary basis, subject to agreement obtained under No. 9.21.

(94)–(95) [Reserved]

(96) 5.96 In Germany, Armenia, Austria, Azerbaijan, Belarus, Croatia, Denmark, Estonia, the Russian Federation, Finland, Georgia, Hungary, Ireland, Iceland, Israel, Kazakhstan, Latvia, Liechtenstein, Lithuania, Malta, Moldova, Norway, Uzbekistan, Poland, Kyrgyzstan, Slovakia, the Czech Rep., the United Kingdom, Sweden, Switzerland, Tajikistan, Turkmenistan and Ukraine, administrations may allocate up to 200 kHz to their amateur service in the frequency bands 1715–1800 kHz and 1850–2000 kHz. However, when allocating the frequency bands within this range to their amateur service, administrations shall, after prior consultation with administrations of neighbouring countries, take such steps as may be necessary to prevent harmful interference from their amateur service to the fixed and mobile services of other countries. The mean power of any amateur station shall not exceed 10 W.

(97) 5.97 In Region 3, the Loran system operates either on 1850 kHz or 1950 kHz, the bands occupied being 1825–1875 kHz and 1925–1975 kHz respectively. Other services to which the band 1800–2000 kHz is allocated may use any frequency therein on condition that no harmful interference is caused to the Loran system operating on 1850 kHz or 1950 kHz.

(98) 5.98 *Alternative allocation:* in Armenia, Azerbaijan, Belarus, Belgium, Cameroon, Congo (Rep. of the), Denmark, Egypt, Eritrea, Spain, Ethiopia, the Russian Federation, Georgia, Greece, Italy, Kazakhstan, Lebanon, Lithuania, the Syrian Arab Republic, Kyrgyzstan, Somalia, Tajikistan, Tunisia, Turkmenistan and Turkey, the frequency band 1810–1830 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

(99) 5.99 *Additional allocation:* in Saudi Arabia, Austria, Iraq, Libya, Uzbekistan, Slovakia, Romania, Slovenia, Chad, and Togo, the band 1810–1830 kHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

(100) 5.100 In Region 1, the authorization to use the band 1810–1830 kHz by the amateur service in countries situated totally or partially north of 40° N shall be given only after consultation with the countries mentioned in paragraphs (b)(98) and (99) of this section to define the necessary steps to be taken to prevent harmful interference between amateur stations and stations of other services operating in accordance with

paragraphs (b)(98) and (99) of this section.

(101) [Reserved]

(102) 5.102 *Alternative allocation:* in Bolivia, Chile, Paraguay and Peru, the frequency band 1850–2000 kHz is allocated to the fixed, mobile except aeronautical mobile, radiolocation and radionavigation services on a primary basis.

(103) 5.103 In Region 1, in making assignments to stations in the fixed and mobile services in the bands 1850–2045 kHz, 2194–2498 kHz, 2502–2625 kHz and 2650–2850 kHz, administrations should bear in mind the special requirements of the maritime mobile service.

(104) 5.104 In Region 1, the use of the band 2025–2045 kHz by the meteorological aids service is limited to oceanographic buoy stations.

(105) 5.105 In Region 2, except in Greenland, coast stations and ship stations using radiotelephony in the band 2065–2107 kHz shall be limited to class J3E emissions and to a peak envelope power not exceeding 1 kW. Preferably, the following carrier frequencies should be used: 2065.0 kHz, 2079.0 kHz, 2082.5 kHz, 2086.0 kHz, 2093.0 kHz, 2096.5 kHz, 2100.0 kHz and 2103.5 kHz. In Argentina and Uruguay, the carrier frequencies 2068.5 kHz and 2075.5 kHz are also used for this purpose, while the frequencies within the band 2072–2075.5 kHz are used as provided in No. 52.165.

(106) 5.106 In Regions 2 and 3, provided no harmful interference is caused to the maritime mobile service, the frequencies between 2065 kHz and 2107 kHz may be used by stations of the fixed service communicating only within national borders and whose mean power does not exceed 50 W. In notifying the frequencies, the attention of the Bureau should be drawn to these provisions.

(107) 5.107 *Additional allocation:* in Saudi Arabia, Eritrea, Ethiopia, Iraq, Libya, Somalia and Swaziland, the band 2160–2170 kHz is also allocated to the fixed and mobile, except aeronautical mobile (R), services on a primary basis. The mean power of stations in these services shall not exceed 50 W.

(108) 5.108 The carrier frequency 2182 kHz is an international distress and calling frequency for radiotelephony. The conditions for the use of the band 2173.5–2190.5 kHz are prescribed in Articles 31 and 52.

(109) 5.109 The frequencies 2187.5 kHz, 4207.5 kHz, 6312 kHz, 8414.5 kHz, 12 577 kHz and 16 804.5 kHz are international distress frequencies for digital selective calling. The conditions

for the use of these frequencies are prescribed in Article 31.

(110) 5.110 The frequencies 2174.5 kHz, 4177.5 kHz, 6268 kHz, 8376.5 kHz, 12 520 kHz and 16 695 kHz are international distress frequencies for narrow-band direct-printing telegraphy. The conditions for the use of these frequencies are prescribed in Article 31.

(111) 5.111 The carrier frequencies 2182 kHz, 3023 kHz, 5680 kHz, 8364 kHz and the frequencies 121.5 MHz, 156.525 MHz, 156.8 MHz and 243 MHz may also be used, in accordance with the procedures in force for terrestrial radiocommunication services, for search and rescue operations concerning manned space vehicles. The conditions for the use of the frequencies are prescribed in Article 31. The same applies to the frequencies 10 003 kHz, 14 993 kHz and 19 993 kHz, but in each of these cases emissions must be confined in a band of ± 3 kHz about the frequency.

(112) 5.112 *Alternative allocation:* in Denmark and Sri Lanka, the band 2194–2300 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

(113) 5.113 For the conditions for the use of the bands 2300–2495 kHz (2498 kHz in Region 1), 3200–3400 kHz, 4750–4995 kHz and 5005–5060 kHz by the broadcasting service, see Nos. 5.16 to 5.20, 5.21 and 23.3 to 23.10.

(114) 5.114 *Alternative allocation:* in Denmark and Iraq, the band 2502–2625 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

(115) 5.115 The carrier (reference) frequencies 3023 kHz and 5680 kHz may also be used, in accordance with Article 31, by stations of the maritime mobile service engaged in coordinated search and rescue operations.

(116) 5.116 Administrations are urged to authorize the use of the band 3155–3195 kHz to provide a common worldwide channel for low power wireless hearing aids. Additional channels for these devices may be assigned by administrations in the bands between 3155 kHz and 3400 kHz to suit local needs. It should be noted that frequencies in the range 3000 kHz to 4000 kHz are suitable for hearing aid devices which are designed to operate over short distances within the induction field.

(117) 5.117 *Alternative allocation:* in Côte d'Ivoire, Denmark, Egypt, Liberia, Sri Lanka and Togo, the band 3155–3200 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

(118) 5.118 *Additional allocation:* in the United States, Mexico, Peru and

Uruguay, the band 3230–3400 kHz is also allocated to the radiolocation service on a secondary basis.

(119) 5.119 *Additional allocation:* in Peru, the frequency band 3500–3750 kHz is also allocated to the fixed and mobile services on a primary basis.

(120)–(121) [Reserved]

(122) 5.122 *Alternative allocation:* in Bolivia, Chile, Ecuador, Paraguay and Peru, the frequency band 3750–4000 kHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

(123) 5.123 *Additional allocation:* in Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia and Zimbabwe, the band 3900–3950 kHz is also allocated to the broadcasting service on a primary basis, subject to agreement obtained under No. 9.21.

(124) [Reserved]

(125) 5.125 *Additional allocation:* in Greenland, the band 3950–4000 kHz is also allocated to the broadcasting service on a primary basis. The power of the broadcasting stations operating in this band shall not exceed that necessary for a national service and shall in no case exceed 5 kW.

(126) 5.126 In Region 3, the stations of those services to which the band 3995–4005 kHz is allocated may transmit standard frequency and time signals.

(127) 5.127 The use of the band 4000–4063 kHz by the maritime mobile service is limited to ship stations using radiotelephony (see No. 52.220 and Appendix 17).

(128) 5.128 Frequencies in the bands 4063–4123 kHz and 4130–4438 kHz may be used exceptionally by stations in the fixed service, communicating only within the boundary of the country in which they are located, with a mean power not exceeding 50 W, on condition that harmful interference is not caused to the maritime mobile service. In addition, in Afghanistan, Argentina, Armenia, Azerbaijan, Belarus, Botswana, Burkina Faso, the Central African Rep., China, the Russian Federation, Georgia, India, Kazakhstan, Mali, Niger, Pakistan, Kyrgyzstan, Tajikistan, Chad, Turkmenistan and Ukraine, in the bands 4063–4123 kHz, 4130–4133 kHz and 4408–4438 kHz, stations in the fixed service, with a mean power not exceeding 1 kW, can be operated on condition that they are situated at least 600 km from the coast and that harmful interference is not caused to the maritime mobile service.

(129) [Reserved]

(130) 5.130 The conditions for the use of the carrier frequencies 4125 kHz

and 6215 kHz are prescribed in Articles 31 and 52.

(131) 5.131 The frequency 4209.5 kHz is used exclusively for the transmission by coast stations of meteorological and navigational warnings and urgent information to ships by means of narrow-band direct-printing techniques.

(132) 5.132 The frequencies 4210 kHz, 6314 kHz, 8416.5 kHz, 12 579 kHz, 16 806.5 kHz, 19 680.5 kHz, 22 376 kHz and 26 100.5 kHz are the international frequencies for the transmission of maritime safety information (MSI) (see Appendix 17).

(i) 5.132A Stations in the radiolocation service shall not cause harmful interference to, or claim protection from, stations operating in the fixed or mobile services.

Applications of the radiolocation service are limited to oceanographic radars operating in accordance with Resolution 612 (Rev.WRC–12).

(ii) 5.132B *Alternative allocation:* in Armenia, Belarus, Moldova, Uzbekistan and Kyrgyzstan, the frequency band 4438–4488 kHz is allocated to the fixed and mobile, except aeronautical mobile (R), services on a primary basis.

(133) 5.133 *Different category of service:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Kazakhstan, Latvia, Lithuania, Niger, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, the allocation of the band 5130–5250 kHz to the mobile, except aeronautical mobile, service is on a primary basis (see No. 5.33).

(i) 5.133A *Alternative allocation:* in Armenia, Belarus, Moldova, Uzbekistan and Kyrgyzstan, the frequency bands 5250–5275 kHz and 26 200–26 350 kHz are allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

(ii) 5.133B Stations in the amateur service using the frequency band 5351.5–5366.5 kHz shall not exceed a maximum radiated power of 15 W (e.i.r.p.). However, in Region 2 in Mexico, stations in the amateur service using the frequency band 5351.5–5366.5 kHz shall not exceed a maximum radiated power of 20 W (e.i.r.p.). In the following Region 2 countries: Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Dominica, El Salvador, Ecuador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Nicaragua, Panama, Paraguay, Peru, Saint Lucia, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay, Venezuela, as well as the overseas territories of the

Netherlands in Region 2, stations in the amateur service using the frequency band 5351.5–5366.5 kHz shall not exceed a maximum radiated power of 25 W (e.i.r.p.).

(134) 5.134 The use of the bands 5900–5950 kHz, 7300–7350 kHz, 9400–9500 kHz, 11 600–11 650 kHz, 12 050–12 100 kHz, 13 570–13 600 kHz, 13 800–13 870 kHz, 15 600–15 800 kHz, 17 480–17 550 kHz and 18 900–19 020 kHz by the broadcasting service is subject to the application of the procedure of Article 12. Administrations are encouraged to use these bands to facilitate the introduction of digitally modulated emissions in accordance with the provisions of Resolution 517 (Rev.WRC–15).

(135) [Reserved]

(136) 5.136 *Additional allocation:* frequencies in the band 5900–5950 kHz may be used by stations in the following services, communicating only within the boundary of the country in which they are located: fixed service (in all three Regions), land mobile service (in Region 1), mobile except aeronautical mobile (R) service (in Regions 2 and 3), on condition that harmful interference is not caused to the broadcasting service. When using frequencies for these services, administrations are urged to use the minimum power required and to take account of the seasonal use of frequencies by the broadcasting service published in accordance with the Radio Regulations.

(137) 5.137 On condition that harmful interference is not caused to the maritime mobile service, the bands 6200–6213.5 kHz and 6220.5–6525 kHz may be used exceptionally by stations in the fixed service, communicating only within the boundary of the country in which they are located, with a mean power not exceeding 50 W. At the time of notification of these frequencies, the attention of the Bureau will be drawn to the above conditions.

(138) 5.138 The bands 6765–6795 kHz (centre frequency 6780 kHz), 433.05–434.79 MHz (centre frequency 433.92 MHz) in Region 1 except in the countries mentioned in No. 5.280, 61–61.5 GHz (centre frequency 61.25 GHz), 122–123 GHz (centre frequency 122.5 GHz), and 244–246 GHz (centre frequency 245 GHz) are designated for industrial, scientific and medical (ISM) applications. The use of these frequency bands for ISM applications shall be subject to special authorization by the administration concerned, in agreement with other administrations whose radiocommunication services might be affected. In applying this provision, administrations shall have due regard to

the latest relevant ITU–R Recommendations.

(139) [Reserved]

(140) 5.140 *Additional allocation:* in Angola, Iraq, Somalia and Togo, the frequency band 7000–7050 kHz is also allocated to the fixed service on a primary basis.

(141) 5.141 *Alternative allocation:* in Egypt, Eritrea, Ethiopia, Guinea, Libya, Madagascar and Niger, the band 7000–7050 kHz is allocated to the fixed service on a primary basis.

(i) 5.141A *Additional allocation:* in Uzbekistan and Kyrgyzstan, the bands 7000–7100 kHz and 7100–7200 kHz are also allocated to the fixed and land mobile services on a secondary basis.

(ii) 5.141B *Additional allocation:* in Algeria, Saudi Arabia, Australia, Bahrain, Botswana, Brunei Darussalam, China, Comoros, Korea (Rep. of), Diego Garcia, Djibouti, Egypt, United Arab Emirates, Eritrea, Guinea, Indonesia, Iran (Islamic Republic of), Japan, Jordan, Kuwait, Libya, Mali, Morocco, Mauritania, Niger, New Zealand, Oman, Papua New Guinea, Qatar, the Syrian Arab Republic, Singapore, Sudan, South Sudan, Tunisia, Viet Nam and Yemen, the frequency band 7100–7200 kHz is also allocated to the fixed and the mobile, except aeronautical mobile (R), services on a primary basis.

(142) 5.142 The use of the band 7200–7300 kHz in Region 2 by the amateur service shall not impose constraints on the broadcasting service intended for use within Region 1 and Region 3.

(143) 5.143 *Additional allocation:* frequencies in the band 7300–7350 kHz may be used by stations in the fixed service and in the land mobile service, communicating only within the boundary of the country in which they are located, on condition that harmful interference is not caused to the broadcasting service. When using frequencies for these services, administrations are urged to use the minimum power required and to take account of the seasonal use of frequencies by the broadcasting service published in accordance with the Radio Regulations.

(i) 5.143A In Region 3, frequencies in the band 7350–7450 kHz may be used by stations in the fixed service on a primary basis and land mobile service on a secondary basis, communicating only within the boundary of the country in which they are located, on condition that harmful interference is not caused to the broadcasting service. When using frequencies for these services, administrations are urged to use the minimum power required and to take account of the seasonal use of

frequencies by the broadcasting service published in accordance with the Radio Regulations.

(ii) 5.143B In Region 1, frequencies in the band 7350–7450 kHz may be used by stations in the fixed and land mobile services communicating only within the boundary of the country in which they are located on condition that harmful interference is not caused to the broadcasting service. The total radiated power of each station shall not exceed 24 dBW.

(iii) 5.143C *Additional allocation:* in Algeria, Saudi Arabia, Bahrain, Comoros, Djibouti, Egypt, United Arab Emirates, Iran (Islamic Republic of), Jordan, Kuwait, Libya, Morocco, Mauritania, Niger, Oman, Qatar, the Syrian Arab Republic, Sudan, South Sudan, Tunisia and Yemen, the bands 7350–7400 kHz and 7400–7450 kHz are also allocated to the fixed service on a primary basis.

(iv) 5.143D In Region 2, frequencies in the band 7350–7400 kHz may be used by stations in the fixed service and in the land mobile service, communicating only within the boundary of the country in which they are located, on condition that harmful interference is not caused to the broadcasting service. When using frequencies for these services, administrations are urged to use the minimum power required and to take account of the seasonal use of frequencies by the broadcasting service published in accordance with the Radio Regulations.

(144) 5.144 In Region 3, the stations of those services to which the band 7995–8005 kHz is allocated may transmit standard frequency and time signals.

(145) 5.145 The conditions for the use of the carrier frequencies 8291 kHz, 12 290 kHz and 16 420 kHz are prescribed in Articles 31 and 52.

(i) 5.145A Stations in the radiolocation service shall not cause harmful interference to, or claim protection from, stations operating in the fixed service. Applications of the radiolocation service are limited to oceanographic radars operating in accordance with Resolution 612 (Rev.WRC–12).

(ii) 5.145B *Alternative allocation:* in Armenia, Belarus, Moldova, Uzbekistan and Kyrgyzstan, the frequency bands 9305–9355 kHz and 16 100–16 200 kHz are allocated to the fixed service on a primary basis.

(146) 5.146 *Additional allocation:* frequencies in the bands 9400–9500 kHz, 11 600–11 650 kHz, 12 050–12 100 kHz, 15 600–15 800 kHz, 17 480–17 550 kHz and 18 900–19 020 kHz may be used by stations in the fixed service,

communicating only within the boundary of the country in which they are located, on condition that harmful interference is not caused to the broadcasting service. When using frequencies in the fixed service, administrations are urged to use the minimum power required and to take account of the seasonal use of frequencies by the broadcasting service published in accordance with the Radio Regulations.

(147) 5.147 On condition that harmful interference is not caused to the broadcasting service, frequencies in the

bands 9775–9900 kHz, 11 650–11 700 kHz and 11 975–12 050 kHz may be used by stations in the fixed service communicating only within the boundary of the country in which they are located, each station using a total radiated power not exceeding 24 dBW. (148) [Reserved]

(149) 5.149 In making assignments to stations of other services to which the bands listed in table 1 to this paragraph (b)(149) are allocated, administrations are urged to take all practicable steps to protect the radio astronomy service from harmful interference. Emissions from

spaceborne or airborne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 4.5 and 4.6 and Article 29).

(i) 5.149A *Alternative allocation:* in Armenia, Belarus, Moldova, Uzbekistan and Kyrgyzstan, the frequency band 13 450–13 550 kHz is allocated to the fixed service on a primary basis and to the mobile, except aeronautical mobile (R), service on a secondary basis.

(ii) [Reserved]

TABLE 1 TO PARAGRAPH (b)(149)

13 360–13 410 kHz	23.07–23.12 GHz.
25 550–25 670 kHz	31.2–31.3 GHz.
37.5–38.25 MHz	31.5–31.8 GHz in Regions 1 and 3.
73–74.6 MHz in Regions 1 and 3	36.43–36.5 GHz.
150.05–153 MHz in Region 1	42.5–43.5 GHz.
322–328.6 MHz	48.94–49.04 GHz.
406.1–410 MHz	76–86 GHz.
608–614 MHz in Regions 1 and 3	92–94 GHz.
1330–1400 MHz	94.1–100 GHz.
1610.6–1613.8 MHz	102–109.5 GHz.
1660–1670 MHz	111.8–114.25 GHz.
1718.8–1722.2 MHz	128.33–128.59 GHz.
2655–2690 MHz	129.23–129.49 GHz.
3260–3267 MHz	130–134 GHz.
3332–3339 MHz	136–148.5 GHz.
3345.8–3352.5 MHz	151.5–158.5 GHz.
4825–4835 MHz	168.59–168.93 GHz.
4950–4990 MHz	171.11–171.45 GHz.
4990–5000 MHz	172.31–172.65 GHz.
6650–6675.2 MHz	173.52–173.85 GHz.
10.6–10.68 GHz	195.75–196.15 GHz.
14.47–14.5 GHz	209–226 GHz.
22.01–22.21 GHz	241–250 GHz.
22.21–22.5 GHz	252–275 GHz.
22.81–22.86 GHz.	

(150) 5.150 The bands 13 553–13 567 kHz (centre frequency 13 560 kHz), 26 957–27 283 kHz (centre frequency 27 120 kHz), 40.66–40.70 MHz (centre frequency 40.68 MHz), 902–928 MHz in Region 2 (centre frequency 915 MHz), 2400–2500 MHz (centre frequency 2450 MHz), 5725–5875 MHz (centre frequency 5800 MHz), and 24–24.25 GHz (centre frequency 24.125 GHz) are also designated for industrial, scientific and medical (ISM) applications. Radiocommunication services operating within these bands must accept harmful interference which may be caused by these applications. ISM equipment operating in these bands is subject to the provisions of No. 15.13.

(151) 5.151 *Additional allocation:* frequencies in the bands 13 570–13 600 kHz and 13 800–13 870 kHz may be used by stations in the fixed service and in the mobile except aeronautical mobile (R) service, communicating only within the boundary of the country in which they are located, on the condition

that harmful interference is not caused to the broadcasting service. When using frequencies in these services, administrations are urged to use the minimum power required and to take account of the seasonal use of frequencies by the broadcasting service published in accordance with the Radio Regulations.

(152) 5.152 *Additional allocation:* in Armenia, Azerbaijan, China, Côte d'Ivoire, the Russian Federation, Georgia, Iran (Islamic Republic of), Kazakhstan, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, the band 14 250–14 350 kHz is also allocated to the fixed service on a primary basis. Stations of the fixed service shall not use a radiated power exceeding 24 dBW.

(153) 5.153 In Region 3, the stations of those services to which the band 15 995–16 005 kHz is allocated may transmit standard frequency and time signals.

(154) 5.154 *Additional allocation:* in Armenia, Azerbaijan, the Russian Federation, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, the band 18 068–18 168 kHz is also allocated to the fixed service on a primary basis for use within their boundaries, with a peak envelope power not exceeding 1 kW.

(155) 5.155 *Additional allocation:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Kazakhstan, Moldova, Mongolia, Uzbekistan, Kyrgyzstan, Slovakia, Tajikistan, Turkmenistan and Ukraine, the band 21 850–21 870 kHz is also allocated to the aeronautical mobile (R) service on a primary basis.

(i) 5.155A In Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Kazakhstan, Moldova, Mongolia, Uzbekistan, Kyrgyzstan, Slovakia, Tajikistan, Turkmenistan and Ukraine, the use of the band 21 850–21 870 kHz by the fixed service is limited

to provision of services related to aircraft flight safety.

(ii) 5.155B The band 21 870–21 924 kHz is used by the fixed service for provision of services related to aircraft flight safety.

(156) 5.156 *Additional allocation:* in Nigeria, the band 22 720–23 200 kHz is also allocated to the meteorological aids service (radiosondes) on a primary basis.

(i) 5.156A The use of the band 23 200–23 350 kHz by the fixed service is limited to provision of services related to aircraft flight safety.

(ii) [Reserved]

(157) 5.157 The use of the band 23 350–24 000 kHz by the maritime mobile service is limited to inter-ship radiotelegraphy.

(158) 5.158 *Alternative allocation:* in Armenia, Belarus, Moldova, Uzbekistan and Kyrgyzstan, the frequency band 24 450–24 600 kHz is allocated to the fixed and land mobile services on a primary basis.

(159) 5.159 *Alternative allocation:* in Armenia, Belarus, Moldova, Uzbekistan and Kyrgyzstan, the frequency band 39–39.5 MHz is allocated to the fixed and mobile services on a primary basis.

(160) 5.160 *Additional allocation:* in Botswana, Burundi, Dem. Rep. of the Congo and Rwanda, the band 41–44 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

(161) 5.161 *Additional allocation:* in Iran (Islamic Republic of) and Japan, the band 41–44 MHz is also allocated to the radiolocation service on a secondary basis.

(i) 5.161A *Additional allocation:* in Korea (Rep. of) and the United States, the frequency bands 41.015–41.665 MHz and 43.35–44 MHz are also allocated to the radiolocation service on a primary basis. Stations in the radiolocation service shall not cause harmful interference to, or claim protection from, stations operating in the fixed or mobile services.

Applications of the radiolocation service are limited to oceanographic radars operating in accordance with Resolution 612 (Rev. WRC–12).

(ii) 5.161B *Alternative allocation:* in Albania, Germany, Armenia, Austria, Belarus, Belgium, Bosnia and Herzegovina, Cyprus, Vatican, Croatia, Denmark, Spain, Estonia, Finland, France, Greece, Hungary, Ireland, Iceland, Italy, Latvia, The Former Yugoslav Rep. of Macedonia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Montenegro, Norway, Uzbekistan, Netherlands, Portugal, Kyrgyzstan, Slovakia, Czech Rep., Romania, United Kingdom, San

Marino, Slovenia, Sweden, Switzerland, Turkey and Ukraine, the frequency band 42–42.5 MHz is allocated to the fixed and mobile services on a primary basis.

(162) 5.162 *Additional allocation:* in Australia, the band 44–47 MHz is also allocated to the broadcasting service on a primary basis.

(i) 5.162A *Additional allocation:* in Germany, Austria, Belgium, Bosnia and Herzegovina, China, Vatican, Denmark, Spain, Estonia, the Russian Federation, Finland, France, Ireland, Iceland, Italy, Latvia, The Former Yugoslav Republic of Macedonia, Liechtenstein, Lithuania, Luxembourg, Monaco, Montenegro, Norway, the Netherlands, Poland, Portugal, the Czech Rep., the United Kingdom, Serbia, Slovenia, Sweden and Switzerland the band 46–68 MHz is also allocated to the radiolocation service on a secondary basis. This use is limited to the operation of wind profiler radars in accordance with Resolution 217 (WRC–97).

(ii) [Reserved]

(163) 5.163 *Additional allocation:* in Armenia, Belarus, the Russian Federation, Georgia, Hungary, Kazakhstan, Latvia, Moldova, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, the bands 47–48.5 MHz and 56.5–58 MHz are also allocated to the fixed and land mobile services on a secondary basis.

(164) 5.164 *Additional allocation:* in Albania, Algeria, Germany, Austria, Belgium, Bosnia and Herzegovina, Botswana, Bulgaria, Côte d'Ivoire, Croatia, Denmark, Spain, Estonia, Finland, France, Gabon, Greece, Ireland, Israel, Italy, Jordan, Lebanon, Libya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mali, Malta, Morocco, Mauritania, Monaco, Montenegro, Nigeria, Norway, the Netherlands, Poland, Syrian Arab Republic, Slovakia, Czech Rep., Romania, the United Kingdom, Serbia, Slovenia, Sweden, Switzerland, Swaziland, Chad, Togo, Tunisia and Turkey, the frequency band 47–68 MHz, in South Africa the frequency band 47–50 MHz, and in Latvia the frequency band 48.5–56.5 MHz, are also allocated to the land mobile service on a primary basis. However, stations of the land mobile service in the countries mentioned in connection with each frequency band referred to in this footnote shall not cause harmful interference to, or claim protection from, existing or planned broadcasting stations of countries other than those mentioned in connection with the frequency band.

(165) 5.165 *Additional allocation:* in Angola, Cameroon, Congo (Rep. of the), Madagascar, Mozambique, Niger, Somalia, Sudan, South Sudan, Tanzania

and Chad, the band 47–68 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

(166) [Reserved]

(167) 5.167 *Alternative allocation:* in Bangladesh, Brunei Darussalam, India, Iran (Islamic Republic of), Pakistan and Singapore, the frequency band 50–54 MHz is allocated to the fixed, mobile and broadcasting services on a primary basis.

(i) 5.167A *Additional allocation:* in Indonesia and Thailand, the frequency band 50–54 MHz is also allocated to the fixed, mobile and broadcasting services on a primary basis.

(ii) [Reserved]

(168) 5.168 *Additional allocation:* in Australia, China and the Dem. People's Rep. of Korea, the band 50–54 MHz is also allocated to the broadcasting service on a primary basis.

(169) 5.169 *Alternative allocation:* in Botswana, Lesotho, Malawi, Namibia, the Dem. Rep. of the Congo, Rwanda, South Africa, Swaziland, Zambia and Zimbabwe, the band 50–54 MHz is allocated to the amateur service on a primary basis. In Senegal, the band 50–51 MHz is allocated to the amateur service on a primary basis.

(170) 5.170 *Additional allocation:* in New Zealand, the frequency band 51–54 MHz is also allocated to the fixed and mobile services on a primary basis.

(171) 5.171 *Additional allocation:* in Botswana, Lesotho, Malawi, Mali, Namibia, Dem. Rep. of the Congo, Rwanda, South Africa, Swaziland, Zambia and Zimbabwe, the band 54–68 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

(172) 5.172 *Different category of service:* in the French overseas departments and communities in Region 2 and Guyana, the allocation of the frequency band 54–68 MHz to the fixed and mobile services is on a primary basis (see No. 5.33).

(173) 5.173 *Different category of service:* in the French overseas departments and communities in Region 2 and Guyana, the allocation of the frequency band 68–72 MHz to the fixed and mobile services is on a primary basis (see IRU RR No. 5.33).

(174) [Reserved]

(175) 5.175 *Alternative allocation:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Kazakhstan, Moldova, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, the bands 68–73 MHz and 76–87.5 MHz are allocated to the broadcasting service on a primary basis. In Latvia and Lithuania, the bands 68–73 MHz and 76–87.5 MHz are allocated

to the broadcasting and mobile, except aeronautical mobile, services on a primary basis. The services to which these bands are allocated in other countries and the broadcasting service in the countries listed above are subject to agreements with the neighbouring countries concerned.

(176) 5.176 *Additional allocation:* in Australia, China, Korea (Rep. of), the Philippines, the Dem. People's Rep. of Korea and Samoa, the band 68–74 MHz is also allocated to the broadcasting service on a primary basis.

(177) 5.177 *Additional allocation:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Kazakhstan, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, the band 73–74 MHz is also allocated to the broadcasting service on a primary basis, subject to agreement obtained under No. 9.21.

(178) 5.178 *Additional allocation:* in Colombia, Cuba, El Salvador, Guatemala, Guyana, Honduras and Nicaragua, the band 73–74.6 MHz is also allocated to the fixed and mobile services on a secondary basis.

(179) 5.179 *Additional allocation:* in Armenia, Azerbaijan, Belarus, China, the Russian Federation, Georgia, Kazakhstan, Lithuania, Mongolia, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, the bands 74.6–74.8 MHz and 75.2–75.4 MHz are also allocated to the aeronautical radionavigation service, on a primary basis, for ground-based transmitters only.

(180) 5.180 The frequency 75 MHz is assigned to marker beacons. Administrations shall refrain from assigning frequencies close to the limits of the guardband to stations of other services which, because of their power or geographical position, might cause harmful interference or otherwise place a constraint on marker beacons. Every effort should be made to improve further the characteristics of airborne receivers and to limit the power of transmitting stations close to the limits 74.8 MHz and 75.2 MHz.

(181) 5.181 *Additional allocation:* in Egypt, Israel and the Syrian Arab Republic, the band 74.8–75.2 MHz is also allocated to the mobile service on a secondary basis, subject to agreement obtained under No. 9.21. In order to ensure that harmful interference is not caused to stations of the aeronautical radionavigation service, stations of the mobile service shall not be introduced in the band until it is no longer required for the aeronautical radionavigation service by any administration which may be identified in the application of the procedure invoked under No. 9.21.

(182) 5.182 *Additional allocation:* in Western Samoa, the band 75.4–87 MHz is also allocated to the broadcasting service on a primary basis.

(183) 5.183 *Additional allocation:* in China, Korea (Rep. of), Japan, the Philippines and the Dem. People's Rep. of Korea, the band 76–87 MHz is also allocated to the broadcasting service on a primary basis.

(184) [Reserved]

(185) 5.185 *Different category of service:* in the United States, the French overseas departments and communities in Region 2, Guyana and Paraguay, the allocation of the frequency band 76–88 MHz to the fixed and mobile services is on a primary basis (see No. 5.33).

(186) [Reserved]

(187) 5.187 *Alternative allocation:* in Albania, the band 81–87.5 MHz is allocated to the broadcasting service on a primary basis and used in accordance with the decisions contained in the Final Acts of the Special Regional Conference (Geneva, 1960).

(188) 5.188 *Additional allocation:* in Australia, the band 85–87 MHz is also allocated to the broadcasting service on a primary basis. The introduction of the broadcasting service in Australia is subject to special agreements between the administrations concerned.

(189) [Reserved]

(190) 5.190 *Additional allocation:* in Monaco, the band 87.5–88 MHz is also allocated to the land mobile service on a primary basis, subject to agreement obtained under No. 9.21.

(191) [Reserved]

(192) 5.192 *Additional allocation:* in China and Korea (Rep. of), the band 100–108 MHz is also allocated to the fixed and mobile services on a primary basis.

(193) [Reserved]

(194) 5.194 *Additional allocation:* in Azerbaijan, Kyrgyzstan, Somalia and Turkmenistan, the band 104–108 MHz is also allocated to the mobile, except aeronautical mobile (R), service on a secondary basis.

(195)–(196) [Reserved]

(197) 5.197 *Additional allocation:* in the Syrian Arab Republic, the band 108–111.975 MHz is also allocated to the mobile service on a secondary basis, subject to agreement obtained under No. 9.21. In order to ensure that harmful interference is not caused to stations of the aeronautical radionavigation service, stations of the mobile service shall not be introduced in the band until it is no longer required for the aeronautical radionavigation service by any administration which may be identified in the application of the procedures invoked under No. 9.21.

(i) 5.197A *Additional allocation:* the band 108–117.975 MHz is also allocated on a primary basis to the aeronautical mobile (R) service, limited to systems operating in accordance with recognized international aeronautical standards. Such use shall be in accordance with Resolution 413 (Rev. WRC-12). The use of the band 108–112 MHz by the aeronautical mobile (R) service shall be limited to systems composed of ground-based transmitters and associated receivers that provide navigational information in support of air navigation functions in accordance with recognized international aeronautical standards.

(ii) [Reserved]

(198)–(199) [Reserved]

(200) 5.200 In the band 117.975–137 MHz, the frequency 121.5 MHz is the aeronautical emergency frequency and, where required, the frequency 123.1 MHz is the aeronautical frequency auxiliary to 121.5 MHz. Mobile stations of the maritime mobile service may communicate on these frequencies under the conditions laid down in Article 31 for distress and safety purposes with stations of the aeronautical mobile service.

(201) 5.201 *Additional allocation:* in Armenia, Azerbaijan, Belarus, Bulgaria, Estonia, the Russian Federation, Georgia, Hungary, Iran (Islamic Republic of), Iraq (Republic of), Japan, Kazakhstan, Moldova, Mongolia, Mozambique, Uzbekistan, Papua New Guinea, Poland, Kyrgyzstan, Romania, Tajikistan, Turkmenistan and Ukraine, the frequency band 132–136 MHz is also allocated to the aeronautical mobile (OR) service on a primary basis. In assigning frequencies to stations of the aeronautical mobile (OR) service, the administration shall take account of the frequencies assigned to stations in the aeronautical mobile (R) service.

(202) 5.202 *Additional allocation:* in Saudi Arabia, Armenia, Azerbaijan, Belarus, Bulgaria, the United Arab Emirates, the Russian Federation, Georgia, Iran (Islamic Republic of), Jordan, Oman, Uzbekistan, Poland, the Syrian Arab Republic, Kyrgyzstan, Romania, Tajikistan, Turkmenistan and Ukraine, the frequency band 136–137 MHz is also allocated to the aeronautical mobile (OR) service on a primary basis. In assigning frequencies to stations of the aeronautical mobile (OR) service, the administration shall take account of the frequencies assigned to stations in the aeronautical mobile (R) service.

(203) [Reserved]

(204) 5.204 *Different category of service:* in Afghanistan, Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, China, Cuba, the United Arab Emirates, India, Indonesia, Iran

(Islamic Republic of), Iraq, Kuwait, Montenegro, Oman, Pakistan, the Philippines, Qatar, Serbia, Singapore, Thailand and Yemen, the band 137–138 MHz is allocated to the fixed and mobile, except aeronautical mobile (R), services on a primary basis (see No. 5.33).

(205) 5.205 *Different category of service*: in Israel and Jordan, the allocation of the band 137–138 MHz to the fixed and mobile, except aeronautical mobile, services is on a primary basis (see ITU No. 5.33).

(206) 5.206 *Different category of service*: in Armenia, Azerbaijan, Belarus, Bulgaria, Egypt, the Russian Federation, Finland, France, Georgia, Greece, Kazakhstan, Lebanon, Moldova, Mongolia, Uzbekistan, Poland, Kyrgyzstan, the Syrian Arab Republic, Slovakia, the Czech Rep., Romania, Tajikistan, Turkmenistan and Ukraine, the allocation of the band 137–138 MHz to the aeronautical mobile (OR) service is on a primary basis (see No. 5.33).

(207) 5.207 *Additional allocation*: in Australia, the band 137–144 MHz is also allocated to the broadcasting service on a primary basis until that service can be accommodated within regional broadcasting allocations.

(208) 5.208 The use of the band 137–138 MHz by the mobile-satellite service is subject to coordination under No. 9.11A.

(i) 5.208A In making assignments to space stations in the mobile-satellite service in the bands 137–138 MHz, 387–390 MHz and 400.15–401 MHz, administrations shall take all practicable steps to protect the radio astronomy service in the bands 150.05–153 MHz, 322–328.6 MHz, 406.1–410 MHz and 608–614 MHz from harmful interference from unwanted emissions. The threshold levels of interference detrimental to the radio astronomy service are shown in the relevant ITU–R Recommendation.

(ii) 5.208B In the frequency bands 137–138 MHz, 387–390 MHz, 400.15–401 MHz, 1452–1492 MHz, 1525–1610 MHz, 1613.8–1626.5 MHz, 2655–2690 MHz, and 21.4–22 GHz, Resolution 739 (Rev. WRC–15) applies.

(209) 5.209 The use of the bands 137–138 MHz, 148–150.05 MHz, 399.9–400.05 MHz, 400.15–401 MHz, 454–456 MHz and 459–460 MHz by the mobile-satellite service is limited to non-geostationary-satellite systems.

(210) 5.210 *Additional allocation*: in Italy, the Czech Rep. and the United Kingdom, the bands 138–143.6 MHz and 143.65–144 MHz are also allocated to the space research service (space-to-Earth) on a secondary basis.

(211) 5.211 *Additional allocation*: in Germany, Saudi Arabia, Austria, Bahrain, Belgium, Denmark, the United Arab Emirates, Spain, Finland, Greece, Guinea, Ireland, Israel, Kenya, Kuwait, The Former Yugoslav Republic of Macedonia, Lebanon, Liechtenstein, Luxembourg, Mali, Malta, Montenegro, Norway, the Netherlands, Qatar, Slovakia, the United Kingdom, Serbia, Slovenia, Somalia, Sweden, Switzerland, Tanzania, Tunisia and Turkey, the frequency band 138–144 MHz is also allocated to the maritime mobile and land mobile services on a primary basis.

(212) 5.212 *Alternative allocation*: in Angola, Botswana, Cameroon, the Central African Rep., Congo (Rep. of the), Gabon, Gambia, Ghana, Guinea, Iraq, Jordan, Lesotho, Liberia, Libya, Malawi, Mozambique, Namibia, Niger, Oman, Uganda, Syrian Arab Republic, the Dem. Rep. of the Congo, Rwanda, Sierra Leone, South Africa, Swaziland, Chad, Togo, Zambia and Zimbabwe, the band 138–144 MHz is allocated to the fixed and mobile services on a primary basis.

(213) 5.213 *Additional allocation*: in China, the band 138–144 MHz is also allocated to the radiolocation service on a primary basis.

(214) 5.214 *Additional allocation*: in Eritrea, Ethiopia, Kenya, The Former Yugoslav Republic of Macedonia, Montenegro, Serbia, Somalia, Sudan, South Sudan and Tanzania, the band 138–144 MHz is also allocated to the fixed service on a primary basis.

(215) [Reserved]

(216) 5.216 *Additional allocation*: in China, the band 144–146 MHz is also allocated to the aeronautical mobile (OR) service on a secondary basis.

(217) 5.217 *Alternative allocation*: in Afghanistan, Bangladesh, Cuba, Guyana and India, the band 146–148 MHz is allocated to the fixed and mobile services on a primary basis.

(218) 5.218 *Additional allocation*: the band 148–149.9 MHz is also allocated to the space operation service (Earth-to-space) on a primary basis, subject to agreement obtained under No. 9.21. The bandwidth of any individual transmission shall not exceed ± 25 kHz.

(219) 5.219 The use of the band 148–149.9 MHz by the mobile-satellite service is subject to coordination under No. 9.11A. The mobile-satellite service shall not constrain the development and use of the fixed, mobile and space operation services in the band 148–149.9 MHz.

(220) 5.220 The use of the frequency bands 149.9–150.05 MHz and 399.9–400.05 MHz by the mobile-satellite

service is subject to coordination under No. 9.11A.

(221) 5.221 Stations of the mobile-satellite service in the frequency band 148–149.9 MHz shall not cause harmful interference to, or claim protection from, stations of the fixed or mobile services operating in accordance with the Table of Frequency Allocations in the following countries: Albania, Algeria, Germany, Saudi Arabia, Australia, Austria, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Benin, Bosnia and Herzegovina, Botswana, Brunei Darussalam, Bulgaria, Cameroon, China, Cyprus, Congo (Rep. of the), Korea (Rep. of), Côte d'Ivoire, Croatia, Cuba, Denmark, Djibouti, Egypt, the United Arab Emirates, Eritrea, Spain, Estonia, Ethiopia, the Russian Federation, Finland, France, Gabon, Georgia, Ghana, Greece, Guinea, Guinea Bissau, Hungary, India, Iran (Islamic Republic of), Ireland, Iceland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, The Former Yugoslav Republic of Macedonia, Lesotho, Latvia, Lebanon, Libya, Liechtenstein, Lithuania, Luxembourg, Malaysia, Mali, Malta, Mauritania, Moldova, Mongolia, Montenegro, Mozambique, Namibia, Norway, New Zealand, Oman, Uganda, Uzbekistan, Pakistan, Panama, Papua New Guinea, Paraguay, the Netherlands, the Philippines, Poland, Portugal, Qatar, the Syrian Arab Republic, Kyrgyzstan, Dem. People's Rep. of Korea, Slovakia, Romania, the United Kingdom, Senegal, Serbia, Sierra Leone, Singapore, Slovenia, Sudan, Sri Lanka, South Africa, Sweden, Switzerland, Swaziland, Tanzania, Chad, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Ukraine, Viet Nam, Yemen, Zambia and Zimbabwe.

(222)–(224) [Reserved]

(225) 5.225 *Additional allocation*: in Australia and India, the band 150.05–153 MHz is also allocated to the radio astronomy service on a primary basis.

(i) 5.225A *Additional allocation*: in Algeria, Armenia, Azerbaijan, Belarus, China, the Russian Federation, France, Iran (Islamic Republic of), Kazakhstan, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan, Ukraine and Viet Nam, the frequency band 154–156 MHz is also allocated to the radiolocation service on a primary basis. The usage of the frequency band 154–156 MHz by the radiolocation service shall be limited to space-object detection systems operating from terrestrial locations. The operation of stations in the radiolocation service in the frequency band 154–156 MHz shall be subject to agreement obtained under No. 9.21. For the identification of potentially affected administrations in

Region 1, the instantaneous field-strength value of 12 dB(μ V/m) for 10% of the time produced at 10 m above ground level in the 25 kHz reference frequency band at the border of the territory of any other administration shall be used. For the identification of potentially affected administrations in Region 3, the interference-to-noise ratio (I/N) value of -6 dB ($N = -161$ dBW/4 kHz), or -10 dB for applications with greater protection requirements, such as public protection and disaster relief (PPDR ($N = -161$ dBW/4 kHz)), for 1% of the time produced at 60 m above ground level at the border of the territory of any other administration shall be used. In the frequency bands 156.7625–156.8375 MHz, 156.5125–156.5375 MHz, 161.9625–161.9875 MHz, 162.0125–162.0375 MHz, out-of-band e.i.r.p. of space surveillance radars shall not exceed -16 dBW. Frequency assignments to the radiolocation service under this allocation in Ukraine shall not be used without the agreement of Moldova.

(ii) [Reserved]

(226) 5.226 The frequency 156.525 MHz is the international distress, safety and calling frequency for the maritime mobile VHF radiotelephone service using digital selective calling (DSC). The conditions for the use of this frequency and the band 156.4875–156.5625 MHz are contained in Articles 31 and 52, and in Appendix 18. The frequency 156.8 MHz is the international distress, safety and calling frequency for the maritime mobile VHF radiotelephone service. The conditions for the use of this frequency and the band 156.7625–156.8375 MHz are contained in Article 31 and Appendix 18. In the bands 156–156.4875 MHz, 156.5625–156.7625 MHz, 156.8375–157.45 MHz, 160.6–160.975 MHz and 161.475–162.05 MHz, each administration shall give priority to the maritime mobile service on only such frequencies as are assigned to stations of the maritime mobile service by the administration (see Articles 31 and 52, and Appendix 18). Any use of frequencies in these bands by stations of other services to which they are allocated should be avoided in areas where such use might cause harmful interference to the maritime mobile VHF radiocommunication service. However, the frequencies 156.8 MHz and 156.525 MHz and the frequency bands in which priority is given to the maritime mobile service may be used for radiocommunications on inland waterways subject to agreement between interested and affected administrations and taking into account current frequency usage and existing agreements.

(227) 5.227 *Additional allocation:* the bands 156.4875–156.5125 MHz and 156.5375–156.5625 MHz are also allocated to the fixed and land mobile services on a primary basis. The use of these bands by the fixed and land mobile services shall not cause harmful interference to nor claim protection from the maritime mobile VHF radiocommunication service.

(228) 5.228 The use of the frequency bands 156.7625–156.7875 MHz and 156.8125–156.8375 MHz by the mobile-satellite service (Earth-to-space) is limited to the reception of automatic identification system (AIS) emissions of long-range AIS broadcast messages (Message 27, see the most recent version of Recommendation ITU-R M.1371). With the exception of AIS emissions, emissions in these frequency bands by systems operating in the maritime mobile service for communications shall not exceed 1 W.

(i) 5.228A The frequency bands 161.9625–161.9875 MHz and 162.0125–162.0375 MHz may be used by aircraft stations for the purpose of search and rescue operations and other safety-related communications.

(ii) 5.228AA The use of the frequency bands 161.9375–161.9625 MHz and 161.9875–162.0125 MHz by the maritime mobile-satellite (Earth-to-space) service is limited to the systems which operate in accordance with Appendix 18.

(iii) 5.228B The use of the frequency bands 161.9625–161.9875 MHz and 162.0125–162.0375 MHz by the fixed and land mobile services shall not cause harmful interference to, or claim protection from, the maritime mobile service.

(iv) 5.228C The use of the frequency bands 161.9625–161.9875 MHz and 162.0125–162.0375 MHz by the maritime mobile service and the mobile-satellite (Earth-to-space) service is limited to the automatic identification system (AIS). The use of these frequency bands by the aeronautical mobile (OR) service is limited to AIS emissions from search and rescue aircraft operations. The AIS operations in these frequency bands shall not constrain the development and use of the fixed and mobile services operating in the adjacent frequency bands.

(v) 5.228D The frequency bands 161.9625–161.9875 MHz (AIS 1) and 162.0125–162.0375 MHz (AIS 2) may continue to be used by the fixed and mobile services on a primary basis until 1 January 2025, at which time this allocation shall no longer be valid. Administrations are encouraged to make all practicable efforts to discontinue the use of these bands by the fixed and

mobile services prior to the transition date. During this transition period, the maritime mobile service in these frequency bands has priority over the fixed, land mobile and aeronautical mobile services.

(vi) 5.228E The use of the automatic identification system in the frequency bands 161.9625–161.9875 MHz and 162.0125–162.0375 MHz by the aeronautical mobile (OR) service is limited to aircraft stations for the purpose of search and rescue operations and other safety-related communications.

(vii) 5.228F The use of the frequency bands 161.9625–161.9875 MHz and 162.0125–162.0375 MHz by the mobile-satellite service (Earth-to-space) is limited to the reception of automatic identification system emissions from stations operating in the maritime mobile service.

(229) 5.229 *Alternative allocation:* in Morocco, the band 162–174 MHz is allocated to the broadcasting service on a primary basis. The use of this band shall be subject to agreement with administrations having services, operating or planned, in accordance with the Table which are likely to be affected. Stations in existence on 1 January 1981, with their technical characteristics as of that date, are not affected by such agreement.

(230) 5.230 *Additional allocation:* in China, the band 163–167 MHz is also allocated to the space operation service (space-to-Earth) on a primary basis, subject to agreement obtained under No. 9.21.

(231) 5.231 *Additional allocation:* in Afghanistan and China, the band 167–174 MHz is also allocated to the broadcasting service on a primary basis. The introduction of the broadcasting service into this band shall be subject to agreement with the neighbouring countries in Region 3 whose services are likely to be affected.

(232) [Reserved]

(233) 5.233 *Additional allocation:* in China, the band 174–184 MHz is also allocated to the space research (space-to-Earth) and the space operation (space-to-Earth) services on a primary basis, subject to agreement obtained under No. 9.21. These services shall not cause harmful interference to, or claim protection from, existing or planned broadcasting stations.

(234) [Reserved]

(235) 5.235 *Additional allocation:* in Germany, Austria, Belgium, Denmark, Spain, Finland, France, Israel, Italy, Liechtenstein, Malta, Monaco, Norway, the Netherlands, the United Kingdom, Sweden and Switzerland, the band 174–223 MHz is also allocated to the land

mobile service on a primary basis. However, the stations of the land mobile service shall not cause harmful interference to, or claim protection from, broadcasting stations, existing or planned, in countries other than those listed in this footnote.

(236) [Reserved]

(237) 5.237 *Additional allocation:* in Congo (Rep. of the), Egypt, Eritrea, Ethiopia, Gambia, Guinea, Libya, Mali, Sierra Leone, Somalia and Chad, the band 174–223 MHz is also allocated to the fixed and mobile services on a secondary basis.

(238) 5.238 *Additional allocation:* in Bangladesh, India, Pakistan and the Philippines, the band 200–216 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

(239) [Reserved]

(240) 5.240 *Additional allocation:* in China and India, the band 216–223 MHz is also allocated to the aeronautical radionavigation service on a primary basis and to the radiolocation service on a secondary basis.

(241) 5.241 In Region 2, no new stations in the radiolocation service may be authorized in the band 216–225 MHz. Stations authorized prior to 1 January 1990 may continue to operate on a secondary basis.

(242) 5.242 *Additional allocation:* in Canada, the band 216–220 MHz is also allocated to the land mobile service on a primary basis.

(243) 5.243 *Additional allocation:* in Somalia, the band 216–225 MHz is also allocated to the aeronautical radionavigation service on a primary basis, subject to not causing harmful interference to existing or planned broadcasting services in other countries.

(244) [Reserved]

(245) 5.245 *Additional allocation:* in Japan, the band 222–223 MHz is also allocated to the aeronautical radionavigation service on a primary basis and to the radiolocation service on a secondary basis.

(246) 5.246 *Alternative allocation:* in Spain, France, Israel and Monaco, the band 223–230 MHz is allocated to the broadcasting and land mobile services on a primary basis (see No. 5.33) on the basis that, in the preparation of frequency plans, the broadcasting service shall have prior choice of frequencies; and allocated to the fixed and mobile, except land mobile, services on a secondary basis. However, the stations of the land mobile service shall not cause harmful interference to, or claim protection from, existing or planned broadcasting stations in Morocco and Algeria.

(247) 5.247 *Additional allocation:* in Saudi Arabia, Bahrain, the United Arab Emirates, Jordan, Oman, Qatar and Syrian Arab Republic, the band 223–235 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

(248)–(249) [Reserved]

(250) 5.250 *Additional allocation:* in China, the band 225–235 MHz is also allocated to the radio astronomy service on a secondary basis.

(251) 5.251 *Additional allocation:* in Nigeria, the band 230–235 MHz is also allocated to the aeronautical radionavigation service on a primary basis, subject to agreement obtained under No. 9.21.

(252) 5.252 *Alternative allocation:* in Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia and Zimbabwe, the bands 230–238 MHz and 246–254 MHz are allocated to the broadcasting service on a primary basis, subject to agreement obtained under No. 9.21.

(253) [Reserved]

(254) 5.254 The bands 235–322 MHz and 335.4–399.9 MHz may be used by the mobile-satellite service, subject to agreement obtained under No. 9.21, on condition that stations in this service do not cause harmful interference to those of other services operating or planned to be operated in accordance with the Table of Frequency Allocations except for the additional allocation made in paragraph (b)(256)(i) of this section.

(255) 5.255 The bands 312–315 MHz (Earth-to-space) and 387–390 MHz (space-to-Earth) in the mobile-satellite service may also be used by non-geostationary-satellite systems. Such use is subject to coordination under No. 9.11A.

(256) 5.256 The frequency 243 MHz is the frequency in this band for use by survival craft stations and equipment used for survival purposes.

(i) 5.256A *Additional allocation:* in China, the Russian Federation and Kazakhstan, the frequency band 258–261 MHz is also allocated to the space research service (Earth-to-space) and space operation service (Earth-to-space) on a primary basis. Stations in the space research service (Earth-to-space) and space operation service (Earth-to-space) shall not cause harmful interference to, or claim protection from, or constrain the use and development of, the mobile service systems and mobile-satellite service systems operating in the frequency band. Stations in space research service (Earth-to-space) and space operation service (Earth-to-space) shall not constrain the future development of fixed service systems of other countries.

(ii) [Reserved]

(257) 5.257 The band 267–272 MHz may be used by administrations for space telemetry in their countries on a primary basis, subject to agreement obtained under No. 9.21.

(258) 5.258 The use of the band 328.6–335.4 MHz by the aeronautical radionavigation service is limited to Instrument Landing Systems (glide path).

(259) 5.259 *Additional allocation:* in Egypt and the Syrian Arab Republic, the band 328.6–335.4 MHz is also allocated to the mobile service on a secondary basis, subject to agreement obtained under No. 9.21. In order to ensure that harmful interference is not caused to stations of the aeronautical radionavigation service, stations of the mobile service shall not be introduced in the band until it is no longer required for the aeronautical radionavigation service by any administration which may be identified in the application of the procedure invoked under No. 9.21.

(260) [Reserved]

(261) 5.261 Emissions shall be confined in a band of ± 25 kHz about the standard frequency 400.1 MHz.

(262) 5.262 *Additional allocation:* in Saudi Arabia, Armenia, Azerbaijan, Bahrain, Belarus, Botswana, Colombia, Cuba, Egypt, the United Arab Emirates, Ecuador, the Russian Federation, Georgia, Hungary, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kazakhstan, Kuwait, Liberia, Malaysia, Moldova, Oman, Uzbekistan, Pakistan, the Philippines, Qatar, the Syrian Arab Republic, Kyrgyzstan, Singapore, Somalia, Tajikistan, Chad, Turkmenistan and Ukraine, the band 400.05–401 MHz is also allocated to the fixed and mobile services on a primary basis.

(263) 5.263 The band 400.15–401 MHz is also allocated to the space research service in the space-to-space direction for communications with manned space vehicles. In this application, the space research service will not be regarded as a safety service.

(264) 5.264 The use of the band 400.15–401 MHz by the mobile-satellite service is subject to coordination under No. 9.11A. The power flux-density limit indicated in Annex 1 of Appendix 5 shall apply until such time as a competent world radiocommunication conference revises it.

(265) 5.265 In the frequency band 403–410 MHz, Resolution 205 (Rev.WRC–15) applies.

(266) 5.266 The use of the band 406–406.1 MHz by the mobile-satellite service is limited to low power satellite emergency position-indicating radiobeacons (see also Article 31).

(267) 5.267 Any emission capable of causing harmful interference to the authorized uses of the band 406–406.1 MHz is prohibited.

(268) 5.268 Use of the frequency band 410–420 MHz by the space research service is limited to space-to-space communication links with an orbiting, manned space vehicle. The power flux-density at the surface of the Earth produced by emissions from transmitting stations of the space research service (space-to-space) in the frequency band 410–420 MHz shall not exceed $-153 \text{ dB(W/m}^2\text{)}$ for $0^\circ \leq \delta \leq 5^\circ$, $-153 + 0.077 (\delta - 5) \text{ dB(W/m}^2\text{)}$ for $5^\circ \leq \delta \leq 70^\circ$ and $-148 \text{ dB(W/m}^2\text{)}$ for $70^\circ \leq \delta \leq 90^\circ$, where δ is the angle of arrival of the radio-frequency wave and the reference bandwidth is 4 kHz. In this frequency band, stations of the space research service (space-to-space) shall not claim protection from, nor constrain the use and development of, stations of the fixed and mobile services. No. 4.10 does not apply.

(269) 5.269 *Different category of service:* in Australia, the United States, India, Japan and the United Kingdom, the allocation of the bands 420–430 MHz and 440–450 MHz to the radiolocation service is on a primary basis (see No. 5.33).

(270) 5.270 *Additional allocation:* in Australia, the United States, Jamaica and the Philippines, the bands 420–430 MHz and 440–450 MHz are also allocated to the amateur service on a secondary basis.

(271) 5.271 *Additional allocation:* in Belarus, China, India, Kyrgyzstan and Turkmenistan, the band 420–460 MHz is also allocated to the aeronautical radionavigation service (radio altimeters) on a secondary basis.

(272) and (273) [Reserved]

(274) 5.274 *Alternative allocation:* in Denmark, Norway, Sweden and Chad, the bands 430–432 MHz and 438–440 MHz are allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

(275) 5.275 *Additional allocation:* in Croatia, Estonia, Finland, Libya, The Former Yugoslav Republic of Macedonia, Montenegro and Serbia, the frequency bands 430–432 MHz and 438–440 MHz are also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

(276) 5.276 *Additional allocation:* in Afghanistan, Algeria, Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, Burkina Faso, Djibouti, Egypt, the United Arab Emirates, Ecuador, Eritrea, Ethiopia, Greece, Guinea, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Italy, Jordan, Kenya, Kuwait, Libya, Malaysia, Niger,

Nigeria, Oman, Pakistan, the Philippines, Qatar, the Syrian Arab Republic, the Dem. People's Rep. of Korea, Singapore, Somalia, Sudan, Switzerland, Thailand, Togo, Turkey and Yemen, the frequency band 430–440 MHz is also allocated to the fixed service on a primary basis and the frequency bands 430–435 MHz and 438–440 MHz are also allocated, except in Ecuador, to the mobile, except aeronautical mobile, service on a primary basis.

(277) 5.277 *Additional allocation:* in Angola, Armenia, Azerbaijan, Belarus, Cameroon, Congo (Rep. of the), Djibouti, the Russian Federation, Georgia, Hungary, Israel, Kazakhstan, Mali, Mongolia, Uzbekistan, Poland, the Dem. Rep. of the Congo, Kyrgyzstan, Slovakia, Romania, Rwanda, Tajikistan, Chad, Turkmenistan and Ukraine, the band 430–440 MHz is also allocated to the fixed service on a primary basis.

(278) 5.278 *Different category of service:* in Argentina, Colombia, Costa Rica, Cuba, Guyana, Honduras, Panama and Venezuela, the allocation of the band 430–440 MHz to the amateur service is on a primary basis (see No. 5.33).

(279) 5.279 *Additional allocation:* in Mexico, the bands 430–435 MHz and 438–440 MHz are also allocated on a primary basis to the land mobile service, subject to agreement obtained under No. 9.21.

(i) 5.279A The use of the frequency band 432–438 MHz by sensors in the Earth exploration-satellite service (active) shall be in accordance with Recommendation ITU-R RS.1260–1. Additionally, the Earth exploration-satellite service (active) in the frequency band 432–438 MHz shall not cause harmful interference to the aeronautical radionavigation service in China. The provisions of this footnote in no way diminish the obligation of the Earth exploration-satellite service (active) to operate as a secondary service in accordance with Nos. 5.29 and 5.30.

(ii) [Reserved]

(280) 5.280 In Germany, Austria, Bosnia and Herzegovina, Croatia, The Former Yugoslav Republic of Macedonia, Liechtenstein, Montenegro, Portugal, Serbia, Slovenia and Switzerland, the band 433.05–434.79 MHz (centre frequency 433.92 MHz) is designated for industrial, scientific and medical (ISM) applications. Radiocommunication services of these countries operating within this band must accept harmful interference which may be caused by these applications. ISM equipment operating in this band is subject to the provisions of No. 15.13.

(281) 5.281 *Additional allocation:* in the French overseas departments and communities in Region 2 and India, the band 433.75–434.25 MHz is also allocated to the space operation service (Earth-to-space) on a primary basis. In France and in Brazil, the band is allocated to the same service on a secondary basis.

(282) 5.282 In the bands 435–438 MHz, 1260–1270 MHz, 2400–2450 MHz, 3400–3410 MHz (in Regions 2 and 3 only) and 5650–5670 MHz, the amateur-satellite service may operate subject to not causing harmful interference to other services operating in accordance with the Table (see No. 5.43). Administrations authorizing such use shall ensure that any harmful interference caused by emissions from a station in the amateur-satellite service is immediately eliminated in accordance with the provisions of No. 25.11. The use of the bands 1260–1270 MHz and 5650–5670 MHz by the amateur-satellite service is limited to the Earth-to-space direction.

(283) 5.283 *Additional allocation:* in Austria, the band 438–440 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

(284) 5.284 *Additional allocation:* in Canada, the band 440–450 MHz is also allocated to the amateur service on a secondary basis.

(285) 5.285 *Different category of service:* in Canada, the allocation of the band 440–450 MHz to the radiolocation service is on a primary basis (see No. 5.33).

(286) 5.286 The band 449.75–450.25 MHz may be used for the space operation service (Earth-to-space) and the space research service (Earth-to-space), subject to agreement obtained under No. 9.21.

(i) 5.286A The use of the bands 454–456 MHz and 459–460 MHz by the mobile-satellite service is subject to coordination under No. 9.11A.

(ii) 5.286AA The frequency band 450–470 MHz is identified for use by administrations wishing to implement International Mobile Telecommunications (IMT). See Resolution 224 (Rev.WRC–15). This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations.

(iii) 5.286B The use of the band 454–455 MHz in the countries listed in paragraph (b)(286)(v) of this section, 455–456 MHz and 459–460 MHz in Region 2, and 454–456 MHz and 459–460 MHz in the countries listed in No. 5.286E, by stations in the mobile-

satellite service, shall not cause harmful interference to, or claim protection from, stations of the fixed or mobile services operating in accordance with the Table of Frequency Allocations.

(iv) 5.286C The use of the band 454–455 MHz in the countries listed in No. 5.286D, 455–456 MHz and 459–460 MHz in Region 2, and 454–456 MHz and 459–460 MHz in the countries listed in No. 5.286E, by stations in the mobile-satellite service, shall not constrain the development and use of the fixed and mobile services operating in accordance with the Table of Frequency Allocations.

(v) 5.286D *Additional allocation:* in Canada, the United States and Panama, the band 454–455 MHz is also allocated to the mobile-satellite service (Earth-to-space) on a primary basis.

(vi) 5.286E *Additional allocation:* in Cape Verde, Nepal and Nigeria, the bands 454–456 MHz and 459–460 MHz are also allocated to the mobile-satellite (Earth-to-space) service on a primary basis.

(287) 5.287 Use of the frequency bands 457.5125–457.5875 MHz and 467.5125–467.5875 MHz by the maritime mobile service is limited to on-board communication stations. The characteristics of the equipment and the channelling arrangement shall be in accordance with Recommendation ITU–R M.1174–3. The use of these frequency bands in territorial waters is subject to the national regulations of the administration concerned.

(288) 5.288 In the territorial waters of the United States and the Philippines, the preferred frequencies for use by on-board communication stations shall be 457.525 MHz, 457.550 MHz, 457.575 MHz and 457.600 MHz paired, respectively, with 467.750 MHz, 467.775 MHz, 467.800 MHz and 467.825 MHz. The characteristics of the equipment used shall conform to those specified in Recommendation ITU–R M.1174–3.

(289) 5.289 Earth exploration-satellite service applications, other than the meteorological-satellite service, may also be used in the bands 460–470 MHz and 1690–1710 MHz for space-to-Earth transmissions subject to not causing harmful interference to stations operating in accordance with the Table.

(290) 5.290 *Different category of service:* in Afghanistan, Azerbaijan, Belarus, China, the Russian Federation, Japan, Kyrgyzstan, Tajikistan and Turkmenistan, the allocation of the band 460–470 MHz to the meteorological-satellite service (space-to-Earth) is on a primary basis (see No. 5.33), subject to agreement obtained under No. 9.21.

(291) 5.291 *Additional allocation:* in China, the band 470–485 MHz is also allocated to the space research (space-to-Earth) and the space operation (space-to-Earth) services on a primary basis subject to agreement obtained under No. 9.21 and subject to not causing harmful interference to existing and planned broadcasting stations.

(i) 5.291A *Additional allocation:* in Germany, Austria, Denmark, Estonia, Liechtenstein, the Czech Rep., Serbia and Switzerland, the frequency band 470–494 MHz is also allocated to the radiolocation service on a secondary basis. This use is limited to the operation of wind profiler radars in accordance with Resolution 217 (WRC–97).

(ii) [Reserved]

(292) 5.292 *Different category of service:* in Argentina, Uruguay and Venezuela, the allocation of the frequency band 470–512 MHz to the mobile service is on a primary basis (see No. 5.33), subject to agreement obtained under No. 9.21.

(293) 5.293 *Different category of service:* in Canada, Chile, Cuba, the United States, Guyana, Jamaica and Panama, the allocation of the frequency bands 470–512 MHz and 614–806 MHz to the fixed service is on a primary basis (see No. 5.33), subject to agreement obtained under No. 9.21. In the Bahamas, Barbados, Canada, Chile, Cuba, the United States, Guyana, Jamaica, Mexico and Panama, the allocation of the frequency bands 470–512 MHz and 614–698 MHz to the mobile service is on a primary basis (see No. 5.33), subject to agreement obtained under No. 9.21. In Argentina and Ecuador, the allocation of the frequency band 470–512 MHz to the fixed and mobile services is on a primary basis (see No. 5.33), subject to agreement obtained under No. 9.21.

(294) 5.294 *Additional allocation:* in Saudi Arabia, Cameroon, Côte d'Ivoire, Egypt, Ethiopia, Israel, Libya, the Syrian Arab Republic, Chad and Yemen, the frequency band 470–582 MHz is also allocated to the fixed service on a secondary basis.

(295) 5.295 In the Bahamas, Barbados, Canada, the United States and Mexico, the frequency band 470–608 MHz, or portions thereof, is identified for International Mobile Telecommunications (IMT)—see Resolution 224 (Rev.WRC–15). This identification does not preclude the use of these frequency bands by any application of the services to which they are allocated and does not establish priority in the Radio Regulations. Mobile service stations of the IMT system within the frequency band are

subject to agreement obtained under No. 9.21 and shall not cause harmful interference to, or claim protection from, the broadcasting service of neighbouring countries. Nos. 5.43 and 5.43A apply. In Mexico, the use of IMT in this frequency band will not start before 31 December 2018 and may be extended if agreed by the neighbouring countries.

(296) 5.296 *Additional allocation:* in Albania, Germany, Angola, Saudi Arabia, Austria, Bahrain, Belgium, Benin, Bosnia and Herzegovina, Botswana, Bulgaria, Burkina Faso, Burundi, Cameroon, Vatican, Congo (Rep. of the), Côte d'Ivoire, Croatia, Denmark, Djibouti, Egypt, United Arab Emirates, Spain, Estonia, Finland, France, Gabon, Georgia, Ghana, Hungary, Iraq, Ireland, Iceland, Israel, Italy, Jordan, Kenya, Kuwait, Lesotho, Latvia, The Former Yugoslav Republic of Macedonia, Lebanon, Libya, Liechtenstein, Lithuania, Luxembourg, Malawi, Mali, Malta, Morocco, Mauritius, Mauritania, Moldova, Monaco, Mozambique, Namibia, Niger, Nigeria, Norway, Oman, Uganda, the Netherlands, Poland, Portugal, Qatar, the Syrian Arab Republic, Slovakia, the Czech Republic, the United Kingdom, Rwanda, San Marino, Serbia, Sudan, South Africa, Sweden, Switzerland, Swaziland, Tanzania, Chad, Togo, Tunisia, Turkey, Ukraine, Zambia and Zimbabwe, the frequency band 470–694 MHz is also allocated on a secondary basis to the land mobile service, intended for applications ancillary to broadcasting and programme-making. Stations of the land mobile service in the countries listed in this footnote shall not cause harmful interference to existing or planned stations operating in accordance with the Table in countries other than those listed in this footnote.

(i) 5.296A In Micronesia, the Solomon Islands, Tuvalu and Vanuatu, the frequency band 470–698 MHz, or portions thereof, and in Bangladesh, Maldives and New Zealand, the frequency band 610–698 MHz, or portions thereof, are identified for use by these administrations wishing to implement International Mobile Telecommunications (IMT)—see Resolution 224 (Rev.WRC–15). This identification does not preclude the use of these frequency bands by any application of the services to which they are allocated and does not establish priority in the Radio Regulations. The mobile allocation in this frequency band shall not be used for IMT systems unless subject to agreement obtained under No. 9.21 and shall not cause harmful interference to, or claim protection from, the broadcasting service of

neighbouring countries. Nos. 5.43 and 5.43A apply.

(ii) [Reserved]

(297) 5.297 *Additional allocation:* in Canada, Costa Rica, Cuba, El Salvador, the United States, Guatemala, Guyana and Jamaica, the frequency band 512–608 MHz is also allocated to the fixed and mobile services on a primary basis, subject to agreement obtained under No. 9.21. In the Bahamas, Barbados and Mexico, the frequency band 512–608 MHz is also allocated to the mobile service on a primary basis, subject to agreement obtained under No. 9.21.

(298) 5.298 *Additional allocation:* in India, the band 549.75–550.25 MHz is also allocated to the space operation service (space-to-Earth) on a secondary basis.

(299) [Reserved]

(300) 5.300 *Additional allocation:* in Saudi Arabia, Cameroon, Egypt, United Arab Emirates, Israel, Jordan, Libya, Oman, Qatar, the Syrian Arab Republic and Sudan, the frequency band 582–790 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a secondary basis.

(301)–(303) [Reserved]

(304) 5.304 *Additional allocation:* in the African Broadcasting Area (see Nos. 5.10 to 5.13), the band 606–614 MHz is also allocated to the radio astronomy service on a primary basis.

(305) 5.305 *Additional allocation:* in China, the band 606–614 MHz is also allocated to the radio astronomy service on a primary basis.

(306) 5.306 *Additional allocation:* in Region 1, except in the African Broadcasting Area (see Nos. 5.10 to 5.13), and in Region 3, the band 608–614 MHz is also allocated to the radio astronomy service on a secondary basis.

(307) 5.307 *Additional allocation:* in India, the band 608–614 MHz is also allocated to the radio astronomy service on a primary basis.

(308) 5.308 *Additional allocation:* in Belize and Colombia, the frequency band 614–698 MHz is also allocated to the mobile service on a primary basis. Stations of the mobile service within the frequency band are subject to agreement obtained under No. 9.21.

(i) 5.308A In the Bahamas, Barbados, Belize, Canada, Colombia, the United States and Mexico, the frequency band 614–698 MHz, or portions thereof, is identified for International Mobile Telecommunications (IMT)—see Resolution 224 (Rev.WRC–15). This identification does not preclude the use of these frequency bands by any application of the services to which they are allocated and does not establish priority in the Radio Regulations. Mobile service stations of the IMT

system within the frequency band are subject to agreement obtained under No. 9.21 and shall not cause harmful interference to or claim protection from the broadcasting service of neighbouring countries. Nos. 5.43 and 5.43A apply. In Belize and Mexico, the use of IMT in this frequency band will not start before 31 December 2018 and may be extended if agreed by the neighbouring countries.

(ii) [Reserved]

(309) 5.309 *Different category of service:* in El Salvador, the allocation of the frequency band 614–806 MHz to the fixed service is on a primary basis (see No. 5.33), subject to agreement obtained under No. 9.21.

(310) [Reserved]

(311) 5.311A For the frequency band 620–790 MHz, see also Resolution 549 (WRC–07).

(312) 5.312 *Additional allocation:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Kazakhstan, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, the frequency band 645–862 MHz, in Bulgaria the frequency bands 646–686 MHz, 726–758 MHz, 766–814 MHz and 822–862 MHz, and in Poland the frequency band 860–862 MHz until 31 December 2017, are also allocated to the aeronautical radionavigation service on a primary basis.

(i) 5.312A In Region 1, the use of the frequency band 694–790 MHz by the mobile, except aeronautical mobile, service is subject to the provisions of Resolution 760 (WRC–15). See also Resolution 224 (Rev.WRC–15).

(ii) [Reserved]

(313) 5.313A The frequency band, or portions of the frequency band 698–790 MHz, in Australia, Bangladesh, Brunei Darussalam, Cambodia, China, Korea (Rep. of), Fiji, India, Indonesia, Japan, Kiribati, Lao P.D.R., Malaysia, Myanmar (Union of), New Zealand, Pakistan, Papua New Guinea, the Philippines, Solomon Islands, Samoa, Singapore, Thailand, Tonga, Tuvalu, Vanuatu and Viet Nam, are identified for use by these administrations wishing to implement International Mobile Telecommunications (IMT). This identification does not preclude the use of these frequency bands by any application of the services to which they are allocated and does not establish priority in the Radio Regulations. In China, the use of IMT in this frequency band will not start until 2015.

(314)–(315) [Reserved]

(316) 5.316B In Region 1, the allocation to the mobile, except aeronautical mobile, service in the frequency band 790–862 MHz is subject to agreement obtained under No. 9.21 with respect to the aeronautical

radionavigation service in countries mentioned in paragraph (b)(312) of this section. For countries party to the GE06 Agreement, the use of stations of the mobile service is also subject to the successful application of the procedures of that Agreement. Resolutions 224 (Rev.WRC–15) and 749 (Rev.WRC–15) shall apply, as appropriate.

(317) 5.317 *Additional allocation:* in Region 2 (except Brazil, the United States and Mexico), the frequency band 806–890 MHz is also allocated to the mobile-satellite service on a primary basis, subject to agreement obtained under No. 9.21. The use of this service is intended for operation within national boundaries.

(i) 5.317A The parts of the frequency band 698–960 MHz in Region 2 and the frequency bands 694–790 MHz in Region 1 and 790–960 MHz in Regions 1 and 3 which are allocated to the mobile service on a primary basis are identified for use by administrations wishing to implement International Mobile Telecommunications (IMT)—see Resolutions 224 (Rev.WRC–15), 760 (WRC–15) and 749 (Rev.WRC–15), where applicable. This identification does not preclude the use of these frequency bands by any application of the services to which they are allocated and does not establish priority in the Radio Regulations.

(ii) [Reserved]

(318) 5.318 *Additional allocation:* in Canada, the United States and Mexico, the bands 849–851 MHz and 894–896 MHz are also allocated to the aeronautical mobile service on a primary basis, for public correspondence with aircraft. The use of the band 849–851 MHz is limited to transmissions from aeronautical stations and the use of the band 894–896 MHz is limited to transmissions from aircraft stations.

(319) 5.319 *Additional allocation:* in Belarus, the Russian Federation and Ukraine, the bands 806–840 MHz (Earth-to-space) and 856–890 MHz (space-to-Earth) are also allocated to the mobile-satellite, except aeronautical mobile-satellite (R), service. The use of these bands by this service shall not cause harmful interference to, or claim protection from, services in other countries operating in accordance with the Table of Frequency Allocations and is subject to special agreements between the administrations concerned.

(320) 5.320 *Additional allocation:* in Region 3, the bands 806–890 MHz and 942–960 MHz are also allocated to the mobile-satellite, except aeronautical mobile-satellite (R), service on a primary basis, subject to agreement obtained under No. 9.21. The use of this service

is limited to operation within national boundaries. In seeking such agreement, appropriate protection shall be afforded to services operating in accordance with the Table, to ensure that no harmful interference is caused to such services.

(321) [Reserved]

(322) 5.322 In Region 1, in the band 862–960 MHz, stations of the broadcasting service shall be operated only in the African Broadcasting Area (see Nos. 5.10 to 5.13) excluding Algeria, Burundi, Egypt, Spain, Lesotho, Libya, Morocco, Malawi, Namibia, Nigeria, South Africa, Tanzania, Zimbabwe and Zambia, subject to agreement obtained under No. 9.21.

(323) 5.323 *Additional allocation:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Kazakhstan, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, the band 862–960 MHz, in Bulgaria the bands 862–890.2 MHz and 900–935.2 MHz, in Poland the band 862–876 MHz until 31 December 2017, and in Romania the bands 862–880 MHz and 915–925 MHz, are also allocated to the aeronautical radionavigation service on a primary basis. Such use is subject to agreement obtained under No. 9.21 with administrations concerned and limited to ground-based radiobeacons in operation on 27 October 1997 until the end of their lifetime.

(324) [Reserved]

(325) 5.325 *Different category of service:* in the United States, the allocation of the band 890–942 MHz to the radiolocation service is on a primary basis (see No. 5.33), subject to agreement obtained under No. 9.21.

(i) 5.325A *Different category of service:* in Argentina, Brazil, Costa Rica, Cuba, Dominican Republic, El Salvador, Ecuador, the French overseas departments and communities in Region 2, Guatemala, Mexico, Paraguay, Uruguay and Venezuela, the frequency band 902–928 MHz is allocated to the land mobile service on a primary basis. In Colombia, the frequency band 902–905 MHz is allocated to the land mobile service on a primary basis.

(ii) [Reserved]

(326) 5.326 *Different category of service:* in Chile, the band 903–905 MHz is allocated to the mobile, except aeronautical mobile, service on a primary basis, subject to agreement obtained under No. 9.21.

(327) 5.327 *Different category of service:* in Australia, the allocation of the band 915–928 MHz to the radiolocation service is on a primary basis (see No. 5.33).

(i) 5.327A The use of the frequency band 960–1164 MHz by the aeronautical mobile (R) service is limited to systems

that operate in accordance with recognized international aeronautical standards. Such use shall be in accordance with Resolution 417 (Rev.WRC–15).

(ii) [Reserved]

(328) 5.328 The use of the band 960–1215 MHz by the aeronautical radionavigation service is reserved on a worldwide basis for the operation and development of airborne electronic aids to air navigation and any directly associated ground-based facilities.

(i) 5.328A Stations in the radionavigation-satellite service in the band 1164–1215 MHz shall operate in accordance with the provisions of Resolution 609 (Rev.WRC–07) and shall not claim protection from stations in the aeronautical radionavigation service in the band 960–1215 MHz. No. 5.43A does not apply. The provisions of No. 21.18 shall apply.

(ii) 5.328AA The frequency band 1087.7–1092.3 MHz is also allocated to the aeronautical mobile-satellite (R) service (Earth-to-space) on a primary basis, limited to the space station reception of Automatic Dependent Surveillance-Broadcast (ADS-B) emissions from aircraft transmitters that operate in accordance with recognized international aeronautical standards. Stations operating in the aeronautical mobile-satellite (R) service shall not claim protection from stations operating in the aeronautical radionavigation service. Resolution 425 (WRC–15) shall apply.

(iii) 5.328B The use of the bands 1164–1300 MHz, 1559–1610 MHz and 5010–5030 MHz by systems and networks in the radionavigation-satellite service for which complete coordination or notification information, as appropriate, is received by the Radiocommunication Bureau after 1 January 2005 is subject to the application of the provisions of Nos. 9.12, 9.12A and 9.13. Resolution 610 (WRC–03) shall also apply; however, in the case of radionavigation-satellite service (space-to-space) networks and systems, Resolution 610 (WRC–03) shall only apply to transmitting space stations. In accordance with paragraph (b)(329)(i) of this section, for systems and networks in the radionavigation-satellite service (space-to-space) in the bands 1215–1300 MHz and 1559–1610 MHz, the provisions of Nos. 9.7, 9.12, 9.12A and 9.13 shall only apply with respect to other systems and networks in the radionavigation-satellite service (space-to-space).

(329) 5.329 Use of the radionavigation-satellite service in the band 1215–1300 MHz shall be subject to the condition that no harmful

interference is caused to, and no protection is claimed from, the radionavigation service authorized under paragraph (b)(331) of this section. Furthermore, the use of the radionavigation-satellite service in the band 1215–1300 MHz shall be subject to the condition that no harmful interference is caused to the radiolocation service. No. 5.43 shall not apply in respect of the radiolocation service. Resolution 608 (Rev.WRC–15) shall apply.

(i) 5.329A Use of systems in the radionavigation-satellite service (space-to-space) operating in the bands 1215–1300 MHz and 1559–1610 MHz is not intended to provide safety service applications, and shall not impose any additional constraints on radionavigation-satellite service (space-to-Earth) systems or on other services operating in accordance with the Table of Frequency Allocations.

(ii) [Reserved]

(330) 5.330 *Additional allocation:* in Angola, Saudi Arabia, Bahrain, Bangladesh, Cameroon, China, Djibouti, Egypt, the United Arab Emirates, Eritrea, Ethiopia, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Japan, Jordan, Kuwait, Nepal, Oman, Pakistan, the Philippines, Qatar, the Syrian Arab Republic, Somalia, Sudan, South Sudan, Chad, Togo and Yemen, the band 1215–1300 MHz is also allocated to the fixed and mobile services on a primary basis.

(331) 5.331 *Additional allocation:* in Algeria, Germany, Saudi Arabia, Australia, Austria, Bahrain, Belarus, Belgium, Benin, Bosnia and Herzegovina, Brazil, Burkina Faso, Burundi, Cameroon, China, Korea (Rep. of), Croatia, Denmark, Egypt, the United Arab Emirates, Estonia, the Russian Federation, Finland, France, Ghana, Greece, Guinea, Equatorial Guinea, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Jordan, Kenya, Kuwait, The Former Yugoslav Republic of Macedonia, Lesotho, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mali, Mauritania, Montenegro, Nigeria, Norway, Oman, Pakistan, the Netherlands, Poland, Portugal, Qatar, the Syrian Arab Republic, Dem. People's Rep. of Korea, Slovakia, the United Kingdom, Serbia, Slovenia, Somalia, Sudan, South Sudan, Sri Lanka, South Africa, Sweden, Switzerland, Thailand, Togo, Turkey, Venezuela and Viet Nam, the band 1215–1300 MHz is also allocated to the radionavigation service on a primary basis. In Canada and the United States, the band 1240–1300 MHz is also allocated to the radionavigation service, and use of the radionavigation

service shall be limited to the aeronautical radionavigation service.

(332) 5.332 In the band 1215–1260 MHz, active spaceborne sensors in the Earth exploration-satellite and space research services shall not cause harmful interference to, claim protection from, or otherwise impose constraints on operation or development of the radiolocation service, the radionavigation-satellite service and other services allocated on a primary basis.

(333) [Reserved]

(334) 5.334 *Additional allocation:* in Canada and the United States, the band 1350–1370 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

(335) 5.335 In Canada and the United States in the band 1240–1300 MHz, active spaceborne sensors in the Earth exploration-satellite and space research services shall not cause interference to, claim protection from, or otherwise impose constraints on operation or development of the aeronautical radionavigation service.

(i) 5.335A In the band 1260–1300 MHz, active spaceborne sensors in the Earth exploration-satellite and space research services shall not cause harmful interference to, claim protection from, or otherwise impose constraints on operation or development of the radiolocation service and other services allocated by footnotes on a primary basis.

(ii) [Reserved]

(336) [Reserved]

(337) 5.337 The use of the bands 1300–1350 MHz, 2700–2900 MHz and 9000–9200 MHz by the aeronautical radionavigation service is restricted to ground-based radars and to associated airborne transponders which transmit only on frequencies in these bands and only when actuated by radars operating in the same band.

(i) 5.337A The use of the band 1300–1350 MHz by earth stations in the radionavigation-satellite service and by stations in the radiolocation service shall not cause harmful interference to, nor constrain the operation and development of, the aeronautical-radionavigation service.

(ii) [Reserved]

(338) 5.338 In Kyrgyzstan, Slovakia and Turkmenistan, existing installations of the radionavigation service may continue to operate in the band 1350–1400 MHz.

(i) 5.338A In the frequency bands 1350–1400 MHz, 1427–1452 MHz, 22.55–23.55 GHz, 30–31.3 GHz, 49.7–50.2 GHz, 50.4–50.9 GHz, 51.4–52.6 GHz, 81–86 GHz and 92–94 GHz, Resolution 750 (Rev.WRC–15) applies.

(ii) [Reserved]

(339) 5.339 The bands 1370–1400 MHz, 2640–2655 MHz, 4950–4990 MHz and 15.20–15.35 GHz are also allocated to the space research (passive) and Earth exploration-satellite (passive) services on a secondary basis.

(340) 5.340 All emissions are prohibited in the bands 1400–1427 MHz, 2690–2700 MHz (except those provided for by paragraph (b)(422) of this section), 10.68–10.7 GHz (except those provided for by paragraph (b)(483) of this section), 15.35–15.4 GHz (except those provided for by paragraph (b)(511) of this section), 23.6–24 GHz, 31.3–31.5 GHz, 31.5–31.8 GHz (in Region 2), 48.94–49.04 GHz (from airborne stations), 50.2–50.4 GHz, 52.6–54.25 GHz, 86–92 GHz, 100–102 GHz, 109.5–111.8 GHz, 114.25–116 GHz, 148.5–151.5 GHz, 164–167 GHz, 182–185 GHz, 190–191.8 GHz, 200–209 GHz, 226–231.5 GHz, and 250–252 GHz. The allocation to the Earth exploration-satellite service (passive) and the space research service (passive) in the band 50.2–50.4 GHz should not impose undue constraints on the use of the adjacent bands by the primary allocated services in those bands.

(341) 5.341 In the bands 1400–1727 MHz, 101–120 GHz and 197–220 GHz, passive research is being conducted by some countries in a programme for the search for intentional emissions of extraterrestrial origin.

(i) 5.341A In Region 1, the frequency bands 1427–1452 MHz and 1492–1518 MHz are identified for use by administrations wishing to implement International Mobile Telecommunications (IMT) in accordance with Resolution 223 (Rev.WRC–15). This identification does not preclude the use of these frequency bands by any other application of the services to which it is allocated and does not establish priority in the Radio Regulations. The use of IMT stations is subject to agreement obtained under No. 9.21 with respect to the aeronautical mobile service used for aeronautical telemetry in accordance with paragraph (b)(342) of this section.

(ii) 5.341B In Region 2, the frequency band 1427–1518 MHz is identified for use by administrations wishing to implement International Mobile Telecommunications (IMT) in accordance with Resolution 223 (Rev.WRC–15). This identification does not preclude the use of this frequency band by any application of the services to which they are allocated and does not establish priority in the Radio Regulations.

(iii) 5.341C The frequency bands 1427–1452 MHz and 1492–1518 MHz

are identified for use by administrations in Region 3 wishing to implement International Mobile Telecommunications (IMT) in accordance with Resolution 223 (Rev.WRC–15). The use of these frequency bands by the above administrations for the implementation of IMT in the frequency bands 1429–1452 MHz and 1492–1518 MHz is subject to agreement obtained under No. 9.21 from countries using stations of the aeronautical mobile service. This identification does not preclude the use of these frequency bands by any application of the services to which it is allocated and does not establish priority in the Radio Regulations.

(342) 5.342 *Additional allocation:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Uzbekistan, Kyrgyzstan and Ukraine, the frequency band 1429–1535 MHz is also allocated to the aeronautical mobile service on a primary basis, exclusively for the purposes of aeronautical telemetry within the national territory. As of 1 April 2007, the use of the frequency band 1452–1492 MHz is subject to agreement between the administrations concerned.

(343) 5.343 In Region 2, the use of the band 1435–1535 MHz by the aeronautical mobile service for telemetry has priority over other uses by the mobile service.

(344) 5.344 *Alternative allocation:* in the United States, the band 1452–1525 MHz is allocated to the fixed and mobile services on a primary basis (see also paragraph (b)(343) of this section).

(345) 5.345 Use of the band 1452–1492 MHz by the broadcasting-satellite service, and by the broadcasting service, is limited to digital audio broadcasting and is subject to the provisions of Resolution 528 (Rev.WRC–15).

(346) 5.346 In Algeria, Angola, Saudi Arabia, Bahrain, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Central African Republic, Congo (Rep. of the), Côte d'Ivoire, Djibouti, Egypt, United Arab Emirates, Gabon, Gambia, Ghana, Guinea, Iraq, Jordan, Kenya, Kuwait, Lesotho, Lebanon, Liberia, Madagascar, Malawi, Mali, Morocco, Mauritius, Mauritania, Mozambique, Namibia, Niger, Nigeria, Oman, Uganda, Palestine, Qatar, Dem. Rep. of the Congo, Rwanda, Senegal, Seychelles, Sudan, South Sudan, South Africa, Swaziland, Tanzania, Chad, Togo, Tunisia, Zambia, and Zimbabwe, the frequency band 1452–1492 MHz is identified for use by administrations listed above wishing to implement International Mobile Telecommunications (IMT) in accordance with Resolution 223

(Rev.WRC-15). This identification does not preclude the use of this frequency band by any other application of the services to which it is allocated and does not establish priority in the Radio Regulations. The use of this frequency band for the implementation of IMT is subject to agreement obtained under No. 9.21 with respect to the aeronautical mobile service used for aeronautical telemetry in accordance with paragraph (b)(342) of this section. See also Resolution 761 (WRC-15).

(i) 5.346A The frequency band 1452–1492 MHz is identified for use by administrations in Region 3 wishing to implement International Mobile Telecommunications (IMT) in accordance with Resolution 223 (Rev.WRC-15) and Resolution 761 (WRC-15). The use of this frequency band by the above administrations for the implementation of IMT is subject to agreement obtained under No. 9.21 from countries using stations of the aeronautical mobile service. This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations.

Note 1 to paragraph (b)(346)(i): The use by Palestine of the allocation to the mobile service in the frequency band 1452–1492 MHz identified for IMT is noted, pursuant to Resolution 99 (Rev. Busan, 2014) and taking into account the Israeli-Palestinian Interim Agreement of 28 September 1995.

(ii) [Reserved]

(347) [Reserved]

(348) 5.348 The use of the band 1518–1525 MHz by the mobile-satellite service is subject to coordination under No. 9.11A. In the band 1518–1525 MHz stations in the mobile-satellite service shall not claim protection from the stations in the fixed service. No. 5.43A does not apply.

(i) 5.348A In the band 1518–1525 MHz, the coordination threshold in terms of the power flux-density levels at the surface of the Earth in application of No. 9.11A for space stations in the mobile-satellite (space-to-Earth) service, with respect to the land mobile service use for specialized mobile radios or used in conjunction with public switched telecommunication networks (PSTN) operating within the territory of Japan, shall be -150 dB(W/m²) in any 4 kHz band for all angles of arrival, instead of those given in Table 5-2 of Appendix 5. In the band 1518–1525 MHz stations in the mobile-satellite service shall not claim protection from stations in the mobile service in the territory of Japan. No. 5.43A does not apply.

(ii) 5.348B In the band 1518–1525 MHz, stations in the mobile-satellite service shall not claim protection from aeronautical mobile telemetry stations in the mobile service in the territory of the United States (see paragraphs (b)(343) and (344) of this section) and in the countries listed in paragraph (b)(342) of this section. No. 5.43A does not apply.

(349) 5.349 *Different category of service:* in Saudi Arabia, Azerbaijan, Bahrain, Cameroon, Egypt, France, Iran (Islamic Republic of), Iraq, Israel, Kazakhstan, Kuwait, The Former Yugoslav Republic of Macedonia, Lebanon, Morocco, Qatar, Syrian Arab Republic, Kyrgyzstan, Turkmenistan and Yemen, the allocation of the band 1525–1530 MHz to the mobile, except aeronautical mobile, service is on a primary basis (see No. 5.33).

(350) 5.350 *Additional allocation:* in Azerbaijan, Kyrgyzstan and Turkmenistan, the band 1525–1530 MHz is also allocated to the aeronautical mobile service on a primary basis.

(351) 5.351 The bands 1525–1544 MHz, 1545–1559 MHz, 1626.5–1645.5 MHz and 1646.5–1660.5 MHz shall not be used for feeder links of any service. In exceptional circumstances, however, an earth station at a specified fixed point in any of the mobile-satellite services may be authorized by an administration to communicate via space stations using these bands.

(i) 5.351A For the use of the bands 1518–1544 MHz, 1545–1559 MHz, 1610–1645.5 MHz, 1646.5–1660.5 MHz, 1668–1675 MHz, 1980–2010 MHz, 2170–2200 MHz, 2483.5–2520 MHz and 2670–2690 MHz by the mobile-satellite service, see Resolutions 212 (Rev.WRC-15) and 225 (Rev.WRC-12).

(ii) [Reserved]

(352) 5.352A In the frequency band 1525–1530 MHz, stations in the mobile-satellite service, except stations in the maritime mobile-satellite service, shall not cause harmful interference to, or claim protection from, stations of the fixed service in Algeria, Saudi Arabia, Egypt, France and French overseas communities of Region 3, Guinea, India, Israel, Italy, Jordan, Kuwait, Mali, Morocco, Mauritania, Nigeria, Oman, Pakistan, the Philippines, Qatar, Syrian Arab Republic, Viet Nam and Yemen notified prior to 1 April 1998.

(353) 5.353A In applying the procedures of Section II of Article 9 to the mobile-satellite service in the bands 1530–1544 MHz and 1626.5–1645.5 MHz, priority shall be given to accommodating the spectrum requirements for distress, urgency and safety communications of the Global Maritime Distress and Safety System

(GMDSS). Maritime mobile-satellite distress, urgency and safety communications shall have priority access and immediate availability over all other mobile satellite communications operating within a network. Mobile-satellite systems shall not cause unacceptable interference to, or claim protection from, distress, urgency and safety communications of the GMDSS. Account shall be taken of the priority of safety-related communications in the other mobile-satellite services. (The provisions of Resolution 222 (Rev.WRC-12) shall apply.)

(354) 5.354 The use of the bands 1525–1559 MHz and 1626.5–1660.5 MHz by the mobile-satellite services is subject to coordination under No. 9.11A.

(355) 5.355 *Additional allocation:* in Bahrain, Bangladesh, Congo (Rep. of the), Djibouti, Egypt, Eritrea, Iraq, Israel, Kuwait, Qatar, Syrian Arab Republic, Somalia, Sudan, South Sudan, Chad, Togo and Yemen, the bands 1540–1559 MHz, 1610–1645.5 MHz and 1646.5–1660 MHz are also allocated to the fixed service on a secondary basis.

(356) 5.356 The use of the band 1544–1545 MHz by the mobile-satellite service (space-to-Earth) is limited to distress and safety communications (see Article 31).

(357) 5.357 Transmissions in the band 1545–1555 MHz from terrestrial aeronautical stations directly to aircraft stations, or between aircraft stations, in the aeronautical mobile (R) service are also authorized when such transmissions are used to extend or supplement the satellite-to-aircraft links.

(i) 5.357A In applying the procedures of Section II of Article 9 to the mobile-satellite service in the frequency bands 1545–1555 MHz and 1646.5–1656.5 MHz, priority shall be given to accommodating the spectrum requirements of the aeronautical mobile-satellite (R) service providing transmission of messages with priority 1 to 6 in Article 44. Aeronautical mobile-satellite (R) service communications with priority 1 to 6 in Article 44 shall have priority access and immediate availability, by pre-emption if necessary, over all other mobile-satellite communications operating within a network. Mobile-satellite systems shall not cause unacceptable interference to, or claim protection from, aeronautical mobile-satellite (R) service communications with priority 1 to 6 in Article 44. Account shall be taken of the priority of safety-related communications in the other mobile-satellite services. (The provisions of

Resolution 222 (Rev.WRC-12) shall apply.)

(ii) [Reserved]

(358) [Reserved]

(359) 5.359 *Additional allocation:* in Germany, Saudi Arabia, Armenia, Azerbaijan, Belarus, Benin, Cameroon, the Russian Federation, France, Georgia, Guinea, Guinea-Bissau, Jordan, Kazakhstan, Kuwait, Lithuania, Mauritania, Uganda, Uzbekistan, Pakistan, Poland, the Syrian Arab Republic, Kyrgyzstan, the Dem. People's Rep. of Korea, Romania, Tajikistan, Tunisia, Turkmenistan and Ukraine, the frequency bands 1550–1559 MHz, 1610–1645.5 MHz and 1646.5–1660 MHz are also allocated to the fixed service on a primary basis. Administrations are urged to make all practicable efforts to avoid the implementation of new fixed-service stations in these frequency bands.

(360)–(361) [Reserved]

(362) 5.362A In the United States, in the bands 1555–1559 MHz and 1656.5–1660.5 MHz, the aeronautical mobile-satellite (R) service shall have priority access and immediate availability, by pre-emption if necessary, over all other mobile-satellite communications operating within a network. Mobile-satellite systems shall not cause unacceptable interference to, or claim protection from, aeronautical mobile-satellite (R) service communications with priority 1 to 6 in Article 44. Account shall be taken of the priority of safety-related communications in the other mobile-satellite services.

(363) [Reserved]

(364) 5.364 The use of the band 1610–1626.5 MHz by the mobile-satellite service (Earth-to-space) and by the radiodetermination-satellite service (Earth-to-space) is subject to coordination under No. 9.11A. A mobile earth station operating in either of the services in this band shall not produce a peak e.i.r.p. density in excess of -15 dB(W/4 kHz) in the part of the band used by systems operating in accordance with the provisions of paragraph (b)(366) of this section (to which No. 4.10 applies), unless otherwise agreed by the affected administrations. In the part of the band where such systems are not operating, the mean e.i.r.p. density of a mobile earth station shall not exceed -3 dB(W/4 kHz). Stations of the mobile-satellite service shall not claim protection from stations in the aeronautical radionavigation service, stations operating in accordance with the provisions of paragraph (b)(366) of this section and stations in the fixed service operating in accordance with the provisions of paragraph (b)(359) of this

section. Administrations responsible for the coordination of mobile-satellite networks shall make all practicable efforts to ensure protection of stations operating in accordance with the provisions of paragraph (b)(366) of this section.

(365) 5.365 The use of the band 1613.8–1626.5 MHz by the mobile-satellite service (space-to-Earth) is subject to coordination under No. 9.11A.

(366) 5.366 The band 1610–1626.5 MHz is reserved on a worldwide basis for the use and development of airborne electronic aids to air navigation and any directly associated ground-based or satellite-borne facilities. Such satellite use is subject to agreement obtained under No. 9.21.

(367) 5.367 *Additional allocation:* The frequency band 1610–1626.5 MHz is also allocated to the aeronautical mobile-satellite (R) service on a primary basis, subject to agreement obtained under No. 9.21.

(368) 5.368 With respect to the radiodetermination-satellite and mobile-satellite services the provisions of No. 4.10 do not apply in the band 1610–1626.5 MHz, with the exception of the aeronautical radionavigation-satellite service.

(369) 5.369 *Different category of service:* in Angola, Australia, China, Eritrea, Ethiopia, India, Iran (Islamic Republic of), Israel, Lebanon, Liberia, Madagascar, Mali, Pakistan, Papua New Guinea, Syrian Arab Republic, the Dem. Rep. of the Congo, Sudan, South Sudan, Togo and Zambia, the allocation of the band 1610–1626.5 MHz to the radiodetermination-satellite service (Earth-to-space) is on a primary basis (see No. 5.33), subject to agreement obtained under No. 9.21 from countries not listed in this provision.

(370) 5.370 *Different category of service:* in Venezuela, the allocation to the radiodetermination-satellite service in the band 1610–1626.5 MHz (Earth-to-space) is on a secondary basis.

(371) 5.371 *Additional allocation:* in Region 1, the band 1610–1626.5 MHz (Earth-to-space) is also allocated to the radiodetermination-satellite service on a secondary basis, subject to agreement obtained under No. 9.21.

(372) 5.372 Harmful interference shall not be caused to stations of the radio astronomy service using the band 1610.6–1613.8 MHz by stations of the radiodetermination-satellite and mobile-satellite services (No. 29.13 applies).

(373) [Reserved]

(374) 5.374 Mobile earth stations in the mobile-satellite service operating in the bands 1631.5–1634.5 MHz and 1656.5–1660 MHz shall not cause

harmful interference to stations in the fixed service operating in the countries listed in paragraph (b)(359) of this section.

(375) 5.375 The use of the band 1645.5–1646.5 MHz by the mobile-satellite service (Earth-to-space) and for inter-satellite links is limited to distress and safety communications (see Article 31).

(376) 5.376 Transmissions in the band 1646.5–1656.5 MHz from aircraft stations in the aeronautical mobile (R) service directly to terrestrial aeronautical stations, or between aircraft stations, are also authorized when such transmissions are used to extend or supplement the aircraft-to-satellite links.

(i) 5.376A Mobile earth stations operating in the band 1660–1660.5 MHz shall not cause harmful interference to stations in the radio astronomy service.

(ii) [Reserved]

(377)–(378) [Reserved]

(379) 5.379 *Additional allocation:* in Bangladesh, India, Indonesia, Nigeria and Pakistan, the band 1660.5–1668.4 MHz is also allocated to the meteorological aids service on a secondary basis.

(i) 5.379A Administrations are urged to give all practicable protection in the band 1660.5–1668.4 MHz for future research in radio astronomy, particularly by eliminating air-to-ground transmissions in the meteorological aids service in the band 1664.4–1668.4 MHz as soon as practicable.

(ii) 5.379B The use of the band 1668–1675 MHz by the mobile-satellite service is subject to coordination under No. 9.11A. In the band 1668–1668.4 MHz, Resolution 904 (WRC-07) shall apply.

(iii) 5.379C In order to protect the radio astronomy service in the band 1668–1670 MHz, the aggregate power flux-density values produced by mobile earth stations in a network of the mobile-satellite service operating in this band shall not exceed -181 dB(W/m²) in 10 MHz and -194 dB(W/m²) in any 20 kHz at any radio astronomy station recorded in the Master International Frequency Register, for more than 2% of integration periods of 2000 s.

(iv) 5.379D For sharing of the band 1668.4–1675 MHz between the mobile-satellite service and the fixed and mobile services, Resolution 744 (Rev.WRC-07) shall apply.

(v) 5.379E In the band 1668.4–1675 MHz, stations in the mobile-satellite service shall not cause harmful interference to stations in the meteorological aids service in China, Iran (Islamic Republic of), Japan and Uzbekistan. In the band 1668.4–1675

MHz, administrations are urged not to implement new systems in the meteorological aids service and are encouraged to migrate existing meteorological aids service operations to other bands as soon as practicable.

(380) 5.380A In the band 1670–1675 MHz, stations in the mobile-satellite service shall not cause harmful interference to, nor constrain the development of, existing earth stations in the meteorological-satellite service notified before 1 January 2004. Any new assignment to these earth stations in this band shall also be protected from harmful interference from stations in the mobile-satellite service.

(381) 5.381 *Additional allocation:* in Afghanistan, Cuba, India, Iran (Islamic Republic of) and Pakistan, the band 1690–1700 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

(382) 5.382 *Different category of service:* in Saudi Arabia, Armenia, Azerbaijan, Bahrain, Belarus, Congo (Rep. of the), Egypt, the United Arab Emirates, Eritrea, Ethiopia, the Russian Federation, Guinea, Iraq, Israel, Jordan, Kazakhstan, Kuwait, the Former Yugoslav Republic of Macedonia, Lebanon, Mauritania, Moldova, Mongolia, Oman, Uzbekistan, Poland, Qatar, the Syrian Arab Republic, Kyrgyzstan, Somalia, Tajikistan, Turkmenistan, Ukraine and Yemen, the allocation of the frequency band 1690–1700 MHz to the fixed and mobile, except aeronautical mobile, services is on a primary basis (see No. 5.33), and in the Dem. People's Rep. of Korea, the allocation of the frequency band 1690–1700 MHz to the fixed service is on a primary basis (see No. 5.33) and to the mobile, except aeronautical mobile, service on a secondary basis.

(383) [Reserved]

(384) 5.384 *Additional allocation:* in India, Indonesia and Japan, the band 1700–1710 MHz is also allocated to the space research service (space-to-Earth) on a primary basis.

(i) 5.384A The frequency bands, 1710–1885 MHz, 2300–2400 MHz and 2500–2690 MHz, or portions thereof, are identified for use by administrations wishing to implement International Mobile Telecommunications (IMT) in accordance with Resolution 223 (Rev.WRC–15). This identification does not preclude the use of these frequency bands by any application of the services to which they are allocated and does not establish priority in the Radio Regulations.

(ii) [Reserved]

(385) 5.385 *Additional allocation:* the band 1718.8–1722.2 MHz is also allocated to the radio astronomy service

on a secondary basis for spectral line observations.

(386) 5.386 *Additional allocation:* the frequency band 1750–1850 MHz is also allocated to the space operation (Earth-to-space) and space research (Earth-to-space) services in Region 2 (except in Mexico), in Australia, Guam, India, Indonesia and Japan on a primary basis, subject to agreement obtained under No. 9.21, having particular regard to troposcatter systems.

(387) 5.387 *Additional allocation:* in Belarus, Georgia, Kazakhstan, Kyrgyzstan, Romania, Tajikistan and Turkmenistan, the band 1770–1790 MHz is also allocated to the meteorological-satellite service on a primary basis, subject to agreement obtained under No. 9.21.

(388) 5.388 The frequency bands 1885–2025 MHz and 2110–2200 MHz are intended for use, on a worldwide basis, by administrations wishing to implement International Mobile Telecommunications (IMT). Such use does not preclude the use of these frequency bands by other services to which they are allocated. The frequency bands should be made available for IMT in accordance with Resolution 212 (Rev.WRC–15) (see also Resolution 223 (Rev.WRC–15)).

(i) 5.388A In Regions 1 and 3, the bands 1885–1980 MHz, 2010–2025 MHz and 2110–2170 MHz and, in Region 2, the bands 1885–1980 MHz and 2110–2160 MHz may be used by high altitude platform stations as base stations to provide International Mobile Telecommunications (IMT), in accordance with Resolution 221 (Rev.WRC–07). Their use by IMT applications using high altitude platform stations as base stations does not preclude the use of these bands by any station in the services to which they are allocated and does not establish priority in the Radio Regulations.

(ii) 5.388B In Algeria, Saudi Arabia, Bahrain, Benin, Burkina Faso, Cameroon, Comoros, Côte d'Ivoire, China, Cuba, Djibouti, Egypt, United Arab Emirates, Eritrea, Ethiopia, Gabon, Ghana, India, Iran (Islamic Republic of), Israel, Jordan, Kenya, Kuwait, Libya, Mali, Morocco, Mauritania, Nigeria, Oman, Uganda, Pakistan, Qatar, the Syrian Arab Republic, Senegal, Singapore, Sudan, South Sudan, Tanzania, Chad, Togo, Tunisia, Yemen, Zambia and Zimbabwe, for the purpose of protecting fixed and mobile services, including IMT mobile stations, in their territories from co-channel interference, a high altitude platform station (HAPS) operating as an IMT base station in neighbouring countries, in the bands referred to in No. 5.388A, shall not

exceed a co-channel power flux-density of -127 dB(W/(m² · MHz)) at the Earth's surface outside a country's borders unless explicit agreement of the affected administration is provided at the time of the notification of HAPS.

(389) 5.389A The use of the bands 1980–2010 MHz and 2170–2200 MHz by the mobile-satellite service is subject to coordination under No. 9.11A and to the provisions of Resolution 716 (Rev.WRC–12).

(i) 5.389B The use of the band 1980–1990 MHz by the mobile-satellite service shall not cause harmful interference to or constrain the development of the fixed and mobile services in Argentina, Brazil, Canada, Chile, Ecuador, the United States, Honduras, Jamaica, Mexico, Peru, Suriname, Trinidad and Tobago, Uruguay and Venezuela.

(ii) 5.389C The use of the bands 2010–2025 MHz and 2160–2170 MHz in Region 2 by the mobile-satellite service is subject to coordination under No. 9.11A and to the provisions of Resolution 716 (Rev.WRC–12).

(iii) 5.389E The use of the bands 2010–2025 MHz and 2160–2170 MHz by the mobile-satellite service in Region 2 shall not cause harmful interference to or constrain the development of the fixed and mobile services in Regions 1 and 3.

(iv) 5.389F In Algeria, Benin, Cape Verde, Egypt, Iran (Islamic Republic of), Mali, Syrian Arab Republic and Tunisia, the use of the bands 1980–2010 MHz and 2170–2200 MHz by the mobile-satellite service shall neither cause harmful interference to the fixed and mobile services, nor hamper the development of those services prior to 1 January 2005, nor shall the former service request protection from the latter services.

(390) [Reserved]

(391) 5.391 In making assignments to the mobile service in the frequency bands 2025–2110 MHz and 2200–2290 MHz, administrations shall not introduce high-density mobile systems, as described in Recommendation ITU-R SA.1154-0, and shall take that Recommendation into account for the introduction of any other type of mobile system.

(392) 5.392 Administrations are urged to take all practicable measures to ensure that space-to-space transmissions between two or more non-geostationary satellites, in the space research, space operations and Earth exploration-satellite services in the bands 2025–2110 MHz and 2200–2290 MHz, shall not impose any constraints on Earth-to-space, space-to-Earth and other space-to-space transmissions of those services

and in those bands between geostationary and non-geostationary satellites.

(393) 5.393 *Additional allocation:* in Canada, the United States and India, the frequency band 2310–2360 MHz is also allocated to the broadcasting-satellite service (sound) and complementary terrestrial sound broadcasting service on a primary basis. Such use is limited to digital audio broadcasting and is subject to the provisions of Resolution 528 (Rev.WRC–15), with the exception of *resolves* 3 in regard to the limitation on broadcasting-satellite systems in the upper 25 MHz.

(394) 5.394 In the United States, the use of the band 2300–2390 MHz by the aeronautical mobile service for telemetry has priority over other uses by the mobile services. In Canada, the use of the band 2360–2400 MHz by the aeronautical mobile service for telemetry has priority over other uses by the mobile services.

(395) 5.395 In France and Turkey, the use of the band 2310–2360 MHz by the aeronautical mobile service for telemetry has priority over other uses by the mobile service.

(396) 5.396 Space stations of the broadcasting-satellite service in the band 2310–2360 MHz operating in accordance with paragraph (b)(393) of this section that may affect the services to which this band is allocated in other countries shall be coordinated and notified in accordance with Resolution 33 (Rev.WRC–15). Complementary terrestrial broadcasting stations shall be subject to bilateral coordination with neighbouring countries prior to their bringing into use.

(397) [Reserved]

(398) 5.398 In respect of the radiodetermination-satellite service in the band 2483.5–2500 MHz, the provisions of No. 4.10 do not apply.

(i) 5.398A *Different category of service:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Kazakhstan, Uzbekistan, Kyrgyzstan, Tajikistan and Ukraine, the band 2483.5–2500 MHz is allocated on a primary basis to the radiolocation service. The radiolocation stations in these countries shall not cause harmful interference to, or claim protection from, stations of the fixed, mobile and mobile-satellite services operating in accordance with the Radio Regulations in the frequency band 2483.5–2500 MHz.

(ii) [Reserved]

(399) 5.399 Except for cases referred to in paragraph (b)(401) of this section, stations of the radiodetermination-satellite service operating in the frequency band 2483.5–2500 MHz for

which notification information is received by the Bureau after 17 February 2012, and the service area of which includes Armenia, Azerbaijan, Belarus, the Russian Federation, Kazakhstan, Uzbekistan, Kyrgyzstan, Tajikistan and Ukraine, shall not cause harmful interference to, and shall not claim protection from stations of the radiolocation service operating in these countries in accordance with paragraph (b)(398)(i) of this section.

(400) [Reserved]

(401) 5.401 In Angola, Australia, Bangladesh, China, Eritrea, Ethiopia, India, Iran (Islamic Republic of), Lebanon, Liberia, Libya, Madagascar, Mali, Pakistan, Papua New Guinea, Syrian Arab Republic, Dem. Rep. of the Congo, Sudan, Swaziland, Togo and Zambia, the frequency band 2483.5–2500 MHz was already allocated on a primary basis to the radiodetermination-satellite service before WRC–12, subject to agreement obtained under No. 9.21 from countries not listed in this provision. Systems in the radiodetermination-satellite service for which complete coordination information has been received by the Radiocommunication Bureau before 18 February 2012 will retain their regulatory status, as of the date of receipt of the coordination request information.

(402) 5.402 The use of the band 2483.5–2500 MHz by the mobile-satellite and the radiodetermination-satellite services is subject to the coordination under No. 9.11A. Administrations are urged to take all practicable steps to prevent harmful interference to the radio astronomy service from emissions in the 2483.5–2500 MHz band, especially those caused by second-harmonic radiation that would fall into the 4990–5000 MHz band allocated to the radio astronomy service worldwide.

(403) 5.403 Subject to agreement obtained under No. 9.21, the band 2520–2535 MHz may also be used for the mobile-satellite (space-to-Earth), except aeronautical mobile-satellite, service for operation limited to within national boundaries. The provisions of No. 9.11A apply.

(404) 5.404 *Additional allocation:* in India and Iran (Islamic Republic of), the band 2500–2516.5 MHz may also be used for the radiodetermination-satellite service (space-to-Earth) for operation limited to within national boundaries, subject to agreement obtained under No. 9.21.

(405)–(406) [Reserved]

(407) 5.407 In the band 2500–2520 MHz, the power flux-density at the surface of the Earth from space stations

operating in the mobile-satellite (space-to-Earth) service shall not exceed -152 dB(W/(m² · 4 kHz)) in Argentina, unless otherwise agreed by the administrations concerned.

(408)–(409) [Reserved]

(410) 5.410 The band 2500–2690 MHz may be used for tropospheric scatter systems in Region 1, subject to agreement obtained under No. 9.21. No. 9.21 does not apply to tropospheric scatter links situated entirely outside Region 1. Administrations shall make all practicable efforts to avoid developing new tropospheric scatter systems in this band. When planning new tropospheric scatter radio-relay links in this band, all possible measures shall be taken to avoid directing the antennas of these links towards the geostationary-satellite orbit.

(411) [Reserved]

(412) 5.412 *Alternative allocation:* in Kyrgyzstan and Turkmenistan, the band 2500–2690 MHz is allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

(413) 5.413 In the design of systems in the broadcasting-satellite service in the bands between 2500 MHz and 2690 MHz, administrations are urged to take all necessary steps to protect the radio astronomy service in the band 2690–2700 MHz.

(414) 5.414 The allocation of the frequency band 2500–2520 MHz to the mobile-satellite service (space-to-Earth) is subject to coordination under No. 9.11A.

(i) 5.414A In Japan and India, the use of the bands 2500–2520 MHz and 2520–2535 MHz, under paragraph (b)(403) of this section, by a satellite network in the mobile-satellite service (space-to-Earth) is limited to operation within national boundaries and subject to the application of No. 9.11A. The following pfd values shall be used as a threshold for coordination under No. 9.11A, for all conditions and for all methods of modulation, in an area of 1000 km around the territory of the administration notifying the mobile-satellite service network: -136 dB(W/(m² · MHz)) for $0^\circ \leq \theta \leq 5^\circ$, $-136 + 0.55(\theta - 5)$ dB(W/(m² · MHz)) for $5^\circ < \theta \leq 25^\circ$, and -125 dB(W/(m² · MHz)) for $25^\circ < \theta \leq 90^\circ$, where θ is the angle of arrival of the incident wave above the horizontal plane, in degrees. Outside this area Table 21–4 of Article 21 shall apply. Furthermore, the coordination thresholds in Table 5–2 of Annex 1 to Appendix 5 of the Radio Regulations (Edition of 2004), in conjunction with the applicable provisions of Articles 9 and 11 associated with No. 9.11A, shall apply to systems for which complete notification information has been

received by the Radicommunication Bureau by 14 November 2007 and that have been brought into use by that date.

5.415 The use of the bands 2500–2690 MHz in Region 2 and 2500–2535 MHz and 2655–2690 MHz in Region 3 by the fixed-satellite service is limited to national and regional systems, subject to agreement obtained under No. 9.21, giving particular attention to the broadcasting-satellite service in Region 1.

(ii) [Reserved]

(415) 5.415A *Additional allocation:* in India and Japan, subject to agreement obtained under No. 9.21, the band 2515–2535 MHz may also be used for the aeronautical mobile-satellite service (space-to-Earth) for operation limited to within their national boundaries.

(416) 5.416 The use of the band 2520–2670 MHz by the broadcasting-satellite service is limited to national and regional systems for community reception, subject to agreement obtained under No. 9.21. The provisions of No. 9.19 shall be applied by administrations in this band in their bilateral and multilateral negotiations.

(417) [Reserved]

(418) 5.418 *Additional allocation:* in India, the frequency band 2535–2655 MHz is also allocated to the broadcasting-satellite service (sound) and complementary terrestrial broadcasting service on a primary basis. Such use is limited to digital audio broadcasting and is subject to the provisions of Resolution 528 (Rev.WRC–15). The provisions of paragraph (b)(416) of this section and Table 21–4 of Article 21, do not apply to this additional allocation. Use of non-geostationary-satellite systems in the broadcasting-satellite service (sound) is subject to Resolution 539 (Rev.WRC–15). Geostationary broadcasting-satellite service (sound) systems for which complete Appendix 4 coordination information has been received after 1 June 2005 are limited to systems intended for national coverage. The power flux-density at the Earth's surface produced by emissions from a geostationary broadcasting-satellite service (sound) space station operating in the frequency band 2630–2655 MHz, and for which complete Appendix 4 coordination information has been received after 1 June 2005, shall not exceed the following limits, for all conditions and for all methods of modulation: $-130 \text{ dB(W/(m}^2 \cdot \text{MHz))}$ for $0^\circ \leq \theta \leq 5^\circ$, $-130 + 0.4(\theta - 5) \text{ dB(W/(m}^2 \cdot \text{MHz))}$ for $5^\circ < \theta \leq 25^\circ$, and $-122 \text{ dB(W/(m}^2 \cdot \text{MHz))}$ for $25^\circ < \theta \leq 90^\circ$, where θ is the angle of arrival of the incident wave above the horizontal plane, in degrees. These limits may be

exceeded on the territory of any country whose administration has so agreed. As an exception to the limits above, the pfd value of $-122 \text{ dB(W/(m}^2 \cdot \text{MHz))}$ shall be used as a threshold for coordination under No. 9.11 in an area of 1500 km around the territory of the administration notifying the broadcasting-satellite service (sound) system. In addition, an administration listed in this provision shall not have simultaneously two overlapping frequency assignments, one under this provision and the other under paragraph (b)(416) of this section for systems for which complete Appendix 4 coordination information has been received after 1 June 2005.

(i) 5.418A In certain Region 3 countries listed in No. 5.418, use of the band 2630–2655 MHz by non-geostationary-satellite systems in the broadcasting-satellite service (sound) for which complete Appendix 4 coordination information, or notification information, has been received after 2 June 2000, is subject to the application of the provisions of No. 9.12A, in respect of geostationary-satellite networks for which complete Appendix 4 coordination information, or notification information, is considered to have been received after 2 June 2000, and No. 22.2 does not apply. No. 22.2 shall continue to apply with respect to geostationary-satellite networks for which complete Appendix 4 coordination information, or notification information, is considered to have been received before 3 June 2000.

(ii) 5.418B Use of the band 2630–2655 MHz by non-geostationary-satellite systems in the broadcasting-satellite service (sound), pursuant to this paragraph (b)(418), for which complete Appendix 4 coordination information, or notification information, has been received after 2 June 2000, is subject to the application of the provisions of No. 9.12.

(iii) 5.418C Use of the band 2630–2655 MHz by geostationary-satellite networks for which complete Appendix 4 coordination information, or notification information, has been received after 2 June 2000 is subject to the application of the provisions of No. 9.13 with respect to non-geostationary-satellite systems in the broadcasting-satellite service (sound), pursuant to this paragraph (b)(418) and No. 22.2 does not apply.

(419) 5.419 When introducing systems of the mobile-satellite service in the band 2670–2690 MHz, administrations shall take all necessary steps to protect the satellite systems operating in this band prior to 3 March

1992. The coordination of mobile-satellite systems in the band shall be in accordance with No. 9.11A.

(420) 5.420 The band 2655–2670 MHz may also be used for the mobile-satellite (Earth-to-space), except aeronautical mobile-satellite, service for operation limited to within national boundaries, subject to agreement obtained under No. 9.21. The coordination under No. 9.11A applies.

(421) [Reserved]

(422) 5.422 *Additional allocation:* in Saudi Arabia, Armenia, Azerbaijan, Bahrain, Belarus, Brunei Darussalam, Congo (Rep. of the), Côte d'Ivoire, Cuba, Djibouti, Egypt, the United Arab Emirates, Eritrea, Ethiopia, Gabon, Georgia, Guinea, Guinea-Bissau, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kuwait, Lebanon, Mauritania, Mongolia, Montenegro, Nigeria, Oman, Pakistan, the Philippines, Qatar, Syrian Arab Republic, Kyrgyzstan, the Dem. Rep. of the Congo, Romania, Somalia, Tajikistan, Tunisia, Turkmenistan, Ukraine and Yemen, the band 2690–2700 MHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis. Such use is limited to equipment in operation by 1 January 1985.

(423) 5.423 In the band 2700–2900 MHz, ground-based radars used for meteorological purposes are authorized to operate on a basis of equality with stations of the aeronautical radionavigation service.

(424) 5.424 *Additional allocation:* in Canada, the band 2850–2900 MHz is also allocated to the maritime radionavigation service, on a primary basis, for use by shore-based radars.

(i) 5.424A In the band 2900–3100 MHz, stations in the radiolocation service shall not cause harmful interference to, nor claim protection from, radar systems in the radionavigation service.

(ii) [Reserved]

(425) 5.425 In the band 2900–3100 MHz, the use of the shipborne interrogator-transponder (SIT) system shall be confined to the sub-band 2930–2950 MHz.

(426) 5.426 The use of the band 2900–3100 MHz by the aeronautical radionavigation service is limited to ground-based radars.

(427) 5.427 In the bands 2900–3100 MHz and 9300–9500 MHz, the response from radar transponders shall not be capable of being confused with the response from radar beacons (racons) and shall not cause interference to ship or aeronautical radars in the radionavigation service, having regard, however, to No. 4.9.

(428) 5.428 *Additional allocation:* in Azerbaijan, Kyrgyzstan and Turkmenistan, the frequency band 3100–3300 MHz is also allocated to the radionavigation service on a primary basis.

(429) 5.429 *Additional allocation:* in Saudi Arabia, Bahrain, Bangladesh, Benin, Brunei Darussalam, Cambodia, Cameroon, China, Congo (Rep. of the), Korea (Rep. of), Côte d'Ivoire, Egypt, the United Arab Emirates, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Japan, Jordan, Kenya, Kuwait, Lebanon, Libya, Malaysia, Oman, Uganda, Pakistan, Qatar, the Syrian Arab Republic, the Dem. Rep. of the Congo, the Dem. People's Rep. of Korea, Sudan and Yemen, the frequency band 3300–3400 MHz is also allocated to the fixed and mobile services on a primary basis. The countries bordering the Mediterranean shall not claim protection for their fixed and mobile services from the radiolocation service.

(i) 5.429A *Additional allocation:* in Angola, Benin, Botswana, Burkina Faso, Burundi, Ghana, Guinea, Guinea-Bissau, Lesotho, Liberia, Malawi, Mauritania, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sudan, South Sudan, South Africa, Swaziland, Tanzania, Chad, Togo, Zambia and Zimbabwe, the frequency band 3300–3400 MHz is allocated to the mobile, except aeronautical mobile, service on a primary basis. Stations in the mobile service operating in the frequency band 3300–3400 MHz shall not cause harmful interference to, or claim protection from, stations operating in the radiolocation service.

(ii) 5.429B In the following countries of Region 1 south of 30° parallel north: Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Congo (Rep. of the), Côte d'Ivoire, Egypt, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Malawi, Mauritania, Mozambique, Namibia, Niger, Nigeria, Uganda, the Dem. Rep. of the Congo, Rwanda, Sudan, South Sudan, South Africa, Swaziland, Tanzania, Chad, Togo, Zambia and Zimbabwe, the frequency band 3300–3400 MHz is identified for the implementation of International Mobile Telecommunications (IMT). The use of this frequency band shall be in accordance with Resolution 223 (Rev.WRC–15). The use of the frequency band 3300–3400 MHz by IMT stations in the mobile service shall not cause harmful interference to, or claim protection from, systems in the radiolocation service, and administrations wishing to implement IMT shall obtain the agreement of neighbouring countries to protect operations within the radiolocation

service. This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations.

(iii) 5.429C *Different category of service:* in Argentina, Brazil, Colombia, Costa Rica, Ecuador, Guatemala, Mexico, Paraguay and Uruguay, the frequency band 3300–3400 MHz is allocated to the mobile, except aeronautical mobile, service on a primary basis. In Argentina, Brazil, Guatemala, Mexico and Paraguay, the frequency band 3300–3400 MHz is also allocated to the fixed service on a primary basis. Stations in the fixed and mobile services operating in the frequency band 3300–3400 MHz shall not cause harmful interference to, or claim protection from, stations operating in the radiolocation service.

(iv) 5.429D In the following countries in Region 2: Argentina, Colombia, Costa Rica, Ecuador, Mexico and Uruguay, the use of the frequency band 3300–3400 MHz is identified for the implementation of International Mobile Telecommunications (IMT). Such use shall be in accordance with Resolution 223 (Rev.WRC–15). This use in Argentina and Uruguay is subject to the application of No. 9.21. The use of the frequency band 3300–3400 MHz by IMT stations in the mobile service shall not cause harmful interference to, or claim protection from, systems in the radiolocation service, and administrations wishing to implement IMT shall obtain the agreement of neighbouring countries to protect operations within the radiolocation service. This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations.

(v) 5.429E *Additional allocation:* in Papua New Guinea, the frequency band 3300–3400 MHz is allocated to the mobile, except aeronautical mobile, service on a primary basis. Stations in the mobile service operating in the frequency band 3300–3400 MHz shall not cause harmful interference to, or claim protection from, stations operating in the radiolocation service.

(vi) 5.429F In the following countries in Region 3: Cambodia, India, Lao P.D.R., Pakistan, the Philippines and Viet Nam, the use of the frequency band 3300–3400 MHz is identified for the implementation of International Mobile Telecommunications (IMT). Such use shall be in accordance with Resolution 223 (Rev.WRC–15). The use of the frequency band 3300–3400 MHz

by IMT stations in the mobile service shall not cause harmful interference to, or claim protection from, systems in the radiolocation service. Before an administration brings into use a base or mobile station of an IMT system in this frequency band, it shall seek agreement under No. 9.21 with neighbouring countries to protect the radiolocation service. This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations.

(430) 5.430 *Additional allocation:* in Azerbaijan, Kyrgyzstan and Turkmenistan, the frequency band 3300–3400 MHz is also allocated to the radionavigation service on a primary basis.

(i) 5.430A The allocation of the frequency band 3400–3600 MHz to the mobile, except aeronautical mobile, service is subject to agreement obtained under No. 9.21. This frequency band is identified for International Mobile Telecommunications (IMT). This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. The provisions of Nos. 9.17 and 9.18 shall also apply in the coordination phase. Before an administration brings into use a (base or mobile) station of the mobile service in this frequency band, it shall ensure that the power flux-density (pfd) produced at 3 m above ground does not exceed $-154.5 \text{ dB(W/(m}^2 \cdot 4 \text{ kHz))}$ for more than 20% of time at the border of the territory of any other administration. This limit may be exceeded on the territory of any country whose administration has so agreed. In order to ensure that the pfd limit at the border of the territory of any other administration is met, the calculations and verification shall be made, taking into account all relevant information, with the mutual agreement of both administrations (the administration responsible for the terrestrial station and the administration responsible for the earth station) and with the assistance of the Bureau if so requested. In case of disagreement, calculation and verification of the pfd shall be made by the Bureau, taking into account the information referred to in this paragraph (b)(430)(i). Stations of the mobile service in the frequency band 3400–3600 MHz shall not claim more protection from space stations than that provided in Table 21–4 of the Radio Regulations (Edition of 2004). This allocation is effective from 17 November 2010.

(ii) [Reserved]

(431) 5.431 *Additional allocation:* in Germany and Israel, the frequency band 3400–3475 MHz is also allocated to the amateur service on a secondary basis.

(i) 5.431A In Region 2, the allocation of the frequency band 3400–3500 MHz to the mobile, except aeronautical mobile, service on a primary basis is subject to agreement obtained under No. 9.21.

(ii) 5.431B In Region 2, the frequency band 3400–3600 MHz is identified for use by administrations wishing to implement International Mobile Telecommunications (IMT). This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. At the stage of coordination the provisions of Nos. 9.17 and 9.18 also apply. Before an administration brings into use a base or mobile station of an IMT system, it shall seek agreement under No. 9.21 with other administrations and ensure that the power flux-density (pfd) produced at 3 m above ground does not exceed $-154.5 \text{ dB(W/(m}^2 \cdot 4 \text{ kHz))}$ for more than 20% of time at the border of the territory of any other administration. This limit may be exceeded on the territory of any country whose administration has so agreed. In order to ensure that the pfd limit at the border of the territory of any other administration is met, the calculations and verification shall be made, taking into account all relevant information, with the mutual agreement of both administrations (the administration responsible for the terrestrial station and the administration responsible for the earth station), with the assistance of the Bureau if so requested. In case of disagreement, the calculation and verification of the pfd shall be made by the Bureau, taking into account the information referred to in this paragraph (b)(431)(ii). Stations of the mobile service, including IMT systems, in the frequency band 3400–3600 MHz shall not claim more protection from space stations than that provided in Table 21–4 of the Radio Regulations (Edition of 2004).

(432) 5.432 *Different category of service:* in Korea (Rep. of), Japan and Pakistan, the allocation of the band 3400–3500 MHz to the mobile, except aeronautical mobile, service is on a primary basis (see No. 5.33).

(i) 5.432A In Korea (Rep. of), Japan and Pakistan, the band 3400–3500 MHz is identified for International Mobile Telecommunications (IMT). This identification does not preclude the use of this band by any application of the services to which it is allocated and

does not establish priority in the Radio Regulations. At the stage of coordination the provisions of Nos. 9.17 and 9.18 also apply. Before an administration brings into use a (base or mobile) station of the mobile service in this band it shall ensure that the power flux-density (pfd) produced at 3 m above ground does not exceed $-154.5 \text{ dB(W/(m}^2 \cdot 4 \text{ kHz))}$ for more than 20% of time at the border of the territory of any other administration. This limit may be exceeded on the territory of any country whose administration has so agreed. In order to ensure that the pfd limit at the border of the territory of any other administration is met, the calculations and verification shall be made, taking into account all relevant information, with the mutual agreement of both administrations (the administration responsible for the terrestrial station and the administration responsible for the earth station), with the assistance of the Bureau if so requested. In case of disagreement, the calculation and verification of the pfd shall be made by the Bureau, taking into account the information referred to in this paragraph (b)(432)(i). Stations of the mobile service in the band 3400–3500 MHz shall not claim more protection from space stations than that provided in Table 21–4 of the Radio Regulations (Edition of 2004).

(ii) 5.432B *Different category of service:* in Australia, Bangladesh, China, French overseas communities of Region 3, India, Iran (Islamic Republic of), New Zealand, the Philippines and Singapore, the frequency band 3400–3500 MHz is allocated to the mobile, except aeronautical mobile, service on a primary basis, subject to agreement obtained under No. 9.21 with other administrations and is identified for International Mobile Telecommunications (IMT). This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. At the stage of coordination the provisions of Nos. 9.17 and 9.18 also apply. Before an administration brings into use a (base or mobile) station of the mobile service in this frequency band it shall ensure that the power flux-density (pfd) produced at 3 m above ground does not exceed $-154.5 \text{ dB(W/(m}^2 \cdot 4 \text{ kHz))}$ for more than 20% of time at the border of the territory of any other administration. This limit may be exceeded on the territory of any country whose administration has so agreed. In order to ensure that the pfd limit at the border of the territory of any other

administration is met, the calculations and verification shall be made, taking into account all relevant information, with the mutual agreement of both administrations (the administration responsible for the terrestrial station and the administration responsible for the earth station), with the assistance of the Bureau if so requested. In case of disagreement, the calculation and verification of the pfd shall be made by the Bureau, taking into account the information referred to in this paragraph (b)(432)(ii). Stations of the mobile service in the frequency band 3400–3500 MHz shall not claim more protection from space stations than that provided in Table 21–4 of the Radio Regulations (Edition of 2004).

(433) 5.433 In Regions 2 and 3, in the band 3400–3600 MHz the radiolocation service is allocated on a primary basis. However, all administrations operating radiolocation systems in this band are urged to cease operations by 1985. Thereafter, administrations shall take all practicable steps to protect the fixed-satellite service and coordination requirements shall not be imposed on the fixed-satellite service.

(i) 5.433A In Australia, Bangladesh, China, French overseas communities of Region 3, Korea (Rep. of), India, Iran (Islamic Republic of), Japan, New Zealand, Pakistan and the Philippines, the frequency band 3500–3600 MHz is identified for International Mobile Telecommunications (IMT). This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. At the stage of coordination the provisions of Nos. 9.17 and 9.18 also apply. Before an administration brings into use a (base or mobile) station of the mobile service in this frequency band it shall ensure that the power flux-density (pfd) produced at 3 m above ground does not exceed $-154.5 \text{ dB(W/(m}^2 \cdot 4 \text{ kHz))}$ for more than 20% of time at the border of the territory of any other administration. This limit may be exceeded on the territory of any country whose administration has so agreed. In order to ensure that the pfd limit at the border of the territory of any other administration is met, the calculations and verification shall be made, taking into account all relevant information, with the mutual agreement of both administrations (the administration responsible for the terrestrial station and the administration responsible for the earth station), with the assistance of the Bureau if so requested. In case of disagreement, the calculation and

verification of the pfd shall be made by the Bureau, taking into account the information referred to in this paragraph (b)(433)(i). Stations of the mobile service in the frequency band 3500–3600 MHz shall not claim more protection from space stations than that provided in table 21–4 of the Radio Regulations (Edition of 2004).

(ii) [Reserved]

(434) 5.434 In Canada, Colombia, Costa Rica and the United States, the frequency band 3600–3700 MHz, or portions thereof, is identified for use by these administrations wishing to implement International Mobile Telecommunications (IMT). This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. At the stage of coordination the provisions of Nos. 9.17 and 9.18 also apply. Before an administration brings into use a base or mobile station of an IMT system, it shall seek agreement under No. 9.21 with other administrations and ensure that the power flux-density (pfd) produced at 3 m above ground does not exceed $-154.5 \text{ dB(W/(m}^2 \cdot 4 \text{ kHz))}$ for more than 20% of time at the border of the territory of any other administration. This limit may be exceeded on the territory of any country whose administration has so agreed. In order to ensure that the pfd limit at the border of the territory of any other administration is met, the calculations and verification shall be made, taking into account all relevant information, with the mutual agreement of both administrations (the administration responsible for the terrestrial station and the administration responsible for the earth station), with the assistance of the Bureau if so requested. In case of disagreement, the calculation and verification of the pfd shall be made by the Bureau, taking into account the information referred to in this paragraph (b)(434). Stations of the mobile service, including IMT systems, in the frequency band 3600–3700 MHz shall not claim more protection from space stations than that provided in table 21–4 of the Radio Regulations (Edition of 2004).

(435) 5.435 In Japan, in the band 3620–3700 MHz, the radiolocation service is excluded.

(436) 5.436 Use of the frequency band 4200–4400 MHz by stations in the aeronautical mobile (R) service is reserved exclusively for wireless avionics intra-communication systems that operate in accordance with recognized international aeronautical standards. Such use shall be in

accordance with Resolution 424 (WRC–15).

(437) 5.437 Passive sensing in the Earth exploration-satellite and space research services may be authorized in the frequency band 4200–4400 MHz on a secondary basis.

(438) 5.438 Use of the frequency band 4200–4400 MHz by the aeronautical radionavigation service is reserved exclusively for radio altimeters installed on board aircraft and for the associated transponders on the ground.

(439) 5.439 *Additional allocation*: in Iran (Islamic Republic of), the band 4200–4400 MHz is also allocated to the fixed service on a secondary basis.

(440) 5.440 The standard frequency and time signal-satellite service may be authorized to use the frequency 4202 MHz for space-to-Earth transmissions and the frequency 6427 MHz for Earth-to-space transmissions. Such transmissions shall be confined within the limits of ± 2 MHz of these frequencies, subject to agreement obtained under No. 9.21.

(i) 5.440A In Region 2 (except Brazil, Cuba, French overseas departments and communities, Guatemala, Paraguay, Uruguay and Venezuela), and in Australia, the band 4400–4940 MHz may be used for aeronautical mobile telemetry for flight testing by aircraft stations (see No. 1.83). Such use shall be in accordance with Resolution 416 (WRC–07) and shall not cause harmful interference to, nor claim protection from, the fixed-satellite and fixed services. Any such use does not preclude the use of this band by other mobile service applications or by other services to which this band is allocated on a co-primary basis and does not establish priority in the Radio Regulations.

(ii) [Reserved]

(441) 5.441 The use of the bands 4500–4800 MHz (space-to-Earth), 6725–7025 MHz (Earth-to-space) by the fixed-satellite service shall be in accordance with the provisions of Appendix 30B. The use of the bands 10.7–10.95 GHz (space-to-Earth), 11.2–11.45 GHz (space-to-Earth) and 12.75–13.25 GHz (Earth-to-space) by geostationary-satellite systems in the fixed-satellite service shall be in accordance with the provisions of Appendix 30B. The use of the bands 10.7–10.95 GHz (space-to-Earth), 11.2–11.45 GHz (space-to-Earth) and 12.75–13.25 GHz (Earth-to-space) by a non-geostationary-satellite system in the fixed-satellite service is subject to application of the provisions of No. 9.12 for coordination with other non-geostationary-satellite systems in the fixed-satellite service. Non-geostationary-satellite systems in the

fixed-satellite service shall not claim protection from geostationary-satellite networks in the fixed-satellite service operating in accordance with the Radio Regulations, irrespective of the dates of receipt by the Bureau of the complete coordination or notification information, as appropriate, for the non-geostationary-satellite systems in the fixed-satellite service and of the complete coordination or notification information, as appropriate, for the geostationary-satellite networks, and No. 5.43A does not apply. Non-geostationary-satellite systems in the fixed-satellite service in the above bands shall be operated in such a way that any unacceptable interference that may occur during their operation shall be rapidly eliminated.

(i) 5.441A In Uruguay, the frequency band 4800–4900 MHz, or portions thereof, is identified for the implementation of International Mobile Telecommunications (IMT). This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. The use of this frequency band for the implementation of IMT is subject to agreement obtained with neighbouring countries, and IMT stations shall not claim protection from stations of other applications of the mobile service. Such use shall be in accordance with Resolution 223 (Rev.WRC–15).

(ii) 5.441B In Cambodia, Lao P.D.R. and Viet Nam, the frequency band 4800–4990 MHz, or portions thereof, is identified for use by administrations wishing to implement International Mobile Telecommunications (IMT). This identification does not preclude the use of this frequency band by any application of the services to which it is allocated and does not establish priority in the Radio Regulations. The use of this frequency band for the implementation of IMT is subject to agreement obtained under No. 9.21 with concerned administrations, and IMT stations shall not claim protection from stations of other applications of the mobile service. In addition, before an administration brings into use an IMT station in the mobile service, it shall ensure that the power flux-density produced by this station does not exceed $-155 \text{ dB(W/(m}^2 \cdot 1 \text{ MHz))}$ produced up to 19 km above sea level at 20 km from the coast, defined as the low-water mark, as officially recognized by the coastal State. This criterion is subject to review at WRC–19. See Resolution 223 (Rev.WRC–15). This identification shall be effective after WRC–19.

(442) 5.442 In the frequency bands 4825–4835 MHz and 4950–4990 MHz, the allocation to the mobile service is restricted to the mobile, except aeronautical mobile, service. In Region 2 (except Brazil, Cuba, Guatemala, Mexico, Paraguay, Uruguay and Venezuela), and in Australia, the frequency band 4825–4835 MHz is also allocated to the aeronautical mobile service, limited to aeronautical mobile telemetry for flight testing by aircraft stations. Such use shall be in accordance with Resolution 416 (WRC-07) and shall not cause harmful interference to the fixed service.

(443) 5.443 *Different category of service:* in Argentina, Australia and Canada, the allocation of the bands 4825–4835 MHz and 4950–4990 MHz to the radio astronomy service is on a primary basis (see No. 5.33).

(i) 5.443AA In the frequency bands 5000–5030 MHz and 5091–5150 MHz, the aeronautical mobile-satellite (R) service is subject to agreement obtained under No. 9.21. The use of these bands by the aeronautical mobile-satellite (R) service is limited to internationally standardized aeronautical systems.

(ii) 5.443B In order not to cause harmful interference to the microwave landing system operating above 5030 MHz, the aggregate power flux-density produced at the Earth's surface in the frequency band 5030–5150 MHz by all the space stations within any radionavigation-satellite service system (space-to-Earth) operating in the frequency band 5010–5030 MHz shall not exceed -124.5 dB(W/m²) in a 150 kHz band. In order not to cause harmful interference to the radio astronomy service in the frequency band 4990–5000 MHz, radionavigation-satellite service systems operating in the frequency band 5010–5030 MHz shall comply with the limits in the frequency band 4990–5000 MHz defined in Resolution 741 (Rev.WRC-15).

(iii) 5.443C The use of the frequency band 5030–5091 MHz by the aeronautical mobile (R) service is limited to internationally standardized aeronautical systems. Unwanted emissions from the aeronautical mobile (R) service in the frequency band 5030–5091 MHz shall be limited to protect RNSS system downlinks in the adjacent 5010–5030 MHz band. Until such time that an appropriate value is established in a relevant ITU-R Recommendation, the e.i.r.p. density limit of -75 dBW/MHz in the frequency band 5010–5030 MHz for any AM(R)S station unwanted emission should be used.

(iv) 5.443D In the frequency band 5030–5091 MHz, the aeronautical mobile-satellite (R) service is subject to

coordination under No. 9.11A. The use of this frequency band by the aeronautical mobile-satellite (R) service is limited to internationally standardized aeronautical systems.

(444) 5.444 The frequency band 5030–5150 MHz is to be used for the operation of the international standard system (microwave landing system) for precision approach and landing. In the frequency band 5030–5091 MHz, the requirements of this system shall have priority over other uses of this frequency band. For the use of the frequency band 5091–5150 MHz, paragraph (b)(444)(i) of this section and Resolution 114 (Rev.WRC-15) apply.

(i) 5.444A The use of the allocation to the fixed-satellite service (Earth-to-space) in the frequency band 5091–5150 MHz is limited to feeder links of non-geostationary satellite systems in the mobile-satellite service and is subject to coordination under No. 9.11A. The use of the frequency band 5091–5150 MHz by feeder links of non-geostationary satellite systems in the mobile-satellite service shall be subject to application of Resolution 114 (Rev.WRC-15).

Moreover, to ensure that the aeronautical radionavigation service is protected from harmful interference, coordination is required for feeder-link earth stations of the non-geostationary satellite systems in the mobile-satellite service which are separated by less than 450 km from the territory of an administration operating ground stations in the aeronautical radionavigation service.

(ii) 5.444B The use of the frequency band 5091–5150 MHz by the aeronautical mobile service is limited to:

(A) systems operating in the aeronautical mobile (R) service and in accordance with international aeronautical standards, limited to surface applications at airports. Such use shall be in accordance with Resolution 748 (Rev.WRC-15); and

(B) aeronautical telemetry transmissions from aircraft stations (see No. 1.83) in accordance with Resolution 418 (Rev.WRC-15).

(445) [Reserved]

(446) 5.446 *Additional allocation:* in the countries listed in paragraph (b)(369) of this section, the frequency band 5150–5216 MHz is also allocated to the radiodetermination-satellite service (space-to-Earth) on a primary basis, subject to agreement obtained under No. 9.21. In Region 2 (except in Mexico), the frequency band is also allocated to the radiodetermination-satellite service (space-to-Earth) on a primary basis. In Regions 1 and 3, except those countries listed in

paragraph (b)(369) of this section and Bangladesh, the frequency band is also allocated to the radiodetermination-satellite service (space-to-Earth) on a secondary basis. The use by the radiodetermination-satellite service is limited to feeder links in conjunction with the radiodetermination-satellite service operating in the frequency bands 1610–1626.5 MHz and/or 2483.5–2500 MHz. The total power flux-density at the Earth's surface shall in no case exceed -159 dB (W/m²) in any 4 kHz band for all angles of arrival.

(i) 5.446A The use of the bands 5150–5350 MHz and 5470–5725 MHz by the stations in the mobile, except aeronautical mobile, service shall be in accordance with Resolution 229 (Rev.WRC-12).

(ii) 5.446B In the band 5150–5250 MHz, stations in the mobile service shall not claim protection from earth stations in the fixed-satellite service. No. 5.43A does not apply to the mobile service with respect to fixed-satellite service earth stations.

(iii) 5.446C *Additional allocation:* in Region 1 (except in Algeria, Saudi Arabia, Bahrain, Egypt, United Arab Emirates, Jordan, Kuwait, Lebanon, Morocco, Oman, Qatar, Syrian Arab Republic, Sudan, South Sudan and Tunisia) and in Brazil, the band 5150–5250 MHz is also allocated to the aeronautical mobile service on a primary basis, limited to aeronautical telemetry transmissions from aircraft stations (see No. 1.83), in accordance with Resolution 418 (Rev.WRC-15). These stations shall not claim protection from other stations operating in accordance with Article 5. No. 5.43A does not apply.

(447) 5.447 *Additional allocation:* in Côte d'Ivoire, Egypt, Israel, Lebanon, the Syrian Arab Republic and Tunisia, the band 5150–5250 MHz is also allocated to the mobile service, on a primary basis, subject to agreement obtained under No. 9.21. In this case, the provisions of Resolution 229 (Rev.WRC-12) do not apply.

(i) 5.447A The allocation to the fixed-satellite service (Earth-to-space) in the band 5150–5250 MHz is limited to feeder links of non-geostationary-satellite systems in the mobile-satellite service and is subject to coordination under No. 9.11A.

(ii) 5.447B *Additional allocation:* the band 5150–5216 MHz is also allocated to the fixed-satellite service (space-to-Earth) on a primary basis. This allocation is limited to feeder links of non-geostationary-satellite systems in the mobile-satellite service and is subject to provisions of No. 9.11A. The power flux-density at the Earth's surface

produced by space stations of the fixed-satellite service operating in the space-to-Earth direction in the band 5150–5216 MHz shall in no case exceed –164 dB(W/m²) in any 4 kHz band for all angles of arrival.

(iii) 5.447C Administrations responsible for fixed-satellite service networks in the band 5150–5250 MHz operated under paragraphs (b)(447)(i) and (ii) of this section shall coordinate on an equal basis in accordance with No. 9.11A with administrations responsible for non-geostationary-satellite networks operated under paragraph (b)(446) of this section and brought into use prior to 17 November 1995. Satellite networks operated under paragraph (b)(446) of this section brought into use after 17 November 1995 shall not claim protection from, and shall not cause harmful interference to, stations of the fixed-satellite service operated under paragraphs (b)(447)(i) and (ii) of this section.

(iv) 5.447D The allocation of the band 5250–5255 MHz to the space research service on a primary basis is limited to active spaceborne sensors. Other uses of the band by the space research service are on a secondary basis.

(v) 5.447E *Additional allocation:* The frequency band 5250–5350 MHz is also allocated to the fixed service on a primary basis in the following countries in Region 3: Australia, Korea (Rep. of), India, Indonesia, Iran (Islamic Republic of), Japan, Malaysia, Papua New Guinea, the Philippines, Dem. People's Rep. of Korea, Sri Lanka, Thailand and Viet Nam. The use of this frequency band by the fixed service is intended for the implementation of fixed wireless access systems and shall comply with Recommendation ITU-R F.1613–0. In addition, the fixed service shall not claim protection from the radiodetermination, Earth exploration-satellite (active) and space research (active) services, but the provisions of No. 5.43A do not apply to the fixed service with respect to the Earth exploration-satellite (active) and space research (active) services. After implementation of fixed wireless access systems in the fixed service with protection for the existing radiodetermination systems, no more stringent constraints should be imposed on the fixed wireless access systems by future radiodetermination implementations.

(vi) 5.447F In the frequency band 5250–5350 MHz, stations in the mobile service shall not claim protection from the radiolocation service, the Earth exploration-satellite service (active) and the space research service (active).

These services shall not impose on the mobile service more stringent protection criteria, based on system characteristics and interference criteria, than those stated in Recommendations ITU-R M.1638–0 and ITU-R RS.1632–0.

(448) 5.448 *Additional allocation:* in Azerbaijan, Kyrgyzstan, Romania and Turkmenistan, the band 5250–5350 MHz is also allocated to the radionavigation service on a primary basis.

(i) 5.448A The Earth exploration-satellite (active) and space research (active) services in the frequency band 5250–5350 MHz shall not claim protection from the radiolocation service. No. 5.43A does not apply.

(ii) 5.448B The Earth exploration-satellite service (active) operating in the band 5350–5570 MHz and space research service (active) operating in the band 5460–5570 MHz shall not cause harmful interference to the aeronautical radionavigation service in the band 5350–5460 MHz, the radionavigation service in the band 5460–5470 MHz and the maritime radionavigation service in the band 5470–5570 MHz.

(iii) 5.448C The space research service (active) operating in the band 5350–5460 MHz shall not cause harmful interference to nor claim protection from other services to which this band is allocated.

(iv) 5.448D In the frequency band 5350–5470 MHz, stations in the radiolocation service shall not cause harmful interference to, nor claim protection from, radar systems in the aeronautical radionavigation service operating in accordance with No. 5.449.

(449) 5.449 The use of the band 5350–5470 MHz by the aeronautical radionavigation service is limited to airborne radars and associated airborne beacons.

(450) 5.450 *Additional allocation:* in Austria, Azerbaijan, Iran (Islamic Republic of), Kyrgyzstan, Romania, Turkmenistan and Ukraine, the band 5470–5650 MHz is also allocated to the aeronautical radionavigation service on a primary basis.

(i) 5.450A In the frequency band 5470–5725 MHz, stations in the mobile service shall not claim protection from radiodetermination services. Radiodetermination services shall not impose on the mobile service more stringent protection criteria, based on system characteristics and interference criteria, than those stated in Recommendation ITU-R M.1638–0.

(ii) 5.450B In the frequency band 5470–5650 MHz, stations in the radiolocation service, except ground-based radars used for meteorological purposes in the band 5600–5650 MHz,

shall not cause harmful interference to, nor claim protection from, radar systems in the maritime radionavigation service.

(451) 5.451 *Additional allocation:* in the United Kingdom, the band 5470–5850 MHz is also allocated to the land mobile service on a secondary basis. The power limits specified in Nos. 21.2, 21.3, 21.4 and 21.5 shall apply in the band 5725–5850 MHz.

(452) 5.452 Between 5600 MHz and 5650 MHz, ground-based radars used for meteorological purposes are authorized to operate on a basis of equality with stations of the maritime radionavigation service.

(453) 5.453 *Additional allocation:* in Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, Cameroon, China, Congo (Rep. of the), Korea (Rep. of), Côte d'Ivoire, Djibouti, Egypt, the United Arab Emirates, Gabon, Guinea, Equatorial Guinea, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Japan, Jordan, Kenya, Kuwait, Lebanon, Libya, Madagascar, Malaysia, Niger, Nigeria, Oman, Uganda, Pakistan, the Philippines, Qatar, the Syrian Arab Republic, the Dem. People's Rep. of Korea, Singapore, Sri Lanka, Swaziland, Tanzania, Chad, Thailand, Togo, Viet Nam and Yemen, the band 5650–5850 MHz is also allocated to the fixed and mobile services on a primary basis. In this case, the provisions of Resolution 229 (Rev.WRC–12) do not apply.

(454) 5.454 *Different category of service:* in Azerbaijan, the Russian Federation, Georgia, Kyrgyzstan, Tajikistan and Turkmenistan, the allocation of the band 5670–5725 MHz to the space research service is on a primary basis (see No. 5.33).

(455) 5.455 *Additional allocation:* in Armenia, Azerbaijan, Belarus, Cuba, the Russian Federation, Georgia, Hungary, Kazakhstan, Moldova, Mongolia, Uzbekistan, Kyrgyzstan, Tajikistan, Turkmenistan and Ukraine, the band 5670–5850 MHz is also allocated to the fixed service on a primary basis.

(456) [Reserved]

(457) 5.457 In Australia, Burkina Faso, Cote d'Ivoire, Mali and Nigeria, the allocation to the fixed service in the bands 6440–6520 MHz (HAPS-to-ground direction) and 6560–6640 MHz (ground-to-HAPS direction) may also be used by gateway links for high-altitude platform stations (HAPS) within the territory of these countries. Such use is limited to operation in HAPS gateway links and shall not cause harmful interference to, and shall not claim protection from, existing services, and shall be in compliance with Resolution 150 (WRC–12). Existing services shall not be constrained in future development by HAPS gateway links.

The use of HAPS gateway links in these bands requires explicit agreement with other administrations whose territories are located within 1,000 kilometres from the border of an administration intending to use the HAPS gateway links.

(i) 5.457A In the frequency bands 5925–6425 MHz and 14–14.5 GHz, earth stations located on board vessels may communicate with space stations of the fixed-satellite service. Such use shall be in accordance with Resolution 902 (WRC–03). In the frequency band 5925–6425 MHz, earth stations located on board vessels and communicating with space stations of the fixed-satellite service may employ transmit antennas with minimum diameter of 1.2 m and operate without prior agreement of any administration if located at least 330 km away from the low-water mark as officially recognized by the coastal State. All other provisions of Resolution 902 (WRC–03) shall apply.

(ii) 5.457B In the frequency bands 5925–6425 MHz and 14–14.5 GHz, earth stations located on board vessels may operate with the characteristics and under the conditions contained in Resolution 902 (WRC–03) in Algeria, Saudi Arabia, Bahrain, Comoros, Djibouti, Egypt, United Arab Emirates, Jordan, Kuwait, Libya, Morocco, Mauritania, Oman, Qatar, the Syrian Arab Republic, Sudan, Tunisia and Yemen, in the maritime mobile-satellite service on a secondary basis. Such use shall be in accordance with Resolution 902 (WRC–03).

(iii) 5.457C In Region 2 (except Brazil, Cuba, French overseas departments and communities, Guatemala, Mexico, Paraguay, Uruguay and Venezuela), the frequency band 5925–6700 MHz may be used for aeronautical mobile telemetry for flight testing by aircraft stations (see No. 1.83). Such use shall be in accordance with Resolution 416 (WRC–07) and shall not cause harmful interference to, or claim protection from, the fixed-satellite and fixed services. Any such use does not preclude the use of this frequency band by other mobile service applications or by other services to which this frequency band is allocated on a co-primary basis and does not establish priority in the Radio Regulations.

(458) 5.458 In the band 6425–7075 MHz, passive microwave sensor measurements are carried out over the oceans. In the band 7075–7250 MHz, passive microwave sensor measurements are carried out. Administrations should bear in mind the needs of the Earth exploration-satellite (passive) and space research (passive) services in their future

planning of the bands 6425–7075 MHz and 7075–7250 MHz.

(i) 5.458A In making assignments in the band 6700–7075 MHz to space stations of the fixed-satellite service, administrations are urged to take all practicable steps to protect spectral line observations of the radio astronomy service in the band 6650–6675.2 MHz from harmful interference from unwanted emissions.

(ii) 5.458B The space-to-Earth allocation to the fixed-satellite service in the band 6700–7075 MHz is limited to feeder links for non-geostationary satellite systems of the mobile-satellite service and is subject to coordination under No. 9.11A. The use of the band 6700–7075 MHz (space-to-Earth) by feeder links for non-geostationary satellite systems in the mobile-satellite service is not subject to No. 22.2.

(459) 5.459 *Additional allocation:* in the Russian Federation, the frequency bands 7100–7155 MHz and 7190–7235 MHz are also allocated to the space operation service (Earth-to-space) on a primary basis, subject to agreement obtained under No. 9.21. In the frequency band 7190–7235 MHz, with respect to the Earth exploration-satellite service (Earth-to-space), No. 9.21 does not apply.

(460) 5.460 No emissions from space research service (Earth-to-space) systems intended for deep space shall be effected in the frequency band 7190–7235 MHz. Geostationary satellites in the space research service operating in the frequency band 7190–7235 MHz shall not claim protection from existing and future stations of the fixed and mobile services and No. 5.43A does not apply.

(i) 5.460A The use of the frequency band 7190–7250 MHz (Earth-to-space) by the Earth exploration-satellite service shall be limited to tracking, telemetry and command for the operation of spacecraft. Space stations operating in the Earth exploration-satellite service (Earth-to-space) in the frequency band 7190–7250 MHz shall not claim protection from existing and future stations in the fixed and mobile services, and No. 5.43A does not apply. No. 9.17 applies. Additionally, to ensure protection of the existing and future deployment of fixed and mobile services, the location of earth stations supporting spacecraft in the Earth exploration-satellite service in non-geostationary orbits or geostationary orbit shall maintain a separation distance of at least 10 km and 50 km, respectively, from the respective border(s) of neighbouring countries, unless a shorter distance is otherwise

agreed between the corresponding administrations.

(ii) 5.460B Space stations on the geostationary orbit operating in the Earth exploration-satellite service (Earth-to-space) in the frequency band 7190–7235 MHz shall not claim protection from existing and future stations of the space research service, and No. 5.43A does not apply.

(461) 5.461 *Additional allocation:* the bands 7250–7375 MHz (space-to-Earth) and 7900–8025 MHz (Earth-to-space) are also allocated to the mobile-satellite service on a primary basis, subject to agreement obtained under No. 9.21.

(i) 5.461A The use of the band 7450–7550 MHz by the meteorological-satellite service (space-to-Earth) is limited to geostationary-satellite systems. Non-geostationary meteorological-satellite systems in this band notified before 30 November 1997 may continue to operate on a primary basis until the end of their lifetime.

(ii) 5.461AA The use of the frequency band 7375–7750 MHz by the maritime mobile-satellite service is limited to geostationary-satellite networks.

(iii) 5.461AB In the frequency band 7375–7750 MHz, earth stations in the maritime mobile-satellite service shall not claim protection from, nor constrain the use and development of, stations in the fixed and mobile, except aeronautical mobile, services. No. 5.43A does not apply.

(iv) 5.461B The use of the band 7750–7900 MHz by the meteorological-satellite service (space-to-Earth) is limited to non-geostationary satellite systems.

(462) 5.462A In Regions 1 and 3 (except for Japan), in the band 8025–8400 MHz, the Earth exploration-satellite service using geostationary satellites shall not produce a power flux-density in excess of the following values for angles of arrival (θ), without the consent of the affected administration: -135 dB(W/m²) in a 1 MHz band for $0 \leq \theta < 5^\circ$, $-135 + 0.5$ ($\theta - 5$) dB(W/m²) in a 1 MHz band for $5 \leq \theta < 25^\circ$, and -125 dB(W/m²) in a 1 MHz band for $25 \leq \theta \leq 90^\circ$.

(463) 5.463 Aircraft stations are not permitted to transmit in the band 8025–8400 MHz.

(464) [Reserved]

(465) 5.465 In the space research service, the use of the band 8400–8450 MHz is limited to deep space.

(466) 5.466 *Different category of service:* in Singapore and Sri Lanka, the allocation of the band 8400–8500 MHz to the space research service is on a secondary basis (see No. 5.32).

(467) [Reserved]

(468) 5.468 *Additional allocation:* in Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, Burundi, Cameroon, China, Congo (Rep. of the), Djibouti, Egypt, the United Arab Emirates, Gabon, Guyana, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kenya, Kuwait, Lebanon, Libya, Malaysia, Mali, Morocco, Mauritania, Nepal, Nigeria, Oman, Uganda, Pakistan, Qatar, Syrian Arab Republic, the Dem. People's Rep. of Korea, Senegal, Singapore, Somalia, Sudan, Swaziland, Chad, Togo, Tunisia and Yemen, the frequency band 8500–8750 MHz is also allocated to the fixed and mobile services on a primary basis.

(469) 5.469 *Additional allocation:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Hungary, Lithuania, Mongolia, Uzbekistan, Poland, Kyrgyzstan, the Czech Rep., Romania, Tajikistan, Turkmenistan and Ukraine, the band 8500–8750 MHz is also allocated to the land mobile and radionavigation services on a primary basis.

(i) 5.469A In the band 8550–8650 MHz, stations in the Earth exploration-satellite service (active) and space research service (active) shall not cause harmful interference to, or constrain the use and development of, stations of the radiolocation service.

(ii) [Reserved]

(470) 5.470 The use of the band 8750–8850 MHz by the aeronautical radionavigation service is limited to airborne Doppler navigation aids on a centre frequency of 8800 MHz.

(471) 5.471 *Additional allocation:* in Algeria, Germany, Bahrain, Belgium, China, Egypt, the United Arab Emirates, France, Greece, Indonesia, Iran (Islamic Republic of), Libya, the Netherlands, Qatar and Sudan, the frequency bands 8825–8850 MHz and 9000–9200 MHz are also allocated to the maritime radionavigation service, on a primary basis, for use by shore-based radars only.

(472) 5.472 In the bands 8850–9000 MHz and 9200–9225 MHz, the maritime radionavigation service is limited to shore-based radars.

(473) 5.473 *Additional allocation:* in Armenia, Austria, Azerbaijan, Belarus, Cuba, the Russian Federation, Georgia, Hungary, Mongolia, Uzbekistan, Poland, Kyrgyzstan, Romania, Tajikistan, Turkmenistan and Ukraine, the bands 8850–9000 MHz and 9200–9300 MHz are also allocated to the radionavigation service on a primary basis.

(i) 5.473A In the band 9000–9200 MHz, stations operating in the radiolocation service shall not cause harmful interference to, nor claim

protection from, systems identified in No. 5.337 operating in the aeronautical radionavigation service, or radar systems in the maritime radionavigation service operating in this band on a primary basis in the countries listed in No. 5.471.

(ii) [Reserved]

(474) 5.474 In the band 9200–9500 MHz, search and rescue transponders (SART) may be used, having due regard to the appropriate ITU-R Recommendation (see also Article 31).

(i) 5.474A The use of the frequency bands 9200–9300 MHz and 9900–10 400 MHz by the Earth exploration-satellite service (active) is limited to systems requiring necessary bandwidth greater than 600 MHz that cannot be fully accommodated within the frequency band 9300–9900 MHz. Such use is subject to agreement to be obtained under No. 9.21 from Algeria, Saudi Arabia, Bahrain, Egypt, Indonesia, Iran (Islamic Republic of), Lebanon and Tunisia. An administration that has not replied under No. 9.52 is considered as not having agreed to the coordination request. In this case, the notifying administration of the satellite system operating in the Earth exploration-satellite service (active) may request the assistance of the Bureau under Sub-Section IID of Article 9.

(ii) 5.474B Stations operating in the Earth exploration-satellite (active) service shall comply with Recommendation ITU-R RS.2066–0.

(iii) 5.474C Stations operating in the Earth exploration-satellite (active) service shall comply with Recommendation ITU-R RS.2065–0.

(iv) 5.474D Stations in the Earth exploration-satellite service (active) shall not cause harmful interference to, or claim protection from, stations of the maritime radionavigation and radiolocation services in the frequency band 9200–9300 MHz, the radionavigation and radiolocation services in the frequency band 9900–10 000 MHz and the radiolocation service in the frequency band 10.0–10.4 GHz.

(475) 5.475 The use of the band 9300–9500 MHz by the aeronautical radionavigation service is limited to airborne weather radars and ground-based radars. In addition, ground-based radar beacons in the aeronautical radionavigation service are permitted in the band 9300–9320 MHz on condition that harmful interference is not caused to the maritime radionavigation service.

(i) 5.475A The use of the band 9300–9500 MHz by the Earth exploration-satellite service (active) and the space research service (active) is limited to systems requiring necessary bandwidth greater than 300 MHz that cannot be

fully accommodated within the 9500–9800 MHz band.

(ii) 5.475B In the band 9300–9500 MHz, stations operating in the radiolocation service shall not cause harmful interference to, nor claim protection from, radars operating in the radionavigation service in conformity with the Radio Regulations. Ground-based radars used for meteorological purposes have priority over other radiolocation uses.

(476) 5.476A In the band 9300–9800 MHz, stations in the Earth exploration-satellite service (active) and space research service (active) shall not cause harmful interference to, nor claim protection from, stations of the radionavigation and radiolocation services.

(477) 5.477 *Different category of service:* in Algeria, Saudi Arabia, Bahrain, Bangladesh, Brunei Darussalam, Cameroon, Djibouti, Egypt, the United Arab Emirates, Eritrea, Ethiopia, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, Lebanon, Liberia, Malaysia, Nigeria, Oman, Uganda, Pakistan, Qatar, Syrian Arab Republic, the Dem. People's Rep. of Korea, Singapore, Somalia, Sudan, South Sudan, Trinidad and Tobago, and Yemen, the allocation of the frequency band 9800–10 000 MHz to the fixed service is on a primary basis (see No. 5.33).

(478) 5.478 *Additional allocation:* in Azerbaijan, Mongolia, Kyrgyzstan, Romania, Turkmenistan and Ukraine, the band 9800–10 000 MHz is also allocated to the radionavigation service on a primary basis.

(i) 5.478A The use of the band 9800–9900 MHz by the Earth exploration-satellite service (active) and the space research service (active) is limited to systems requiring necessary bandwidth greater than 500 MHz that cannot be fully accommodated within the 9300–9800 MHz band.

(ii) 5.478B In the band 9800–9900 MHz, stations in the Earth exploration-satellite service (active) and space research service (active) shall not cause harmful interference to, nor claim protection from stations of the fixed service to which this band is allocated on a secondary basis.

(479) 5.479 The band 9975–10 025 MHz is also allocated to the meteorological-satellite service on a secondary basis for use by weather radars.

(480) 5.480 *Additional allocation:* in Argentina, Brazil, Chile, Cuba, El Salvador, Ecuador, Guatemala, Honduras, Paraguay, the Netherlands Antilles, Peru and Uruguay, the

frequency band 10–10.45 GHz is also allocated to the fixed and mobile services on a primary basis. In Colombia, Costa Rica, Mexico and Venezuela, the frequency band 10–10.45 GHz is also allocated to the fixed service on a primary basis.

(481) 5.481 *Additional allocation:* in Algeria, Germany, Angola, Brazil, China, Côte d'Ivoire, El Salvador, Ecuador, Spain, Guatemala, Hungary, Japan, Kenya, Morocco, Nigeria, Oman, Uzbekistan, Pakistan, Paraguay, Peru, the Dem. People's Rep. of Korea, Romania and Uruguay, the frequency band 10.45–10.5 GHz is also allocated to the fixed and mobile services on a primary basis. In Costa Rica, the frequency band 10.45–10.5 GHz is also allocated to the fixed service on a primary basis.

(482) 5.482 In the band 10.6–10.68 GHz, the power delivered to the antenna of stations of the fixed and mobile, except aeronautical mobile, services shall not exceed –3 dBW. This limit may be exceeded, subject to agreement obtained under No. 9.21. However, in Algeria, Saudi Arabia, Armenia, Azerbaijan, Bahrain, Bangladesh, Belarus, Egypt, United Arab Emirates, Georgia, India, Indonesia, Iran (Islamic Republic of), Iraq, Jordan, Kazakhstan, Kuwait, Lebanon, Libya, Morocco, Mauritania, Moldova, Nigeria, Oman, Uzbekistan, Pakistan, Philippines, Qatar, Syrian Arab Republic, Kyrgyzstan, Singapore, Tajikistan, Tunisia, Turkmenistan and Viet Nam, this restriction on the fixed and mobile, except aeronautical mobile, services is not applicable.

(i) 5.482A For sharing of the band 10.6–10.68 GHz between the Earth exploration-satellite (passive) service and the fixed and mobile, except aeronautical mobile, services, Resolution 751 (WRC-07) applies.

(ii) [Reserved]

(483) 5.483 *Additional allocation:* in Saudi Arabia, Armenia, Azerbaijan, Bahrain, Belarus, China, Colombia, Korea (Rep. of), Costa Rica, Egypt, the United Arab Emirates, Georgia, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kazakhstan, Kuwait, Lebanon, Mongolia, Qatar, Kyrgyzstan, the Dem. People's Rep. of Korea, Tajikistan, Turkmenistan and Yemen, the band 10.68–10.7 GHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis. Such use is limited to equipment in operation by 1 January 1985.

(484) 5.484 In Region 1, the use of the band 10.7–11.7 GHz by the fixed-satellite service (Earth-to-space) is limited to feeder links for the broadcasting-satellite service.

(i) 5.484A The use of the bands 10.95–11.2 GHz (space-to-Earth), 11.45–11.7 GHz (space-to-Earth), 11.7–12.2 GHz (space-to-Earth) in Region 2, 12.2–12.75 GHz (space-to-Earth) in Region 3, 12.5–12.75 GHz (space-to-Earth) in Region 1, 13.75–14.5 GHz (Earth-to-space), 17.8–18.6 GHz (space-to-Earth), 19.7–20.2 GHz (space-to-Earth), 27.5–28.6 GHz (Earth-to-space), 29.5–30 GHz (Earth-to-space) by a non-geostationary-satellite system in the fixed-satellite service is subject to application of the provisions of No. 9.12 for coordination with other non-geostationary-satellite systems in the fixed-satellite service. Non-geostationary-satellite systems in the fixed-satellite service shall not claim protection from geostationary-satellite networks in the fixed-satellite service operating in accordance with the Radio Regulations, irrespective of the dates of receipt by the Bureau of the complete coordination or notification information, as appropriate, for the non-geostationary-satellite systems in the fixed-satellite service and of the complete coordination or notification information, as appropriate, for the geostationary-satellite networks, and No. 5.43A does not apply. Non-geostationary-satellite systems in the fixed-satellite service in the above bands shall be operated in such a way that any unacceptable interference that may occur during their operation shall be rapidly eliminated.

(ii) 5.484B Resolution 155 (WRC-15) shall apply.

(485) 5.485 In Region 2, in the band 11.7–12.2 GHz, transponders on space stations in the fixed-satellite service may be used additionally for transmissions in the broadcasting-satellite service, provided that such transmissions do not have a maximum e.i.r.p. greater than 53 dBW per television channel and do not cause greater interference or require more protection from interference than the coordinated fixed-satellite service frequency assignments. With respect to the space services, this band shall be used principally for the fixed-satellite service.

(486) 5.486 *Different category of service:* in the United States, the allocation of the frequency band 11.7–12.1 GHz to the fixed service is on a secondary basis (*see* No. 5.32).

(487) 5.487 In the band 11.7–12.5 GHz in Regions 1 and 3, the fixed, fixed-satellite, mobile, except aeronautical mobile, and broadcasting services, in accordance with their respective allocations, shall not cause harmful interference to, or claim protection from, broadcasting-satellite stations

operating in accordance with the Regions 1 and 3 Plan in Appendix 30.

(i) 5.487A *Additional allocation:* in Region 1, the band 11.7–12.5 GHz, in Region 2, the band 12.2–12.7 GHz and, in Region 3, the band 11.7–12.2 GHz, are also allocated to the fixed-satellite service (space-to-Earth) on a primary basis, limited to non-geostationary systems and subject to application of the provisions of No. 9.12 for coordination with other non-geostationary-satellite systems in the fixed-satellite service. Non-geostationary-satellite systems in the fixed-satellite service shall not claim protection from geostationary-satellite networks in the broadcasting-satellite service operating in accordance with the Radio Regulations, irrespective of the dates of receipt by the Bureau of the complete coordination or notification information, as appropriate, for the non-geostationary-satellite systems in the fixed-satellite service and of the complete coordination or notification information, as appropriate, for the geostationary-satellite networks, and No. 5.43A does not apply. Non-geostationary-satellite systems in the fixed-satellite service in the above bands shall be operated in such a way that any unacceptable interference that may occur during their operation shall be rapidly eliminated.

(ii) [Reserved]

(488) 5.488 The use of the band 11.7–12.2 GHz by geostationary-satellite networks in the fixed-satellite service in Region 2 is subject to application of the provisions of No. 9.14 for coordination with stations of terrestrial services in Regions 1, 2 and 3. For the use of the band 12.2–12.7 GHz by the broadcasting-satellite service in Region 2, *see* Appendix 30.

(489) 5.489 *Additional allocation:* in Peru, the band 12.1–12.2 GHz is also allocated to the fixed service on a primary basis.

(490) 5.490 In Region 2, in the band 12.2–12.7 GHz, existing and future terrestrial radiocommunication services shall not cause harmful interference to the space services operating in conformity with the broadcasting-satellite Plan for Region 2 contained in Appendix 30.

(491) [Reserved]

(492) 5.492 Assignments to stations of the broadcasting-satellite service which are in conformity with the appropriate regional Plan or included in the Regions 1 and 3 List in Appendix 30 may also be used for transmissions in the fixed-satellite service (space-to-Earth), provided that such transmissions do not cause more interference, or require more protection from interference, than the broadcasting-

satellite service transmissions operating in conformity with the Plan or the List, as appropriate.

(493) 5.493 The broadcasting-satellite service in the band 12.5–12.75 GHz in Region 3 is limited to a power flux-density not exceeding $-111 \text{ dB(W/(m}^2 \cdot 27 \text{ MHz))}$ for all conditions and for all methods of modulation at the edge of the service area.

(494) 5.494 *Additional allocation:* in Algeria, Saudi Arabia, Bahrain, Cameroon, the Central African Rep., Congo (Rep. of the), Côte d'Ivoire, Djibouti, Egypt, the United Arab Emirates, Eritrea, Ethiopia, Gabon, Ghana, Guinea, Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Madagascar, Mali, Morocco, Mongolia, Nigeria, Oman, Qatar, the Syrian Arab Republic, the Dem. Rep. of the Congo, Somalia, Sudan, South Sudan, Chad, Togo and Yemen, the frequency band 12.5–12.75 GHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a primary basis.

(495) 5.495 *Additional allocation:* in France, Greece, Monaco, Montenegro, Uganda, Romania and Tunisia, the frequency band 12.5–12.75 GHz is also allocated to the fixed and mobile, except aeronautical mobile, services on a secondary basis.

(496) 5.496 *Additional allocation:* in Austria, Azerbaijan, Kyrgyzstan and Turkmenistan, the band 12.5–12.75 GHz is also allocated to the fixed service and the mobile, except aeronautical mobile, service on a primary basis. However, stations in these services shall not cause harmful interference to fixed-satellite service earth stations of countries in Region 1 other than those listed in this footnote. Coordination of these earth stations is not required with stations of the fixed and mobile services of the countries listed in this footnote. The power flux-density limit at the Earth's surface given in Table 21–4 of Article 21, for the fixed-satellite service shall apply on the territory of the countries listed in this footnote.

(497) 5.497 The use of the band 13.25–13.4 GHz by the aeronautical radionavigation service is limited to Doppler navigation aids.

(498) 5.498A The Earth exploration-satellite (active) and space research (active) services operating in the band 13.25–13.4 GHz shall not cause harmful interference to, or constrain the use and development of, the aeronautical radionavigation service.

(499) 5.499 *Additional allocation:* in Bangladesh and India, the band 13.25–14 GHz is also allocated to the fixed service on a primary basis. In Pakistan, the band 13.25–13.75 GHz is allocated to the fixed service on a primary basis.

(i) 5.499A The use of the frequency band 13.4–13.65 GHz by the fixed-satellite service (space-to-Earth) is limited to geostationary-satellite systems and is subject to agreement obtained under No. 9.21 with respect to satellite systems operating in the space research service (space-to-space) to relay data from space stations in the geostationary-satellite orbit to associated space stations in non-geostationary satellite orbits for which advance publication information has been received by the Bureau by 27 November 2015.

(ii) 5.499B Administrations shall not preclude the deployment and operation of transmitting earth stations in the standard frequency and time signal-satellite service (Earth-to-space) allocated on a secondary basis in the frequency band 13.4–13.65 GHz due to the primary allocation to FSS (space-to-Earth).

(iii) 5.499C The allocation of the frequency band 13.4–13.65 GHz to the space research service on a primary basis is limited to: satellite systems operating in the space research service (space-to-space) to relay data from space stations in the geostationary-satellite orbit to associated space stations in non-geostationary satellite orbits for which advance publication information has been received by the Bureau by 27 November 2015; active spaceborne sensors; and satellite systems operating in the space research service (space-to-Earth) to relay data from space stations to associated earth stations. Other uses of the frequency band by the space research service are on a secondary basis.

(iv) 5.499D In the frequency band 13.4–13.65 GHz, satellite systems in the space research service (space-to-Earth) and/or the space research service (space-to-space) shall not cause harmful interference to, nor claim protection from, stations in the fixed, mobile, radiolocation and Earth exploration-satellite (active) services.

(v) 5.499E In the frequency band 13.4–13.65 GHz, geostationary-satellite networks in the fixed-satellite service (space-to-Earth) shall not claim protection from space stations in the Earth exploration-satellite service (active) operating in accordance with these Regulations, and No. 5.43A does not apply. The provisions of No. 22.2 do not apply to the Earth exploration-satellite service (active) with respect to the fixed-satellite service (space-to-Earth) in this frequency band.

(500) 5.500 *Additional allocation:* in Algeria, Saudi Arabia, Bahrain, Brunei Darussalam, Cameroon, Egypt, the

United Arab Emirates, Gabon, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kuwait, Lebanon, Madagascar, Malaysia, Mali, Morocco, Mauritania, Niger, Nigeria, Oman, Qatar, the Syrian Arab Republic, Singapore, Sudan, South Sudan, Chad and Tunisia, the frequency band 13.4–14 GHz is also allocated to the fixed and mobile services on a primary basis. In Pakistan, the frequency band 13.4–13.75 GHz is also allocated to the fixed and mobile services on a primary basis.

(501) 5.501 *Additional allocation:* in Azerbaijan, Hungary, Japan, Kyrgyzstan, Romania and Turkmenistan, the band 13.4–14 GHz is also allocated to the radionavigation service on a primary basis.

(i) 5.501A The allocation of the frequency band 13.65–13.75 GHz to the space research service on a primary basis is limited to active spaceborne sensors. Other uses of the frequency band by the space research service are on a secondary basis.

(ii) 5.501B In the band 13.4–13.75 GHz, the Earth exploration-satellite (active) and space research (active) services shall not cause harmful interference to, or constrain the use and development of, the radiolocation service.

(502) 5.502 In the band 13.75–14 GHz, an earth station of a geostationary fixed-satellite service network shall have a minimum antenna diameter of 1.2 m and an earth station of a non-geostationary fixed-satellite service system shall have a minimum antenna diameter of 4.5 m. In addition, the e.i.r.p., averaged over one second, radiated by a station in the radiolocation or radionavigation services shall not exceed 59 dBW for elevation angles above 2° and 65 dBW at lower angles. Before an administration brings into use an earth station in a geostationary-satellite network in the fixed-satellite service in this band with an antenna diameter smaller than 4.5 m, it shall ensure that the power flux-density produced by this earth station does not exceed: $-115 \text{ dB(W/(m}^2 \cdot 10 \text{ MHz))}$ for more than 1% of the time produced at 36 m above sea level at the low water mark, as officially recognized by the coastal State; and $-115 \text{ dB(W/(m}^2 \cdot 10 \text{ MHz))}$ for more than 1% of the time produced 3 m above ground at the border of the territory of an administration deploying or planning to deploy land mobile radars in this band, unless prior agreement has been obtained. For earth stations within the fixed-satellite service having an antenna diameter greater than or equal to 4.5 m, the e.i.r.p. of any emission should be at

least 68 dBW and should not exceed 85 dBW.

(503) 5.503 In the band 13.75–14 GHz, geostationary space stations in the space research service for which information for advance publication has been received by the Bureau prior to 31 January 1992 shall operate on an equal basis with stations in the fixed-satellite service; after that date, new geostationary space stations in the space research service will operate on a secondary basis. Until those geostationary space stations in the space research service for which information for advance publication has been received by the Bureau prior to 31 January 1992 cease to operate in this band:

(i) in the band 13.77–13.78 GHz, the e.i.r.p. density of emissions from any earth station in the fixed-satellite service operating with a space station in geostationary-satellite orbit shall not exceed:

(A) $4.7D + 28$ dB (W/40 kHz), where D is the fixed-satellite service earth station antenna diameter (m) for antenna diameters equal to or greater than 1.2 m and less than 4.5 m;

(B) $49.2 + 20 \log(D/4.5)$ dB(W/40 kHz), where D is the fixed-satellite service earth station antenna diameter (m) for antenna diameters equal to or greater than 4.5 m and less than 31.9 m;

(C) 66.2 dB(W/40 kHz) for any fixed-satellite service earth station for antenna diameters (m) equal to or greater than 31.9 m;

(D) 56.2 dB(W/4 kHz) for narrow-band (less than 40 kHz of necessary bandwidth) fixed-satellite service earth station emissions from any fixed-satellite service earth station having an antenna diameter of 4.5 m or greater;

(ii) The e.i.r.p. density of emissions from any earth station in the fixed-satellite service operating with a space station in non-geostationary-satellite orbit shall not exceed 51 dBW in the 6 MHz band from 13.772 to 13.778 GHz.

(iii) Automatic power control may be used to increase the e.i.r.p. density in these frequency ranges to compensate for rain attenuation, to the extent that the power flux-density at the fixed-satellite service space station does not exceed the value resulting from use by an earth station of an e.i.r.p. meeting the above limits in clear-sky conditions.

(504) 5.504 The use of the band 14–14.3 GHz by the radionavigation service shall be such as to provide sufficient protection to space stations of the fixed-satellite service.

(i) 5.504A In the band 14–14.5 GHz, aircraft earth stations in the secondary aeronautical mobile-satellite service may also communicate with space

stations in the fixed-satellite service. The provisions of Nos. 5.29, 5.30 and 5.31 apply.

(ii) 5.504B Aircraft earth stations operating in the aeronautical mobile-satellite service in the frequency band 14–14.5 GHz shall comply with the provisions of Annex 1, Part C of Recommendation ITU-R M.1643–0, with respect to any radio astronomy station performing observations in the 14.47–14.5 GHz frequency band located on the territory of Spain, France, India, Italy, the United Kingdom and South Africa.

(iii) 5.504C In the frequency band 14–14.25 GHz, the power flux-density produced on the territory of the countries of Saudi Arabia, Bahrain, Botswana, Côte d'Ivoire, Egypt, Guinea, India, Iran (Islamic Republic of), Kuwait, Nigeria, Oman, the Syrian Arab Republic and Tunisia by any aircraft earth station in the aeronautical mobile-satellite service shall not exceed the limits given in Annex 1, Part B of Recommendation ITU-R M.1643–0, unless otherwise specifically agreed by the affected administration(s). The provisions of this footnote in no way derogate the obligations of the aeronautical mobile-satellite service to operate as a secondary service in accordance with No. 5.29.

(505) 5.505 *Additional allocation:* in Algeria, Saudi Arabia, Bahrain, Botswana, Brunei Darussalam, Cameroon, China, Congo (Rep. of the), Korea (Rep. of), Djibouti, Egypt, the United Arab Emirates, Gabon, Guinea, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Japan, Jordan, Kuwait, Lebanon, Malaysia, Mali, Morocco, Mauritania, Oman, the Philippines, Qatar, the Syrian Arab Republic, the Dem. People's Rep. of Korea, Singapore, Somalia, Sudan, South Sudan, Swaziland, Chad, Viet Nam and Yemen, the frequency band 14–14.3 GHz is also allocated to the fixed service on a primary basis.

(506) 5.506 The band 14–14.5 GHz may be used, within the fixed-satellite service (Earth-to-space), for feeder links for the broadcasting-satellite service, subject to coordination with other networks in the fixed-satellite service. Such use of feeder links is reserved for countries outside Europe.

(i) 5.506A In the band 14–14.5 GHz, ship earth stations with an e.i.r.p. greater than 21 dBW shall operate under the same conditions as earth stations located on board vessels, as provided in Resolution 902 (WRC–03). This footnote shall not apply to ship earth stations for which the complete Appendix 4 information has been received by the Bureau prior to 5 July 2003.

(ii) 5.506B Earth stations located on board vessels communicating with space stations in the fixed-satellite service may operate in the frequency band 14–14.5 GHz without the need for prior agreement from Cyprus and Malta, within the minimum distance given in Resolution 902 (WRC–03) from these countries.

(507) [Reserved]

(508) 5.508 *Additional allocation:* in Germany, France, Italy, Libya, The Former Yugoslav Rep. of Macedonia and the United Kingdom, the band 14.25–14.3 GHz is also allocated to the fixed service on a primary basis.

(i) 5.508A In the frequency band 14.25–14.3 GHz, the power flux-density produced on the territory of the countries of Saudi Arabia, Bahrain, Botswana, China, Côte d'Ivoire, Egypt, France, Guinea, India, Iran (Islamic Republic of), Italy, Kuwait, Nigeria, Oman, the Syrian Arab Republic, the United Kingdom and Tunisia by any aircraft earth station in the aeronautical mobile-satellite service shall not exceed the limits given in Annex 1, Part B of Recommendation ITU-R M.1643–0, unless otherwise specifically agreed by the affected administration(s). The provisions of this footnote in no way derogate the obligations of the aeronautical mobile-satellite service to operate as a secondary service in accordance with No. 5.29.

(ii) [Reserved]

(509) 5.509A In the frequency band 14.3–14.5 GHz, the power flux-density produced on the territory of the countries of Saudi Arabia, Bahrain, Botswana, Cameroon, China, Côte d'Ivoire, Egypt, France, Gabon, Guinea, India, Iran (Islamic Republic of), Italy, Kuwait, Morocco, Nigeria, Oman, the Syrian Arab Republic, the United Kingdom, Sri Lanka, Tunisia and Viet Nam by any aircraft earth station in the aeronautical mobile-satellite service shall not exceed the limits given in Annex 1, Part B of Recommendation ITU-R M.1643–0, unless otherwise specifically agreed by the affected administration(s). The provisions of this footnote in no way derogate the obligations of the aeronautical mobile-satellite service to operate as a secondary service in accordance with No. 5.29.

(i) 5.509B The use of the frequency bands 14.5–14.75 GHz in countries listed in Resolution 163 (WRC–15) and 14.5–14.8 GHz in countries listed in Resolution 164 (WRC–15) by the fixed-satellite service (Earth-to-space) not for feeder links for the broadcasting-satellite service is limited to geostationary-satellites.

(ii) 5.509C For the use of the frequency bands 14.5–14.75 GHz in countries listed in Resolution 163 (WRC–15) and 14.5–14.8 GHz in countries listed in Resolution 164 (WRC–15) by the fixed-satellite service (Earth-to-space) not for feeder links for the broadcasting-satellite service, the fixed-satellite service earth stations shall have a minimum antenna diameter of 6 m and a maximum power spectral density of -44.5 dBW/Hz at the input of the antenna. The earth stations shall be notified at known locations on land.

(iii) 5.509D Before an administration brings into use an earth station in the fixed-satellite service (Earth-to-space) not for feeder links for the broadcasting-satellite service in the frequency bands 14.5–14.75 GHz (in countries listed in Resolution 163 (WRC–15)) and 14.5–14.8 GHz (in countries listed in Resolution 164 (WRC–15)), it shall ensure that the power flux-density produced by this earth station does not exceed -151.5 dB(W/(m² · 4 kHz)) produced at all altitudes from 0 m to 19000 m above sea level at 22 km seaward from all coasts, defined as the low-water mark, as officially recognized by each coastal State.

(iv) 5.509E In the frequency bands 14.50–14.75 GHz in countries listed in Resolution 163 (WRC–15) and 14.50–14.8 GHz in countries listed in Resolution 164 (WRC–15), the location of earth stations in the fixed-satellite service (Earth-to-space) not for feeder links for the broadcasting-satellite service shall maintain a separation distance of at least 500 km from the border(s) of other countries unless shorter distances are explicitly agreed by those administrations. No. 9.17 does not apply. When applying this provision, administrations should consider the relevant parts of these Regulations and the latest relevant ITU–R Recommendations.

(v) 5.509F In the frequency bands 14.50–14.75 GHz in countries listed in Resolution 163 (WRC–15) and 14.50–14.8 GHz in countries listed in Resolution 164 (WRC–15), earth stations in the fixed-satellite service (Earth-to-space) not for feeder links for the broadcasting-satellite service shall not constrain the future deployment of the fixed and mobile services.

(vi) 5.509G The frequency band 14.5–14.8 GHz is also allocated to the space research service on a primary basis. However, such use is limited to the satellite systems operating in the space research service (Earth-to-space) to relay data to space stations in the geostationary-satellite orbit from associated earth stations. Stations in the space research service shall not cause

harmful interference to, or claim protection from, stations in the fixed and mobile services and in the fixed-satellite service limited to feeder links for the broadcasting-satellite service and associated space operations functions using the guardbands under Appendix 30A and feeder links for the broadcasting-satellite service in Region 2. Other uses of this frequency band by the space research service are on a secondary basis.

(510) 5.510 Except for use in accordance with Resolution 163 (WRC–15) and Resolution 164 (WRC–15), the use of the frequency band 14.5–14.8 GHz by the fixed-satellite service (Earth-to-space) is limited to feeder links for the broadcasting-satellite service. This use is reserved for countries outside Europe. Uses other than feeder links for the broadcasting-satellite service are not authorized in Regions 1 and 2 in the frequency band 14.75–14.8 GHz.

(511) 5.511 *Additional allocation:* in Saudi Arabia, Bahrain, Cameroon, Egypt, the United Arab Emirates, Guinea, Iran (Islamic Republic of), Iraq, Israel, Kuwait, Lebanon, Oman, Pakistan, Qatar, the Syrian Arab Republic and Somalia, the band 15.35–15.4 GHz is also allocated to the fixed and mobile services on a secondary basis.

(i) 5.511A Use of the frequency band 15.43–15.63 GHz by the fixed-satellite service (Earth-to-space) is limited to feeder links of non-geostationary systems in the mobile-satellite service, subject to coordination under No. 9.11A.

(ii) 5.511C Stations operating in the aeronautical radionavigation service shall limit the effective e.i.r.p. in accordance with Recommendation ITU–R S.1340–0. The minimum coordination distance required to protect the aeronautical radionavigation stations (No. 4.10 applies) from harmful interference from feeder-link earth stations and the maximum e.i.r.p. transmitted towards the local horizontal plane by a feeder-link earth station shall be in accordance with Recommendation ITU–R S.1340–0.

(iii) 5.511E In the frequency band 15.4–15.7 GHz, stations operating in the radiolocation service shall not cause harmful interference to, or claim protection from, stations operating in the aeronautical radionavigation service.

(iv) 5.511F In order to protect the radio astronomy service in the frequency band 15.35–15.4 GHz, radiolocation stations operating in the frequency band 15.4–15.7 GHz shall not exceed the power flux-density level of -156 dB(W/m²) in a 50 MHz bandwidth in the frequency band 15.35–

15.4 GHz, at any radio astronomy observatory site for more than 2 per cent of the time.

(512) 5.512 *Additional allocation:* in Algeria, Saudi Arabia, Austria, Bahrain, Bangladesh, Brunei Darussalam, Cameroon, Congo (Rep. of the), Egypt, El Salvador, the United Arab Emirates, Eritrea, Finland, Guatemala, India, Indonesia, Iran (Islamic Republic of), Jordan, Kenya, Kuwait, Lebanon, Libya, Malaysia, Mali, Morocco, Mauritania, Montenegro, Nepal, Nicaragua, Niger, Oman, Pakistan, Qatar, Syrian Arab Republic, the Dem. Rep. of the Congo, Singapore, Somalia, Sudan, South Sudan, Chad, Togo and Yemen, the frequency band 15.7–17.3 GHz is also allocated to the fixed and mobile services on a primary basis.

(513) 5.513 *Additional allocation:* in Israel, the band 15.7–17.3 GHz is also allocated to the fixed and mobile services on a primary basis. These services shall not claim protection from or cause harmful interference to services operating in accordance with the Table in countries other than those included in No. 5.512.

(i) 5.513A Spaceborne active sensors operating in the band 17.2–17.3 GHz shall not cause harmful interference to, or constrain the development of, the radiolocation and other services allocated on a primary basis.

(ii) [Reserved]

(514) 5.514 *Additional allocation:* in Algeria, Saudi Arabia, Bahrain, Bangladesh, Cameroon, El Salvador, the United Arab Emirates, Guatemala, India, Iran (Islamic Republic of), Iraq, Israel, Italy, Japan, Jordan, Kuwait, Libya, Lithuania, Nepal, Nicaragua, Nigeria, Oman, Uzbekistan, Pakistan, Qatar, Kyrgyzstan, Sudan and South Sudan, the frequency band 17.3–17.7 GHz is also allocated to the fixed and mobile services on a secondary basis. The power limits given in Nos. 21.3 and 21.5 shall apply.

(515) 5.515 In the band 17.3–17.8 GHz, sharing between the fixed-satellite service (Earth-to-space) and the broadcasting-satellite service shall also be in accordance with the provisions of section 1 of Annex 4 of Appendix 30A.

(516) 5.516 The use of the band 17.3–18.1 GHz by geostationary-satellite systems in the fixed-satellite service (Earth-to-space) is limited to feeder links for the broadcasting-satellite service. The use of the band 17.3–17.8 GHz in Region 2 by systems in the fixed-satellite service (Earth-to-space) is limited to geostationary satellites. For the use of the band 17.3–17.8 GHz in Region 2 by feeder links for the broadcasting-satellite service in the band 12.2–12.7 GHz, see Article 11. The

use of the bands 17.3–18.1 GHz (Earth-to-space) in Regions 1 and 3 and 17.8–18.1 GHz (Earth-to-space) in Region 2 by non-geostationary-satellite systems in the fixed-satellite service is subject to application of the provisions of No. 9.12 for coordination with other non-geostationary-satellite systems in the fixed-satellite service. Non-geostationary-satellite systems in the fixed-satellite service shall not claim protection from geostationary-satellite networks in the fixed-satellite service operating in accordance with the Radio Regulations, irrespective of the dates of receipt by the Bureau of the complete coordination or notification information, as appropriate, for the non-geostationary-satellite systems in the fixed-satellite service and of the complete coordination or notification information, as appropriate, for the geostationary-satellite networks, and No. 5.43A does not apply. Non-geostationary-satellite systems in the fixed-satellite service in the above bands shall be operated in such a way that any unacceptable interference that may occur during their operation shall be rapidly eliminated.

(i) 5.516A In the band 17.3–17.7 GHz, earth stations of the fixed-satellite service (space-to-Earth) in Region 1 shall not claim protection from the broadcasting-satellite service feeder-link earth stations operating under Appendix 30A, nor put any limitations or restrictions on the locations of the broadcasting-satellite service feeder-link earth stations anywhere within the service area of the feeder link.

(ii) 5.516B The following bands are identified for use by high-density applications in the fixed-satellite service: 17.3–17.7 GHz (space-to-Earth) in Region 1, 18.3–19.3 GHz (space-to-Earth) in Region 2, 19.7–20.2 GHz (space-to-Earth) in all Regions, 39.5–40 GHz (space-to-Earth) in Region 1, 40–40.5 GHz (space-to-Earth) in all Regions, 40.5–42 GHz (space-to-Earth) in Region 2, 47.5–47.9 GHz (space-to-Earth) in Region 1, 48.2–48.54 GHz (space-to-Earth) in Region 1, 49.44–50.2 GHz (space-to-Earth) in Region 1, and 27.5–27.82 GHz (Earth-to-space) in Region 1, 28.35–28.45 GHz (Earth-to-space) in Region 2, 28.45–28.94 GHz (Earth-to-space) in all Regions, 28.94–29.1 GHz (Earth-to-space) in Region 2 and 3, 29.25–29.46 GHz (Earth-to-space) in Region 2, 29.46–30 GHz (Earth-to-space) in all Regions, 48.2–50.2 GHz (Earth-to-space) in Region 2. This identification does not preclude the use of these bands by other fixed-satellite service applications or by other services to which these bands are allocated on a co-primary basis and does not establish

priority in these Radio Regulations among users of the bands. Administrations should take this into account when considering regulatory provisions in relation to these bands. See Resolution 143 (Rev.WRC–07).

(517) 5.517 In Region 2, use of the fixed-satellite (space-to-Earth) service in the band 17.7–17.8 GHz shall not cause harmful interference to nor claim protection from assignments in the broadcasting-satellite service operating in conformity with the Radio Regulations.

(518) [Reserved]

(519) 5.519 *Additional allocation:* the bands 18–18.3 GHz in Region 2 and 18.1–18.4 GHz in Regions 1 and 3 are also allocated to the meteorological-satellite service (space-to-Earth) on a primary basis. Their use is limited to geostationary satellites.

(520) 5.520 The use of the band 18.1–18.4 GHz by the fixed-satellite service (Earth-to-space) is limited to feeder links of geostationary-satellite systems in the broadcasting-satellite service.

(521) 5.521 *Alternative allocation:* in the United Arab Emirates and Greece, the frequency band 18.1–18.4 GHz is allocated to the fixed, fixed-satellite (space-to-Earth) and mobile services on a primary basis (see No. 5.33). The provisions of No. 5.519 also apply.

(522) 5.522A The emissions of the fixed service and the fixed-satellite service in the band 18.6–18.8 GHz are limited to the values given in Nos. 21.5A and 21.16.2, respectively.

(i) 5.522B The use of the band 18.6–18.8 GHz by the fixed-satellite service is limited to geostationary systems and systems with an orbit of apogee greater than 20 000 km.

(ii) 5.522C In the band 18.6–18.8 GHz, in Algeria, Saudi Arabia, Bahrain, Egypt, the United Arab Emirates, Jordan, Lebanon, Libya, Morocco, Oman, Qatar, the Syrian Arab Republic, Tunisia and Yemen, fixed-service systems in operation at the date of entry into force of the Final Acts of WRC–2000 are not subject to the limits of No. 21.5A.

(523) 5.523A The use of the bands 18.8–19.3 GHz (space-to-Earth) and 28.6–29.1 GHz (Earth-to-space) by geostationary and non-geostationary fixed-satellite service networks is subject to the application of the provisions of No. 9.11A and No. 22.2 does not apply. Administrations having geostationary-satellite networks under coordination prior to 18 November 1995 shall cooperate to the maximum extent possible to coordinate pursuant to No. 9.11A with non-geostationary-satellite networks for which notification information has been received by the

Bureau prior to that date, with a view to reaching results acceptable to all the parties concerned. Non-geostationary-satellite networks shall not cause unacceptable interference to geostationary fixed-satellite service networks for which complete Appendix 4 notification information is considered as having been received by the Bureau prior to 18 November 1995.

(i) 5.523B The use of the band 19.3–19.6 GHz (Earth-to-space) by the fixed-satellite service is limited to feeder links for non-geostationary-satellite systems in the mobile-satellite service. Such use is subject to the application of the provisions of No. 9.11A, and No. 22.2 does not apply.

(ii) 5.523C No. 22.2 shall continue to apply in the bands 19.3–19.6 GHz and 29.1–29.4 GHz, between feeder links of non-geostationary mobile-satellite service networks and those fixed-satellite service networks for which complete Appendix 4 coordination information, or notification information, is considered as having been received by the Bureau prior to 18 November 1995.

(iii) 5.523D The use of the band 19.3–19.7 GHz (space-to-Earth) by geostationary fixed-satellite service systems and by feeder links for non-geostationary-satellite systems in the mobile-satellite service is subject to the application of the provisions of No. 9.11A, but not subject to the provisions of No. 22.2. The use of this band for other non-geostationary fixed-satellite service systems, or for the cases indicated in Nos. 5.523C and 5.523E, is not subject to the provisions of No. 9.11A and shall continue to be subject to Articles 9 (except No. 9.11A) and 11 procedures, and to the provisions of No. 22.2.

(iv) 5.523E No. 22.2 shall continue to apply in the bands 19.6–19.7 GHz and 29.4–29.5 GHz, between feeder links of non-geostationary mobile-satellite service networks and those fixed-satellite service networks for which complete Appendix 4 coordination information, or notification information, is considered as having been received by the Bureau by 21 November 1997.

(524) 5.524 *Additional allocation:* in Afghanistan, Algeria, Saudi Arabia, Bahrain, Brunei Darussalam, Cameroon, China, Congo (Rep. of the), Costa Rica, Egypt, the United Arab Emirates, Gabon, Guatemala, Guinea, India, Iran (Islamic Republic of), Iraq, Israel, Japan, Jordan, Kuwait, Lebanon, Malaysia, Mali, Morocco, Mauritania, Nepal, Nigeria, Oman, Pakistan, the Philippines, Qatar, the Syrian Arab Republic, the Dem. Rep. of the Congo, the Dem. People's Rep. of

Korea, Singapore, Somalia, Sudan, South Sudan, Chad, Togo and Tunisia, the frequency band 19.7–21.2 GHz is also allocated to the fixed and mobile services on a primary basis. This additional use shall not impose any limitation on the power flux-density of space stations in the fixed-satellite service in the frequency band 19.7–21.2 GHz and of space stations in the mobile-satellite service in the frequency band 19.7–20.2 GHz where the allocation to a primary basis in the latter frequency band.

(525) 5.525 In order to facilitate interregional coordination between networks in the mobile-satellite and fixed-satellite services, carriers in the mobile-satellite service that are most susceptible to interference shall, to the extent practicable, be located in the higher parts of the bands 19.7–20.2 GHz and 29.5–30 GHz.

(526) 5.526 In the bands 19.7–20.2 GHz and 29.5–30 GHz in Region 2, and in the bands 20.1–20.2 GHz and 29.9–30 GHz in Regions 1 and 3, networks which are both in the fixed-satellite service and in the mobile-satellite service may include links between earth stations at specified or unspecified points or while in motion, through one or more satellites for point-to-point and point-to-multipoint communications.

(527) 5.527 In the bands 19.7–20.2 GHz and 29.5–30 GHz, the provisions of No. 4.10 do not apply with respect to the mobile-satellite service.

(i) 5.527A The operation of earth stations in motion communicating with the FSS is subject to Resolution 156 (WRC-15).

(ii) [Reserved]

(528) 5.528 The allocation to the mobile-satellite service is intended for use by networks which use narrow spot-beam antennas and other advanced technology at the space stations. Administrations operating systems in the mobile-satellite service in the band 19.7–20.1 GHz in Region 2 and in the band 20.1–20.2 GHz shall take all practicable steps to ensure the continued availability of these bands for administrations operating fixed and mobile systems in accordance with the provisions of No. 5.524.

(529) 5.529 The use of the bands 19.7–20.1 GHz and 29.5–29.9 GHz by the mobile-satellite service in Region 2 is limited to satellite networks which are both in the fixed-satellite service and in the mobile-satellite service as described in No. 5.526.

(530) 5.530A Unless otherwise agreed between the administrations concerned, any station in the fixed or mobile services of an administration

shall not produce a power flux-density in excess of $-120.4 \text{ dB(W/(m}^2 \cdot \text{MHz))}$ at 3 m above the ground of any point of the territory of any other administration in Regions 1 and 3 for more than 20% of the time. In conducting the calculations, administrations should use the most recent version of Recommendation ITU-R P.452 (see also the most recent version of Recommendation ITU-R BO.1898).

(i) 5.530B In the band 21.4–22 GHz, in order to facilitate the development of the broadcasting-satellite service, administrations in Regions 1 and 3 are encouraged not to deploy stations in the mobile service and are encouraged to limit the deployment of stations in the fixed service to point-to-point links.

(ii) 5.530D See Resolution 555 (Rev.WRC-15).

(531) 5.531 *Additional allocation:* in Japan, the band 21.4–22 GHz is also allocated to the broadcasting service on a primary basis.

(532) 5.532 The use of the band 22.21–22.5 GHz by the Earth exploration-satellite (passive) and space research (passive) services shall not impose constraints upon the fixed and mobile, except aeronautical mobile, services.

(i) 5.532A The location of earth stations in the space research service shall maintain a separation distance of at least 54 km from the respective border(s) of neighbouring countries to protect the existing and future deployment of fixed and mobile services unless a shorter distance is otherwise agreed between the corresponding administrations. Nos. 9.17 and 9.18 do not apply.

(ii) 5.532B Use of the band 24.65–25.25 GHz in Region 1 and the band 24.65–24.75 GHz in Region 3 by the fixed-satellite service (Earth-to-space) is limited to earth stations using a minimum antenna diameter of 4.5 m.

(533) 5.533 The inter-satellite service shall not claim protection from harmful interference from airport surface detection equipment stations of the radionavigation service.

(534) [Reserved]

(535) 5.535 In the band 24.75–25.25 GHz, feeder links to stations of the broadcasting-satellite service shall have priority over other uses in the fixed-satellite service (Earth-to-space). Such other uses shall protect and shall not claim protection from existing and future operating feeder-link networks to such broadcasting satellite stations.

(i) 5.535A The use of the band 29.1–29.5 GHz (Earth-to-space) by the fixed-satellite service is limited to geostationary-satellite systems and feeder links to non-geostationary-

satellite systems in the mobile-satellite service. Such use is subject to the application of the provisions of No. 9.11A, but not subject to the provisions of No. 22.2, except as indicated in Nos. 5.523C and 5.523E where such use is not subject to the provisions of No. 9.11A and shall continue to be subject to Articles 9 (except No. 9.11A) and 11 procedures, and to the provisions of No. 22.2.

(ii) [Reserved]

(536) 5.536 Use of the 25.25–27.5 GHz band by the inter-satellite service is limited to space research and Earth exploration-satellite applications, and also transmissions of data originating from industrial and medical activities in space.

(i) 5.536A Administrations operating earth stations in the Earth exploration-satellite service or the space research service shall not claim protection from stations in the fixed and mobile services operated by other administrations. In addition, earth stations in the Earth exploration-satellite service or in the space research service should be operated taking into account the most recent version of Recommendation ITU-R SA.1862.

(ii) 5.536B In Saudi Arabia, Austria, Bahrain, Belgium, Brazil, China, Korea (Rep. of), Denmark, Egypt, United Arab Emirates, Estonia, Finland, Hungary, India, Iran (Islamic Republic of), Ireland, Israel, Italy, Jordan, Kenya, Kuwait, Lebanon, Libya, Lithuania, Moldova, Norway, Oman, Uganda, Pakistan, the Philippines, Poland, Portugal, the Syrian Arab Republic, Dem. People's Rep. of Korea, Slovakia, the Czech Rep., Romania, the United Kingdom, Singapore, Sweden, Tanzania, Turkey, Viet Nam and Zimbabwe, earth stations operating in the Earth exploration-satellite service in the frequency band 25.5–27 GHz shall not claim protection from, or constrain the use and deployment of, stations of the fixed and mobile services.

(iii) 5.536C In Algeria, Saudi Arabia, Bahrain, Botswana, Brazil, Cameroon, Comoros, Cuba, Djibouti, Egypt, United Arab Emirates, Estonia, Finland, Iran (Islamic Republic of), Israel, Jordan, Kenya, Kuwait, Lithuania, Malaysia, Morocco, Nigeria, Oman, Qatar, Syrian Arab Republic, Somalia, Sudan, South Sudan, Tanzania, Tunisia, Uruguay, Zambia and Zimbabwe, earth stations operating in the space research service in the band 25.5–27 GHz shall not claim protection from, or constrain the use and deployment of, stations of the fixed and mobile services.

(537) 5.537 Space services using non-geostationary satellites operating in the inter-satellite service in the band

27–27.5 GHz are exempt from the provisions of No. 22.2.

(i) 5.537A In Bhutan, Cameroon, Korea (Rep. of), the Russian Federation, India, Indonesia, Iran (Islamic Republic of), Iraq, Japan, Kazakhstan, Malaysia, Maldives, Mongolia, Myanmar, Uzbekistan, Pakistan, the Philippines, Kyrgyzstan, the Dem. People's Rep. of Korea, Sudan, Sri Lanka, Thailand and Viet Nam, the allocation to the fixed service in the band 27.9–28.2 GHz may also be used by high altitude platform stations (HAPS) within the territory of these countries. Such use of 300 MHz of the fixed-service allocation by HAPS in the above countries is further limited to operation in the HAPS-to-ground direction and shall not cause harmful interference to, nor claim protection from, other types of fixed-service systems or other co-primary services. Furthermore, the development of these other services shall not be constrained by HAPS. See Resolution 145 (Rev.WRC–12).

(ii) [Reserved]

(538) 5.538 *Additional allocation:* the bands 27.500–27.501 GHz and 29.999–30.000 GHz are also allocated to the fixed-satellite service (space-to-Earth) on a primary basis for the beacon transmissions intended for up-link power control. Such space-to-Earth transmissions shall not exceed an equivalent isotropically radiated power (e.i.r.p.) of +10 dBW in the direction of adjacent satellites on the geostationary-satellite orbit.

(539) 5.539 The band 27.5–30 GHz may be used by the fixed-satellite service (Earth-to-space) for the provision of feeder links for the broadcasting-satellite service.

(540) 5.540 *Additional allocation:* the band 27.501–29.999 GHz is also allocated to the fixed-satellite service (space-to-Earth) on a secondary basis for beacon transmissions intended for up-link power control.

(541) 5.541 In the band 28.5–30 GHz, the earth exploration-satellite service is limited to the transfer of data between stations and not to the primary collection of information by means of active or passive sensors.

(i) 5.541A Feeder links of non-geostationary networks in the mobile-satellite service and geostationary networks in the fixed-satellite service operating in the band 29.1–29.5 GHz (Earth-to-space) shall employ uplink adaptive power control or other methods of fade compensation, such that the earth station transmissions shall be conducted at the power level required to meet the desired link performance while reducing the level of mutual interference between both

networks. These methods shall apply to networks for which Appendix 4 coordination information is considered as having been received by the Bureau after 17 May 1996 and until they are changed by a future competent world radiocommunication conference. Administrations submitting Appendix 4 information for coordination before this date are encouraged to utilize these techniques to the extent practicable.

(ii) [Reserved]

(542) 5.542 *Additional allocation:* in Algeria, Saudi Arabia, Bahrain, Brunei Darussalam, Cameroon, China, Congo (Rep. of the), Egypt, the United Arab Emirates, Eritrea, Ethiopia, Guinea, India, Iran (Islamic Republic of), Iraq, Japan, Jordan, Kuwait, Lebanon, Malaysia, Mali, Morocco, Mauritania, Nepal, Oman, Pakistan, Philippines, Qatar, the Syrian Arab Republic, the Dem. People's Rep. of Korea, Somalia, Sudan, South Sudan, Sri Lanka and Chad, the band 29.5–31 GHz is also allocated to the fixed and mobile services on a secondary basis. The power limits specified in Nos. 21.3 and 21.5 shall apply.

(543) 5.543 The band 29.95–30 GHz may be used for space-to-space links in the Earth exploration-satellite service for telemetry, tracking, and control purposes, on a secondary basis.

(i) 5.543A In Bhutan, Cameroon, Korea (Rep. of), the Russian Federation, India, Indonesia, Iran (Islamic Republic of), Iraq, Japan, Kazakhstan, Malaysia, Maldives, Mongolia, Myanmar, Uzbekistan, Pakistan, the Philippines, Kyrgyzstan, the Dem. People's Rep. of Korea, Sudan, Sri Lanka, Thailand and Viet Nam, the allocation to the fixed service in the frequency band 31–31.3 GHz may also be used by systems using high altitude platform stations (HAPS) in the ground-to-HAPS direction. The use of the frequency band 31–31.3 GHz by systems using HAPS is limited to the territory of the countries listed above and shall not cause harmful interference to, nor claim protection from, other types of fixed-service systems, systems in the mobile service and systems operated under paragraph (b)(545) of this section. Furthermore, the development of these services shall not be constrained by HAPS. Systems using HAPS in the frequency band 31–31.3 GHz shall not cause harmful interference to the radio astronomy service having a primary allocation in the frequency band 31.3–31.8 GHz, taking into account the protection criterion as given in the most recent version of Recommendation ITU-R RA.769. In order to ensure the protection of satellite passive services, the level of unwanted power density

into a HAPS ground station antenna in the frequency band 31.3–31.8 GHz shall be limited to –106 dB(W/MHz) under clear-sky conditions, and may be increased up to –100 dB(W/MHz) under rainy conditions to mitigate fading due to rain, provided the effective impact on the passive satellite does not exceed the impact under clear-sky conditions. See Resolution 145 (Rev.WRC–12).

(ii) [Reserved]

(544) 5.544 In the band 31–31.3 GHz the power flux-density limits specified in Article 21, Table 21–4 shall apply to the space research service.

(545) 5.545 *Different category of service:* in Armenia, Georgia, Kyrgyzstan, Tajikistan and Turkmenistan, the allocation of the band 31–31.3 GHz to the space research service is on a primary basis (see No. 5.33).

(546) 5.546 *Different category of service:* in Saudi Arabia, Armenia, Azerbaijan, Belarus, Egypt, the United Arab Emirates, Spain, Estonia, the Russian Federation, Georgia, Hungary, Iran (Islamic Republic of), Israel, Jordan, Lebanon, Moldova, Mongolia, Oman, Uzbekistan, Poland, the Syrian Arab Republic, Kyrgyzstan, Romania, the United Kingdom, South Africa, Tajikistan, Turkmenistan and Turkey, the allocation of the band 31.5–31.8 GHz to the fixed and mobile, except aeronautical mobile, services is on a primary basis (see No. 5.33).

(547) 5.547 The bands 31.8–33.4 GHz, 37–40 GHz, 40.5–43.5 GHz, 51.4–52.6 GHz, 55.78–59 GHz and 64–66 GHz are available for high-density applications in the fixed service (see Resolution 75 (WRC–12)).

Administrations should take this into account when considering regulatory provisions in relation to these bands. Because of the potential deployment of high-density applications in the fixed-satellite service in the bands 39.5–40 GHz and 40.5–42 GHz (see No. 5.516B), administrations should further take into account potential constraints to high-density applications in the fixed service, as appropriate.

(i) 5.547A Administrations should take practical measures to minimize the potential interference between stations in the fixed service and airborne stations in the radionavigation service in the 31.8–33.4 GHz band, taking into account the operational needs of the airborne radar systems.

(ii) 5.547B *Alternative allocation:* in the United States, the band 31.8–32 GHz is allocated to the radionavigation and space research (deep space) (space-to-Earth) services on a primary basis.

(iii) 5.547C *Alternative allocation:* in the United States, the band 32–32.3 GHz is allocated to the radionavigation and space research (deep space) (space-to-Earth) services on a primary basis.

(iv) 5.547D *Alternative allocation:* in the United States, the band 32.3–33 GHz is allocated to the inter-satellite and radionavigation services on a primary basis.

(v) 5.547E *Alternative allocation:* in the United States, the band 33–33.4 GHz is allocated to the radionavigation service on a primary basis.

(548) 5.548 In designing systems for the inter-satellite service in the band 32.3–33 GHz, for the radionavigation service in the band 32–33 GHz, and for the space research service (deep space) in the band 31.8–32.3 GHz, administrations shall take all necessary measures to prevent harmful interference between these services, bearing in mind the safety aspects of the radionavigation service (*see* Recommendation 707).

(549) 5.549 *Additional allocation:* in Saudi Arabia, Bahrain, Bangladesh, Egypt, the United Arab Emirates, Gabon, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Malaysia, Mali, Morocco, Mauritania, Nepal, Nigeria, Oman, Pakistan, the Philippines, Qatar, the Syrian Arab Republic, the Dem. Rep. of the Congo, Singapore, Somalia, Sudan, South Sudan, Sri Lanka, Togo, Tunisia and Yemen, the band 33.4–36 GHz is also allocated to the fixed and mobile services on a primary basis.

(j) 5.549A In the band 35.5–36.0 GHz, the mean power flux-density at the Earth's surface, generated by any spaceborne sensor in the Earth exploration-satellite service (active) or space research service (active), for any angle greater than 0.8° from the beam centre shall not exceed -73.3 dB(W/m²) in this band.

(ii) [Reserved]

(550) 5.550 *Different category of service:* in Armenia, Azerbaijan, Belarus, the Russian Federation, Georgia, Kyrgyzstan, Tajikistan and Turkmenistan, the allocation of the band 34.7–35.2 GHz to the space research service is on a primary basis (*see* No. 5.33).

(i) 5.550A For sharing of the band 36–37 GHz between the Earth exploration-satellite (passive) service and the fixed and mobile services, Resolution 752 (WRC-07) shall apply.

(ii) [Reserved]

(551) 5.551F *Different category of service:* in Japan, the allocation of the band 41.5–42.5 GHz to the mobile service is on a primary basis (*see* No. 5.33).

(i) 5.551H The equivalent power flux-density (epfd) produced in the frequency band 42.5–43.5 GHz by all space stations in any non-geostationary-satellite system in the fixed-satellite service (space-to-Earth), or in the broadcasting-satellite service operating in the frequency band 42–42.5 GHz, shall not exceed the following values at the site of any radio astronomy station for more than 2% of the time: -230 dB(W/m²) in 1 GHz and -246 dB(W/m²) in any 500 kHz of the frequency band 42.5–43.5 GHz at the site of any radio astronomy station registered as a single-dish telescope; and -209 dB(W/m²) in any 500 kHz of the frequency band 42.5–43.5 GHz at the site of any radio astronomy station registered as a very long baseline interferometry station. These epfd values shall be evaluated using the methodology given in Recommendation ITU-R S.1586-1 and the reference antenna pattern and the maximum gain of an antenna in the radio astronomy service given in Recommendation ITU-R RA.1631-0 and shall apply over the whole sky and for elevation angles higher than the minimum operating angle θ_{min} of the radiotelescope (for which a default value of 5° should be adopted in the absence of notified information). These values shall apply at any radio astronomy station that either: was in operation prior to 5 July 2003 and has been notified to the Bureau before 4 January 2004; or was notified before the date of receipt of the complete Appendix 4 information for coordination or notification, as appropriate, for the space station to which the limits apply. Other radio astronomy stations notified after these dates may seek an agreement with administrations that have authorized the space stations. In Region 2, Resolution 743 (WRC-03) shall apply. The limits in this footnote may be exceeded at the site of a radio astronomy station of any country whose administration so agreed.

(ii) 5.551I The power flux-density in the band 42.5–43.5 GHz produced by any geostationary space station in the fixed-satellite service (space-to-Earth), or the broadcasting-satellite service operating in the 42–42.5 GHz band, shall not exceed the following values at the site of any radio astronomy station: -137 dB(W/m²) in 1 GHz and -153 dB(W/m²) in any 500 kHz of the 42.5–43.5 GHz band at the site of any radio astronomy station registered as a single-dish telescope; and -116 dB(W/m²) in any 500 kHz of the 42.5–43.5 GHz band at the site of any radio astronomy station registered as a very long baseline interferometry station. These values

shall apply at the site of any radio astronomy station that either: was in operation prior to 5 July 2003 and has been notified to the Bureau before 4 January 2004; or was notified before the date of receipt of the complete Appendix 4 information for coordination or notification, as appropriate, for the space station to which the limits apply. Other radio astronomy stations notified after these dates may seek an agreement with administrations that have authorized the space stations. In Region 2, Resolution 743 (WRC-03) shall apply. The limits in this footnote may be exceeded at the site of a radio astronomy station of any country whose administration so agreed.

(552) 5.552 The allocation of the spectrum for the fixed-satellite service in the bands 42.5–43.5 GHz and 47.2–50.2 GHz for Earth-to-space transmission is greater than that in the band 37.5–39.5 GHz for space-to-Earth transmission in order to accommodate feeder links to broadcasting satellites. Administrations are urged to take all practicable steps to reserve the band 47.2–49.2 GHz for feeder links for the broadcasting-satellite service operating in the band 40.5–42.5 GHz.

(i) 5.552A The allocation to the fixed service in the bands 47.2–47.5 GHz and 47.9–48.2 GHz is designated for use by high altitude platform stations. The use of the bands 47.2–47.5 GHz and 47.9–48.2 GHz is subject to the provisions of Resolution 122 (Rev. WRC-07).

(ii) [Reserved]

(553) 5.553 In the bands 43.5–47 GHz and 66–71 GHz, stations in the land mobile service may be operated subject to not causing harmful interference to the space radiocommunication services to which these bands are allocated (*see* No. 5.43).

(554) 5.554 In the bands 43.5–47 GHz, 66–71 GHz, 95–100 GHz, 123–130 GHz, 191.8–200 GHz and 252–265 GHz, satellite links connecting land stations at specified fixed points are also authorized when used in conjunction with the mobile-satellite service or the radionavigation-satellite service.

(i) 5.554A The use of the bands 47.5–47.9 GHz, 48.2–48.54 GHz and 49.44–50.2 GHz by the fixed-satellite service (space-to-Earth) is limited to geostationary satellites.

(ii) [Reserved]

(555) 5.555 *Additional allocation:* the band 48.94–49.04 GHz is also allocated to the radio astronomy service on a primary basis.

(i) 5.555B The power flux-density in the band 48.94–49.04 GHz produced by any geostationary space station in the fixed-satellite service (space-to-Earth) operating in the bands 48.2–48.54 GHz

and 49.44–50.2 GHz shall not exceed -151.8 dB(W/m²) in any 500 kHz band at the site of any radio astronomy station.

(ii) [Reserved]

(556) 5.556 In the bands 51.4–54.25 GHz, 58.2–59 GHz and 64–65 GHz, radio astronomy observations may be carried out under national arrangements.

(i) 5.556A Use of the bands 54.25–56.9 GHz, 57–58.2 GHz and 59–59.3 GHz by the inter-satellite service is limited to satellites in the geostationary-satellite orbit. The single-entry power flux-density at all altitudes from 0 km to 1000 km above the Earth's surface produced by a station in the inter-satellite service, for all conditions and for all methods of modulation, shall not exceed -147 dB(W/(m² · 100 MHz)) for all angles of arrival.

(ii) 5.556B *Additional allocation:* in Japan, the band 54.25–55.78 GHz is also allocated to the mobile service on a primary basis for low-density use.

(557) 5.557 *Additional allocation:* in Japan, the band 55.78–58.2 GHz is also allocated to the radiolocation service on a primary basis.

(i) 5.557A In the band 55.78–56.26 GHz, in order to protect stations in the Earth exploration-satellite service (passive), the maximum power density delivered by a transmitter to the antenna of a fixed service station is limited to -26 dB(W/MHz).

(ii) [Reserved]

(558) 5.558 In the bands 55.78–58.2 GHz, 59–64 GHz, 66–71 GHz, 122.25–123 GHz, 130–134 GHz, 167–174.8 GHz and 191.8–200 GHz, stations in the aeronautical mobile service may be operated subject to not causing harmful interference to the inter-satellite service (see No. 5.43).

(i) 5.558A Use of the band 56.9–57 GHz by inter-satellite systems is limited to links between satellites in geostationary-satellite orbit and to transmissions from non-geostationary satellites in high-Earth orbit to those in low-Earth orbit. For links between satellites in the geostationary-satellite orbit, the single entry power flux-density at all altitudes from 0 km to 1000 km above the Earth's surface, for all conditions and for all methods of modulation, shall not exceed -147 dB(W/(m² · 100 MHz)) for all angles of arrival.

(ii) [Reserved]

(559) 5.559 In the band 59–64 GHz, airborne radars in the radiolocation service may be operated subject to not causing harmful interference to the inter-satellite service (see No. 5.43).

(i) 5.559B The use of the frequency band 77.5–78 GHz by the radiolocation

service shall be limited to short-range radar for ground-based applications, including automotive radars. The technical characteristics of these radars are provided in the most recent version of Recommendation ITU-R M.2057. The provisions of No. 4.10 do not apply.

(ii) [Reserved]

(560) 5.560 In the band 78–79 GHz radars located on space stations may be operated on a primary basis in the Earth exploration-satellite service and in the space research service.

(561) 5.561 In the band 74–76 GHz, stations in the fixed, mobile and broadcasting services shall not cause harmful interference to stations of the fixed-satellite service or stations of the broadcasting-satellite service operating in accordance with the decisions of the appropriate frequency assignment planning conference for the broadcasting-satellite service.

(i) 5.561A The 81–81.5 GHz band is also allocated to the amateur and amateur-satellite services on a secondary basis.

(ii) 5.561B In Japan, use of the band 84–86 GHz, by the fixed-satellite service (Earth-to-space) is limited to feeder links in the broadcasting-satellite service using the geostationary-satellite orbit.

(562) 5.562 The use of the band 94–94.1 GHz by the Earth exploration-satellite (active) and space research (active) services is limited to spaceborne cloud radars.

(i) 5.562A In the bands 94–94.1 GHz and 130–134 GHz, transmissions from space stations of the Earth exploration-satellite service (active) that are directed into the main beam of a radio astronomy antenna have the potential to damage some radio astronomy receivers. Space agencies operating the transmitters and the radio astronomy stations concerned should mutually plan their operations so as to avoid such occurrences to the maximum extent possible.

(ii) 5.562B In the bands 105–109.5 GHz, 111.8–114.25 GHz, 155.5–158.5 GHz and 217–226 GHz, the use of this allocation is limited to space-based radio astronomy only.

(iii) 5.562C Use of the band 116–122.25 GHz by the inter-satellite service is limited to satellites in the geostationary-satellite orbit. The single-entry power flux-density produced by a station in the inter-satellite service, for all conditions and for all methods of modulation, at all altitudes from 0 km to 1000 km above the Earth's surface and in the vicinity of all geostationary orbital positions occupied by passive sensors, shall not exceed -148 dB(W/(m² · MHz)) for all angles of arrival.

(iv) 5.562D *Additional allocation:* In Korea (Rep. of), the frequency bands 128–130 GHz, 171–171.6 GHz, 172.2–172.8 GHz and 173.3–174 GHz are also allocated to the radio astronomy service on a primary basis. Radio astronomy stations in Korea (Rep. of) operating in the frequency bands referred to in this footnote shall not claim protection from, or constrain the use and development of, services in other countries operating in accordance with the Radio Regulations.

(v) 5.562E The allocation to the Earth exploration-satellite service (active) is limited to the band 133.5–134 GHz.

(vi) 5.562F In the band 155.5–158.5 GHz, the allocation to the Earth exploration-satellite (passive) and space research (passive) services shall terminate on 1 January 2018.

(vii) 5.562G The date of entry into force of the allocation to the fixed and mobile services in the band 155.5–158.5 GHz shall be 1 January 2018.

(viii) 5.562H Use of the bands 174.8–182 GHz and 185–190 GHz by the inter-satellite service is limited to satellites in the geostationary-satellite orbit. The single-entry power flux-density produced by a station in the inter-satellite service, for all conditions and for all methods of modulation, at all altitudes from 0 to 1000 km above the Earth's surface and in the vicinity of all geostationary orbital positions occupied by passive sensors, shall not exceed -144 dB(W/(m² · MHz)) for all angles of arrival.

(563) 5.563A In the bands 200–209 GHz, 235–238 GHz, 250–252 GHz and 265–275 GHz, ground-based passive atmospheric sensing is carried out to monitor atmospheric constituents.

(i) 5.563B The band 237.9–238 GHz is also allocated to the Earth exploration-satellite service (active) and the space research service (active) for spaceborne cloud radars only.

(ii) [Reserved]

(564) [Reserved]

(565) 5.565 The following frequency bands in the range 275–1000 GHz are identified for use by administrations for passive service applications:

(i) Radio astronomy service: 275–323 GHz, 327–371 GHz, 388–424 GHz, 426–442 GHz, 453–510 GHz, 623–711 GHz, 795–909 GHz and 926–945 GHz; and

(ii) Earth exploration-satellite service (passive) and space research service (passive): 275–286 GHz, 296–306 GHz, 313–356 GHz, 361–365 GHz, 369–392 GHz, 397–399 GHz, 409–411 GHz, 416–434 GHz, 439–467 GHz, 477–502 GHz, 523–527 GHz, 538–581 GHz, 611–630 GHz, 634–654 GHz, 657–692 GHz, 713–718 GHz, 729–733 GHz, 750–754 GHz,

771–776 GHz, 823–846 GHz, 850–854 GHz, 857–862 GHz, 866–882 GHz, 905–928 GHz, 951–956 GHz, 968–973 GHz and 985–990 GHz.

(iii) The use of the range 275–1000 GHz by the passive services does not preclude use of this range by active services. Administrations wishing to make frequencies in the 275–1000 GHz range available for active service applications are urged to take all practicable steps to protect these passive services from harmful interference until the date when the Table of Frequency Allocations is established in the above-mentioned 275–1000 GHz frequency range.

(iv) All frequencies in the range 1000–3000 GHz may be used by both active and passive services.

(c) *United States Footnotes.* United States footnotes, each in the format “US” followed by one or more digits, denote stipulations applicable to both Federal and non-Federal operations and thus appear in both the Federal Table and the non-Federal Table. The list of United States footnotes follows:

(1) US1 The bands 2501–2502 kHz, 5003–5005 kHz, 10 003–10 005 kHz, 15 005–15 010 kHz, 19 990–19 995 kHz, 20 005–20 010 kHz, and 25 005–25 010 kHz are also allocated to the space research service on a secondary basis for Federal use. In the event of interference to the reception of the standard frequency and time broadcasts, these space research transmissions are subject to immediate temporary or permanent shutdown.

(2) US2 In the band 9–490 kHz, electric utilities operate Power Line Carrier (PLC) systems on power transmission lines for communications important to the reliability and security of electric service to the public. These PLC systems operate under the provisions of part 15 of this chapter, or Chapter 8 of the *NTIA Manual*, on an unprotected and non-interference basis with respect to authorized radio users. Notification of intent to place new or revised radio frequency assignments or PLC frequency uses in the band 9–490 kHz is to be made in accordance with the Rules and Regulations of the FCC and NTIA, and users are urged to minimize potential interference to the extent practicable. This footnote does not provide any allocation status to PLC radio frequency uses.

(3)–(7) [Reserved]

(8) US8 The use of the frequencies 170.475, 171.425, 171.575, and 172.275 MHz east of the Mississippi River, and 170.425, 170.575, 171.475, 172.225 and 172.375 MHz west of the Mississippi River may be authorized to fixed, land and mobile stations operated by non-

Federal forest firefighting agencies. In addition, land stations and mobile stations operated by non-Federal conservation agencies, for mobile relay operation only, may be authorized to use the frequency 172.275 MHz east of the Mississippi River and the frequency 171.475 MHz west of the Mississippi River. The use of any of the foregoing nine frequencies shall be on the condition that no harmful interference will be caused to Government stations.

(9)–(10) [Reserved]

(11) US11 On the condition that harmful interference is not caused to present or future Federal stations in the band 162–174 MHz, the frequencies 166.25 MHz and 170.15 MHz may be authorized to non-Federal stations, as follows:

(i) Eligible in the Public Safety Radio Pool may be authorized to operate in the fixed and land mobile services for locations within 150 miles (241.4 kilometers) of New York City; and

(ii) Remote pickup broadcast stations may be authorized to operate in the land mobile service for locations within the conterminous United States, excluding locations within 150 miles of New York City and the Tennessee Valley Authority Area (TVA Area). The TVA Area is bounded on the west by the Mississippi River, on the north by the parallel of latitude 37°30' N, and on the east and south by that arc of the circle with center at Springfield, IL, and radius equal to the airline distance between Springfield, IL and Montgomery, AL, subtended between the foregoing west and north boundaries.

(12) [Reserved]

(13) US13 The center frequencies in table 2 to paragraph (c)(13)(i) of this section, each with a channel bandwidth not greater than 12.5 kHz, are available for assignment to non-Federal fixed stations for the specific purpose of transmitting hydrological and meteorological data in cooperation with Federal agencies, subject to the condition that harmful interference will not be caused to Federal stations:

(i) New assignments on the frequencies 406.125 MHz and 406.175 MHz are to be primarily for paired operations with the frequencies 415.125 MHz and 415.175 MHz, respectively.

TABLE 2 TO PARAGRAPH (c)(13)(i)

Hydro channels (MHz)	
171.1000	406.1250
171.1125	406.1750
171.1250	412.6625
171.8250	412.6750
171.8375	412.6875
171.8500	412.7125

TABLE 2 TO PARAGRAPH (c)(13)(i)—Continued

171.8625	412.7250
171.8750	412.7375
171.8875	412.7625
171.9000	412.7750
171.9125	415.1250
171.9250	415.1750

(ii) [Reserved]

(14) US14 When 500 kHz is being used for distress purposes, ship and coast stations using morse telegraph may use 512 kHz for calling.

(15)–(17) [Reserved]

(18) US18 In the bands 9–14 kHz, 90–110 kHz, 190–415 kHz, 510–535 kHz, and 2700–2900 MHz, navigation aids in the U.S. and its insular areas are normally operated by the Federal Government. However, authorizations may be made by the FCC for non-Federal operations in these bands subject to the conclusion of appropriate arrangements between the FCC and the Federal agencies concerned and upon special showing of need for service which the Federal Government is not yet prepared to render.

(19)–(21) [Reserved]

(22) US22 The following provisions denoted in table 3 to this paragraph (c)(22) shall apply to non-Federal use of 68 carrier frequencies in the range 2–8 MHz, which are not coordinated with NTIA:

(i) The frequencies authorized pursuant to §§ 90.264 (Disaster Communications) and 90.266 (Long Distance Communications) of this chapter are listed in columns 1–2 and columns 3–5, respectively. All stations are restricted to emission designator 2K80J3E, upper sideband transmissions, a maximum transmitter output power of 1 kW PEP, and to the class of station(s) listed in the column heading (*i.e.*, fixed (FX) for all frequencies; base and mobile (FB and ML) for the frequencies in column 1 and 3; itinerant FX for the frequencies in columns 4–5).

(ii) Letter(s) to the right of a frequency indicate that the frequency is available only for the following purpose(s):

(A) A or I: Alternate channel or Interstate coordination.

(B) C, E, M, or W: For stations located in the Conterminous U.S., East of 108° West Longitude (WL), West of the Mississippi River, or West of 90° WL.

Note 2 to paragraph (c)(22)(ii)(B): To determine the assigned frequency, add 1.4 kHz to the carrier frequency. Other emission designators may be authorized within the 2.8 kHz maximum necessary bandwidth pursuant to §§ 90.264 and 90.266 of this chapter.

(C) D or N: From two hours after local sunrise until two hours before local

sunset (*i.e.*, Day only operations) or from two hours prior to local sunset

until two hours after local sunrise (*i.e.*, Night only operations).

TABLE 3 TO PARAGRAPH (c)(22)

Preferred carrier frequencies (kHz)				
Disaster communications		Long distance communications		
FX, FB, ML	FX	FX, FB, ML	FX (including itinerant)	
2326 . . . I	5135 . . . A	2289	5046.6 . . . E	7480.1
2411	5140 . . . A, I	2292	5052.6 . . . E	7483.1
2414		2395	5055.6 . . . E	7486.1 . . . E
2419	5192 . . . I	2398	5061.6 . . . W	7549.1 . . . D
2422	5195 . . . I		5067.6	7552.1
2439	7477 . . . A	3170	5074.6 . . . E	7555.1 . . . W
2463	7480 . . . A	4538.6 . . . N	5099.1	7558.1 . . . W
2466	7802 . . . D		5102.1	7559.1 . . . W
2471	7805 . . . I	4548.6 . . . N	5313.6	7562.1 . . . W
2474	7932		6800.1 . . . N	7697.1
2487	7935 . . . C, D	4575	6803.1	
2511		4610.5	6806.1 . . . W	
2535		4613.5	6855.1 . . . N, M	
2569		4634.5		
2587		4637.5	6858.1 . . . N	
2801		4647	6861.1 . . . W	
2804 . . . A			6885.1 . . . N	
2812			6888.1 . . . N	

(23) US23 In the band 5330.5–5406.4 kHz (60 m band), the assigned frequencies 5332, 5348, 5358.5, 5373, and 5405 kHz are allocated to the amateur service on a secondary basis. Amateur service use of the 60 m band frequencies is restricted to a maximum effective radiated power of 100 W PEP and to the following emission types and designators: phone (2K80J3E), data (2K80J2D), RTTY (60H0J2B), and CW (150HA1A). Amateur operators using the data and RTTY emissions must exercise care to limit the length of transmissions so as to avoid causing harmful interference to Federal stations.

(24) [Reserved]

(25) US25 The use of frequencies in the band 25.85–26.175 MHz may be authorized in any area to non-Federal remote pickup broadcast base and mobile stations on the condition that harmful interference is not caused to stations of the broadcasting service in the band 25.85–26.1 MHz and to stations of the maritime mobile service in the band 26.1–26.175 MHz. Frequencies within the band 26.1–26.175 MHz may also be assigned for use by low power auxiliary stations.

(26) US26 The bands 117.975–121.4125 MHz, 123.5875–128.8125 MHz and 132.0125–136.0 MHz are for air traffic control communications.

(27) [Reserved]

(28) US28 The band 121.5875–121.9375 MHz is for use by aeronautical utility land and mobile stations, and for air traffic control communications.

(29) [Reserved]

(30) US30 The band 121.9375–123.0875 MHz is available to FAA aircraft for communications pursuant to flight inspection functions in accordance with the Federal Aviation Act of 1958.

(31) US31 The frequencies 122.700, 122.725, 122.750, 122.800, 122.950, 122.975, 123.000, 123.050 and 123.075 MHz may be assigned to aeronautical advisory stations. In addition, at landing areas having a part-time or no airdrome control tower or FAA flight service station, these frequencies may be assigned on a secondary non-interference basis to aeronautical utility mobile stations, and may be used by FAA ground vehicles for safety related communications during inspections conducted at such landing areas.

(i) The frequencies 122.850, 122.900 and 122.925 MHz may be assigned to aeronautical multicom stations. In addition, 122.850 MHz may be assigned on a secondary noninterference basis to aeronautical utility mobile stations. In case of 122.925 MHz, paragraph (c)(213) of this section applies.

(ii) Air carrier aircraft stations may use 122.000 and 122.050 MHz for communication with aeronautical

stations of the Federal Aviation Administration and 122.700, 122.800, 122.900 and 123.000 MHz for communications with aeronautical stations pertaining to safety of flight with and in the vicinity of landing areas not served by a control tower.

(iii) Frequencies in the band 121.9375–122.6875 MHz may be used by aeronautical stations of the Federal Aviation Administration for communication with aircraft stations.

(32) US32 Except for the frequencies 123.3 and 123.5 MHz, which are not authorized for Federal use, the band 123.1125–123.5875 MHz is available for FAA communications incident to flight test and inspection activities pertinent to aircraft and facility certification on a secondary basis.

(33) US33 The band 123.1125–123.5875 MHz is for use by flight test and aviation instructional stations. The frequency 121.950 MHz is available for aviation instructional stations.

(34)–(35) [Reserved]

(36) US36 In Hawaii, the bands 120.647–120.653 MHz and 127.047–127.053 MHz are also allocated to the aeronautical mobile service on a primary basis for non-Federal aircraft air-to-air communications on 120.65 MHz (Maui) and 127.05 MHz (Hawaii and Kauai) as specified in § 87.187 of this chapter.

(37)–(40) [Reserved]

(41) US41 In the band 2450–2500 MHz, the Federal radiolocation service is permitted on condition that harmful interference is not caused to non-Federal services.

(42)–(43) [Reserved]

(44) US44 In the band 2900–3100 MHz, the non-Federal radiolocation service may be authorized on the condition that no harmful interference is caused to Federal services.

(45)–(48) [Reserved]

(49) US49 In the band 5460–5470 MHz, the non-Federal radiolocation service may be authorized on the condition that it does not cause harmful interference to the aeronautical or maritime radionavigation services or to the Federal radiolocation service.

(50) US50 In the band 5470–5650 MHz, the radiolocation service may be authorized for non-Federal use on the condition that harmful interference is not caused to the maritime radionavigation service or to the Federal radiolocation service.

(51) [Reserved]

(52) US52 In the VHF maritime mobile band (156–162 MHz), the following provisions shall apply:

(i) Except as provided for below, the use of the bands 161.9625–161.9875 MHz (AIS 1 with center frequency 161.975 MHz) and 162.0125–162.0375 MHz (AIS 2 with center frequency 162.025 MHz) by the maritime mobile and mobile-satellite (Earth-to-space) services is restricted to Automatic Identification Systems (AIS). The use of these bands by the aeronautical mobile (OR) service is restricted to AIS emissions from search and rescue aircraft operations. Frequencies in the AIS 1 band may continue to be used by non-Federal base, fixed, and land mobile stations until March 2, 2024.

(ii) Except as provided for below, the use of the bands 156.7625–156.7875 MHz (AIS 3 with center frequency 156.775 MHz) and 156.8125–156.8375 MHz (AIS 4 with center frequency 156.825 MHz) by the mobile-satellite service (Earth-to-space) is restricted to the reception of long-range AIS broadcast messages from ships (Message 27; see most recent version of Recommendation ITU–R M.1371). The frequencies 156.775 MHz and 156.825 MHz may continue to be used by non-Federal ship and coast stations for navigation-related port operations or ship movement until August 26, 2019.

(iii) The frequency 156.3 MHz may also be used by aircraft stations for the purpose of search and rescue operations and other safety-related communication.

(iv) Federal stations in the maritime mobile service may also be authorized as follows:

(A) Vessel traffic services under the control of the U.S. Coast Guard on a simplex basis by coast and ship stations on the frequencies 156.25, 156.55, 156.6 and 156.7 MHz;

(B) Inter-ship use of the frequency 156.3 MHz on a simplex basis;

(C) Navigational bridge-to-bridge and navigational communications on a simplex basis by coast and ship stations on the frequencies 156.375 and 156.65 MHz;

(D) Port operations use on a simplex basis by coast and ship stations on the frequencies 156.6 and 156.7 MHz;

(E) Environmental communications on the frequency 156.75 MHz in accordance with the national plan; and

(F) Duplex port operations use of the frequencies 157 MHz for ship stations and 161.6 MHz for coast stations.

(53) US53 In view of the fact that the band 13.25–13.4 GHz is allocated to doppler navigation aids, Federal and non-Federal airborne doppler radars in the aeronautical radionavigation service are permitted in the band 8750–8850 MHz only on the condition that they must accept any interference that may be experienced from stations in the radiolocation service in the band 8500–10000 MHz.

(54) [Reserved]

(55) US55 In the bands 162.0375–173.2 MHz and 406.1–420 MHz, the FCC may authorize public safety applicants to use the 40 Federal Interoperability Channels that are designated for joint Federal/non-Federal operations for law enforcement, public safety, emergency response and disaster response in Section 4.3.16 of the NTIA Manual, subject to the condition that that these non-Federal mobile (including portable) interoperability communications shall conform to the national plans specified therein, and in particular, shall not cause harmful interference to Federal stations. The procedure for authorizing such use is set forth in § 90.25 of this chapter.

(56)–(58) [Reserved]

(59) US59 The band 10.5–10.55 GHz is restricted to systems using type NON (AO) emission with a power not to exceed 40 watts into the antenna.

(60)–(63) [Reserved]

(64) US64

(i) In the band 401–406 MHz, the mobile, except aeronautical mobile, service is allocated on a secondary basis and is limited to, with the exception of military tactical mobile stations, Medical Device Radiocommunication Service (MedRadio) operations.

MedRadio stations are authorized by rule on the condition that harmful interference is not caused to stations in the meteorological aids, meteorological-

satellite, and Earth exploration-satellite services, and that MedRadio stations accept interference from stations in the meteorological aids, meteorological-satellite, and Earth exploration-satellite services.

(ii) The bands 413–419 MHz, 426–432 MHz, 438–444 MHz, and 451–457 MHz are also allocated on a secondary basis to the mobile, except aeronautical mobile, service. The use of this allocation is limited to MedRadio operations. MedRadio stations are authorized by rule and operate in accordance with part 95 of this chapter.

(65) US65 The use of the band 5460–5650 MHz by the maritime radionavigation service is limited to shipborne radars.

(66) [Reserved]

(67) US67 The use of the band 9300–9500 MHz by the meteorological aids service is limited to ground-based radars. Radiolocation installations will be coordinated with the meteorological aids service and, insofar as practicable, will be adjusted to meet the requirements of the meteorological aids service.

(68) [Reserved]

(69) US69 In the band 31.8–33.4 GHz, ground-based radionavigation aids are not permitted except where they operate in cooperation with airborne or shipborne radionavigation devices.

(70) US70 The meteorological aids service allocation in the band 400.15–406.0 MHz does not preclude the operation therein of associated ground transmitters.

(71) US71 In the band 9300–9320 MHz, low-powered maritime radionavigation stations shall be protected from harmful interference caused by the operation of land-based equipment.

(72) [Reserved]

(73) US73 The frequencies 150.775, 150.79, 152.0075, and 163.25 MHz, and the bands 462.94–463.19675 and 467.94–468.19675 MHz shall be authorized for the purpose of delivering or rendering medical services to individuals (medical radiocommunication systems), and shall be authorized on a primary basis for Federal and non-Federal use. The frequency 152.0075 MHz may also be used for the purpose of conducting public safety radio communications that include, but are not limited to, the delivering or rendering of medical services to individuals.

(i) The use of the frequencies 150.775 and 150.79 MHz is restricted to mobile stations operating with a maximum e.r.p. of 100 watts. Airborne operations are prohibited.

(ii) The use of the frequencies 152.0075 and 163.25 MHz is restricted to base stations that are authorized only for one-way paging communications to mobile receivers. Transmissions for the purpose of activating or controlling remote objects on these frequencies shall not be authorized.

(iii) Non-Federal licensees in the Public Safety Radio Pool holding a valid authorization on May 27, 2005, to operate on the frequencies 150.7825 and 150.7975 MHz may, upon proper renewal application, continue to be authorized for such operation; provided that harmful interference is not caused to present or future Federal stations in the band 150.05–150.8 MHz and, should harmful interference result, that the interfering non-Federal operation shall immediately terminate.

(74) US74 In the bands 25.55–25.67, 73–74.6, 406.1–410, 608–614, 1400–1427, 1660.5–1670, 2690–2700, and 4990–5000 MHz, and in the bands 10.68–10.7, 15.35–15.4, 23.6–24.0, 31.3–31.5, 86–92, 100–102, 109.5–111.8, 114.25–116, 148.5–151.5, 164–167, 200–209, and 250–252 GHz, the radio astronomy service shall be protected from unwanted emissions only to the extent that such radiation exceeds the level which would be present if the offending station were operating in compliance with the technical standards or criteria applicable to the service in which it operates. Radio astronomy observations in these bands are performed at the locations listed in paragraph (c)(385) of this section.

(75)–(78) [Reserved]

(79) US79 In the bands 1390–1400 MHz and 1427–1432 MHz, the following provisions shall apply:

(i) Airborne and space-to-Earth operations are prohibited.

(ii) Federal operations (except for devices authorized by the FCC for the Wireless Medical Telemetry Service) are on a non-interference basis to non-Federal operations and shall not constrain implementation of non-Federal operations.

(80) US80 Federal stations may use the frequency 122.9 MHz subject to the following conditions:

(i) All operations by Federal stations shall be restricted to the purpose for which the frequency is authorized to non-Federal stations, and shall be in accordance with the appropriate provisions of part 87 (Aviation Services) of this chapter;

(ii) Use of the frequency is required for coordination of activities with Commission licensees operating on this frequency; and

(iii) Federal stations will not be authorized for operation at fixed locations.

(81) US81 The band 38–38.25 MHz is used by both Federal and non-Federal radio astronomy observatories. No new fixed or mobile assignments are to be made and Federal stations in the band 38–38.25 MHz will be moved to other bands on a case-by-case basis, as required, to protect radio astronomy observations from harmful interference. As an exception, however, low powered military transportable and mobile

stations used for tactical and training purposes will continue to use the band. To the extent practicable, the latter operations will be adjusted to relieve such interference as may be caused to radio astronomy observations. In the event of harmful interference from such local operations, radio astronomy observatories may contact local military commands directly, with a view to effecting relief. A list of military commands, areas of coordination, and points of contact for purposes of relieving interference may be obtained upon request from the Office of Engineering and Technology, FCC, Washington, DC 20554.

(82) US82 In the bands 4146–4152 kHz, 6224–6233 kHz, 8294–8300 kHz, 12 353–12 368 kHz, 16 528–16 549 kHz, 18 825–18 846 kHz, 22 159–22 180 kHz, and 25 100–25 121 kHz, the assignable frequencies may be authorized on a shared non-priority basis to Federal and non-Federal ship and coast stations (SSB telephony, with peak envelope power not to exceed 1 kW).

(83) US83 In the 1432–1435 MHz band, Federal stations in the fixed and mobile services may operate indefinitely on a primary basis at the 22 sites listed in table 4 to this paragraph (c)(83). The first 21 sites are in the United States and the last site is in Guam (GU). All other Federal stations in the fixed and mobile services shall operate in the band 1432–1435 MHz on a primary basis until reaccommodated in accordance with the National Defense Authorization Act of 1999.

TABLE 4 TO PARAGRAPH (c)(83)

State	Site	North	West	Radius
AK	Fort Greely	63°47'	145°52'	80
AL	Redstone Arsenal	34°35'	086°35'	80
AZ	Fort Huachuca	31°33'	110°18'	80
AZ	Yuma Proving Ground	32°29'	114°20'	160
CA	China Lake/Edwards AFB	35°29'	117°16'	100
CA	Lemoore	36°20'	119°57'	120
FL	Eglin AFB/Ft Rucker, AL	30°28'	086°31'	140
FL	NAS Cecil Field	30°13'	081°52'	160
MD	Patuxent River	38°17'	076°24'	70
ME	Naval Space Operations Center	44°24'	068°01'	80
MI	Alpene Range	44°23'	083°20'	80
MS	Camp Shelby	31°20'	089°18'	80
NC	MCAS Cherry Point	34°54'	076°53'	100
NM	White Sands Missile Range/Holloman AFB	32°11'	106°20'	160
NV	NAS Fallon	39°30'	118°46'	100
NV	Nevada Test and Training Range (NTTR)	37°29'	114°14'	130
SC	Beaufort MCAS	32°26'	080°40'	160
SC	Savannah River	33°15'	081°39'	3
UT	Utah Test and Training Range/Dugway Proving Ground, Hill AFB.	40°57'	113°05'	160
VA	NAS Oceana	36°49'	076°01'	100
WA	NAS Whidbey Island	48°21'	122°39'	70
GU	NCTAMS	13°35'	144°51'	80

Note 3 to table 4 to paragraph (c)(83): The coordinates (North latitude and West longitude) are listed under the headings North and West. The Guam entry under the West heading is actually 144°51' East longitude. The operating radii in kilometers are listed under the heading Radius.

(84) US84 In the bands 941.5–944 MHz and 1435–1525 MHz, low power auxiliary stations may be authorized on a secondary basis, subject to the terms and conditions set forth in part 74, subpart H of this chapter.

(85) US85 Differential-Global-Positioning-System (DGPS) Stations, limited to ground-based transmitters, may be authorized on a primary basis in the band 1559–1610 MHz for the specific purpose of transmitting DGPS information intended for aircraft navigation.

(86) [Reserved]

(87) US87 The band 449.75–450.25 MHz may be used by Federal and non-Federal stations for space telecommand (Earth-to-space) at specific locations, subject to such conditions as may be applied on a case-by-case basis. Operators shall take all practical steps to keep the carrier frequency close to 450 MHz.

(88) US88 In the bands 1675–1695 MHz and 1695–1710 MHz, the following provisions shall apply:

(i) Non-Federal use of the band 1695–1710 MHz by the fixed and mobile except aeronautical mobile services is restricted to stations in the Advanced Wireless Service (AWS). Base stations that enable AWS mobile and portable stations to operate in the band 1695–

1710 MHz must be successfully coordinated prior to operation as follows:

(A) All base stations within the 27 protection zones listed in paragraph (ii) that enable mobiles to operate at a maximum e.i.r.p. of 20 dBm; and

(B) Nationwide for base stations that enable mobiles to operate with a maximum e.i.r.p. greater than 20 dBm, up to a maximum e.i.r.p. of 30 dBm, unless otherwise specified by Commission rule, order, or notice.

(ii) Forty-seven Federal earth stations located within the protection zones listed below operate on a co-equal, primary basis with AWS operations. All other Federal earth stations operate on a secondary basis.

TABLE 5 TO PARAGRAPH (c)(88)(ii)—PROTECTION ZONES FOR FEDERAL EARTH STATIONS RECEIVING IN THE BAND 1695–1710 MHz

State	Location	Latitude	Longitude	Radius (km)
AK	Barrow	71°19'22"	156°36'41"	35
AK	Elmendorf AFB	61°14'08"	149°55'31"	98
AK	Fairbanks	64°58'22"	147°30'02"	20
AZ	Yuma	32°39'24"	114°36'22"	95
CA	Monterey	36°35'34"	121°51'20"	76
CA	Twenty-Nine Palms	34°17'46"	116°09'44"	80
FL	Miami	25°44'05"	080°09'45"	51
HI	Hickam AFB	21°19'18"	157°57'30"	28
MD	Suitland	38°51'07"	076°56'12"	98
MS	Stennis Space Center	30°21'23"	089°36'41"	57
SD	Sioux Falls	43°44'09"	096°37'33"	42
VA	Wallops Island	37°56'45"	075°27'45"	30
GU	Andersen AFB	13°34'52"	144°55'28"	42

TABLE 6 TO PARAGRAPH (c)(88)(ii)—PROTECTION ZONES FOR FEDERAL EARTH STATIONS RECEIVING IN THE BAND 1675–1695 MHz

State	Location	Latitude	Longitude	Radius (km)
CA	Sacramento	38°35'50"	121°32'34"	55
CO	Boulder	39°59'26"	105°15'51"	02
ID	Boise	43°35'42"	116°13'49"	39
IL	Rock Island	41°31'04"	090°33'46"	19
MO	Kansas City	39°16'40"	094°39'44"	40
MO	St. Louis	38°35'26"	090°12'25"	34
MS	Columbus Lake	33°32'04"	088°30'06"	03
MS	Vicksburg	32°20'47"	090°50'10"	16
NE	Omaha	41°20'56"	095°57'34"	30
OH	Cincinnati	39°06'10"	084°30'35"	32
OK	Norman	35°10'52"	097°26'21"	03
TN	Knoxville	35°57'58"	083°55'13"	50
WV	Fairmont	39°26'02"	080°11'33"	04
PR	Guaynabo	18°25'26"	066°06'50"	48

Note 4 to paragraph (c)(88)(ii): The coordinates are specified in the conventional manner (North latitude, West longitude), except that the Guam (GU) entry is specified in terms of East longitude.

(89) [Reserved]

(90) US90 In the band 2025–2110 MHz, the power flux-density at the Earth's surface produced by emissions from a space station in the space operation, Earth exploration-satellite, or space research service that is transmitting in the space-to-space

direction, for all conditions and all methods of modulation, shall not exceed the following values in any 4 kHz sub-band: – 154 dBW/m² for angles of arrival above the horizontal plane (δ) of 0° to 5°, – 154 + 0.5(δ -5) dBW/m² for

δ of 5° to 25°, and – 144 dBW/m² for δ of 25° to 90°.

(91) US91 In the band 1755–1780 MHz, the following provisions shall apply:

(i) Non-Federal use of the band 1755–1780 MHz by the fixed and mobile services is restricted to stations in the Advanced Wireless Service (AWS). Base

stations that enable AWS mobile and portable stations to operate in the band 1755–1780 MHz must be successfully coordinated on a nationwide basis prior to operation, unless otherwise specified by Commission rule, order, or notice.

(ii) In the band 1755–1780 MHz, the Federal systems listed below operate on a co-equal, primary basis with AWS

stations. All other Federal stations in the fixed and mobile services identified in an approved Transition Plan will operate on a primary basis until reaccommodated in accordance with part 301 of this chapter.

(A) Joint Tactical Radio Systems (JTRS) may operate indefinitely at the locations provided in table 7.

TABLE 7 TO PARAGRAPH (c)(91)(ii)(A)

State	Training area	Latitude	Longitude
AZ	Yuma Proving Ground	33°12'14"	114°13'47"
CA	Fort Irwin	35°23'19"	116°37'43"
LA	Fort Polk	31°08'38"	093°06'52"
NC	Fort Bragg (including Camp MacKall)	35°09'04"	078°59'13"
NM	White Sands Missile Range	32°52'50"	106°23'10"
TX	Fort Hood	31°13'50"	097°45'23"

(B) Air combat training system (ACTS) stations may operate on two frequencies within two geographic

zones that are defined by the coordinates provided in table 8.

TABLE 8 TO PARAGRAPH (c)(91)(ii)(B)

Geographic Zone	Latitude	Longitude
Polygon 1	41°52'00"	117°49'00"
	42°00'00"	115°05'00"
	43°31'13"	115°47'18"
Polygon 2	47°29'00"	111°22'00"
	48°13'00"	110°00'00"
	47°30'00"	107°00'00"
	44°11'00"	103°06'00"

Note 5 to paragraph (c)(91)(ii)(B): ACTS transmitters may cause interference to AWS base stations between separation distances of 285 km (minimum) and 415 km (maximum).

(C) In the sub-band 1761–1780 MHz, Federal earth stations in the space operation service (Earth-to-space) may transmit at the 25 sites identified in

table 9 and non-Federal base stations must accept harmful interference caused by the operation of these earth stations.

TABLE 9 TO PARAGRAPH (c)(91)(ii)(C)

State	Site	Latitude	Longitude
AK	Fairbanks	64°58'20"	147°30'59"
CA	Camp Parks	37°43'51"	121°52'50"
CA	Huntington Beach	33°44'50"	118°02'04"
CA	Laguna Peak	34°06'31"	119°03'53"
CA	Monterey	36°35'42"	121°52'28"
CA	Sacramento	38°39'59"	121°23'33"
CA	Vandenberg AFB	34°49'23"	120°30'07"
CO	Buckley	39°42'55"	104°46'29"
CO	Schriever AFB	38°48'22"	104°31'41"
FL	Cape Canaveral AFS	28°29'09"	080°34'33"
FL	Cape GA, CCAFB	28°29'03"	080°34'21"
FL	JIATF–S Key West	24°32'36"	081°48'17"
HI	Kaena Point, Oahu	21°33'43"	158°14'31"
MD	Annapolis	38°59'27"	076°29'25"
MD	Blossom Point	38°25'53"	077°05'06"
MD	Patuxent River NAS	38°16'28"	076°24'45"
ME	Prospect Harbor	44°24'16"	068°00'46"
NC	Ft Bragg	35°09'04"	078°59'13"
NH	New Boston AFS	42°56'46"	071°37'44"
NM	Kirtland AFB	34°59'06"	106°30'28"
TX	Ft Hood	31°08'57"	097°46'12"
VA	Fort Belvoir	38°44'04"	077°09'12"
WA	Joint Base Lewis-McChord	47°06'11"	122°33'11"
GU	Andersen AFB	13°36'54"	144°51'22"

TABLE 9 TO PARAGRAPH (c)(91)(ii)(C)—Continued

State	Site	Latitude	Longitude
GU	NAVSOC Det. Charlie	13°34'58"	144°50'32"

Note 6 to paragraph (c)(91)(ii)(C): The coordinates are specified in the conventional manner (North latitude, West longitude), except that the Guam (GU) entries are specified in terms of East longitude. Use at Cape Canaveral AFS is restricted to launch support only. If required, successfully coordinated with all affected AWS licensees, and authorized by NTIA, reasonable modifications of these grandfathered Federal systems beyond their current authorizations or the addition of new earth station locations may be permitted. The details of the coordination must be filed with NTIA and FCC.

(iii) In the band 1755–1780 MHz, the military services may conduct Electronic Warfare (EW) operations on Federal ranges and within associated airspace on a non-interference basis with respect to non-Federal AWS operations and shall not constrain implementation of non-Federal AWS operations. This use is restricted to Research, Development, Test and Evaluation (RDT&E), training, and Large Force Exercise (LFE) operations.

(92) US92 In the band 2025–2110 MHz, Federal use of the co-primary fixed and mobile services is restricted to the military services and the following provisions apply:

(i) Federal use shall not cause harmful interference to, nor constrain the deployment and use of the band by, the Television Broadcast Auxiliary Service, the Cable Television Relay Service, or the Local Television Transmission Service. To facilitate compatible operations, coordination is required in accordance with a Memorandum of Understanding between Federal and non-Federal fixed and mobile operations. Non-Federal licensees shall make all reasonable efforts to accommodate military mobile and fixed operations; however, the use of the band 2025–2110 MHz by the non-Federal fixed and mobile services has priority over military fixed and mobile operations.

(ii) Military stations should, to the extent practicable, employ frequency agile technologies and techniques, including the capability to tune to other frequencies and the use of a modular retrofit capability, to facilitate sharing of this band with incumbent Federal and non-Federal operations.

(93) US93 In the conterminous United States, the frequency 108.0 MHz may be authorized for use by VOR test facilities, the operation of which is not

essential for the safety of life or property, subject to the condition that no interference is caused to the reception of FM broadcasting stations operating in the band 88–108 MHz. In the event that such interference does occur, the licensee or other agency authorized to operate the facility shall discontinue operation on 108 MHz and shall not resume operation until the interference has been eliminated or the complaint otherwise satisfied. VOR test facilities operating on 108 MHz will not be protected against interference caused by FM broadcasting stations operating in the band 88–108 MHz nor shall the authorization of a VOR test facility on 108 MHz preclude the Commission from authorizing additional FM broadcasting stations.

(94)–(95) [Reserved]

(96) US96 The band 2200–2290 MHz is allocated to the space operation service (space-to-Earth) on a secondary basis for non-Federal use subject to the following conditions. Non-Federal stations shall be:

(i) Restricted to transmissions from the launch vehicle in the sub-bands 2208.5–2213.5 MHz, 2212.5–2217.5 MHz, 2270–2275 MHz, and 2285–2290 MHz (necessary bandwidth shall be contained within these ranges);

(ii) Restricted to use for pre-launch testing and space launch operations, except as provided under US303; and

(iii) Subject to coordination with NTIA prior to each launch.

(97) US97 The following provisions shall apply in the band 2305–2320 MHz:

(i) In the sub-band 2305–2310 MHz, space-to-Earth operations are prohibited.

(ii) Within 145 km of Goldstone, CA (35°25'33" N, 116°53'23" W), Wireless Communications Service (WCS) licensees operating base stations in the band 2305–2320 MHz shall, prior to operation of those base stations, achieve a mutually satisfactory coordination agreement with the National Aeronautics and Space Administration (NASA).

Note 7 to paragraph (c)(97): NASA operates a deep space facility in Goldstone in the band 2290–2300 MHz.

(98) [Reserved]

(99) US99 In the band 1668.4–1670 MHz, the meteorological aids service (radiosonde) will avoid operations to the maximum extent practicable.

Whenever it is necessary to operate radiosondes in the band 1668.4–1670 MHz within the United States, notification of the operations shall be sent as far in advance as possible to the National Science Foundation, Division of Astronomical Sciences, Electromagnetic Spectrum Management Unit, 2415 Eisenhower Avenue, Alexandria, VA 22314; Email: *esm@nsf.gov*.

(100) US100' The following provisions shall apply to the bands 2310–2320 MHz and 2345–2360 MHz:

(i) The bands 2310–2320 and 2345–2360 MHz are available for Federal aeronautical telemetering and associated telecommand operations for flight testing of manned or unmanned aircraft, missiles, or major components thereof, on a secondary basis to the Wireless Communications Service (WCS). The frequencies 2312.5 MHz and 2352.5 MHz are shared on a co-equal basis by Federal stations for telemetering and associated telecommand operations of expendable and reusable launch vehicles, irrespective of whether such operations involve flight testing. Other Federal mobile telemetering uses may be provided in the bands 2310–2320 and 2345–2360 MHz on a non-interference basis to all other uses authorized pursuant to this paragraph (c)(100)(i).

(ii) The band 2345–2360 MHz is available for non-Federal aeronautical telemetering and associated telecommand operations for flight testing of manned or unmanned aircraft, missiles, or major components thereof, on a secondary basis to the WCS until January 1, 2020. The use of this allocation is restricted to non-Federal licensees in the Aeronautical and Fixed Radio Service holding a valid authorization on April 23, 2015.

(101) US101 The band 2360–2400 MHz is also allocated on a secondary basis to the mobile, except aeronautical mobile, service. The use of this allocation is limited to MedRadio operations. MedRadio stations are authorized by rule and operate in accordance with part 95 of this chapter.

(102) US102 In Alaska only, the frequency 122.1 MHz may also be used for air carrier air traffic control purposes at locations where other frequencies are not available to air carrier aircraft stations for air traffic control.

(103) US103 In the band 3300–3550 MHz, non-Federal stations in the radiolocation service that were licensed (or licensed pursuant to applications accepted for filing) before February 22, 2019 may continue to operate on a secondary basis until 180 days after the issuance of the first flexible-use licenses in the 3.45 GHz Service. No new assignments shall be made. In the band 3300–3500 MHz, stations in the amateur service may continue to operate on a secondary basis until new flexible-use licenses are issued for operation in the band in which they operate. Amateur operations between 3450 MHz and 3500 MHz must cease within 90 days of the public notice announcing the close of the auction for the 3.45 GHz Service. Stations in the amateur service may continue to operate in the band 3300–3450 MHz on a secondary basis while the band’s future uses are finalized, but stations in the amateur service may be required to cease operations in the band 3300–3450 MHz at any time if the amateur service causes harmful interference to flexible-use operations.

(104) US104 In the band 90–110 kHz, the LORAN radionavigation system has priority in the United States and its insular areas. Radiolocation land stations making use of LORAN type equipment may be authorized to both Federal and non-Federal licensees on a secondary basis for offshore radiolocation activities only at specific locations and subject to such technical and operational conditions (e.g., power, emission, pulse rate and phase code,

hours of operation), including on-the-air testing, as may be required on a case-by-case basis to ensure protection of the LORAN radionavigation system from harmful interference and to ensure mutual compatibility among radiolocation operators. Such authorizations to stations in the radiolocation service are further subject to showing of need for service which is not currently provided and which the Federal Government is not yet prepared to render by way of the radionavigation service.

(105) US105 In the band 3550–3650 MHz, non-Federal stations in the radiolocation service that were licensed or applied for prior to July 23, 2015 may continue to operate on a secondary basis until the end of the equipment’s useful lifetime.

(106) [Reserved]

(107) US107 In the band 3600–3650 MHz, the following provisions shall apply to earth stations in the fixed-satellite service (space-to-Earth):

(i) Earth stations authorized prior to, or granted as a result of an application filed prior to, July 23, 2015 and constructed within 12 months of initial authorization may continue to operate on a primary basis. Applications for modifications to such earth station facilities filed after July 23, 2015 shall not be accepted, except for changes in polarization, antenna orientation, or ownership; and increases in antenna size for interference mitigation purposes.

(ii) The assignment of frequencies to new earth stations after July 23, 2015

shall be authorized on a secondary basis.

(108) US108 In the band 10–10.5 GHz, survey operations, using transmitters with a peak power not to exceed five watts into the antenna, may be authorized for Federal and non-Federal use on a secondary basis to other Federal radiolocation operations.

(109) US109 The band 3650–3700 MHz is also allocated to the Federal radiolocation service on a primary basis at the following sites: St. Inigoes, MD (38°10’ N, 76°23’ W); Pascagoula, MS (30°22’ N, 88°29’ W); and Pensacola, FL (30°21’28” N, 87°16’26” W). The FCC shall coordinate all non-Federal operations authorized under part 90 of this chapter within 80 km of these sites with NTIA on a case-by-case basis. For stations in the Citizens Broadband Radio Service these sites shall be protected consistent with the procedures set forth in §§ 96.15(b) and 96.67 of this chapter.

(110) US110 In the band 9200–9300 MHz, the use of the radiolocation service by non-Federal licensees may be authorized on the condition that harmful interference is not caused to the maritime radionavigation service or to the Federal radiolocation service.

(111) US111 In the band 5091–5150 MHz, aeronautical mobile telemetry operations for flight testing are conducted at the locations specified in table 10 to this paragraph (c)(111). Flight testing at additional locations may be authorized on a case-by-case basis.

TABLE 10 TO PARAGRAPH (c)(111)

Location	Test sites	Lat. (N)	Long. (W)
Gulf Area Ranges Complex (GARC)	Eglin AFB, Tyndall AFB, FL; Gulfport ANG Range, MS; Ft. Rucker, Redstone, NASA Marshall Space Flight Center, AL.	30°28’	86°31’
Utah Ranges Complex (URC)	Dugway PG; Utah Test & Training Range (Hill AFB), UT.	40°57’	113°05’
Western Ranges Complex (WRC)	Pacific Missile Range; Vandenberg AFB, China Lake NAWS, Pt. Mugu NAWS, Edwards AFB, Thermal, Nellis AFB, Ft. Irwin, NASA Dryden Flight Research Center, Victorville, CA.	35°29’	117°16’
Southwest Ranges Complex (SRC)	Ft. Huachuca, Tucson, Phoenix, Mesa, Yuma, AZ	31°33’	110°18’
Mid-Atlantic Ranges Complex (MARC)	Patuxent River, Aberdeen PG, NASA Langley Research Center, NASA Wallops Flight Facility, MD.	38°17’	76°24’
New Mexico Ranges Complex (NMRC)	White Sands Missile Range, Holloman AFB, Albuquerque, Roswell, NM; Amarillo, TX.	32°11’	106°20’
Colorado Ranges Complex (CoRC)	Alamosa, Leadville, CO	37°26’	105°52’
Texas Ranges Complex (TRC)	Dallas/Ft. Worth, Greenville, Waco, Johnson Space Flight Center/Ellington Field, TX.	32°53’	97°02’
Cape Ranges Complex (CRC)	Cape Canaveral, Palm Beach-Dade, FL	28°33’	80°34’
Northwest Range Complex (NWRC)	Seattle, Everett, Spokane, Moses Lake, WA; Klamath Falls, Eugene, OR.	47°32’	122°18’
St. Louis	St. Louis, MO	38°45’	90°22’
Wichita	Wichita, KS	37°40’	97°26’
Marietta	Marietta, GA	33°54’	84°31’
Glasgow	Glasgow, MT	48°25’	106°32’
Wilmington/Ridley	Wilmington, DE/Ridley, PA	39°49’	75°26’

TABLE 10 TO PARAGRAPH (c)(111)—Continued

Location	Test sites	Lat. (N)	Long. (W)
San Francisco Bay Area (SFBA)	NASA Ames Research Center, CA	37°25'	122°03'
Charleston	Charleston, SC	32°52'	80°02'

(112) US112 The frequency 123.1 MHz is for search and rescue communications. This frequency may be assigned for air traffic control communications at special aeronautical events on the condition that no harmful interference is caused to search and rescue communications during any

period of search and rescue operations in the locale involved.
 (113) US113 Radio astronomy observations of the formaldehyde line frequencies 4825–4835 MHz and 14.47–14.5 GHz may be made at certain radio astronomy observatories as indicated in table 11 to paragraph (c)(113). Every

practicable effort will be made to avoid the assignment of frequencies to stations in the fixed or mobile services in these bands. Should such assignments result in harmful interference to these observations, the situation will be remedied to the extent practicable.

TABLE 11 TO PARAGRAPH (c)(113)—BANDS TO BE OBSERVED

4 GHz	14 GHz	Observatory
X		National Astronomy and Ionosphere Center (NAIC), Arecibo, PR.
X	X	National Radio Astronomy Observatory (NRAO), Green Bank, WV.
X	X	NRAO, Socorro, NM.
X		Allen Telescope Array (ATA), Hat Creek, CA.
X	X	Owens Valley Radio Observatory (OVRO), Big Pine, CA.
X	X	NRAO's ten Very Long Baseline Array (VLBA) stations (see US131).
X	X	University of Michigan Radio Astronomy Observatory, Stinchfield Woods, MI.
X		Pisgah Astronomical Research Institute, Rosman, NC.

(114) [Reserved]
 (115) US1157 In the bands 5000–5010 MHz and 5010–5030 MHz, the following provisions shall apply:
 (i) In the band 5000–5010 MHz, systems in the aeronautical mobile (R) service (AM(R)S) are limited to surface applications at airports that operate in accordance with international aeronautical standards (*i.e.*, AeroMACS).
 (ii) The band 5010–5030 MHz is also allocated on a primary basis to the AM(R)S, limited to surface applications at airports that operate in accordance with international aeronautical standards. In making assignments for this band, attempts shall first be made to satisfy the AM(R)S requirements in the bands 5000–5010 MHz and 5091–5150 MHz. AM(R)S systems used in the band 5010–5030 MHz shall be designed and implemented to be capable of operational modification if receiving harmful interference from the radionavigation-satellite service. Finally, notwithstanding Radio Regulation No. 4.10, stations in the AM(R)S operating in this band shall be designed and implemented to be capable of operational modification to reduce throughput and/or preclude the use of specific frequencies in order to ensure protection of radionavigation-satellite service systems operating in this band.
 (iii) Aeronautical fixed communications that are an integral part

of the AeroMACS system in the bands 5000–5010 MHz and 5010–5030 MHz are also authorized on a primary basis.
 (116) US116 In the bands 890–902 MHz and 935–941 MHz, no new assignments are to be made to Federal radio stations after July 10, 1970, except on case-by-case basis to experimental stations. Federal assignments existing prior to July 10, 1970, shall be on a secondary basis to stations in the non-Federal land mobile service and shall be subject to adjustment or removal from the bands 890–902 MHz, 928–932 MHz, and 935–941 MHz at the request of the FCC.
 (117) US117 In the band 406.1–410 MHz, the following provisions shall apply:
 (i) Stations in the fixed and mobile services are limited to a transmitter output power of 125 watts, and new authorizations for stations, other than mobile stations, are subject to prior coordination by the applicant in the following areas:
 (A) Within Puerto Rico and the U.S. Virgin Islands, contact Spectrum Manager, Arecibo Observatory, HC3 Box 53995, Arecibo, PR 00612. Phone: 787–878–2612, Fax: 787–878–1861, Email: prcz@naic.edu.
 (B) Within 350 km of the Very Large Array (34°04'44" N, 107°37'06" W), contact Spectrum Manager, National Radio Astronomy Observatory, P.O. Box O, 1003 Lopezville Road, Socorro, NM

87801. Phone: 505–835–7000, Fax: 505–835–7027, Email: nrao-rfi@nrao.edu.
 (C) Within 10 km of the Table Mountain Observatory (40°08'02" N, 105°14'40" W) and for operations only within the sub-band 407–409 MHz, contact Radio Frequency Manager, Department of Commerce, 325 Broadway, Boulder, CO 80305. Phone: 303–497–4619, Fax: 303–497–6982, Email: frequencymanager@its.blrdoc.gov.
 (ii) Non-Federal use is limited to the radio astronomy service and as provided by footnote US13.
 (118)–(127) [Reserved]
 (128) US128 In the band 10–10.5 GHz, pulsed emissions are prohibited, except for weather radars on board meteorological satellites in the sub-band 10–10.025 GHz. The amateur service, the amateur-satellite service, and the non-Federal radiolocation service, which shall not cause harmful interference to the Federal radiolocation service, are the only non-Federal services permitted in this band. The non-Federal radiolocation service is limited to survey operations as specified in footnote US108.
 (129) [Reserved]
 (130) US130 The band 10.6–10.68 GHz is also allocated on a primary basis to the radio astronomy service. However, the radio astronomy service shall not receive protection from stations in the fixed service which are licensed to operate in the one hundred

most populous urbanized areas as defined by the 1990 U.S. Census. For the list of observatories operating in this band, see paragraph (c)(131) of this section.

(131) US131 In the band 10.7–11.7 GHz, non-geostationary satellite orbit licensees in the fixed-satellite service (space-to-Earth), prior to commencing operations, shall coordinate with the radio astronomy observatories listed in

table 12 to this paragraph (c)(131) to achieve a mutually acceptable agreement regarding the protection of the radio telescope facilities operating in the band 10.6–10.7 GHz:

TABLE 12 TO PARAGRAPH (c)(131)

Observatory	North latitude	West longitude	Elevation (in meters)
Arecibo Observatory, PR	18°20'37"	66°45'11"	497
Green Bank Telescope (GBT), WV	38°25'59"	79°50'23"	807
Very Large Array (VLA), Socorro, NM	34°04'44"	107°37'06"	2115
Very Long Baseline Array (VLBA) Stations:			
Brewster, WA	48°07'52"	119°41'00"	250
Fort Davis, TX	30°38' 06"	103°56' 41"	1606
Hancock, NH	42°56'01"	71°59'12"	296
Kitt Peak, AZ	31°57'23"	111°36'45"	1902
Los Alamos, NM	35°46'30"	106°14'44"	1962
Mauna Kea, HI	19°48'05"	155°27'20"	3763
North Liberty, IA	41°46'17"	91°34'27"	222
Owens Valley, CA	37°13'54"	118°16'37"	1196
Pie Town, NM	34°18'04"	108°07'09"	2365
St. Croix, VI	17°45'24"	64°35'01"	16

(132) US132A In the bands 26.2–26.42 MHz, 41.015–41.665 MHz, and 43.35–44 MHz, applications of radiolocation service are limited to oceanographic radars operating in accordance with ITU Resolution 612 (Rev.WRC–12). Oceanographic radars shall not cause harmful interference to, or claim protection from, non-Federal stations in the land mobile service in the bands 26.2–26.42 MHz and 43.69–44 MHz, Federal stations in the fixed or mobile services in the band 41.015–41.665 MHz, and non-Federal stations in the fixed or land mobile services in the band 43.35–43.69 MHz.

(133) US133 In the bands 14–14.2 GHz and 14.47–14.5 GHz, the following provisions shall apply to the operations of Earth Stations Aboard Aircraft (ESAA):

(i) In the band 14–14.2 GHz, ESAA licensees proposing to operate within radio line-of-sight of the coordinates specified in § 25.228(j)(1) of this chapter are subject to prior coordination with NTIA in order to minimize harmful interference to the ground terminals of NASA's Tracking and Data Relay Satellite System (TDRSS).

(ii) In the band 14.47–14.5 GHz, operations within radio line-of-sight of the radio astronomy stations specified in § 25.228(j)(3) of this chapter are subject to coordination with the National Science Foundation in accordance with the requirements set forth in that rule section.

(134)–(135) [Reserved]

(136) US136 The following provisions shall apply in eight HF bands that are allocated to the broadcasting service (HFBC) on a primary basis in all Regions.

(i) In Alaska, the assigned frequency band 7368.48–7371.32 kHz is allocated exclusively to the fixed service (FS) on a primary basis for non-Federal use in accordance with § 80.387 of this chapter.

(ii) On the condition that harmful interference is not caused to the broadcasting service (NIB operations), Federal and non-Federal stations that communicate wholly within the United States and its insular areas may operate as specified in table 13 to this paragraph (c)(136)(ii). All such stations must take account of the seasonal use of frequencies by the broadcasting service published in accordance with Article 12

of the ITU Radio Regulations and are limited to the minimum power needed for reliable communications.

(A) *Federal stations.* Frequencies in the 13 HF bands/sub-bands listed in the table below (HF NIB Bands) may be authorized to Federal stations in the FS. In the bands 5.9–5.95, 7.3–7.4, 13.57–13.6, and 13.80–13.87 MHz (6, 7, 13.6, and 13.8 MHz bands), frequencies may also be authorized to Federal stations in the mobile except aeronautical mobile route (R) service (MS except AM(R)S). Federal use of the bands 9.775–9.9, 11.65–11.7, and 11.975–12.05 MHz is restricted to stations in the FS that were authorized as of June 12, 2003, and each grandfathered station is restricted to a total radiated power of 24 dBW. In all other HF NIB Bands (*), new Federal stations may be authorized.

(B) *Non-Federal stations.* Non-Federal use of the HF NIB Bands is restricted to stations in the FS, land mobile service (LMS), and maritime mobile service (MMS) that were licensed prior to March 25, 2007, except that, in the sub-band 7.35–7.4 MHz, use is restricted to stations that were licensed prior to March 29, 2009.

TABLE 13 TO PARAGRAPH (c)(136)(ii)—NIB OPERATIONS IN EIGHT HFBC BANDS (MHz)

HF NIB band	Federal (*new stations permitted)	Non-Federal	HFBC band
5.90–5.95	*FS and MS except AM(R)S	MMS	5.90–6.20
7.30–7.40	*FS and MS except AM(R)S	FS, LMS and MMS	7.30–7.40
9.40–9.50	*9 MHz: FS	FS and LMS	9.40–9.90
9.775–9.90	FS (Grandfathered, restricted to 24 dBW).		
11.60–11.65	*11 MHz: FS	FS	11.60–12.10
11.65–11.70	FS (Grandfathered, restricted to 24 dBW).		
11.975–12.05	FS (Grandfathered, restricted to 24 dBW).		

TABLE 13 TO PARAGRAPH (c)(136)(ii)—NIB OPERATIONS IN EIGHT HFBC BANDS (MHz)—Continued

HF NIB band	Federal (*new stations permitted)	Non-Federal	HFBC band
12.05–12.10	*12 MHz: FS	FS.	
13.57–13.60	*FS and MS except AM(R)S	MMS	13.57–13.87
13.80–13.87	*FS and MS except AM(R)S	MMS.	
15.60–15.80	*15 MHz: FS	FS	15.10–15.80
17.48–17.55	*17 MHz: FS .....	.....	17.48–17.90
18.90–19.02	*19 MHz: FS	MMS	18.90–19.02

Note 8 to paragraph (c)(136)(ii): Non-Federal stations may continue to operate in nine HF NIB Bands as follows: in the 6, 7, 13.6, 13.8, and 19 MHz bands, stations in the MMS; in the 7 and 9 MHz bands, stations in the FS and LMS; and in the 11, 12, and 15 MHz band, stations in the FS.

(137)–(138) [Reserved]

(139) US139 Fixed stations authorized in the band 18.3–19.3 GHz under the provisions of §§ 74.502(c), 74.602(g), 78.18(a)(4), and 101.147(r) of this chapter may continue operations consistent with the provisions of those sections.

(140)–(141) [Reserved]

(142) US142 In the bands 7.2–7.3 and 7.4–7.45 MHz, the following provisions shall apply:

(i) In the U.S. Pacific insular areas located in Region 3 (see § 2.105(a), note 3), the bands 7.2–7.3 and 7.4–7.45 MHz are alternatively allocated to the broadcasting service on a primary basis. Use of this allocation is restricted to international broadcast stations that transmit to geographical zones and areas of reception in Region 1 or Region 3.

(ii) The use of the band 7.2–7.3 MHz in Region 2 by the amateur service shall not impose constraints on the broadcasting service intended for use within Region 1 and Region 3.

(143)–(144) [Reserved]

(145) US145 The following unwanted emissions power limits for non-geostationary satellites operating in the inter-satellite service that transmit in the band 22.55–23.55 GHz shall apply in any 200 MHz of the passive band 23.6–24 GHz, based on the date that complete advance publication information is received by the ITU’s Radiocommunication Bureau:

(i) For information received before January 1, 2020: –36 dBW/200 MHz.

(ii) For information received on or after January 1, 2020: –46 dBW/200 MHz.

(146)–(150) [Reserved]

(151) US151 In the band 37–38 GHz, stations in the fixed and mobile services shall not cause harmful interference to Federal earth stations in the space research service (space-to-Earth) at the following sites: Goldstone, CA; Socorro, NM; and White Sands, NM. Applications for non-Federal use of this band shall be coordinated with NTIA in accordance with § 30.205 of this chapter.

(152)–(155) [Reserved]

(156) US156 In the bands 49.7–50.2 GHz and 50.4–50.9 GHz, for earth stations in the fixed-satellite service (Earth-to-space), the unwanted emissions power in the band 50.2–50.4 GHz shall not exceed –20 dBW/200

MHz (measured at the input of the antenna), except that the maximum unwanted emissions power may be increased to –10 dBW/200 MHz for earth stations having an antenna gain greater than or equal to 57 dBi. These limits apply under clear-sky conditions. During fading conditions, the limits may be exceeded by earth stations when using uplink power control.

(157) US157 In the band 51.4–52.6 GHz, for stations in the fixed service, the unwanted emissions power in the band 52.6–54.25 GHz shall not exceed –33 dBW/100 MHz (measured at the input of antenna).

(158)–(160) [Reserved]

(161) US161 In the bands 81–86 GHz, 92–94 GHz, and 94.1–95 GHz and within the coordination distances indicated below, assignments to allocated services shall be coordinated with the following radio astronomy observatories. New observatories shall not receive protection from fixed stations that are licensed to operate in the one hundred most populous urbanized areas as defined by the U.S. Census Bureau for the year 2000.

(i) Within 25 km of the National Radio Astronomy Observatory’s (NRAO’s) Very Long Baseline Array (VLBA) Stations listed in table 14 to this paragraph (c)(161)(i).

TABLE 14 TO PARAGRAPH (c)(161)(i)

State	VLBA station	Lat. (N)	Long. (W)
AZ	Kitt Peak	31°57’23”	111°36’45”
CA	Owens Valley	37°13’54”	118°16’37”
HI	Mauna Kea	19°48’05”	155°27’20”
IA	North Liberty	41°46’17”	091°34’27”
NH	Hancock	42°56’01”	071°59’12”
NM	Los Alamos	35°46’30”	106°14’44”
NM	Pie Town	34°18’04”	108°07’09”
TX	Fort Davis	30°38’06”	103°56’41”
VI	Saint Croix	17°45’24”	064°35’01”
WA	Brewster	48°07’52”	119°41’00”

(ii) Within 150 km of the observatories in table 15 to this paragraph (c)(161)(ii):

TABLE 15 TO PARAGRAPH (c)(161)(ii)

State	Telescope and site	Lat. (N)	Long. (W)
AZ	Heinrich Hertz Submillimeter Observatory, Mt. Graham	32°42'06"	109°53'28"
AZ	University of Arizona 12-m Telescope, Kitt Peak	31°57'12"	111°36'53"
CA	Caltech Telescope, Owens Valley	37°13'54"	118°17'36"
CA	Combined Array for Research in Millimeter-wave Astronomy (CARMA)	37°16'43"	118°08'32"
HI	James Clerk Maxwell Telescope, Mauna Kea	19°49'33"	155°28'47"
MA	Haystack Observatory, Westford	42°37'24"	071°29'18"
NM	NRAO's Very Large Array, Socorro	34°04'44"	107°37'06"
WV	NRAO's Robert C. Byrd Telescope, Green Bank	38°25'59"	079°50'23"

Note 9 to paragraph (c)(161)(ii):

Satisfactory completion of the coordination procedure utilizing the automated mechanism, see § 101.1523 of this chapter, will be deemed to establish sufficient separation from radio astronomy observatories, regardless of whether the distances set forth above are met.

(162)–(204) [Reserved]

(205) US205 Tropospheric scatter systems are prohibited in the band 2500–2690 MHz.

(206)–(207) [Reserved]

(208) US208 Planning and use of the band 1559–1626.5 MHz necessitate the development of technical and/or operational sharing criteria to ensure the maximum degree of electromagnetic compatibility with existing and planned systems within the band.

(209) US209 The use of frequencies 460.6625, 460.6875, 460.7125, 460.7375, 460.7625, 460.7875, 460.8125, 460.8375, 460.8625, 465.6625, 465.6875, 465.7125, 465.7375, 465.7625, 465.7875, 465.8125, 465.8375, and 465.8625 MHz may be authorized, with 100 mW or less output power, to Federal and non-Federal radio stations for one-way, non-voice biomedical telemetry operations in hospitals, or medical or convalescent centers.

(210) US210 In the bands 40.66–40.7 MHz and 216–220 MHz, frequencies may be authorized to Federal and non-Federal stations on a secondary basis for the tracking of, and telemetering of scientific data from, ocean buoys and wildlife. Operation in these bands is subject to the technical standards specified in Section 8.2.42 of the NTIA Manual for Federal use, or § 90.248 of this chapter for non-Federal use. After January 1, 2002, no new assignments shall be authorized in the band 216–217 MHz.

(211) US211 In the bands 1670–1690, 5000–5250 MHz and 10.7–11.7, 15.1365–15.35, 15.4–15.7, 22.5–22.55, 24–24.05, 31.0–31.3, 31.8–32.0, 40.5–42.5, 116–122.25, 123–130, 158.5–164, 167–168, 191.8–200, and 252–265 GHz, applicants for airborne or space station assignments are urged to take all practicable steps to protect radio

astronomy observations in the adjacent bands from harmful interference; however, US74 applies.

(212) US212 In, or within 92.6 km (50 nautical miles) of, the State of Alaska, the carrier frequency 5167.5 kHz (assigned frequency 5168.9 kHz) is designated for emergency communications. This frequency may also be used in the Alaska-Private Fixed Service for calling and listening, but only for establishing communications before switching to another frequency. The maximum power is limited to 150 watts peak envelope power (PEP).

(213) US213 The frequency 122.925 MHz is for use only for communications with or between aircraft when coordinating natural resources programs of Federal or State natural resources, agencies, including forestry management and fire suppression, fish and game management and protection and environmental monitoring and protection.

(214) US214 The frequency 157.1 MHz is the primary frequency for liaison communications between ship stations and stations of the United States Coast Guard.

(215)–(217) [Reserved]

(218) US218 The band 902–928 MHz is available for Location and Monitoring Service (LMS) systems subject to not causing harmful interference to the operation of all Federal stations authorized in this band. These systems must tolerate interference from the operation of industrial, scientific, and medical (ISM) equipment and the operation of Federal stations authorized in this band.

(219) [Reserved]

(220) US220 The frequencies 36.25 and 41.71 MHz may be authorized to Federal stations and non-Federal stations in the petroleum radio service, for oil spill containment and cleanup operations. The use of these frequencies for oil spill containment or cleanup operations is limited to the inland and coastal waterway regions.

(221) US221 Use of the mobile service in the bands 525–535 kHz and 1605–1615 kHz is limited to distribution

of public service information from Travelers Information stations operating on 530 kHz and 1610 kHz.

(222) US222 In the band 2025–2035 MHz, geostationary operational environmental satellite (GOES) earth stations in the space research and Earth exploration-satellite services may be authorized on a coequal basis for Earth-to-space transmissions for tracking, telemetry, and telecommand at Honolulu, HI (21°21'12" N, 157°52'36" W); Seattle, WA (47°34'15" N, 122°33'10" W); and Wallops Island, VA (37°56'44" N, 75°27'42" W).

(223) [Reserved]

(224) US224 Federal systems utilizing spread spectrum techniques for terrestrial communication, navigation and identification may be authorized to operate in the band 960–1215 MHz on the condition that harmful interference will not be caused to the aeronautical radionavigation service. These systems will be handled on a case-by-case basis. Such systems shall be subject to a review at the national level for operational requirements and electromagnetic compatibility prior to development, procurement or modification.

(225) US225 In addition to its present Federal use, the band 510–525 kHz is available to Federal and non-Federal aeronautical radionavigation stations inland of the Territorial Base Line as coordinated with the military services. In addition, the frequency 510 kHz is available for non-Federal ship-helicopter operations when beyond 100 nautical miles from shore and required for aeronautical radionavigation.

(226) [Reserved]

(227) US227 The bands 156.4875–156.5125 MHz and 156.5375–156.5625 MHz are also allocated to the fixed and land mobile services on a primary basis for non-Federal use in VHF Public Coast Station Areas 10–42. The use of these bands by the fixed and land mobile services shall not cause harmful interference to, nor claim protection from, the maritime mobile VHF radiocommunication service.

(228)–(229) [Reserved]

(230) US230 The bands 422.1875–425.4875 MHz and 427.1875–429.9875 MHz are allocated to the land mobile service on a primary basis for non-Federal use within 80.5 kilometers (50 miles) of Cleveland, OH (41°29'51.2" N, 81°41'49.5" W) and Detroit, MI (42°19'48.1" N, 83°02'56.7" W). The bands 423.8125–425.4875 MHz and 428.8125–429.9875 MHz are allocated to the land mobile service on a primary basis for non-Federal use within 80.5 kilometers of Buffalo, NY (42°52'52.2" N, 78°52'20.1" W).

(231) US231 When an assignment cannot be obtained in the bands between 200 kHz and 525 kHz, which are allocated to aeronautical radionavigation, assignments may be made to aeronautical radiobeacons in the maritime mobile bands at 435–472 kHz and 479–490 kHz, on a secondary basis, subject to the coordination and agreement of those agencies having assignments within the maritime mobile bands which may be affected. Assignments to Federal aeronautical radionavigation radiobeacons in the bands 435–472 kHz and 479–490 kHz shall not be a bar to any required changes to the maritime mobile radio service and shall be limited to non-voice emissions.

(232)–(238) [Reserved]

(239) US239 Aeronautical radionavigation stations (radiobeacons) may be authorized, primarily for off-shore use, in the band 525–535 kHz on

a non-interference basis to travelers information stations.

(240) US240 The bands 1715–1725 and 1740–1750 kHz are allocated on a primary basis and the bands 1705–1715 kHz and 1725–1740 kHz on a secondary basis to the aeronautical radionavigation service (radiobeacons).

(241) US241 The following provision shall apply to Federal operations in the band 216–220.035 MHz:

(i) Use of the fixed and land mobile services in the band 216–220 MHz and of the aeronautical mobile service in the sub-band 217–220 MHz is restricted to telemetry and associated telecommand operations. New stations in the fixed and land mobile services shall not be authorized in the sub-band 216–217 MHz.

(ii) The sub-band 216.965–216.995 MHz is also allocated to the Federal radiolocation service on a primary basis and the use of this allocation is restricted to the Air Force Space Surveillance System (AFSSS) radar system.

(A) AFSSS stations transmit on the frequency 216.98 MHz and other operations may be affected within:

- (1) 250 km of Lake Kickapoo (Archer City), TX (33°2'48" N, 98°45'46" W); and
- (2) 150 km of Gila River (Phoenix), AZ (33°6'32" N, 112°1'45" W) and Jordan Lake (Wetumpka), AL (32°39'33" N, 86°15'52" W).

(B) AFSSS reception shall be protected from harmful interference within 50 km of:

(1) Elephant Butte, NM (33°26'35" N, 106°59'50" W);

(2) Fort Stewart, GA (31°58'36" N, 81°30'34" W);

(3) Hawkinsville, GA (32°17'20" N, 83°32'10" W);

(4) Red River, AR (33°19'48" N, 93°33'1" W);

(5) San Diego, CA (32°34'42" N, 116°58'11" W); and

(6) Silver Lake, MS (33°8'42" N, 91°1'16" W).

(iii) The sub-band 219.965–220.035 MHz is also allocated to the Federal radiolocation service on a secondary basis and the use of this allocation is restricted to air-search radars onboard Coast Guard vessels.

(242) US242 Use of the fixed and land mobile services in the band 220–222 MHz shall be in accordance with the following plan:

(i) Frequencies are assigned in pairs, with base station transmit frequencies taken from the sub-band 220–221 MHz and with corresponding mobile and control station transmit frequencies being 1 MHz higher and taken from the sub-band 221–222 MHz.

(ii) In the non-Federal exclusive sub-bands, temporary fixed geophysical telemetry operations are also permitted on a secondary basis.

(iii) The use of Channels 161–170 is restricted to public safety/mutual aid communications.

(iv) The use of Channels 181–185 is restricted to emergency medical communications.

TABLE 16 TO PARAGRAPH (c)(242)—220 MHz PLAN

Use	Base transmit	Mobile transmit	Channel Nos.
Non-Federal exclusive	220.00–220.55	221.00–221.55	001–110
Federal exclusive	220.55–220.60	221.55–221.60	111–120
Non-Federal exclusive	220.60–220.80	221.60–221.80	121–160
Shared	220.80–220.85	221.80–221.85	161–170
Non-Federal exclusive	220.85–220.90	221.85–221.90	171–180
Shared	220.90–220.925	221.90–221.925	181–185
Non-Federal exclusive	220.925–221	221.925–222	186–200

(243) [Reserved]

(244) US244 The band 136–137 MHz is allocated to the non-Federal aeronautical mobile (R) service on a primary basis, and is subject to pertinent international treaties and agreements. The frequencies 136, 136.025, 136.05, 136.075, 136.1, 136.125, 136.15, 136.175, 136.2, 136.225, 136.25, 136.275, 136.3, 136.325, 136.35, 136.375, 136.4, 136.425, 136.45, and 136.475 MHz are available on a shared basis to the Federal Aviation Administration for air traffic control purposes, such as automatic weather observation stations

(AWOS), automatic terminal information services (ATIS), flight information services-broadcast (FIS-B), and airport control tower communications.

(245) US245 In the bands 3600–3650 MHz (space-to-Earth), 4500–4800 MHz (space-to-Earth), and 5850–5925 MHz (Earth-to-space), the use of the non-Federal fixed-satellite service is limited to international inter-continental systems and is subject to case-by-case electromagnetic compatibility analysis. The FCC's policy for these bands is codified at § 2.108.

(246) US246 No station shall be authorized to transmit in the following bands: 73–74.6 MHz, 608–614 MHz, except for medical telemetry equipment and white space devices, 1400–1427 MHz, 1660.5–1668.4 MHz, 2690–2700 MHz, 4990–5000 MHz, 10.68–10.7 GHz, 15.35–15.4 GHz, 23.6–24 GHz, 31.3–31.8 GHz, 50.2–50.4 GHz, 52.6–54.25 GHz, 86–92 GHz, 100–102 GHz, 109.5–111.8 GHz, 114.25–116 GHz, 148.5–151.5 GHz, 164–167 GHz, 182–185 GHz, 190–191.8 GHz, 200–209 GHz, 226–231.5 GHz, 250–252 GHz. Medical telemetry equipment shall not cause harmful interference to radio astronomy

operations in the band 608–614 MHz and shall be coordinated under the requirements found in § 95.1119 of this chapter. White space devices shall not cause harmful interference to radio astronomy operations in the band 608–614 MHz and shall not operate within the areas described in § 15.712(h) of this chapter.

(247) US247 The band 10 100–150 kHz is allocated to the fixed service on a primary basis outside the United States and its insular areas.

Transmissions from stations in the amateur service shall not cause harmful interference to this fixed service use and stations in the amateur service shall make all necessary adjustments (including termination of transmission) if harmful interference is caused.

(248)–(250) [Reserved]

(251) US251 The band 12.75–13.25 GHz is also allocated to the space research (deep space) (space-to-Earth) service for reception only at Goldstone, CA (35°20' N, 116°53' W).

(252) US252 The band 2110–2120 MHz is also allocated to the space research service (deep space) (Earth-to-space) on a primary basis at Goldstone, CA (35°20' N, 116°53' W).

(253) [Reserved]

(254) US254 In the band 18.6–18.8 GHz the fixed and mobile services shall be limited to a maximum equivalent isotropically radiated power of +35 dBW and the power delivered to the antenna shall not exceed –3 dBW.

(255) US255 In addition to any other applicable limits, the power flux-density across the 200 MHz band 18.6–18.8 GHz produced at the surface of the Earth by emissions from a space station under assumed free-space propagation conditions shall not exceed –95 dB(W/m²) for all angles of arrival. This limit may be exceeded by up to 3 dB for no more than 5% of the time.

(256)–(257) [Reserved]

(258) US258 In the bands 8025–8400 MHz and 25.5–27 GHz, the Earth exploration-satellite service (space-to-Earth) is allocated on a primary basis for non-Federal use. Authorizations are subject to a case-by-case electromagnetic compatibility analysis.

(259) US259 In the band 17.3–17.7 GHz, Federal stations in the radiolocation service shall operate with an e.i.r.p. of less than 51 dBW.

(260) US260 Aeronautical mobile communications which are an integral part of aeronautical radionavigation systems may be satisfied in the bands 1559–1626.5 MHz, 5000–5250 MHz and 15.4–15.7 GHz.

(261) US261 The use of the band 4200–4400 MHz by the aeronautical radionavigation service is reserved

exclusively for airborne radio altimeters. Experimental stations will not be authorized to develop equipment for operational use in this band other than equipment related to altimeter stations. However, passive sensing in the Earth-exploration satellite and space research services may be authorized in this band on a secondary basis (no protection is provided from the radio altimeters).

(262) US262 The band 7145–7190 MHz is also allocated to the space research service (deep space) (Earth-to-space) on a secondary basis for non-Federal use. Federal and non-Federal use of the bands 7145–7190 MHz and 34.2–34.7 GHz by the space research service (deep space) (Earth-to-space) and of the band 31.8–32.3 GHz by the space research service (deep space) (space-to-Earth) is limited to Goldstone, CA (35°20' N, 116°53' W).

(263) [Reserved]

(264) US264 In the band 48.94–49.04 GHz, airborne stations shall not be authorized.

(265) [Reserved]

(266) US266 Non-Federal licensees in the Public Safety Radio Pool holding a valid authorization on June 30, 1958, to operate in the frequency band 156.27–157.45 MHz or on the frequencies 161.85 MHz or 161.91 MHz may, upon proper application, continue to be authorized for such operation, including expansion of existing systems, until such time as harmful interference is caused to the operation of any authorized station other than those licensed in the Public Safety Radio Pool.

(267) US267 In the band 902–928 MHz, amateur stations shall transmit only in the sub-bands 902–902.4, 902.6–904.3, 904.7–925.3, 925.7–927.3, and 927.7–928 MHz within the States of Colorado and Wyoming, bounded by the area of latitudes 39° N and 42° N and longitudes 103° W and 108° W.

(268) US268 The bands 890–902 MHz and 928–942 MHz are also allocated to the radiolocation service for Federal ship stations (off-shore ocean areas) on the condition that harmful interference is not caused to non-Federal land mobile stations. The provisions of footnote US116 apply.

(269) US269 In the band 420–450 MHz, the following provisions shall apply to the non-Federal radiolocation service:

(i) Pulse-ranging radiolocation systems may be authorized for use along the shoreline of the conterminous United States and Alaska.

(ii) In the sub-band 420–435 MHz, spread spectrum radiolocation systems may be authorized within the conterminous United States and Alaska.

(iii) All stations operating in accordance with this provision shall be secondary to stations operating in accordance with the Table of Frequency Allocations in this section.

(iv) Authorizations shall be granted on a case-by-case basis; however, operations proposed to be located within the areas listed in paragraph (i) of US270 should not expect to be accommodated.

(270) US270 In the band 420–450 MHz, the following provisions shall apply to the amateur service:

(i) The peak envelope power of an amateur station shall not exceed 50 watts in the following areas, unless expressly authorized by the FCC after mutual agreement, on a case-by-case basis, between the Regional Director of the applicable field office and the military area frequency coordinator at the applicable military base. For areas (E) through (G), the appropriate military coordinator is located at Peterson AFB, CO.

(A) Arizona, Florida and New Mexico.

(B) Within those portions of California and Nevada that are south of latitude 37°10' N.

(C) Within that portion of Texas that is west of longitude 104° W.

(D) Within 322 km of Eglin AFB, FL (30°30' N, 86°30' W); Patrick AFB, FL (28°21' N, 80°43' W); and the Pacific Missile Test Center, Point Mugu, CA (34°09' N, 119°11' W).

(E) Within 240 km of Beale AFB, CA (39°08' N, 121°26' W).

(F) Within 200 km of Goodfellow AFB, TX (31°25' N, 100°24' W) and Warner Robins AFB, GA (32°38' N, 83°35' W).

(G) Within 160 km of Clear AFS, AK (64°17' N, 149°10' W); Concrete, ND (48°43' N, 97°54' W); and Otis AFB, MA (41°45' N, 70°32' W).

(ii) In the sub-band 420–430 MHz, the amateur service is not allocated north of Line A (def. § 2.1).

(271)–(272) [Reserved]

(273) US273 In the bands 74.6–74.8 MHz and 75.2–75.4 MHz, stations in the fixed and mobile services are limited to a maximum power of 1 watt from the transmitter into the antenna transmission line.

(274) [Reserved]

(275) US275 The band 902–928 MHz is allocated on a secondary basis to the amateur service subject to not causing harmful interference to the operations of Federal stations authorized in this band or to Location and Monitoring Service (LMS) systems. Stations in the amateur service must tolerate any interference from the operations of industrial, scientific, and medical (ISM) devices, LMS systems, and the operations of

Federal stations authorized in this band. Further, the amateur service is prohibited in those portions of Texas and New Mexico bounded on the south by latitude 31°41' North, on the east by longitude 104°11' West, and on the north by latitude 34°30' North, and on the west by longitude 107°30' West; in addition, outside this area but within 150 miles of these boundaries of White Sands Missile Range the service is restricted to a maximum transmitter peak envelope power output of 50 watts.

(276) US276 Except as otherwise provided for herein, use of the band 2360–2395 MHz by the mobile service is limited to aeronautical telemetering and associated telecommand operations for flight testing of aircraft, missiles or major components thereof. The following three frequencies are shared on a co-equal basis by Federal and non-Federal stations for telemetering and associated telecommand operations of expendable and reusable launch vehicles, whether or not such operations involve flight testing: 2364.5 MHz, 2370.5 MHz, and 2382.5 MHz. All other mobile telemetering uses shall not cause harmful interference to, or claim protection from interference from, the above uses.

(277) [Reserved]

(278) US278 In the bands 22.55–23.55 GHz and 32.3–33 GHz, non-geostationary inter-satellite links may operate on a secondary basis to geostationary inter-satellite links.

(279) US279 The frequency 2182 kHz may be authorized to fixed stations associated with the maritime mobile service for the sole purpose of transmitting distress calls and distress traffic, and urgency and safety signals and messages.

(280) [Reserved]

(281) US281 In the band 25 070–25 210 kHz, non-Federal stations in the Industrial/Business Pool shall not cause harmful interference to, and must accept interference from, stations in the maritime mobile service operating in accordance with the Table of Frequency Allocations in this section.

(282) US282 In the band 4650–4700 kHz, frequencies may be authorized for non-Federal communication with helicopters in support of off-shore drilling operations on the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations in this section.

(283) US283 In the bands 2850–3025 kHz, 3400–3500 kHz, 4650–4700 kHz, 5450–5680 kHz, 6525–6685 kHz, 10 005–10 100 kHz, 11 275–11 400 kHz, 13 260–13 360 kHz, and 17 900–17 970 kHz, frequencies may be authorized for

non-Federal flight test purposes on the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations in this section.

(284) [Reserved]

(285) US285 Under exceptional circumstances, the carrier frequencies 2635 kHz, 2638 kHz, and 2738 kHz may be authorized to coast stations.

(286) [Reserved]

(287) US287 In the maritime mobile service, the frequencies 457.525 MHz, 457.550 MHz, 457.575 MHz, 467.525 MHz, 467.550 MHz and 467.575 MHz may be used by on-board communication stations. Where needed, equipment designed for 12.5 kHz channel spacing using also the additional frequencies 457.5375 MHz, 457.5625 MHz, 467.5375 MHz and 467.5625 MHz may be introduced for on-board communications. The use of these frequencies in territorial waters may be subject to the national regulations of the administration concerned. The characteristics of the equipment used shall conform to those specified in Recommendation ITU-R M.1174–2.

(288) US288 In the territorial waters of the United States, the preferred frequencies for use by on-board communication stations shall be 457.525 MHz, 457.550 MHz, 457.575 MHz and 457.600 MHz paired, respectively, with 467.750 MHz, 467.775 MHz, 467.800 MHz and 467.825 MHz. Where needed, equipment designed for 12.5 kHz channel spacing using also the additional frequencies 457.5375 MHz, 457.5625 MHz, 467.5375 MHz and 467.5625 MHz may be introduced for on-board communications. The characteristics of the equipment used shall conform to those specified in Recommendation ITU-R M.1174–2.

(289) US289 In the bands 460–470 MHz and 1690–1695 MHz, the following provisions shall apply:

(i) In the band 460–470 MHz, space stations in the Earth exploration-satellite service (EESS) may be authorized for space-to-Earth transmissions on a secondary basis with respect to the fixed and mobile services. When operating in the meteorological-satellite service, such stations shall be protected from harmful interference from other EESS applications. The power flux density produced at the Earth's surface by any space station in this band shall not exceed -152 dBW/ $m^2/4$ kHz.

(ii) In the band 1690–1695 MHz, EESS applications, other than the meteorological-satellite service, may also be used for space-to-Earth

transmissions subject to not causing harmful interference to stations operating in accordance with the Table of Frequency Allocations in this section.

(290)–(295) [Reserved]

(296) US296 In the bands designated for ship wide-band telegraphy, facsimile and special transmission systems, the following assignable frequencies are available to non-Federal stations on a shared basis with Federal stations: 2070.5 kHz, 2072.5 kHz, 2074.5 kHz, 2076.5 kHz, 4154 kHz, 4170 kHz, 6235 kHz, 6259 kHz, 8302 kHz, 8338 kHz, 12 370 kHz, 12 418 kHz, 16 551 kHz, 16 615 kHz, 18 848 kHz, 18 868 kHz, 22 182 kHz, 22 238 kHz, 25 123 kHz, and 25 159 kHz.

(297) US297 The bands 47.2–49.2 GHz and 81–82.5 GHz are also available for feeder links for the broadcasting-satellite service.

(298) US298 The assigned frequencies 27.555, 27.615, 27.635, 27.655, 27.765, and 27.860 MHz are available for use by forest product licensees on a secondary basis to Federal operations including experimental stations. Non-Federal operations on these frequencies will not exceed 150 watts output power and are limited to the states of Washington, Oregon, Maine, North Carolina, South Carolina, Tennessee, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas (eastern portion).

(299) US299 In Alaska, the band 1615–1705 kHz is also allocated to the maritime mobile and Alaska fixed services on a secondary basis to Region 2 broadcast operations.

(300) US300 The frequencies 169.445, 169.505, 169.545, 169.575, 169.605, 169.995, 170.025, 170.055, 170.245, 170.305, 171.045, 171.075, 171.105, 171.845, 171.875, and 171.905 MHz are available for wireless microphone operations on a secondary basis to Federal and non-Federal operations. On center frequencies 169.575 MHz, 170.025 MHz, 171.075 MHz, and 171.875 MHz, the emission bandwidth shall not exceed 200 kHz. On the other center frequencies, the emission bandwidth shall not exceed 54 kHz.

(301) US301 Except as provided in NG30, broadcast auxiliary stations licensed as of November 21, 1984, to operate in the band 942–944 MHz may continue to operate on a co-equal primary basis to other stations and services operating in the band in accordance with the Table of Frequency Allocations in this section.

(302) [Reserved]

(303) US303 In the band 2285–2290 MHz, non-Federal space stations in the space research, space operations and

Earth exploration-satellite services may be authorized to transmit to the Tracking and Data Relay Satellite System subject to such conditions as may be applied on a case-by-case basis. Such transmissions shall not cause harmful interference to authorized Federal stations. The power flux-density at the Earth's surface from such non-Federal stations shall not exceed -144 to -154 dBW/m²/4 kHz, depending on angle of arrival, in accordance with ITU Radio Regulation 21.16.

(304)–(306) [Reserved]

(307) US307 The band 5150–5216 MHz is also allocated to the fixed-satellite service (space-to-Earth) for feeder links in conjunction with the radiodetermination-satellite service operating in the bands 1610–1626.5 MHz and 2483.5–2500 MHz. The total power flux-density at the Earth's surface shall in no case exceed -159 dBW/m² per 4 kHz for all angles of arrival.

(308) US308 In the bands 1549.5–1558.5 MHz and 1651–1660 MHz, those requirements of the aeronautical mobile-satellite (R) service that cannot be accommodated in the bands 1545–1549.5 MHz, 1558.5–1559 MHz, 1646.5–1651 MHz and 1660–1660.5 MHz shall have priority access with real-time preemptive capability for communications in the mobile-satellite service. Systems not interoperable with the aeronautical mobile-satellite (R) service shall operate on a secondary basis. Account shall be taken of the priority of safety-related communications in the mobile-satellite service.

(309) US309 In the bands 1545–1559 MHz, transmissions from terrestrial aeronautical stations directly to aircraft stations, or between aircraft stations, in the aeronautical mobile (R) service are also authorized when such transmissions are used to extend or supplement the satellite-to-aircraft links. In the band 1646.5–1660.5 MHz, transmissions from aircraft stations in the aeronautical mobile (R) service directly to terrestrial aeronautical stations, or between aircraft stations, are also authorized when such transmissions are used to extend or supplement the aircraft-to-satellite links.

(310) US310 In the band 14.896–15.121 GHz, non-Federal space stations in the space research service may be authorized on a secondary basis to transmit to Tracking and Data Relay Satellites subject to such conditions as may be applied on a case-by-case basis. Such transmissions shall not cause harmful interference to authorized Federal stations. The power flux-density (pfd) produced by such non-Federal

stations at the Earth's surface in any 1 MHz band for all conditions and methods of modulation shall not exceed:

(i) -124 dB(W/m²) for $0^\circ < \theta < 5^\circ$, (ii) $-124 + (\theta - 5)/2$ dB(W/m²) for $5^\circ < \theta < 25^\circ$, (iii) and -114 dB(W/m²) for $25^\circ < \theta < 90$, where θ is the angle of arrival of the radio-frequency wave (degrees above the horizontal). These limits relate to the pfd and angles of arrival which would be obtained under free-space propagation conditions.

(ii) [Reserved]

(311) [Reserved]

(312) US312 The frequency 173.075 MHz may also be authorized on a primary basis to non-Federal stations in the Public Safety Radio Pool, limited to police licensees, for stolen vehicle recovery systems (SVRS). As of May 27, 2005, new SVRS licenses shall be issued for an authorized bandwidth not to exceed 12.5 kHz. Stations that operate as part of a stolen vehicle recovery system that was authorized and in operation prior to May 27, 2005 may operate with an authorized bandwidth not to exceed 20 kHz until May 27, 2019. After that date, all SVRS shall operate with an authorized bandwidth not to exceed 12.5 kHz.

(313)–(314) [Reserved]

(315) US315 In the bands 1530–1544 MHz and 1626.5–1645.5 MHz, maritime mobile-satellite distress and safety communications, *e.g.*, GMDSS, shall have priority access with real-time preemptive capability in the mobile-satellite service. Communications of mobile-satellite system stations not participating in the GMDSS shall operate on a secondary basis to distress and safety communications of stations operating in the GMDSS. Account shall be taken of the priority of safety-related communications in the mobile-satellite service.

(316) US316 The band 2900–3000 MHz is also allocated to the meteorological aids service on a primary basis for Federal use. Operations in this service are limited to Next Generation Weather Radar (NEXRAD) systems where accommodation in the band 2700–2900 MHz is not technically practical and are subject to coordination with existing authorized stations.

(317)–(318) [Reserved]

(319) US319 In the bands 137–138 MHz, 148–149.9 MHz, 149.9–150.05 MHz, 399.9–400.05 MHz, 400.15–401 MHz, 1610–1626.5 MHz, and 2483.5–2500 MHz, Federal stations in the mobile-satellite service shall be limited to earth stations operating with non-Federal space stations.

(320) US320 The use of the bands 137–138 MHz, 148–150.05 MHz, 399.9–

400.05 MHz, and 400.15–401 MHz by the mobile-satellite service is limited to non-voice, non-geostationary satellite systems and may include satellite links between land earth stations at fixed locations.

(321)–(322) [Reserved]

(323) US323 In the band 148–149.9 MHz, no individual mobile earth station shall transmit on the same frequency being actively used by fixed and mobile stations and shall transmit no more than 1% of the time during any 15 minute period; except, individual mobile earth stations in this band that do not avoid frequencies actively being used by the fixed and mobile services shall not exceed a power density of -16 dBW/4 kHz and shall transmit no more than 0.25% of the time during any 15 minute period. Any single transmission from any individual mobile earth station operating in this band shall not exceed 450 ms in duration and consecutive transmissions from a single mobile earth station on the same frequency shall be separated by at least 15 seconds. Land earth stations in this band shall be subject to electromagnetic compatibility analysis and coordination with terrestrial fixed and mobile stations.

(324) US324 In the band 400.15–401 MHz, Federal and non-Federal satellite systems shall be subject to electromagnetic compatibility analysis and coordination.

(325) US325 In the band 148–149.9 MHz fixed and mobile stations shall not claim protection from land earth stations in the mobile-satellite service that have been previously coordinated; Federal fixed and mobile stations exceeding 27 dBW EIRP, or an emission bandwidth greater than 38 kHz, will be coordinated with existing mobile-satellite service space stations.

(326) [Reserved]

(327) US327 The band 2310–2360 MHz is allocated to the broadcasting-satellite service (sound) and complementary terrestrial broadcasting service on a primary basis. Such use is limited to digital audio broadcasting and is subject to the provisions of Resolution 528.

(328)–(333) [Reserved]

(334) US334 In the bands between 17.7 GHz and 20.2 GHz, the following provisions shall apply:

(i) In the bands between 17.8 GHz and 20.2 GHz, Federal space stations in both geostationary (GSO) and non-geostationary satellite orbits (NGSO) and associated earth stations in the fixed-satellite service (FSS) (space-to-Earth) may be authorized on a primary basis. For a Federal GSO FSS network to operate on a primary basis, the space station shall be located outside the arc,

measured from east to west, 70–120° West longitude. Coordination between Federal FSS systems and non-Federal space and terrestrial systems operating in accordance with the United States Table of Frequency Allocations in this section is required.

(ii) In the bands between 17.8 GHz and 20.2 GHz, Federal earth stations operating with Federal space stations shall be authorized on a primary basis only in the following areas: Denver, Colorado; Washington, DC; San Miguel, California; and Guam. Prior to the commencement of non-Federal terrestrial operations in these areas, the FCC shall coordinate with NTIA all applications for new stations and modifications to existing stations as specified in §§ 1.924(f), 74.32, and 78.19(f) of this chapter. In the band 17.7–17.8 GHz, the FCC shall also coordinate with NTIA all applications for new stations and modifications to existing stations that support the operations of Multichannel Video Programming Distributors (MVPD) in these areas, as specified in §§ 1.924(f), 74.32, and 78.19(f).

(iii) In the bands between 17.8 GHz and 19.7 GHz, the power flux-density (pfd) at the surface of the Earth produced by emissions from a Federal GSO space station or from a Federal space station in a NGSO constellation of 50 or fewer satellites, for all conditions and for all methods of modulation, shall not exceed the following values in any 1 MHz band:

- (A) –115 dB(W/m²) for angles of arrival above the horizontal plane (δ) between 0° and 5°.
- (B) –115 + 0.5(δ –5) dB(W/m²) for δ between 5° and 25°, and
- (C) –105 dB(W/m²) for δ between 25° and 90°.

(iv) In the bands between 17.8 GHz and 19.3 GHz, the pfd at the surface of the Earth produced by emissions from a Federal space station in a NGSO constellation of 51 or more satellites, for all conditions and for all methods of modulation, shall not exceed the following values in any 1 MHz band:

- (A) –115 – X dB(W/m²) for δ between 0° and 5°.
- (B) –115 – X + ((10 + X)/20)(δ – 5) dB(W/m²) for δ between 5° and 25°, and
- (C) –105 dB(W/m²) for δ between 25° and 90°; where X is defined as a function of the number of satellites, n, in an NGSO constellation as follows:

For $n \leq 288$, $X = (5/119)(n - 50)$ dB; and
 For $n > 288$, $X = (1/69)(n + 402)$ dB.

(335)–(336) [Reserved]

(337) US337 In the band 13.75–13.8 GHz, the FCC shall coordinate earth stations in the fixed-satellite service with NTIA on a case-by-case basis in order to minimize harmful interference to the Tracking and Data Relay Satellite System’s forward space-to-space link (TDRSS forward link-to-LEO).

(338) US338A In the band 1435–1452 MHz, operators of aeronautical telemetry stations are encouraged to take all reasonable steps to ensure that the unwanted emissions power does not exceed –28 dBW/27 MHz in the band 1400–1427 MHz. Operators of aeronautical telemetry stations that do not meet this limit shall first attempt to operate in the band 1452–1525 MHz prior to operating in the band 1435–1452 MHz.

(339) [Reserved]

(340) US340 The band 2–30 MHz is available on a non-interference basis to Federal and non-Federal maritime and aeronautical stations for the purposes of measuring the quality of reception on radio channels. See § 87.149 of this chapter for the list of protected frequencies and bands within this frequency range. Actual communications shall be limited to those frequencies specifically allocated to the maritime mobile and aeronautical mobile services.

(341) [Reserved]

(342) US342 In making assignments to stations of other services to which the bands in table 17 to this paragraph (c)(342) are allocated (* indicates radio astronomy use for spectral line observations), all practicable steps shall be taken to protect the radio astronomy service from harmful interference. Emissions from spaceborne or airborne stations can be particularly serious sources of interference to the radio astronomy service (see ITU Radio Regulations at Nos. 4.5 and 4.6 and Article 29).

TABLE 17 TO PARAGRAPH (c)(342)

13 360–13 410 kHz ..	42.77–42.87 GHz*.
25 550–25 670 kHz ..	43.07–43.17 GHz*.
37.5–38.25 MHz	43.37–43.47 GHz*.
322–328.6 MHz*	48.94–49.04 GHz*.
1330–1400 MHz*	76–86 GHz.
1610.6–1613.8 MHz*	92–94 GHz.
1660–1660.5 MHz* ...	94.1–100 GHz.
1668.4–1670 MHz* ...	102–109.5 GHz.
3260–3267 MHz*	111.8–114.25 GHz.
3332–3339 MHz*	128.33–128.59 GHz*.
3345.8–3352.5 MHz*	129.23–129.49 GHz*.
4825–4835 MHz*	130–134 GHz.
4950–4990 MHz	136–148.5 GHz.
6650–6675.2 MHz* ...	151.5–158.5 GHz.
14.47–14.5 GHz*	168.59–168.93 GHz*.

TABLE 17 TO PARAGRAPH (c)(342)—
Continued

22.01–22.21 GHz*	171.11–171.45 GHz*.
22.21–22.5 GHz	172.31–172.65 GHz*.
22.81–22.86 GHz*	173.52–173.85 GHz*.
23.07–23.12 GHz*	195.75–196.15 GHz*.
31.2–31.3 GHz	209–226 GHz.
36.43–36.5 GHz*	241–250 GHz.
42.5–43.5 GHz	252–275 GHz.

(343) US343 In the mobile service, the frequencies between 1435 and 1525 MHz will be assigned for aeronautical telemetry and associated telecommand operations for flight testing of manned or unmanned aircraft and missiles, or their major components. Permissible usage includes telemetry associated with launching and reentry into the Earth’s atmosphere as well as any incidental orbiting prior to reentry of manned objects undergoing flight tests. The following frequencies are shared on a co-equal basis with flight telemetering mobile stations: 1444.5, 1453.5, 1501.5, 1515.5, and 1524.5 MHz.

(344) US344 In the band 5091–5250 MHz, the FCC shall coordinate earth stations in the fixed-satellite service (Earth-to-space) with NTIA (see Recommendation ITU–R S.1342). In order to better protect the operation of the international standard system (microwave landing system) in the band 5000–5091 MHz, non-Federal tracking and telecommand operations should be conducted in the band 5150–5250 MHz.

(345) [Reserved]

(346) US346 Except as provided for in table 18 to this paragraph (c)(346) and by US222, Federal use of the band 2025–2110 MHz by the space operation service (Earth-to-space), Earth exploration-satellite service (Earth-to-space), and space research service (Earth-to-space) shall not constrain the deployment of the Television Broadcast Auxiliary Service, the Cable Television Relay Service, or the Local Television Transmission Service. To facilitate compatible operations between non-Federal terrestrial receiving stations at fixed sites and Federal earth station transmitters, coordination is required. To facilitate compatible operations between non-Federal terrestrial transmitting stations and Federal spacecraft receivers, the terrestrial transmitters in the band 2025–2110 MHz shall not be high-density systems (see Recommendations ITU–R SA.1154 and ITU–R F.1247). Military satellite control stations at the following sites shall operate on a co-equal, primary basis with non-Federal operations:

TABLE 18 TO PARAGRAPH (c)(346)

Facility	Coordinates	
Naval Satellite Control Network, Prospect Harbor, ME	44°24'16" N	068°00'46" W
New Hampshire Tracking Station, New Boston AFS, NH	42°56'52" N	071°37'36" W
Eastern Vehicle Check-out Facility & GPS Ground Antenna & Monitoring Station, Cape Canaveral, FL	28°29'09" N	080°34'33" W
Buckley AFB, CO	39°42'55" N	104°46'36" W
Colorado Tracking Station, Schriever AFB, CO	38°48'21" N	104°31'43" W
Kirtland AFB, NM	34°59'46" N	106°30'28" W
Camp Parks Communications Annex, Pleasanton, CA	37°43'51" N	121°52'50" W
Naval Satellite Control Network, Laguna Peak, CA	34°06'31" N	119°03'53" W
Vandenberg Tracking Station, Vandenberg AFB, CA	34°49'21" N	120°30'07" W
Hawaii Tracking Station, Kaena Pt, Oahu, HI	21°33'44" N	158°14'31" W
Guam Tracking Stations, Andersen AFB, and Naval CTS, Guam	13°36'54" N	144°51'18" E

(347) US347 In the band 2025–2110 MHz, non-Federal Earth-to-space and space-to-space transmissions may be authorized in the space research and Earth exploration-satellite services subject to such conditions as may be applied on a case-by-case basis. Such transmissions shall not cause harmful interference to Federal and non-Federal stations operating in accordance with the Table of Frequency Allocations in this section.

(348) [Reserved]

(349) US349 The band 3650–3700 MHz is also allocated to the Federal radiolocation service on a non-interference basis for use by ship stations located at least 44 nautical miles in off-shore ocean areas on the condition that harmful interference is not caused to non-Federal operations.

(350) US350 In the band 1427–1432 MHz, Federal use of the land mobile service and non-Federal use of the fixed and land mobile services is limited to telemetry and telecommand operations as described further:

(i) *Medical operations.* The use of the band 1427–1432 MHz for medical telemetry and telecommand operations (medical operations) shall be authorized for both Federal and non-Federal stations.

(A) Medical operations shall be authorized in the band 1427–1429.5 MHz in the United States and its insular areas, except in the following locations: Austin/Georgetown, Texas; Detroit and Battle Creek, Michigan; Pittsburgh, Pennsylvania; Richmond/Norfolk, Virginia; Spokane, Washington; and Washington DC metropolitan area (collectively, the “carved-out” locations). See Section 47 CFR 90.259(b)(4) for a detailed description of these areas.

(B) In the carved-out locations, medical operations shall be authorized in the band 1429–1431.5 MHz.

(C) Medical operations may operate on frequencies in the band 1427–1432 MHz other than those described in

paragraphs (c)(350)(i)(A) and (B) of this section only if the operations were registered with a designated frequency coordinator prior to April 14, 2010.

(ii) *Non-medical operations.* The use of the band 1427–1432 MHz for non-medical telemetry and telecommand operations (non-medical operations) shall be limited to non-Federal stations.

(A) Non-medical operations shall be authorized on a secondary basis to the Wireless Medical Telemetry Service (WMTS) in the band 1427–1429.5 MHz and on a primary basis in the band 1429.5–1432 MHz in the United States and its insular areas, except in the carved-out locations.

(B) In the carved-out locations, non-medical operations shall be authorized on a secondary basis in the band 1429–1431.5 MHz and on a primary basis in the bands 1427–1429 MHz and 1431.5–1432 MHz.

(351)–(352) [Reserved]

(353) US353 In the bands 56.24–56.29 GHz, 58.422–58.472 GHz, 59.139–59.189 GHz, 59.566–59.616 GHz, 60.281–60.331 GHz, 60.41–60.46 GHz, and 62.461–62.511 GHz, space-based radio astronomy observations may be made on an unprotected basis.

(354) US354 In the band 58.422–58.472 GHz, airborne stations and space stations in the space-to-Earth direction shall not be authorized.

(355) [Reserved]

(356) US356 In the band 13.75–14 GHz, an earth station in the fixed-satellite service shall have a minimum antenna diameter of 4.5 m and the e.i.r.p. of any emission should be at least 68 dBW and should not exceed 85 dBW. In addition the e.i.r.p., averaged over one second, radiated by a station in the radiolocation service shall not exceed 59 dBW. Receiving space stations in the fixed-satellite service shall not claim protection from radiolocation transmitting stations operating in accordance with the United States Table of Frequency Allocations in this section. ITU Radio Regulation No. 5.43A does not apply.

(357) US357 In the band 13.75–14 GHz, geostationary space stations in the space research service for which information for advance publication has been received by the ITU Radiocommunication Bureau (Bureau) prior to 31 January 1992 shall operate on an equal basis with stations in the fixed-satellite service; after that date, new geostationary space stations in the space research service will operate on a secondary basis.

(i) Until those geostationary space stations in the space research service for which information for advance publication has been received by the Bureau prior to 31 January 1992 cease to operate in this band:

(A) The e.i.r.p. density of emissions from any earth station in the fixed-satellite service operating with a space station in geostationary-satellite orbit shall not exceed 71 dBW in any 6 MHz band from 13.77 to 13.78 GHz;

(B) The e.i.r.p. density of emissions from any earth station in the fixed-satellite service operating with a space station in non-geostationary-satellite orbit shall not exceed 51 dBW in any 6 MHz band from 13.77 to 13.78 GHz.

(ii) Automatic power control may be used to increase the e.i.r.p. density in any 6 MHz band in these frequency ranges to compensate for rain attenuation, to the extent that the power flux-density at the fixed-satellite service space station does not exceed the value resulting from use by an earth station of an e.i.r.p. of 71 dBW or 51 dBW, as appropriate, in any 6 MHz band in clear-sky conditions.

(358) [Reserved]

(359) US359 In the band 15.43–15.63 GHz, use of the fixed-satellite service (Earth-to-space) is limited to non-Federal feeder links of non-geostationary systems in the mobile-satellite service. The FCC shall coordinate earth stations in this band with NTIA (see Annex 3 of Recommendation ITU-R S.1340).

(360) US360 The band 33–36 GHz is also allocated to the fixed-satellite service (space-to-Earth) on a primary basis for Federal use. Coordination between Federal fixed-satellite service systems and non-Federal systems operating in accordance with the United States Table of Frequency Allocations in this section is required.

(361) [Reserved]

(362) US362 The band 1670–1675 MHz is allocated to the meteorological-satellite service (space-to-Earth) on a primary basis for Federal use. Earth station use of this allocation is limited to Wallops Island, VA (37°56'44" N, 75°27'37" W), Fairbanks, AK (64°58'22" N, 147°30'04" W), and Greenbelt, MD (39°00'02" N, 76°50'29" W). Applicants

for non-Federal stations within 100 kilometers of the Wallops Island or Fairbanks coordinates and within 65 kilometers of the Greenbelt coordinates shall notify NOAA in accordance with the procedures specified in § 1.924 of this chapter.

(363) [Reserved]

(364) US364 Consistent with US18, stations may be authorized on a primary basis in the band 285–325 kHz for the specific purpose of transmitting differential global positioning system information.

(365)–(377) [Reserved]

(378) US378 In the band 1710–1755 MHz, the following provisions apply:

(i) Federal fixed and tactical radio relay stations may operate indefinitely

on a primary basis within 80 km of Cherry Point, NC (34°58' N, 76°56' W) and Yuma, AZ (32°32' N, 113°58' W).

(ii) Federal fixed and tactical radio relay stations shall operate on a secondary basis to primary non-Federal operations at the 14 sites listed in table 19 to this paragraph (c)(378).

(iii) In the sub-band 1710–1720 MHz, precision guided munitions shall operate on a primary basis until inventory is exhausted or until December 31, 2008, whichever is earlier.

(iv) All other Federal stations in the fixed and mobile services shall operate on a primary basis until reaccommodated in accordance with the Commercial Spectrum Enhancement Act.

TABLE 19 TO PARAGRAPH (c)(378)

State	Location	Coordinates
80 km radius of operation centered on:		
CA	China Lake	35°41' N, 117°41' W
CA	Pacific Missile Test Range/Point Mugu	34°07' N, 119°30' W
FL	Eglin AFB	30°29' N, 086°31' W
MD	Patuxent River	38°17' N, 076°25' W
NM	White Sands Missile Range	33°00' N, 106°30' W
NV	Nellis AFB	36°14' N, 115°02' W
UT	Hill AFB	41°07' N, 111°58' W
50 km radius of operation centered on:		
AL	Fort Rucker	31°13' N, 085°49' W
CA	Fort Irwin	35°16' N, 116°41' W
GA	Fort Benning	32°22' N, 084°56' W
GA	Fort Stewart	31°52' N, 081°37' W
KY	Fort Campbell	36°41' N, 087°28' W
NC	Fort Bragg	35°09' N, 079°01' W
WA	Fort Lewis	47°05' N, 122°36' W

(379) US379 In the band 55.78–56.26 GHz, in order to protect stations in the Earth exploration-satellite service (passive), the maximum power density delivered by a transmitter to the antenna of a fixed service station is limited to –28.5 dB(W/MHz).

(380) US380 In the bands 1525–1544 MHz, 1545–1559 MHz, 1610–1645.5 MHz, 1646.5–1660.5 MHz, and 2483.5–2500 MHz, a non-Federal licensee in the mobile-satellite service (MSS) may also operate an ancillary terrestrial component in conjunction with its MSS network, subject to the Commission's rules for ancillary terrestrial components and subject to all applicable conditions and provisions of its MSS authorization.

(381) [Reserved]

(382) US382 In the band 39.5–40 GHz, Federal earth stations in the mobile-satellite service (space-to-Earth) shall not claim protection from non-

Federal stations in the fixed and mobile services. ITU Radio Regulation No. 5.43A does not apply.

(383) [Reserved]

(384) US384 In the band 401–403 MHz, the non-Federal Earth exploration-satellite (Earth-to-space) and meteorological-satellite (Earth-to-space) services are limited to earth stations transmitting to Federal space stations.

(385) US385 Radio astronomy observations may be made in the bands 1350–1400 MHz, 1718.8–1722.2 MHz, and 4950–4990 MHz on an unprotected basis, and in the band 2655–2690 MHz on a secondary basis, at the radio astronomy observatories in table 20 to paragraph (c)(385)(ii) of this section.

(i) In the bands 1350–1400 MHz and 4950–4990 MHz, every practicable effort will be made to avoid the assignment of frequencies to stations in the fixed and mobile services that could interfere with radio astronomy observations within the

geographic areas given in table 20 to paragraph (c)(385)(ii) of this section. In addition, every practicable effort will be made to avoid assignment of frequencies in these bands to stations in the aeronautical mobile service which operate outside of those geographic areas, but which may cause harmful interference to the listed observatories. Should such assignments result in harmful interference to these observatories, the situation will be remedied to the extent practicable.

(ii) In the band 2655–2690 MHz, for radio astronomy observations performed at the locations listed in table 20 to this paragraph (c)(385)(ii), licensees are urged to coordinate their systems through the National Science Foundation, Division of Astronomical Sciences, Electromagnetic Spectrum Management Unit, 2415 Eisenhower Avenue, Alexandria, VA 22314; Email: *esm@nsf.gov*.

TABLE 20 TO PARAGRAPH (c)(385)(ii)

Allen Telescope Array, Hat Creek, CA	Rectangle between latitudes 40°00' N and 42°00' N and between longitudes 120°15' W and 122°15' W.
NASA Goldstone Deep Space Communications Complex, Goldstone, CA	80 kilometers (50 mile) radius centered on 35°20' N, 116°53' W.
National Astronomy and Ionosphere Center, Arecibo, PR	Rectangle between latitudes 17°30' N and 19°00' N and between longitudes 65°10' W and 68°00' W.
National Radio Astronomy Observatory, Socorro, NM	Rectangle between latitudes 32°30' N and 35°30' N and between longitudes 106°00' W and 109°00' W.
National Radio Astronomy Observatory, Green Bank, WV	Rectangle between latitudes 37°30' N and 39°15' N and between longitudes 78°30' W and 80°30' W.

National Radio Astronomy Observatory, Very Long Baseline Array Stations	80 kilometer radius centered on:	
	North latitude	West longitude
Brewster, WA	48°08'	119°41'
Fort Davis, TX	30°38'	103°57'
Hancock, NH	42°56'	71°59'
Kitt Peak, AZ	31°57'	111°37'
Los Alamos, NM	35°47'	106°15'
Mauna Kea, HI	19°48'	155°27'
North Liberty, IA	41°46'	91°34'
Owens Valley, CA	37°14'	118°17'
Pie Town, NM	34°18'	108°07'
Saint Croix, VI	17°45'	64°35'
Owens Valley Radio Observatory, Big Pine, CA	Two contiguous rectangles, one between latitudes 36°00' N and 37°00' N and between longitudes 117°40' W and 118°30' W and the second between latitudes 37°00' N and 38°00' N and between longitudes 118°00' W and 118°50' W.	

(386)–(388) [Reserved] mobile, and broadcasting services shall in the fixed-satellite service at any of the
 (389) US389 In the bands 71–76 GHz not cause harmful interference to, nor 28 military installations in table 21 to
 and 81–86 GHz, stations in the fixed, claim protection from, Federal stations this paragraph (c)(389).

TABLE 21 TO PARAGRAPH (c)(389)

Military installation	State	Nearby city
Redstone Arsenal	AL	Huntsville.
Fort Huachuca	AZ	Sierra Vista.
Yuma Proving Ground	AZ	Yuma.
Beale AFB	CA	Marysville.
Camp Parks Reserve Forces Training Area	CA	Dublin.
China Lake Naval Air Weapons Station	CA	Ridgecrest.
Edwards AFB	CA	Rosamond.
Fort Irwin	CA	Barstow.
Marine Corps Air Ground Combat Center	CA	Twentynine Palms.
Buckley AFB	CO	Aurora (Denver).
Schriever AFB	CO	Colorado Springs.
Fort Gordon	GA	Augusta.
Naval Satellite Operations Center	GU	Finagayan (Guam).
Naval Computer and Telecommunications Area Master Station, Pacific	HI	Wahiawa (Oahu Is.).
Fort Detrick	MD	Frederick.
Nellis AFB	NV	Las Vegas.
Nevada Test Site	NV	Amargosa Valley.
Tonapah Test Range Airfield	NV	Tonapah.
Cannon AFB	NM	Clovis.
White Sands Missile Range	NM	White Sands.
Dyess AFB	TX	Abilene.
Fort Bliss	TX	El Paso.
Fort Sam Houston	TX	San Antonio.
Goodfellow AFB	TX	San Angelo.
Kelly AFB	TX	San Antonio.
Utah Test and Training Range	UT	
Fort Belvoir	VA	Alexandria.
Naval Satellite Operations Center	VA	Chesapeake.

(390) US390 Federal stations in the space research service (active) operating in the band 5350–5460 MHz shall not cause harmful interference to, nor claim protection from, Federal and non-Federal stations in the aeronautical radionavigation service nor Federal stations in the radiolocation service.

(391) US391 In the band 2495–2500 MHz, the mobile-satellite service (space-to-Earth) shall not receive protection from non-Federal stations in the fixed and mobile except aeronautical mobile services operating in that band.

(392)–(396) [Reserved]

(397) US397 In the band 432–438 MHz, the Earth exploration-satellite service (active) is allocated on a secondary basis for Federal use. Stations in the Earth exploration-satellite service (active) shall not be operated within line-of-sight of the United States except for the purpose of short duration pre-operational testing. Operations under this allocation shall not cause harmful interference to, nor claim protection from, any other services allocated in the band 432–438 MHz in the United States, including secondary services and the amateur-satellite service.

(398)–(401) [Reserved]

(402) US402 In the band 17.3–17.7 GHz, existing Federal satellites and associated earth stations in the fixed-satellite service (Earth-to-space) are authorized to operate on a primary basis in the frequency bands and areas listed below. Non-Federal receiving earth stations in the broadcasting-satellite and fixed-satellite services within the bands and areas listed below shall not claim protection from Federal earth stations in the fixed-satellite service.

(i) 17.600–17.700 GHz for stations within a 120 km radius of 38°49' N latitude and 76°52' W longitude.

(ii) 17.375–17.475 GHz for stations within a 160 km radius of 39°42' N latitude and 104°45' W longitude.

(403)–(430) [Reserved]

(431) US431B The band 3450–3550 MHz is allocated on a primary basis to the Federal radiolocation service and to the non-Federal fixed and mobile, except aeronautical mobile, services on a nationwide basis. Federal operations in the band 3450–3550 MHz shall not cause harmful interference to non-Federal operations, except under the following circumstances.

(i) *Cooperative Planning Areas.* Cooperative Planning Areas (CPAs) are geographic locations in which non-Federal operations shall coordinate with Federal systems in the band to deploy non-Federal operations in a manner that shall not cause harmful interference to Federal systems operating in the band. In addition, operators of non-Federal stations may be required to modify their operations (*e.g.*, reduce power, filtering, adjust antenna pointing angles, shielding, *etc.*) to protect Federal operations against harmful interference and to avoid, where possible, interference and potential damage to the non-Federal operators' systems. In these areas, non-Federal operations may not claim interference protection from Federal systems. Federal and non-Federal operators may reach mutually acceptable operator-to-operator agreements to permit more extensive non-Federal use by identifying and mutually agreeing upon a technical approach that mitigates the interference risk to Federal operations. To the extent possible, Federal use in CPAs will be chosen to minimize operational impact on non-Federal users. Table 22 to this paragraph (c)(431) identifies the locations of CPAs, including, for information, those with high powered Federal operations. CPAs may also be Periodic Use Areas as described below. Coordination between Federal users and non-Federal licensees in CPAs shall be consistent with rules and procedures established by the FCC and NTIA.

(ii) *Periodic Use Areas.* Periodic Use Areas (PUAs) are geographic locations in which non-Federal operations in the band shall not cause harmful interference to Federal systems operating in the band for episodic periods. During these times and in these areas, Federal users will require interference protection from non-Federal operations. Operators of non-Federal stations may be required to temporarily modify their operations (*e.g.*, reduce power, filtering, adjust antenna pointing angles, shielding, *etc.*) to protect Federal operations from harmful interference, which may include restrictions on non-Federal stations' ability to radiate at certain locations during specific periods of time. During such episodic use, non-

Federal users in PUAs must alter their operations to avoid harmful interference to Federal systems' temporary use of the band, and during such times, non-Federal operations may not claim interference protection from Federal systems. Federal and non-Federal operators may reach mutually acceptable operator-to-operator agreements such that a Federal operator may not need to activate a PUA if a mutually agreeable technical approach mitigates the interference risk to Federal operations. To the extent possible, Federal use in PUAs will be chosen to minimize operational impact on non-Federal users. Coordination between Federal users and non-Federal licensees in PUAs shall be consistent with rules and procedures established by the FCC and NTIA. While all PUAs are co-located with CPAs, the exact geographic area used during periodic use may differ from the co-located CPA. The geographic locations of PUAs are identified in table 18 to this paragraph (c)(431). Restrictions and authorizations for the CPAs remain in effect during periodic use unless specifically relieved in the coordination process.

(iii) For the CPA at Little Rock, AR, after approximately 12 months from the close of the auction, non-Federal operations shall coordinate with Federal systems in only the 3450–3490 MHz band segment and the 3490–3550 MHz band segment will be available for non-federal use without coordination. At Fort Bragg, NC, non-Federal operations shall coordinate with Federal systems in only the 3450–3490 MHz band segment.

(iv) Table 22 to this paragraph (c)(431) identifies the coordinates for the location of each CPA and PUA. An area may be represented as either a polygon made up of several corresponding coordinates or a circle represented by a center point and a radius. If a CPA has a corresponding PUA, the PUA coordinates are provided. A location marked with an asterisk (*) indicates a high-power federal radiolocation facility. If a location includes a Shipboard Electronic Systems Evaluation Facility (SESEF) attached to a homeport, it specifies the associated SESEF.

TABLE 22 TO PARAGRAPH (c)(431)—DEPARTMENT OF DEFENSE COOPERATIVE PLANNING AREAS AND PERIODIC USE AREAS

Location name	State	CPA	PUA	Latitude	Longitude	Radius (km)
Little Rock	AR	Yes ...	.....	37°28'34", 37°42'55", 36°38'29", 34°57'57", 32°09'36", 31°51'52", 32°12'11", 33°42'22", 35°17'35", 36°12'18".	94°28'24", 88°54'36", 87°52'34", 88°09'26", 92°06'54", 93°10'35", 94°37'07", 95°49'52", 96°23'06", 96°08'46".	N/A
Yuma Complex (includes Yuma Proving Grounds and MCAS Yuma).	AZ	Yes ...	Yes ...	33°36'44", 34°03'08", 34°03'56", 33°26'54", 32°51'17", 32°16'54", 32°14'39", 32°20'06", 32°28'30", 32°53'20".	115°10'44", 114°41'08", 114°05'56", 113°03'54", 113°02'17", 113°45'54", 114°40'39", 114°55'06", 115°02'30", 115°09'20".	N/A
Camp Pendleton	CA	Yes ...	.....	33°21'46"	117°25'25"	50
Edwards Air Force Base	CA	Yes ...	Yes ...	35°19'16", 35°17'54", 35°11'43", 35°00'52", 34°44'17", 34°34'16", 34°26'55", 34°28'59", 34°41'36", 35°07'32".	118°03'16", 117°26'54", 117°15'43", 117°10'52", 117°10'17", 117°19'16", 117°47'55", 118°16'59", 118°28'36", 118°25'32".	N/A
National Training Center	CA	Yes ...	Yes ...	36°03'31", 36°03'09", 35°41'46", 35°07'24", 34°42'43", 34°44'22", 35°02'28", 35°34'49".	117°00'45", 116°20'43", 115°44'31", 115°44'09", 116°17'58", 117°05'19", 117°35'18", 117°27'37".	N/A
Naval Air Weapons Station, China Lake*.	CA	Yes ...	Yes ...	36°36'42", 35°54'45", 35°00'01", 34°54'34", 35°44'22", 36°30'18".	117°20'42", 116°31'45", 116°39'01", 117°26'34", 118°17'22", 118°07'18".	N/A
Point Mugu	CA	Yes ...	Yes ...	34°06'44"	119°06'36"	38
San Diego* (includes Point Loma SESEF range).	CA	Yes ...	.....	33°4'10", 32°27'19", 32°33'29", 32°47'16", 33°1'20", 33°20'36", 33°24'36", 32°52'54", 33°04'10".	117°35'40", 118°0'37", 116°51'8", 116°28'5", 116°31'5", 116°47'10", 117°0'51", 117°9'35", 117°35'40".	N/A
Twentynine Palms	CA	Yes ...	.....	34°06'44"	116°06'36"	75
Eglin Air Force Base (includes Santa Rosa Island & Cape San Blas site).	FL	Yes ...	Yes ...	Eglin and Santa Rosa Island: 30°29'28.5".	Eglin and Santa Rosa Island: 86°45'00".	35
Mayport* (includes Mayport SESEF range).	FL	Yes ...	.....	Cape San Blas: 29°40'37"	Cape San Blas: 85°20'50"	64
Pensacola*	FL	Yes ...	Yes ...	30°23'42"	81°24'41"	93
Joint Readiness Training Center	LA	Yes ...	Yes ...	30°20'50"	87°18'40"	93
Chesapeake Beach*	MD	Yes ...	Yes ...	31°54'23", 31°50'54", 31°18'13", 30°46'33", 30°29'14", 30°46'22", 31°25'16".	93°20'53", 92°52'46", 92°26'31", 92°28'32", 93°4'1", 93°41'26", 94°3'19".	N/A
Naval Air Station, Patuxent River	MD	Yes ...	Yes ...	38°39'24"	76°31'41"	95
CPA .....	.....	.....	.....	38°26'22", 38°51'51", 38°28'11", 38°03'40".	76°14'12", 75°48'34", 75°28'53", 75°30'31".	N/A
PUA .....	.....	.....	.....	37°45'33", 37°34'34", 37°38'10", 38°09'32", 38°18'46", 38°26'59".	75°45'50", 76°20'09", 76°44'37", 76°29'28", 76°34'36", 76°26'27".	.....
St. Inigoes*	MD	Yes ...	Yes ...	38°33'38", 39°11'10", 38°38'51", 37°52'13", 37°29'44", 37°10'24", 37°20'05", 38°01'11", 38°20'54", 38°35'47".	76°07'29", 75°29'28", 75°00'40", 75°03'24", 75°22'25", 76°16'42", 77°06'52", 76°36'06", 76°46'41", 76°30'02".	87
Bath*	ME	Yes ...	Yes ...	38°08'41"	76°26'03"	87
Pascagoula*	MS	Yes ...	Yes ...	44°02'29", 43°52'27", 43°48'53", 43°32'50", 43°27'16", 43°44'26", 43°54'57", 44°06'56", 44°17'2", 44°26'54", 44°36'16", 44°33'45", 44°57'05", 44°56'27", 44°32'13", 44°24'08", 44°02'29".	70°10'41", 70°10'29", 70°01'6", 69°57'30", 69°42'52", 69°13'52", 69°24'50", 69°25'13", 69°16'56", 69°45'13", 69°56'50", 70°04'01", 70°14'55", 70°19'38", 70°08'17", 70°36'36", 70°10'41".	N/A
Camp Lejeune	NC	Yes ...	.....	30°20'42"	88°34'17"	80
Cherry Point	NC	Yes ...	.....	34°37'51"	77°24'28"	54
Fort Bragg	NC	Yes ...	.....	34°54'57"	76°53'24"	38
	NC	Yes ...	.....	37°35'01", 37°45'56", 37°22'33", 36°38'56", 34°43'13", 33°29'44", 33°24'04", 34°01'05", 35°27'24", 36°27'46".	79°31'19", 77°14'14", 76°18'30", 75°51'26", 76°15'37", 78°29'53", 80°29'07", 81°23'49", 81°37'00", 81°22'49".	N/A

TABLE 22 TO PARAGRAPH (c)(431)—DEPARTMENT OF DEFENSE COOPERATIVE PLANNING AREAS AND PERIODIC USE AREAS—Continued

Location name	State	CPA	PUA	Latitude	Longitude	Radius (km)
Portsmouth *	NH	Yes ...	Yes ...	42°23'06", 42°25'05", 42°21'36", 42°18'28", 42°13'01", 42°06'30", 42°02'54", 42°08'03", 42°10'25", 42°15'39", 42°22'44", 42°34'56", 42°52'26", 43°13'48", 43°31'21", 43°45'21", 43°59'20", 43°36'10", 43°49'27", 43°27'40", 43°00'57", 42°44'40", 42°51'47", 42°33'46", 42°24'24", 42°23'06".	71°10'23", 71°05'43", 71°00'54", 70°54'35", 70°44'53", 70°41'11", 70°37'44", 70°33'35", 70°20'54", 70°02'39", 69°48'42", 69°36'01", 69°26'24", 69°28'18", 69°40'13", 70°01'31", 70°30'21", 70°52'5", 71°15'22", 71°24'47", 71°53'01", 71°56'37", 71°27'07", 71°27'12", 71°21'10", 71°10'23".	N/A
Moorestown *	NJ	Yes ...	Yes ...	40°27'26", 40°02'54", 39°48'19", 39°38'27", 39°24'59", 39°17'18", 39°22'16", 39°29'35", 39°54'43", 40°15'03", 40°23'29", 40°42'46", 40°50'59", 40°52'49", 40°47'42", 40°33'25", 40°27'26".	75°42'60", 75°55'12", 75°55'55", 75°51'48", 75°21'41", 74°54'09", 74°27'56", 74°12'59", 74°00'05", 74°06'20", 74°08'28", 74°21'54", 74°31'36", 74°42'53", 75°03'00", 75°28'15", 75°42'60".	N/A
White Sands Missile Range	NM	Yes ...	Yes ...	34°35'05", 34°43'50", 34°43'17", 34°26'28", 32°36'02", 31°45'47", 31°18'18", 31°27'23", 32°38'49", 33°32'40".	107°06'05", 106°46'50", 106°03'17", 105°26'28", 104°55'02", 105°22'47", 106°06'18", 106°54'23", 107°25'49", 107°27'40".	N/A
Nevada Test and Training Range.	NV	Yes ...	Yes ...	35°58'48", 36°38'22", 36°22'37", 36°54'03", 37°58'01", 38°59'48", 38°58'35", 37°52'34", 36°20'30", 36°21'15".	115°31'55", 116°23'51", 117°41'35", 117°59'18", 118°01'17", 116°46'01", 114°49'25", 113°35'46", 113°39'51", 115°14'23".	N/A
Fort Sill	OK	Yes ...	Yes ...	35°03'39", 35°10'31", 34°42'54", 34°13'49", 34°13'46", 34°38'26".	99°02'38", 98°05'47", 97°45'20", 98°05'49", 98°56'09", 99°16'57".	N/A
Tobyhanna Army Depot	PA	Yes ...	.....	41°30'25", 41°38'51", 41°31'41", 41°11'31", 40°52'07", 40°44'53", 40°51'43", 41°07'40".	75°51'60", 75°26'33", 75°1'39", 74°50'07", 75°1'2", 75°23'50", 75°48'52", 76°00'38".	N/A
Dahlgren *	VA	Yes ...	Yes ...	38°23'10", 38°41'25", 38°46'14", 38°49'37", 38°50'16", 38°46'30", 38°49'42", 38°54'42", 38°55'37", 38°56'05", 38°44'45", 38°44'22", 38°35'14", 38°51'04", 38°26'52", 38°22'59", 37°59'27", 37°47'08", 37°54'01", 38°23'10".	76°23'21", 76°35'56", 76°44'44", 76°54'57", 76°58'18", 77°01'57", 77°04'08", 77°7'35", 77°12'04", 77°23'5", 77°25'23", 77°28'48", 77°36'11", 78°12'06", 78°29'02", 77°42'19", 77°28'26", 76°53'47", 76°06'14", 76°23'21".	N/A
Newport News *	VA	Yes ...	Yes ...	36°58'24"	76°26'07"	93
Norfolk* (includes Fort Story SESEF range).	VA	Yes ...	.....	36°56'24"	76°19'55"	74
Wallops Island *	VA	Yes ...	Yes ...	37°51'25"	75°27'59"	76
Bremerton *	WA	Yes ...	Yes ...	47°28'40", 47°31'16", 47°31'13", 47°34'12", 47°45'36", 47°59'07", 48°12'20", 47°39'46", 47°39'12", 47°45'23", 47°44'48", 47°57'40", 47°31'15", 47°35'53", 47°27'33", 47°27'07", 47°24'25", 47°23'07", 47°28'33", 46°50'25", 46°53'09", 47°28'40".	122°31'22", 122°31'26", 122°32'37", 122°31'52", 121°32'28", 121°34'09", 121°44'51", 122°29'60", 122°34'35", 122°38'09", 122°45'18", 122°59'06", 123°16'23", 122°49'28", 122°55'25", 122°46'16", 122°42'48", 122°39'18", 122°33'44", 121°49'24", 121°44'01", 122°31'22".	N/A
Everett* (includes Ediz Hook SESEF range).	WA	Yes ...	.....	47°51'11", 47°25'13", 47°54'45", 47°36'60", 47°51'57", 48°35'49", 48°00'8", 47°51'10".	122°57'47", 123°18'6", 122°10'13", 121°37'60", 121°22'57", 122°08'13", 123°29'33", 122°57'47".	N/A

(432) [Reserved]

(433) US433 In the band 3550–3650 MHz, the following provisions shall apply to Federal use of the aeronautical radionavigation (ground-based) and radiolocation services and to non-Federal use of the fixed and mobile except aeronautical mobile services:

(i) Non-Federal stations in the fixed and mobile except aeronautical mobile services are restricted to stations in the Citizens Broadband Radio Service and shall not cause harmful interference to, or claim protection from, Federal stations in the aeronautical radionavigation (ground-based) and radiolocation services at the locations listed at: *ntia.doc.gov/category/3550-3650-mhz*. New and modified Federal stations shall be allowed at current or new locations, subject only to approval through the National Telecommunications and Information Administration frequency assignment process with new locations added to the list at: *ntia.doc.gov/category/3550-3650-mhz*. Coordination of the Federal stations with Citizens Broadband Radio Service licensees or users is not necessary. Federal operations, other than airborne radiolocation systems, shall be protected consistent with the procedures set forth in §§ 96.15 and 96.67 of this chapter.

(ii) Non-Federal fixed and mobile stations shall not claim protection from Federal airborne radar systems.

(iii) Federal airborne radar systems shall not claim protection from non-Federal stations in the fixed and mobile except aeronautical mobile services operating in the band.

(434)–(443) [Reserved]

(444) US444 The frequency band 5030–5150 MHz is to be used for the operation of the international standard system (microwave landing system) for precision approach and landing. In the frequency band 5030–5091 MHz, the requirements of this system shall have priority over other uses of this band. For the use of the frequency band 5091–5150 MHz, paragraph (c)(444)(i) of this section and Resolution 114 (Rev.WRC-12) of the ITU Radio Regulations apply.

(i) US444A The band 5091–5150 MHz is also allocated to the fixed-satellite service (Earth-to-space) on a primary basis for non-Federal use. This allocation is limited to feeder links of non-geostationary satellite systems in the mobile-satellite service and is subject to coordination under No. 9.11A of the ITU Radio Regulations. In the band 5091–5150 MHz, the following conditions also apply:

(A) Prior to January 1, 2018, the use of the band 5091–5150 MHz by feeder links of non-geostationary-satellite

systems in the mobile-satellite service shall be made in accordance with Resolution 114 (Rev.WRC-12);

(B) After January 1, 2016, no new assignments shall be made to earth stations providing feeder links of non-geostationary mobile-satellite systems; and

(C) After January 1, 2018, the fixed-satellite service will become secondary to the aeronautical radionavigation service.

(ii) US444B In the band 5091–5150 MHz, the following provisions shall apply to the aeronautical mobile service:

(A) Use is restricted to:

(1) Systems operating in the aeronautical mobile (R) service (AM(R)S) in accordance with international aeronautical standards, limited to surface applications at airports, and in accordance with Resolution 748 (Rev.WRC-12) (*i.e.*, AeroMACS); and

(2) Aeronautical telemetry transmissions from aircraft stations (AMT) in accordance with Resolution 418 (Rev.WRC-12).

(B) Consistent with Radio Regulation No. 4.10, airport surface wireless systems operating in the AM(R)S have priority over AMT systems in the band.

(C) Operators of AM(R)S and AMT systems at the following airports are urged to cooperate with each other in the exchange of information about planned deployments of their respective systems so that the prospects for compatible sharing of the band are enhanced:

(1) Boeing Field/King County Intl Airport, Seattle, WA;

(2) Lambert-St. Louis Intl Airport, St. Louis, MO;

(3) Charleston AFB/Intl Airport, Charleston, SC;

(4) Wichita Dwight D. Eisenhower National Airport, Wichita, KS;

(5) Roswell Intl Air Center Airport, Roswell, NM; and

(6) William P. Gwinn Airport, Jupiter, FL. Other airports may be addressed on a case-by-case basis.

(D) Aeronautical fixed communications that are an integral part of the AeroMACS system authorized in paragraph (c)(444)(ii)(A)(1) of this section are also authorized on a primary basis.

(445)–(474) [Reserved]

(475) US475 The use of the band 9300–9500 MHz by the aeronautical radionavigation service is limited to airborne radars and associated airborne beacons. In addition, ground-based radar beacons in the aeronautical radionavigation service are permitted in the band 9300–9320 MHz on the condition that harmful interference is

not caused to the maritime radionavigation service.

(476) US476A In the band 9300–9500 MHz, Federal stations in the Earth exploration-satellite service (active) and space research service (active) shall not cause harmful interference to, nor claim protection from, stations of the radionavigation and Federal radiolocation services.

(477)–(481) [Reserved]

(482) US482 In the band 10.6–10.68 GHz, the following provisions and urgings apply:

(i) Non-Federal use of the fixed service shall be restricted to point-to-point stations, with each station supplying not more than –3 dBW of transmitter power to the antenna, producing not more than 40 dBW of EIRP, and radiating at an antenna main beam elevation angle of 20° or less. Licensees holding a valid authorization on August 6, 2015 to operate in this band may continue to operate as authorized, subject to proper license renewal.

(ii) In order to minimize interference to the Earth exploration-satellite service (passive) receiving in this band, licensees of stations in the fixed service are urged to: (A) limit the maximum transmitter power supplied to the antenna to –15 dBW; and (B) employ automatic transmitter power control (ATPC). The maximum transmitter power supplied to the antenna of stations using ATPC may be increased by a value corresponding to the ATPC range, up to a maximum of –3 dBW.

(483)–(510) [Reserved]

(511) US511E The use of the band 15.4–15.7 GHz by the radiolocation service is limited to Federal systems requiring a necessary bandwidth greater than 1600 MHz that cannot be accommodated within the band 15.7–17.3 GHz except as described below. In the band 15.4–15.7 GHz, stations operating in the radiolocation service shall not cause harmful interference to, nor claim protection from, radars operating in the aeronautical radionavigation service. Radar systems operating in the radiolocation service shall not be developed solely for operation in the band 15.4–15.7 GHz. Radar systems requiring use of the band 15.4–15.7 GHz for testing, training, and exercises may be accommodated on a case-by-case basis.

(512)–(518) [Reserved]

(519) US519 The band 18–18.3 GHz is also allocated to the meteorological-satellite service (space-to-Earth) on a primary basis. Its use is limited to geostationary satellites and shall be in accordance with the provisions of

Article 21, Table 21-4 of the ITU Radio Regulations.

(520)–(531) [Reserved]

(532) US532 In the bands 21.2–21.4 GHz, 22.21–22.5 GHz, and 56.26–58.2 GHz, the space research and Earth exploration-satellite services shall not receive protection from the fixed and mobile services operating in accordance with the Table of Frequency Allocations in this section.

(533)–(549) [Reserved]

(550) US550A In the band 36–37 GHz, the following provisions shall apply:

(i) For stations in the mobile service, the transmitter power supplied to the antenna shall not exceed –10 dBW, except that the maximum transmitter power may be increased to –3 dBW for stations used for public safety and disaster management.

(ii) For stations in the fixed service, the elevation angle of the antenna main beam shall not exceed 20° and the transmitter power supplied to the antenna shall not exceed:

(A) –5 dBW for hub stations of point-to-multipoint systems; or

(B) –10 dBW for all other stations, except that the maximum transmitter power of stations using automatic transmitter power control (ATPC) may be increased by a value corresponding to the ATPC range, up to a maximum of –7 dBW.

(551)–(564) [Reserved]

(565) US565 The following frequency bands in the range 275–1000 GHz are identified for passive service applications:

(i) Radio astronomy service: 275–323 GHz, 327–371 GHz, 388–424 GHz, 426–442 GHz, 453–510 GHz, 623–711 GHz, 795–909 GHz and 926–945 GHz;

(ii) Earth exploration-satellite service (passive) and space research service (passive): 275–286 GHz, 296–306 GHz, 313–356 GHz, 361–365 GHz, 369–392 GHz, 397–399 GHz, 409–411 GHz, 416–434 GHz, 439–467 GHz, 477–502 GHz, 523–527 GHz, 538–581 GHz, 611–630 GHz, 634–654 GHz, 657–692 GHz, 713–718 GHz, 729–733 GHz, 750–754 GHz, 771–776 GHz, 823–846 GHz, 850–854 GHz, 857–862 GHz, 866–882 GHz, 905–928 GHz, 951–956 GHz, 968–973 GHz and 985–990 GHz.

Note 10 to paragraph (c)(565): The use of the range 275–1000 GHz by the passive services does not preclude use of this range by active services. This provision does not establish priority of use in the United States Table of Frequency Allocations in this section, and does not preclude or constrain any active service use or future allocation of frequency bands in the 275–3000 GHz range.

(d) *Non-Federal Government (NG) Footnotes.* Non-Federal Government

(non-Federal) footnotes, each in the format “NG” followed by one or more digits, denote stipulations applicable only to non-Federal operations and thus appear solely in the non-Federal Table. The list of non-Federal footnotes follows:

(1) NG1 The band 535–1705 kHz is also allocated to the mobile service on a secondary basis for the distribution of public service information from Travelers Information Stations operating in accordance with the provisions of § 90.242 of this chapter on 10 kilohertz spaced channels from 540 kHz to 1700 kHz.

(2) NG2 Facsimile broadcasting stations may be authorized in the band 88–108 MHz.

(3) NG3 Control stations in the domestic public mobile radio service may be authorized frequencies in the band 72–73 and 75.4–76 MHz on the condition that harmful interference will not be caused to operational fixed stations.

(4) NG4 The use of the frequencies in the band 152.84–153.38 MHz may be authorized, in any area, to remote pickup broadcast base and mobile stations on the condition that harmful interference will not be caused to stations operating in accordance with the Table of Frequency Allocations in this section.

(5) NG5 In the band 535–1705 kHz, AM broadcast licensees and permittees may use their AM carrier on a secondary basis to transmit signals intended for both broadcast and non-broadcast purposes. In the band 88–108 MHz, FM broadcast licensees and permittees are permitted to use subcarriers on a secondary basis to transmit signals intended for both broadcast and non-broadcast purposes. In the bands 54–72, 76–88, 174–216, 470–608, and 614–698 MHz, TV broadcast licensees and permittees are permitted to use subcarriers on a secondary basis for both broadcast and non-broadcast purposes. Use of the band 614–698 MHz is subject to the provisions specified in paragraph (d)(33) of this section.

(6) NG6 Stations in the public safety radio services authorized as of June 30, 1958, to use frequencies in the band 159.51–161.79 MHz in areas other than Puerto Rico and the Virgin Islands may continue such operation, including expansion of existing systems, on the condition that harmful interference will not be caused to stations in the services to which these bands are allocated. In Puerto Rico and the Virgin Islands this authority is limited to frequencies in the band 160.05–161.37 MHz. No new public radio service system will be

authorized to operate on these frequencies.

(7) NG7 In the bands 2000–2065, 2107–2170, and 2194–2495 kHz, fixed stations associated with the maritime mobile service may be authorized, for purposes of communication with coast stations, to use frequencies assignable to ship stations in these bands on the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations in this section. See § 80.371(a) of this chapter for the list of available carrier frequencies.

(8) NG8 In the band 472–479 kHz, non-Federal stations in the maritime mobile service that were licensed or applied for prior to July 14, 2017 may continue to operate on a primary basis, subject to periodic license renewals.

(9)–(13) [Reserved]

(14) NG14 TV broadcast stations authorized to operate in the bands 54–72, 76–88, 174–216, 470–608, and 614–698 MHz may use a portion of the television vertical blanking interval for the transmission of telecommunications signals, on the condition that harmful interference will not be caused to the reception of primary services, and that such telecommunications services must accept any interference caused by primary services operating in these bands. Use of the band 614–698 MHz is subject to the provisions specified in paragraph (d)(33) of this section.

(15) [Reserved]

(16) NG16 In the bands 72–73 MHz and 75.4–76 MHz, frequencies may be authorized for mobile operations in the Industrial/Business Radio Pool, subject to not causing interference to the reception of broadcast television signals on channels 4 and 5.

(17) NG17 Stations in the land transportation radio services authorized as of May 15, 1958 to operate on the frequency 161.61 MHz may, upon proper application, continue to be authorized for such operation, including expansion of existing systems, on the condition that harmful interference will not be caused to the operation of any authorized station in the maritime mobile service. No new land transportation radio service system will be authorized to operate on 161.61 MHz.

(18)–(21) [Reserved]

(22) NG22 The frequencies 156.050 and 156.175 MHz may be assigned to stations in the maritime mobile service for commercial and port operations in the New Orleans Vessel Traffic Service (VTS) area and the frequency 156.250 MHz may be assigned to stations in the maritime mobile service for port operations in the New Orleans and Houston VTS areas.

(23)–(27) [Reserved]

(28) NG28 In Puerto Rico and the United States Virgin Islands, the band 160.86–161.4 MHz is available for assignment to remote pickup broadcast stations on a shared basis with stations in the Industrial/Business Pool.

(29) [Reserved]

(30) NG30 In Puerto Rico, the band 942–944 MHz is alternatively allocated to the fixed service (aural broadcast auxiliary stations).

(31) [Reserved]

(32) NG32 Frequencies in the bands 454.6625–454.9875 MHz and 459.6625–459.9875 MHz may be assigned to domestic public land and mobile stations to provide a two-way air-ground public radiotelephone service.

(33) NG33 In the band 614–698 MHz, the following provisions shall apply:

(i) Until July 13, 2020, stations in the broadcasting service and other authorized uses may operate as follows:

(A) Full power and Class A television (TV) stations, *i.e.*, broadcast TV stations, may operate on a co-equal, primary basis with stations in the fixed and mobile services until such stations terminate operations on their pre-auction television channels in accordance with § 73.3700(b)(4) of this chapter.

(B) Low power TV (LPTV) and TV translator stations may operate on a secondary basis to stations in the fixed and mobile services and to broadcast TV stations, and fixed TV broadcast auxiliary stations may operate on a secondary basis to LPTV and TV translator stations, unless such stations are required to terminate their operations earlier in accordance with § 73.3700(g)(4) or § 74.602(h)(5) and (6) of this chapter.

(C) Low power auxiliary stations (LPAS), including wireless assist video devices (WAVDs), may operate on a secondary basis to all other authorized stations in accordance with §§ 74.802(f) and 74.870(i) of this chapter.

(D) Unlicensed wireless microphones and white space devices (WSDs) may operate on a non-interference basis, unless such devices are required to terminate operations earlier in accordance with § 15.236(c)(2) or § 15.707(a)(1), (2), and (5) of this chapter, respectively.

(ii) After July 13, 2020, only the following types of radiofrequency devices that are authorized in paragraph (d)(33)(i) of this section may continue to operate:

(A) LPTV and TV translator stations may operate on a secondary basis to stations in the fixed and mobile services in the sub-bands 617–652 MHz and

663–698 MHz until required to terminate their operations in accordance with § 73.3700(g)(4) of this chapter.

(B) LPAS may operate in the sub-band 653–657 MHz and unlicensed wireless microphones may operate in the sub-bands 614–616 MHz and 657–663 MHz.

(C) WSDs may operate in:

(1) The sub-bands 617–652 MHz and 663–698 MHz, except in those areas where their use is prohibited in accordance with §§ 15.707(a)(5) and 15.713(b)(2)(iv) of this chapter, and

(2) The sub-band 657–663 MHz, in accordance with § 15.707(a)(4) of this chapter.

(34) NG34 The bands 758–775 MHz and 788–805 MHz are available for assignment to the public safety services, as described in part 90 of this chapter.

(35) NG35 Frequencies in the bands 928–929 MHz, 932–932.5 MHz, 941–941.5 MHz, and 952–960 MHz may be assigned for multiple address systems and associated mobile operations on a primary basis.

(36)–(40) [Reserved]

(41) NG41 In the band 2120–2180 MHz, the following provisions shall apply to grandfathered stations in the fixed service:

(i) In the sub-band 2160–2162 MHz, authorizations in the Broadband Radio Service (BRS) applied for after January 16, 1992 shall be granted on a secondary basis to Advanced Wireless Services (AWS). In the band 2150–2162 MHz, all other BRS stations shall operate on a primary basis until December 9, 2021, and may continue to operate on a secondary basis thereafter, unless said facility is relocated in accordance with §§ 27.1250 through 27.1255 of this chapter.

(ii) In the sub-band 2160–2180 MHz, fixed stations authorized pursuant to part 101 of this chapter may continue to operate on a secondary basis to AWS.

(42)–(49) [Reserved]

(50) NG50 In the band 10–10.5 GHz, non-Federal stations in the radiolocation service shall not cause harmful interference to the amateur service; and in the sub-band 10.45–10.5 GHz, these stations shall not cause harmful interference to the amateur-satellite service.

(51) NG51 In Puerto Rico and the United States Virgin Islands, the use of band 150.8–151.49 MHz by the fixed and land mobile services is limited to stations in the Industrial/Business Pool.

(52) NG52 Except as provided for by paragraph (d)(52) of this section, use of the bands 10.7–11.7 GHz (space-to-Earth) and 12.75–13.25 GHz (Earth-to-space) by geostationary satellites in the fixed-satellite service (FSS) shall be

limited to international systems, *i.e.*, other than domestic systems.

(53) NG53 In the band 13.15–13.25 GHz, the following provisions shall apply:

(i) The sub-band 13.15–13.2 GHz is reserved for television pickup (TVPU) and cable television relay service (CARS) pickup stations inside a 50 km radius of the 100 television markets delineated in § 76.51 of this chapter; and outside these areas, TVPU stations, CARS stations and non-geostationary satellite orbit fixed-satellite service (NGSO FSS) gateway earth stations operate on a co-primary basis.

(ii) The sub-band 13.2–13.2125 GHz is reserved for TVPU stations on a primary basis and for CARS pickup stations on a secondary basis inside a 50 km radius of the 100 television markets delineated in § 76.51 of this chapter; and outside these areas, TVPU stations and NGSO FSS gateway earth stations operate on a co-primary basis and CARS stations operate on a secondary basis.

(iii) In the band 13.15–13.25 GHz, fixed television auxiliary stations licensed pursuant to applications accepted for filing before September 1, 1979, may continue operation, subject to periodic license renewals.

(iv) In the sub-band 13.15–13.2125 GHz, NGSO FSS gateway uplink transmissions shall be limited to a maximum e.i.r.p. of 3.2 dBW towards 0° on the radio horizon.

Note 11 to paragraph (d)(53): The provisions of paragraphs (d)(53)(i) through (iii) of this section shall not apply to geostationary satellite orbit (GSO) FSS operations in the band 12.75–13.25 GHz.

(54)–(55) [Reserved]

(56) NG56 In the bands 72–73 and 75.4–76 MHz, the use of mobile radio remote control of models is on a secondary basis to all other fixed and mobile operations. Such operations are subject to the condition that interference will not be caused to common carrier domestic public stations, to remote control of industrial equipment operating in the band 72–76 MHz, or to the reception of television signals on channels 4 (66–72 MHz) or 5 (76–82 MHz). Television interference shall be considered to occur whenever reception of regularly used television signals is impaired or destroyed, regardless of the strength of the television signal or the distance to the television station.

(57) NG57 The use of the band 12.75–13.25 GHz by non-geostationary-satellite systems in the fixed-satellite service is limited to communications with individually licensed earth stations.

(58) NG58 In the band 17.3–17.8 GHz, the following provisions shall

apply to the broadcasting-satellite, fixed, and fixed-satellite services:

(i) The use of the band 17.3–17.8 GHz by the broadcasting-satellite and fixed-satellite (space-to-Earth) services is limited to geostationary satellites.

(ii) The use of the band 17.3–17.8 GHz by the fixed-satellite service (Earth-to-space) is limited to feeder links for broadcasting-satellite service.

(iii) The use of the band 17.7–17.8 GHz by the broadcasting-satellite service is limited to receiving earth stations located outside of the United States and its insular areas.

(iv) In the band 17.7–17.8 GHz, earth stations in the fixed-satellite service may be authorized for the reception of FSS emissions from geostationary satellites, subject to the condition that these earth stations shall not claim protection from transmissions of non-Federal stations in the fixed service that operate in that band.

(59) NG59 The frequencies 37.60 and 37.85 MHz may be authorized only for use by base, mobile, and operational fixed stations participating in an interconnected or coordinated power service utility system.

(60) NG60 In the band 31–31.3 GHz, for stations in the fixed service authorized after August 6, 2018, the unwanted emissions power in any 100 MHz of the 31.3–31.5 GHz Earth exploration-satellite service (passive)

band shall be limited to –38 dBW (–38 dBW/100 MHz), as measured at the input to the antenna.

(61) [Reserved]

(62) NG62 In the bands 28.5–29.1 GHz and 29.25–29.5 GHz, stations in the fixed-satellite service shall not cause harmful interference to, or claim protection from, stations in the fixed service operating under the following call signs: KEB35, KGB72, KGC79, KIL20, KME49, KQG58, KQH74, KSA96, KSE73, KVH83, KYJ33, KZS88, WAX78, WLT380, WMK817, WML443, WMP367, and WSL69.

(63) NG63 In the band 37.5–40 GHz, earth station operations in the fixed-satellite service (space-to-Earth) shall not claim protection from stations in the fixed and mobile services, except where individually licensed earth stations are authorized pursuant to § 25.136 of this chapter.

(64) [Reserved]

(65) NG65 In the bands 24.75–25.25 GHz, 47.2–48.2 GHz, and 50.4–51.4 GHz, stations in the fixed and mobile services may not claim protection from individually licensed earth stations authorized pursuant to § 25.136 of this chapter. However, nothing in this footnote shall limit the right of Upper Microwave Flexible Use Service licensees to operate in conformance with the technical rules contained in part 30 of this chapter. The Commission

reserves the right to monitor developments and to undertake further action concerning interference between Upper Microwave Flexible Use Service and Fixed-Satellite Service, including aggregate interference to satellite receivers, if appropriate.

(66) NG66 The band 470–512 MHz (TV channels 14–20) is allocated to the broadcasting service on an exclusive basis throughout the United States and its insular areas, except as described in paragraphs (d)(66)(i) through (iv) of this section:

(i) In the urbanized areas listed in table 23 to this paragraph (d)(66)(i), the indicated frequency bands are allocated to the land mobile service on an exclusive basis for assignment to eligibles in the Public Mobile Services, the Public Safety Radio Pool, and the Industrial/Business Radio Pool, except that:

(A) Licensees in the land mobile service that are regulated as Commercial Mobile Radio Service (CMRS) providers may also use their assigned spectrum to provide fixed service on a primary basis.

(B) The use of the band 482–488 MHz (TV channel 16) is limited to eligibles in the Public Safety Radio Pool in or near:

(1) The Los Angeles urbanized area; and

(2) New York City; Nassau, Suffolk, and Westchester Counties in New York State; and Bergen County, NJ.

TABLE 23 TO PARAGRAPH (D)(66)(I)

Urbanized area	Bands (MHz)	TV channels
Boston, MA	470–476, 482–488	14, 16
Chicago, IL–Northwestern IN	470–476, 476–482	14, 15
Cleveland, OH	470–476, 476–482	14, 15
Dallas–Fort Worth, TX	482–488	16
Detroit, MI	476–482, 482–488	15, 16
Houston, TX	488–494	17
Los Angeles, CA	470–476, 482–488, 506–512	14, 16, 20
Miami, FL	470–476	14
New York, NY–Northeastern NJ	470–476, 476–482, 482–488	14, 15, 16
Philadelphia, PA–NJ	500–506, 506–512	19, 20
Pittsburgh, PA	470–476, 494–500	14, 18
San Francisco–Oakland, CA	482–488, 488–494	16, 17
Washington, DC–MD–VA	488–494, 494–500	17, 18

(ii) In the Gulf of Mexico offshore from the Louisiana-Texas coast, the band 476–494 MHz (TV channels 15–17) is allocated to the fixed and mobile services on a primary basis for assignment to eligibles in the Public Mobile and Private Land Mobile Radio Services.

(iii) In Hawaii, the band 488–494 MHz (TV channel 17) is allocated exclusively to the fixed service for use by common carrier control and repeater stations for

point-to-point inter-island communications only.

(iv) The use of these allocations is further subject to the conditions set forth in parts 22 and 90 of this chapter.

(67)–(69) [Reserved]

(70) NG70 In Puerto Rico and the Virgin Islands only, the bands 159.240–159.435 and 160.410–160.620 MHz are also available for assignment to base stations and mobile stations in the special industrial radio service.

(71)–(91) [Reserved]

(92) NG92 The band 1900–2000 kHz is also allocated on a primary basis to the maritime mobile service in Regions 2 and 3 and to the radiolocation service in Region 2, and on a secondary basis to the radiolocation service in Region 3. The use of these allocations is restricted to radio buoy operations on the open sea and the Great Lakes. Stations in the amateur, maritime mobile, and radiolocation services in Region 2 shall be protected from harmful interference only to the extent that the offending

station does not operate in compliance with the technical rules applicable to the service in which it operates.

(93)–(110) [Reserved]

(111) NG111 The band 157.4375–157.4625 MHz may be used for one way paging operations in the special emergency radio service.

(112) NG112 The frequencies 25.04, 25.08, 150.980, 154.585, 158.445, 159.480, 454.000 and 459.000 MHz may be authorized to stations in the Industrial/Business Pool for use primarily in oil spill containment and cleanup operations and secondarily in regular land mobile communication.

(113)–(114) [Reserved]

(115) NG115 In the bands 54–72 MHz, 76–88 MHz, 174–216 MHz, 470–608 MHz, and 614–698 MHz, wireless microphones and wireless assist video devices may be authorized on a non-interference basis, subject to the terms and conditions set forth in part 74, subpart H of this chapter.

(116)–(117) [Reserved]

(118) NG118 In the bands 2025–2110 MHz, 6875–7125 MHz, and 12.7–13.25 GHz, television translator relay stations may be authorized to use frequencies on a secondary basis to other stations in the Television Broadcast Auxiliary Service that are operating in accordance with the Table of Frequency Allocations in this section.

(119)–(123) [Reserved]

(124) NG124 In the bands 30.85–34, 37–38, 39–40, 42–47.41, 150.995–156.25, 158.715–159.465, 453.0125–453.9875, 458.0125–458.9875, 460.0125–465.6375, and 467.9375–467.9875 MHz, police licensees are authorized to operate low power transmitters on a secondary basis in accordance with the provisions of §§ 2.803 and 90.20(e)(5) of this chapter.

(125)–(140) [Reserved]

(141) NG141 In Alaska, the frequencies 42.4 MHz and 44.1 MHz are authorized on a primary basis for meteor burst communications by fixed stations in the Rural Radio Service operating under the provisions of part 22 of this chapter. In Alaska, the frequencies 44.2 MHz and 45.9 MHz are authorized on a primary basis for meteor burst communications by fixed private radio stations operating under the provisions of part 90 of this chapter. The private radio station frequencies may be used by Common Carrier stations on a secondary, noninterference basis and the Common Carrier frequencies may be used by private radio stations for meteor burst communications on a secondary, noninterference basis. Users shall cooperate to the extent practical to minimize potential interference. Stations utilizing meteor burst

communications shall not cause harmful interference to stations of other radio services operating in accordance with the Table of Frequency Allocations in this section.

(142) [Reserved]

(143) NG143 In the band 11.7–12.2 GHz, protection from harmful interference shall be afforded to transmissions from space stations not in conformance with ITU Radio Regulation No. 5.488 only if the operations of such space stations impose no unacceptable constraints on operations or orbit locations of space stations in conformance with No. 5.488.

(144)–(146) [Reserved]

(147) NG147 In the band 2483.5–2500 MHz, non-Federal stations in the fixed and mobile services that are licensed under part 74, 90, or 101 of this chapter, which were licensed as of July 25, 1985, and those whose initial applications were filed on or before July 25, 1985, may continue to operate on a primary basis with the mobile-satellite and radiodetermination-satellite services, and in the sub-band 2495–2500 MHz, these grandfathered stations may also continue to operate on a primary basis with stations in the fixed and mobile except aeronautical mobile services that are licensed under part 27 of this chapter.

(148) NG148 The frequencies 154.585 MHz, 159.480 MHz, 160.725 MHz, 160.785 MHz, 454.000 MHz and 459.000 MHz may be authorized to maritime mobile stations for offshore radiolocation and associated telecommand operations.

(149) NG149 The bands 54–72 MHz, 76–88 MHz, 174–216 MHz, 470–512 MHz, 512–608 MHz, and 614–698 MHz are also allocated to the fixed service to permit subscription television operations in accordance with part 73 of this chapter. Use of the band 614–698 MHz is subject to the provisions specified in paragraph (d)(33) of this section.

(150)–(151) [Reserved]

(152) NG152 The use of the band 219–220 MHz by the amateur service is limited to stations participating, as forwarding stations, in point-to-point fixed digital message forwarding systems, including intercity packet backbone networks.

(153)–(154) [Reserved]

(155) NG155 The bands 159.500–159.675 MHz and 161.375–161.550 MHz are allocated to the maritime service as described in part 80 of this chapter. Additionally, the frequencies 159.550, 159.575 and 159.600 MHz are available for low-power intership communications.

(156)–(158) [Reserved]

(159) NG159 In the band 698–806 MHz, stations authorized under part 74, subparts F and G of this chapter may continue to operate indefinitely on a secondary basis to all other stations operating in that band.

(160) NG160 In the band 5895–5925 MHz, the use of the non-Federal mobile service is limited to operations in the Intelligent Transportation System radio service.

(161)–(163) [Reserved]

(164) NG164 The use of the band 18.6–18.8 GHz by the fixed-satellite service is limited to geostationary-satellite networks.

(165) NG165 In the bands 18.8–19.3 GHz and 28.6–29.1 GHz, geostationary-satellite networks in the fixed-satellite service shall not cause harmful interference to, or claim protection from, non-geostationary-satellite systems in the fixed-satellite service.

(166) NG166 The use of the bands 19.4–19.6 GHz and 29.1–29.25 GHz by the fixed-satellite service is limited to feeder links for non-geostationary-satellite systems in the mobile-satellite service.

(167)–(168) [Reserved]

(169) NG169 After December 1, 2000, operations on a primary basis by the fixed-satellite service (space-to-Earth) in the band 3650–3700 MHz shall be limited to grandfathered earth stations. All other fixed-satellite service earth station operations in the band 3650–3700 MHz shall be on a secondary basis. Grandfathered earth stations are those authorized prior to December 1, 2000, or granted as a result of an application filed prior to December 1, 2000, and constructed within 12 months of initial authorization. License applications for primary operations for new earth stations, major amendments to pending earth station applications, or applications for major modifications to earth station facilities filed on or after December 18, 1998, and prior to December 1, 2000, shall not be accepted unless the proposed facilities are within 16.1 kilometers (10 miles) of an authorized primary earth station operating in the band 3650–3700 MHz. License applications for primary operations by new earth stations, major amendments to pending earth station applications, and applications for major modifications to earth station facilities, filed after December 1, 2000, shall not be accepted, except for changes in polarization, antenna orientation or ownership of a grandfathered earth station.

(170) [Reserved]

(171) NG171 In the band 6875–7125 MHz, the following two channels should be used for airborne TV pickup

stations, wherever possible: 7075–7100 MHz and 7100–7125 MHz.

(172) NG172 In the band 7025–7075 MHz, use of the primary fixed-satellite service (space-to-Earth) allocation shall be limited to two grandfathered satellite systems. Associated earth stations located within 300 meters of the following locations shall be grandfathered:

(i) In the band 7025–7075 MHz, Brewster, WA (48°08'46.7" N, 119°42'8.0" W); and

(ii) In the sub-band 7025–7055 MHz, Clifton, TX (31° 47'58.5" N, 97°36'46.7" W) and Finca Pascual, PR (17°58'41.8" N, 67°8'12.6" W).

(173) NG173 In the band 216–220 MHz, secondary telemetry operations are permitted subject to the requirements of § 90.259 of this chapter. After January 1, 2002, no new assignments shall be authorized in the sub-band 216–217 MHz.

(174) [Reserved]

(175) NG175 In the band 38.6–40 GHz, television pickup stations that were authorized on or before April 16, 2003, may continue to operate on a secondary basis to stations operating in accordance with the Table of Frequency Allocations in this section.

(176)–(181) [Reserved]

(182) NG182 In the band 3700–4200 MHz, the following provisions shall apply:

(i) Except as provided in paragraph (d)(182)(iii)(A) of this section, any currently authorized space stations serving the contiguous United States may continue to operate on a primary basis, but no applications for new space station authorizations or new petitions for market access shall be accepted for filing after June 21, 2018, other than applications by existing operators in the band seeking to make more efficient use of the band 4000–4200 MHz.

Applications for extension, cancellation, replacement, or modification of existing space station authorizations in the band will continue to be accepted and processed normally.

(ii) In areas outside the contiguous United States, the band 3700–4000 MHz is also allocated to the fixed-satellite service (space-to-Earth) on a primary basis.

(iii) In the contiguous United States, *i.e.*, the contiguous 48 states and the District of Columbia as defined by Partial Economic Areas Nos. 1–41, 43–211, 213–263, 265–297, 299–359, and 361–411, which includes areas within 12 nautical miles of the U.S. Gulf coastline (*see* § 27.6(m) of this chapter), the following provisions apply:

(A) Incumbent use of the fixed-satellite service (space-to-Earth) in the

band 3700–4000 MHz is subject to the provisions of §§ 25.138, 25.147, 25.203(n) and part 27, subpart O of this chapter;

(B) Fixed service licensees authorized as of April 19, 2018, pursuant to part 101 of this chapter, must self-relocate their point-to-point links out of the band 3700–4200 MHz by December 5, 2023;

(C) In the band 3980–4000 MHz, no new fixed or mobile operations will be permitted until specified by Commission rule, order, or notice.

(183)–(184) [Reserved]

(185) NG185 In the band 3650–3700 MHz, the use of the non-Federal fixed-satellite service (space-to-Earth) is limited to international inter-continental systems.

(186)–(337) [Reserved]

(338) NG338A In the bands 1390–1395 MHz and 1427–1435 MHz, licensees are encouraged to take all reasonable steps to ensure that unwanted emissions power does not exceed the following levels in the band 1400–1427 MHz:

(i) For stations of point-to-point systems in the fixed service: –45 dBW/27 MHz.

(ii) For stations in the mobile service (except for devices authorized by the FCC for the Wireless Medical Telemetry Service): –60 dBW/27 MHz.

(339)–(456) [Reserved]

(457) NG457A Earth stations on vessels (ESVs), as regulated under part 25 of this chapter, are an application of the fixed-satellite service and the following provisions shall apply:

(i) In the band 3700–4200 MHz, ESVs may be authorized to receive FSS signals from geostationary satellites. ESVs in motion are subject to the condition that these earth stations may not claim protection from transmissions of non-Federal stations in the fixed and mobile except aeronautical mobile services. While docked, ESVs receiving in the band 4000–4200 MHz may be coordinated for up to 180 days, renewable. Paragraph d(182) of this section applies to incumbent licensees that provide service to ESVs in the band 3700–4000 MHz.

(ii) In the band 5925–6425 MHz, ESVs may be authorized to transmit to geostationary satellites on a primary basis.

(458)–(526) [Reserved]

(527) NG527A Earth Stations in Motion (ESIMs), as regulated under part 25 of this chapter, are an application of the fixed-satellite service (FSS) and the following provisions shall apply:

(i) In the bands 10.7–11.7 GHz, 19.3–19.4 GHz, and 19.6–19.7 GHz, ESIMs may be authorized for the reception of FSS emissions from geostationary and

non-geostationary satellites, subject to the conditions that these earth stations may not claim protection from transmissions of non-Federal stations in the fixed service and that non-geostationary-satellite systems not cause unacceptable interference to, or claim protection from, geostationary-satellite networks.

(ii) In the bands 11.7–12.2 GHz (space-to-Earth), 14.0–14.5 GHz (Earth-to-space), 18.3–18.8 GHz (space-to-Earth), 19.7–20.2 GHz (space-to-Earth), 28.35–28.6 GHz (Earth-to-space), and 29.25–30.0 GHz (Earth-to-space), ESIMs may be authorized to communicate with geostationary satellites on a primary basis.

(iii) In the bands 11.7–12.2 GHz (space-to-Earth), 14.0–14.5 GHz (Earth-to-space), 18.3–18.6 GHz (space-to-Earth), 19.7–20.2 GHz (space-to-Earth), 28.4–28.6 GHz (Earth-to-space), and 29.5–30.0 GHz (Earth-to-space), ESIMs may be authorized to communicate with non-geostationary satellites, subject to the condition that non-geostationary-satellite systems may not cause unacceptable interference to, or claim protection from, geostationary-satellite networks.

(iv) In the band 17.8–18.3 GHz, ESIMs may be authorized for the reception of FSS emissions from geostationary and non-geostationary satellites on a secondary basis, subject to the condition that non-geostationary-satellite systems not cause unacceptable interference to, or claim protection from, geostationary-satellite networks.

(v) In the bands 18.8–19.3 GHz (space-to-Earth) and 28.6–29.1 GHz (Earth-to-space), ESIMs may be authorized to communicate with geostationary and non-geostationary satellites, subject to the condition that geostationary-satellite networks may not cause unacceptable interference to, or claim protection from, non-geostationary satellite systems in the fixed-satellite service.

(vi) In the band 17.3–17.8 GHz, ESIMs may be authorized for the reception of FSS emissions from geostationary satellites on an unprotected basis.

(528)–(534) [Reserved]

(535) NG535A The use of the band 29.25–29.5 GHz by the fixed-satellite service is limited to geostationary-satellite networks and to feeder links for non-geostationary-satellite systems in the mobile-satellite service.

(e) *Federal Government (G) footnotes.* Federal Government (Federal) footnotes, each in the format "G" followed by one or more digits, denote stipulations applicable only to Federal operations and thus appear solely in the Federal Table. The list of Federal footnotes follows:

- (1) [Reserved]
- (2) G2 In the bands 216.965–216.995 MHz, 420–450 MHz (except as provided for in G129), 890–902 MHz, 928–942 MHz, 1300–1390 MHz, 2310–2390 MHz, 2417–2450 MHz, 2700–2900 MHz, 3300–3500 MHz, 5650–5925 MHz, and 9000–9200 MHz, use of the Federal radiolocation service is restricted to the military services.
- (3)–(4) [Reserved]
- (5) G5 In the bands 162.0125–173.2, 173.4–174, 406.1–410 and 410–420 MHz, use by the military services is limited by the provisions specified in the channeling plans shown in Sections 4.3.7 and 4.3.9 of the NTIA Manual.
- (6) G6 Military tactical fixed and mobile operations may be conducted nationally on a secondary basis:
- (i) To the meteorological aids service in the band 403–406 MHz; and
- (ii) To the radio astronomy service in the band 406.1–410 MHz. Such fixed and mobile operations are subject to local coordination to ensure that harmful interference will not be caused to the services to which the bands are allocated.
- (7) [Reserved]
- (8) G8 Low power Federal radio control operations are permitted in the band 420–450 MHz.
- (9)–(10) [Reserved]
- (11) G11 Federal fixed and mobile radio services, including low power radio control operations, are permitted in the band 902–928 MHz on a secondary basis.
- (12)–(14) [Reserved]
- (15) G15 Use of the band 2700–2900 MHz by the military fixed and shipborne air defense radiolocation installations will be fully coordinated with the meteorological aids and aeronautical radionavigation services. The military air defense installations will be moved from the band 2700–2900 MHz at the earliest practicable date. Until such time as military air defense installations can be accommodated satisfactorily elsewhere in the spectrum, such operations will, insofar as practicable, be adjusted to meet the requirements of the aeronautical radionavigation service.
- (16)–(18) [Reserved]
- (19) G19 Use of the band 9000–9200 MHz by military fixed and shipborne air defense radiolocation installations will be fully coordinated with the aeronautical radionavigation service, recognizing fully the safety aspects of the latter. Military air defense installations will be accommodated ultimately out-side this band. Until such time as military defense installations can be accommodated satisfactorily elsewhere in the spectrum such operations will, insofar as practicable, be adjusted to meet the requirements of the aeronautical radionavigation service.
- (20)–(26) [Reserved]
- (27) G27 In the bands 225–328.6 MHz, 335.4–399.9 MHz, and 1350–1390 MHz, the fixed and mobile services are limited to the military services.
- (28)–(29) [Reserved]
- (30) G30 In the bands 138–144 MHz, 148–149.9 MHz, and 150.05–150.8 MHz, the fixed and mobile services are limited primarily to operations by the military services.
- (31) [Reserved]
- (32) G32 Except for weather radars on meteorological satellites in the band 9.975–10.025 GHz and for Federal survey operations (see footnote US108), Federal radiolocation in the band 10–10.5 GHz is limited to the military services.
- (33) [Reserved]
- (34) G34 In the band 34.4–34.5 GHz, weather radars on board meteorological satellites for cloud detection are authorized to operate on the basis of equality with military radiolocation devices. All other non-military radiolocation in the band 33.4–36.0 GHz shall be secondary to the military services.
- (35)–(41) [Reserved]
- (42) G42 The space operation service (Earth-to-space) is limited to the band 1761–1842 MHz, and is limited to space command, control, range and range rate systems.
- (43)–(55) [Reserved]
- (56) G56 Federal radiolocation in the bands 1215–1300, 2900–3100, 5350–5650 and 9300–9500 MHz is primarily for the military services; however, limited secondary use is permitted by other Federal agencies in support of experimentation and research programs. In addition, limited secondary use is permitted for survey operations in the band 2900–3100 MHz.
- (57)–(58) [Reserved]
- (59) G59 In the bands 902–928 MHz, 3100–3300 MHz, 3500–3650 MHz, 5250–5350 MHz, 8500–9000 MHz, 9200–9300 MHz, 13.4–14.0 GHz, 15.7–17.7 GHz and 24.05–24.25 GHz, all Federal non-military radiolocation shall be secondary to military radiolocation, except in the sub-band 15.7–16.2 GHz airport surface detection equipment (ASDE) is permitted on a co-equal basis subject to coordination with the military departments.
- (60)–(99) [Reserved]
- (100) G100 The bands 235–322 MHz and 335.4–399.9 MHz are also allocated on a primary basis to the mobile-satellite service, limited to military operations.
- (101)–(103) [Reserved]
- (104) G104 In the bands 7450–7550 and 8175–8215 MHz, it is agreed that although the military space radio communication systems, which include earth stations near the proposed meteorological-satellite installations will precede the meteorological-satellite installations, engineering adjustments to either the military or the meteorological-satellite systems or both will be made as mutually required to assure compatible operations of the systems concerned.
- (105)–(108) [Reserved]
- (109) G109 All assignments in the band 157.0375–157.1875 MHz are subject to adjustment to other frequencies in this band as long term U.S. maritime VHF planning develops, particularly that planning incident to support of the National VHF–FM Radiotelephone Safety and Distress System (See Doc. 15624/1–1.9.111/1.9.125).
- (110) G110 Federal ground-based stations in the aeronautical radionavigation service may be authorized between 3500–3650 MHz when accommodation in the band 2700–2900 MHz is not technically and/or economically feasible.
- (111)–(113) [Reserved]
- (114) G114 The band 1369.05–1390 MHz is also allocated to the fixed-satellite service (space-to-Earth) and to the mobile-satellite service (space-to-Earth) on a primary basis for the relay of nuclear burst data.
- (115) G115 In the band 13 360–13 410 kHz, the fixed service is allocated on a primary basis outside the conterminous United States. Within the conterminous United States, assignments in the fixed service are permitted, and will be protected for national defense purposes or, if they are to be used only in an emergency jeopardizing life, public safety, or important property under conditions calling for immediate communication where other means of communication do not exist.
- (116) G116 The band 7125–7155 MHz is also allocated for Earth-to-space transmissions in the Space Operations Service at a limited number of sites (not to exceed two), subject to established coordination procedures.
- (117) G117 In the bands 7.25–7.75 GHz, 7.9–8.4 GHz, 17.375–17.475 GHz, 17.6–21.2 GHz, 30–31 GHz, 33–36 GHz, 39.5–41 GHz, 43.5–45.5 GHz and 50.4–51.4 GHz, the Federal fixed-satellite and mobile-satellite services are limited to military systems.
- (118)–(119) [Reserved]
- (120) G120 Development of airborne primary radars in the band 2360–2390 MHz with peak transmitter power in

excess of 250 watts for use in the United States is not permitted.

(121) [Reserved]

(122) G122 In the bands 2300–2310 MHz, 2395–2400 MHz, 2400–2417 MHz, and 4940–4990 MHz, Federal operations may be authorized on a non-interference basis to authorized non-Federal operations, and shall not constrain the implementation of any non-Federal operations.

(123)–(126) [Reserved]

(127) G127 Federal Travelers Information Stations (TIS) on 1610 kHz have co-primary status with AM Broadcast assignments. Federal TIS authorized as of August 4, 1994, preclude subsequent assignment for conflicting allotments.

(128) G128 Use of the band 56.9–57 GHz by inter-satellite systems is limited to transmissions between satellites in geostationary orbit, to transmissions between satellites in geostationary satellite orbit and those in high-Earth orbit, to transmissions from satellites in geostationary satellite orbit to those in low-Earth orbit, and to transmissions from non-geostationary satellites in high-Earth orbit to those in low-Earth orbit. For links between satellites in the geostationary satellite orbit, the single entry power flux-density at all altitudes from 0 km to 1000 km above the Earth's surface, for all conditions and for all methods of modulation, shall not

exceed -147 dB (W/m²/100 MHz) for all angles of arrival.

(129) G129 Federal wind profilers are authorized to operate on a primary basis in the radiolocation service in the frequency band 448–450 MHz with an authorized bandwidth of no more than 2 MHz centered on 449 MHz, subject to the following conditions:

(i) Wind profiler locations must be pre-coordinated with the military services to protect fixed military radars; and

(ii) Wind profiler operations shall not cause harmful interference to, nor claim protection from, military mobile radiolocation stations that are engaged in critical national defense operations.

(130) G130 Federal stations in the radiolocation service operating in the band 5350–5470 MHz, shall not cause harmful interference to, nor claim protection from, Federal stations in the aeronautical radionavigation service operating in accordance with ITU Radio Regulation No. 5.449.

(131) G131 Federal stations in the radiolocation service operating in the band 5470–5650 MHz, with the exception of ground-based radars used for meteorological purposes operating in the band 5600–5650 MHz, shall not cause harmful interference to, nor claim protection from, Federal stations in the maritime radionavigation service.

(132) G132 Use of the radionavigation-satellite service in the

band 1215–1240 MHz shall be subject to the condition that no harmful interference is caused to, and no protection is claimed from, the radionavigation service authorized under ITU Radio Regulation No. 5.331. Furthermore, the use of the radionavigation-satellite service in the band 1215–1240 MHz shall be subject to the condition that no harmful interference is caused to the radiolocation service. ITU Radio Regulation No. 5.43 shall not apply in respect of the radiolocation service. ITU Resolution 608 (Rev. WRC-15) shall apply.

(133) [Reserved]

(134) G134 In the band 7190–7235 MHz, Federal earth stations operating in the meteorological-satellite service (Earth-to-space) may be authorized subject to the following conditions:

(i) Earth stations are limited to those communicating with the Department of Commerce Geostationary Operational Environmental Satellites (GOES).

(ii) There shall not be more than five earth stations authorized at one time.

(iii) The GOES satellite receiver shall not claim protection from existing and future stations in the fixed service (ITU Radio Regulation No. 5.43A does not apply).

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Part III

Department of Commerce

National Oceanic and Atmospheric Administration

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a Marine Geophysical Survey of the Blake Plateau in the Northwest Atlantic Ocean; Notice

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648–XC877]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a Marine Geophysical Survey of the Blake Plateau in the Northwest Atlantic Ocean

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

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

SUMMARY: NMFS has received a request from Lamont-Doherty Earth Observatory (L-DEO) for authorization to take marine mammals incidental to a marine geophysical survey of the Blake Plateau in the northwest Atlantic Ocean. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible one-time, 1-year renewal that could be issued under certain circumstances and if all requirements are met, as described in Request for Public Comments at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorization and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than July 7, 2023.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and should be submitted via email to ITP.harlacher@noaa.gov.

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

confidential business information, or otherwise sensitive information voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Jenna Harlacher, Office of Protected Resources, NMFS, (301) 427–8401.

Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-research-and-other-activities. In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:**Background**

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

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

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and NOAA

Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.*, the issuance of an IHA) with respect to potential impacts on the human environment.

Accordingly, NMFS plans to adopt the National Science Foundation’s (NSF) Environmental Assessment (EA), as we have preliminarily determined that it includes adequate information analyzing the effects on the human environment of issuing the IHA. NSF’s draft EA is available at <https://www.nsf.gov/geo/oce/envcomp/blake-plateau-2023/Blake-Plateau-Rev-Draft-EA-12-Jan.pdf>.

Summary of Request

On November 22, 2022, NMFS received a request from L-DEO for an IHA to take marine mammals incidental to a marine geophysical survey of the Blake Plateau in the northwest Atlantic Ocean. The application was deemed adequate and complete on February 1, 2023. L-DEO’s request is for take of 29 marine mammal species by Level B harassment, and for 4 of these species, by Level A harassment. Neither L-DEO nor NMFS expect serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of Proposed Activity*Overview*

Researchers from the University of Texas Institute of Geophysics (UTIG) and L-DEO, with funding from the NSF, propose to conduct research, including high-energy seismic surveys using airguns as the acoustic source, from the research vessel (R/V) *Marcus G. Langseth* (Langseth). The surveys would occur in the Blake Plateau in the northwestern Atlantic Ocean during summer or fall 2023. The proposed multi-channel seismic (MCS) reflection and Ocean Bottom Seismometers (OBS) seismic refraction surveys would occur within the Exclusive Economic Zone (EEZ) of the United States and Bahamas and in international waters, in depths ranging from >100 to 5,200 meters (m). To complete this survey, the R/V *Langseth* would tow a 36-airgun array consisting of a mixture of Bolt airguns ranging from 40–360 cubic inches (in³) (1–9.1 m³) each on 4 strings spaced 16 m apart, with a total discharge volume of 6,600 in³ (167.6 m³). The acoustic source would be towed at 10–12 m deep along the survey lines, while the receiving systems for the different survey segments would consist of a 15 kilometer (km) long solid-state hydrophone streamer and approximately 40 OBS, respectively.

The proposed study would acquire two-dimensional (2-D) seismic reflection and seismic refraction data to examine the structure and evolution of the rifted margins of the southeastern United States, including the rift dynamics during the formation of the Carolina Trough and Blake Plateau. Additional data would be collected using a multibeam echosounder (MBES), a sub-bottom profiler (SBP), and an Acoustic Doppler Current Profiler (ADCP), which would be operated from *R/V Langseth* continuously during the seismic surveys, including during transit. No take of marine mammals is expected to result from use of this equipment.

Dates and Duration

The proposed survey is expected to last for approximately 61 days, spread between two operational legs, with 40 days of seismic operations. One leg would include 32 days of MCS seismic operations and 4 days of transit time, whereas the other leg would consist of 8 days of seismic operations with OBSs, 13 days of OBS deployment, and 4 days of transit. *R/V Langseth* would likely leave from and return to port in Jacksonville, Florida during summer or fall 2023.

Specific Geographic Region

The proposed survey would occur within approximately 27.5–33.5° N, 74–80° W off the coasts of South Carolina to northern Florida in the northwest Atlantic Ocean. The distances to all

state waters would be >80 km, and to the coast would be ~90 km off Georgia, ~98 km off Florida, and ~107 km off South Carolina. The region where the survey is proposed to occur is depicted in Figure 1; the tracklines could occur anywhere within the polygon shown in Figure 1. Representative survey tracklines are shown, however, some deviation in actual tracklines, including the order of survey operations, could be necessary for reasons such as science drivers, poor data quality, inclement weather, or mechanical issues with the research vessel and/or equipment. The surveys are proposed to occur within the EEZs of the United States and Bahamas and in international waters, in depths ranging from >100–5,200 m deep.

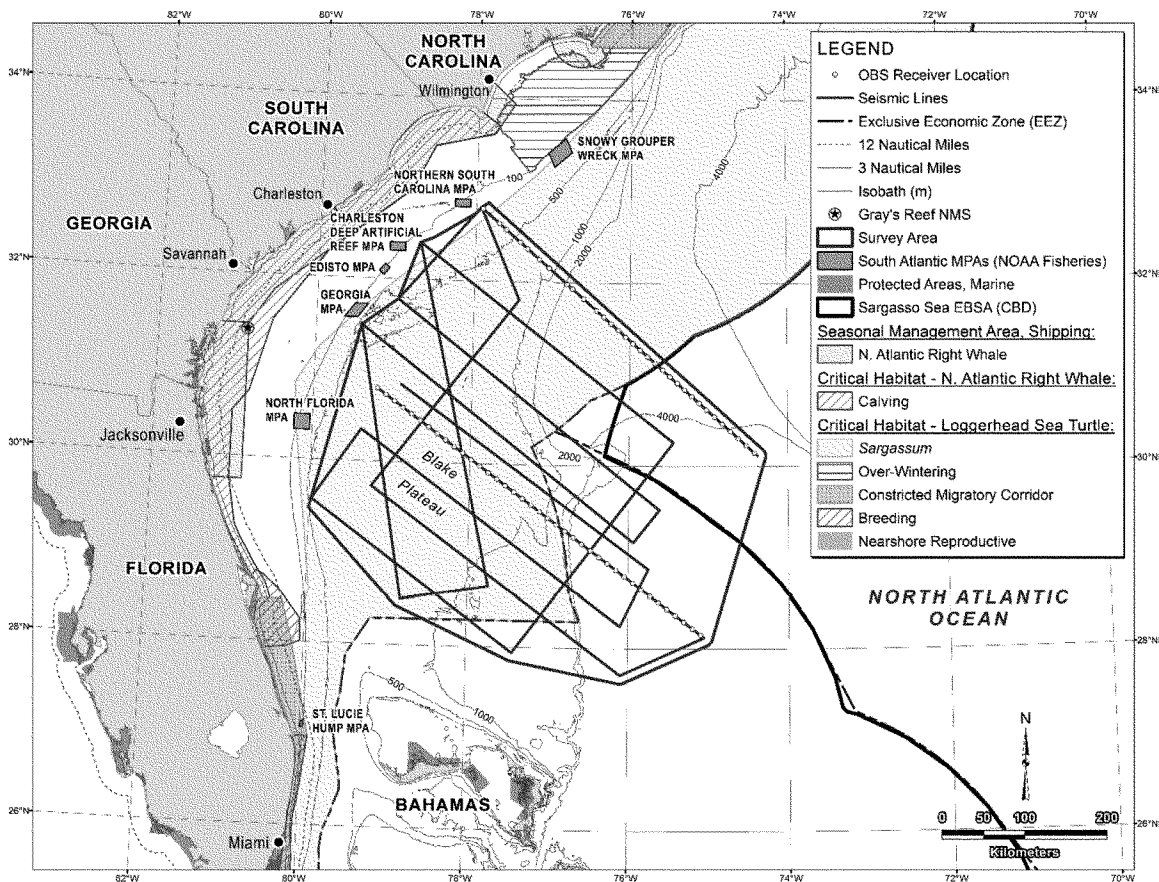


Figure 1 -- Location of the Proposed Blake Plateau Seismic Surveys in the Northwest Atlantic Ocean

Representative survey tracklines are included in the figure; however, the tracklines could occur anywhere within the survey area. MPA = marine protected area; NMS = National Marine Sanctuary. EBSA = Ecologically or Biologically Significant Marine Areas. CBD = Convention on Biological Diversity. N = North.

Detailed Description of the Specified Activity

The procedures to be used for the proposed surveys would be similar to those used during previous seismic surveys by L-DEO and would use conventional seismic methodology. The surveys would involve one source vessel, *R/V Langseth*, which is owned and operated by L-DEO. During MCS seismic reflection and OBS seismic refraction surveys, *R/V Langseth* would tow 4 strings with 36 airguns, consisting of a mixture of Bolt 1500LL and Bolt 1900LLX. During the surveys, all 4 strings, totaling 36 active airguns with a total discharge volume of 6,600 in³, would be used. The four airgun strings would be spaced 16 m apart, distributed across an area of approximately 24 m x 16 m behind the *R/V Langseth*, and would be towed approximately 140 m behind the vessel. The array would be towed at a depth of 10–12 m, and the shot interval would be 50 m (~24 seconds (s)) during MCS seismic reflection surveys and 200 m (~78 s) during OBS seismic refraction surveys. The airgun array configuration is illustrated in Figure 2–13 of NSF and USGS's Programmatic Environmental Impact Statement (PEIS; NSF-USGS, 2011). (The PEIS is available online at: www.nsf.gov/geo/oce/envcomp/usgs-nsf-marine-seismic-research/nsf-usgs-final-eis-oeis-with-appendices.pdf). The receiving system for the MCS survey would consist of a 15-km long solid-state hydrophone streamer (solid flexible polymer) and ~40 OBSs for the OBS portion of the survey. As the airgun arrays are towed along the survey lines, the hydrophone streamer would transfer the data to the on-board processing system for the MCS survey, and the OBSs would receive and store the returning acoustic signals internally for later analysis for the OBS survey.

Approximately 6,682 km of seismic acquisition are proposed: 5,730 km of 2–D MCS seismic reflection data and 952 km of OBS refraction data. Overall, just over half (55 percent) of all survey effort would occur in intermediate water (100–1,000 m deep), and 45 percent would occur in deep water (>1,000 m deep); no seismic acquisition would take place in shallow water (<100 m). When only MCS reflection surveys are

considered, most of the effort (58 percent) would occur in intermediate-depth water, and 42 percent of effort would occur in deep water. When only refraction surveys with OBSs are considered, most of that effort (60 percent) would occur in deep water, and 40 percent would occur in intermediate-depth water. Refraction surveys with OBSs would be acquired along two lines—one 456-km long line across the southern Carolina Trough (32 OBS drops) and a 496-km long line across Blake Plateau (39 OBS drops). Following refraction shooting of one line, OBSs on that line would be recovered, serviced, and redeployed on a subsequent refraction line. In addition to the operations of the airgun array, the ocean floor would be mapped with the Kongsberg EM 122 MBES and a Knudsen Chirp 3260 SBP. A Teledyne RDI 75 kHz Ocean Surveyor ADCP would be used to measure water current velocities.

All planned geophysical data acquisition activities would be conducted by L-DEO with on-board assistance by the scientists who have proposed the studies. The vessel would be self-contained, and the crew would live aboard the vessel. Take of marine mammals is not expected to occur incidental to use of the MBES, SBP, and ADCP, whether or not the airguns are operating simultaneously with the other sources. Given their characteristics (*e.g.*, narrow downward-directed beam), marine mammals would experience no more than one or two brief ping exposures, if any exposure were to occur. NMFS does not expect that the use of these sources presents any reasonable potential to cause take of marine mammals.

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

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of L-DEO's application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends

and threats may be found in NMFS' Stock Assessment Reports (SARs; www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments) and more general information about these species (*e.g.*, physical and behavioral descriptions) may be found on NMFS' website (www.fisheries.noaa.gov/find-species). NMFS refers the reader to the application and to the aforementioned sources for general information regarding the species listed in Table 1.

Table 1 lists all species or stocks for which take is expected and proposed to be authorized for this activity, and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no serious injury or mortality is expected to occur, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species or stocks and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All stocks managed under the MMPA in this region are assessed in NMFS' U.S. Atlantic and Gulf of Mexico SARs (*e.g.*, Hayes *et al.*, 2019, 2020, 2022). All values presented in Table 1 are the most recent available (including the draft 2022 SARs) at the time of publication and are available online at: www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments.

TABLE 1—SPECIES LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) ¹	Stock abundance (CV, N _{min} , most recent abundance survey) ²	Modeled abun- dance ⁵	PBR	Annual M/ SI ³
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)							
Family Balaenopteridae (rorquals):							
Humpback whale	<i>Megaptera novaeangliae</i>	Gulf of Maine	-/-; N	1,396 (0; 1,380; 2016)	⁷ 2,259	22	12.15
Fin whale	<i>Balaenoptera physalus</i>	Western North Atlantic	E/D; Y	6,802 (0.24; 5,573; 2016).	⁶ 3,587	11	1.8
Sei whale	<i>Balaenoptera borealis</i>	Nova Scotia	E/D; Y	6,292 (1.02; 3,098; 2016).	⁶ 1,043	6.2	0.8
Minke whale	<i>Balaenoptera acutorostrata</i>	Canadian East Coast	-/-; N	21,968 (0.31; 17,002; 2016).	⁶ 4,044	170	10.6
Blue whale	<i>Balaenoptera musculus</i>	Western North Atlantic	E/D;Y	unk (unk; 402; 1980–2008).	⁷ 33	0.8	0
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)							
Family Physeteridae:							
Sperm whale	<i>Physeter macrocephalus</i>	North Atlantic	E/D;Y	4,349 (0.28; 3,451; 2016).	⁶ 6,576	3.9	0
Family Kogiidae:							
Pygmy sperm whale	<i>Kogia breviceps</i>	Western North Atlantic	-/-; N	7,750 (0.38; 5,689; 2016).	⁷ 7,980	46	0
Dwarf sperm whale	<i>Kogia sima</i>	Western North Atlantic	-/-; N				
Family Ziphiidae (beaked whales):							
Cuvier's beaked Whale	<i>Ziphius cavirostris</i>	Western North Atlantic	-/-; N	5,744 (0.36; 4,282, 2016).	⁷ 5,588	43	0.2
Blainville's beaked Whale	<i>Mesoplodon densirostris</i>	Western North Atlantic	-/-; N	10,107 (0.27; 8,085; 2016) ⁴ .	⁷ 6,526	⁴ 81	⁴ 0
True's beaked whale	<i>Mesoplodon mirus</i>	Western North Atlantic	-/-; N				
Gervais' beaked whale	<i>Mesoplodon europaeus</i>	Western North Atlantic	-/-; N				
Family Delphinidae:							
Long-finned pilot whale	<i>Globicephala melas</i>	Western North Atlantic	-/-; N	39,215 (0.30; 30,627; 2016).	⁷ 823,905	306	9
Short finned pilot whale	<i>Globicephala macrorhynchus</i>	Western North Atlantic	-/-;Y	28,924 (0.24; 23,637; 2016).		236	136
Rough-toothed dolphin	<i>Steno bredanensis</i>	Western North Atlantic	-/-; N	136 (1.0; 67; 2016)	⁷ 1,011	0.7	0
Bottlenose dolphin	<i>Tursiops truncatus</i>	Western North Atlantic Off-shore.	-/-; N	62,851 (0.23; 51,914, 2016).	⁶ 68,739	519	28
Pantropical spotted dolphin	<i>Stenella attenuata</i>	Western North Atlantic	-/-; N	6,593 (0.52; 4,367; 2016).	⁷ 1,403	44	0
Atlantic spotted dolphin	<i>Stenella frontalis</i>	Western North Atlantic	-/-; N	39,921 (0.27; 32,032; 2016).	⁶ 39,352	320	0
Spinner dolphin	<i>Stenella longirostris</i>	Western North Atlantic	-/-; N	4,102 (0.99; 2,045; 2016).	⁷ 885	21	0
Clymene dolphin	<i>Stenella clymene</i>	Western North Atlantic	-/-; N	4,237 (1.03; 2,071; 2016).	⁷ 8,576	21	0
Striped dolphin	<i>Stenella coeruleoalba</i>	Western North Atlantic	-/-; N	67,036 (0.29; 52,939; 2016).	⁷ 54,707	529	0
Fraser's dolphin	<i>Lagenodelphis hosei</i>	Western North Atlantic	-/-; N	unk	⁷ 658	unk	0
Risso's dolphin	<i>Grampus griseus</i>	Western North Atlantic	-/-; N	35,215(0.19; 30,051; 2016).	⁶ 24,260	301	34
Common dolphin	<i>Delphinus delphis</i>	Western North Atlantic	-/-; N	172,947 (0.21; 145,216; 2016).	⁶ 144,036	1,452	390
Melon-headed whale	<i>Peponocephala electra</i>	Western North Atlantic	-/-; N	unk	⁷ 618	unk	0
Pygmy killer whale	<i>Feresa attenuate</i>	Western North Atlantic	-/-; N	unk	⁷ 68	unk	0
False killer whale	<i>Pseudorca crassidens</i>	Western North Atlantic	-/-; N	1,791 (0.56; 1,154; 2016).	⁷ 139	12	0
Killer whale	<i>Orcinus orca</i>	Western North Atlantic	-/-; N	unk	⁷ 73	unk	0
Family Phocoenidae (porpoises):							
Harbor porpoise	<i>Phocoena phocoena</i>	Gulf of Maine/Bay of Fundy	-/-; N	95,543 (0.31; 74,034; 2016).	⁷ 55,049	851	164

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

²NMFS marine mammal stock assessment reports online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region/>. CV is coefficient of variation; Nmin is the minimum estimate of stock abundance; unknown (unk).

³These values, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, ship strike). Annual mortality or serious injury (M/SI) often cannot be determined precisely and is in some cases presented as a minimum value or range.

⁴The values for Mesoplodont beaked whales would also represent Sowerby's beaked whales, which are not expected to occur in the survey area.

⁵Modeled abundance from Roberts and Halpin (2022).

⁶Averaged monthly (May–Oct) abundance.

⁷Only single annual abundance given.

⁸Modeled abundance for pilot whale is grouped together for both short-finned and long-finned pilot whales.

In Table 1 above, NMFS reports two sets of abundance estimates: Those from NMFS' SARs and those predicted by Roberts and Halpin (2022)—for the latter, we provide both the mean of monthly (May–October) abundance and

the single annual abundance (where applicable). Please see footnotes 6–7 of Table 1 for more detail. NMFS' SAR estimates are typically generated from the most recent shipboard and/or aerial surveys conducted. The spatial scale of the survey area along the Atlantic coast is small relative to the ability of most cetacean species to travel within their ranges. As an example, only one sighting of rough-toothed dolphin occurred in the last two dedicated cetacean abundance surveys near L–DEO's proposed survey area during 2011 or 2016. The SAR states that the abundance estimate listed (136) was based on a single sighting and therefore the abundance estimate is highly uncertain. Additionally, multiple species with modeled take proposed for authorization do not have a population abundance listed in the SAR's even though the last surveys were conducted on these species in 2019. Studies based on abundance and distribution surveys restricted to U.S. waters are unable to detect temporal shifts in distribution beyond U.S. waters that might account for any changes in abundance within U.S. waters. NMFS' SAR estimates also typically do not incorporate correction for detection bias. Therefore, they should generally be considered underestimates, especially for cryptic or long-diving species (e.g., beaked whales, *Kogia* spp., sperm whales). Dias and Garrison (2016) state, for example, that current abundance estimates for *Kogia* spp. may be considerably underestimated due to the cryptic behavior of these species and difficulty of detection in Beaufort sea state greater than one, and density estimates for certain species derived from long-term passive acoustic monitoring are much higher than are estimates derived from visual observations (Mullin and Fulling, 2004; Mullin, 2007; Hildebrand *et al.*, 2012).

The Roberts and Halpin (2022) abundance estimates represent the output of predictive models derived from multi-year observations and associated environmental parameters and which incorporate corrections for detection bias. Incorporating more data over multiple years of observation can yield different results in either direction, as the result is not as readily influenced by fine-scale shifts in species habitat preferences or by the absence of a species in the study area during a given year. NMFS' abundance estimates show substantial year-to-year variability in some cases. For these reasons, the Roberts and Halpin (2022) estimates are generally more realistic and, for these purposes, represent the best available

information. For purposes of assessing estimated exposures relative to abundance—used in this case to understand the scale of the predicted takes compared to the population—NMFS generally believes that the Roberts and Halpin (2022) abundance predictions are most appropriate because they were used to generate the exposure estimates and therefore provide the most relevant comparison. Roberts and Halpin (2022) represents the best available scientific information regarding marine mammal occurrence and distribution in the Blake Plateau.

As indicated above, all 29 species in Table 1 temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur. Species that could potentially occur in the proposed research area but are not likely to be harassed due to the rarity of their occurrence (*i.e.*, are considered extralimital or rare visitors to the waters off southeast U.S.), or because their known migration through the area does not align with the proposed survey dates, are omitted from further analysis. These generally include species that do not normally occur in the area, but for which there are one or more occurrence records that are considered beyond the normal range of the species. These species include northern bottlenose whales (*Hyperoodon ampullatus*), Sowerby's beaked whales (*Mesoplodon bidens*), Atlantic white-sided dolphin (*Lagenorhynchus acutus*), white-beaked dolphins (*Lagenorhynchus albirostris*), harp seals (*Pagophilus groenlandicus*), hooded seals (*Cystophora cristata*), gray seals (*Halichoerus grypus*), and harbor seals (*Phoca vitulina*), which are all typically distributed further north on the eastern coast of the United States. In addition to what is included in Sections 3 and 4 of the application, the SARs, and NMFS' website, further detail informing the baseline for select species of particular or unique vulnerability (*i.e.*, information regarding current Unusual Mortality Events (UME) and important habitat areas) is provided below.

This also includes the North Atlantic right whale (*Eubalaena glacialis*), as their migration through waters directly adjacent to the study area does not align with the proposed survey dates. Based on the timing of migratory behavior relative to the proposed survey, in conjunction with the location of the survey in primarily deep waters beyond the shelf, no right whales would be expected to be subject to take incidental to the survey. A quantitative, density-based analysis confirms these conclusions (see Estimated Take, later in this notice).

Elevated North Atlantic right whale mortalities have occurred since June 7, 2017, along the U.S. and Canadian coast. This event has been declared an Unusual Mortality Event (UME), with human interactions, including entanglement in fixed fishing gear and vessel strikes, implicated in at least 20 of the mortalities thus far. As of May 22, 2023, a total of 36 confirmed dead stranded whales (21 in Canada; 15 in the United States) have been documented. The cumulative total number of animals in the North Atlantic right whale UME has been updated to 69 individuals to include both the confirmed mortalities (dead stranded or floaters) (n=36) and seriously injured free-swimming whales (n=33) to better reflect the confirmed number of whales likely removed from the population during the UME and more accurately reflect the population impacts. More information is available online at: www.fisheries.noaa.gov/national/marine-life-distress/2017-2022-north-atlantic-right-whale-unusual-mortality-event.

During 2016, NMFS designated 102,084 km² of combined critical habitat for North Atlantic right whales in the Gulf of Maine and Georges Bank region (Unit 1) and off the southeast U.S. coast (Unit 2) (NMFS 2016b). The 2016 final rule incorporated a southward extension of Unit 2 such that it now includes nearshore and offshore waters from Cape Fear to south of Cape Canaveral, Florida (81 FR 4837, January 27, 2016). Unit 2 has been recognized as critical for calving right whales, and mother-calf pairs are consistently observed there, particularly during January and February. Unit 2 of the calving critical habitat occurs more than 50 km west of the proposed survey area in water <100 m deep.

The proposed survey area is also adjacent to the migratory corridor Biologically Important Area (BIA) identified for North Atlantic right whales that extends from Massachusetts to Florida in March–April and November–December (LeBrecque *et al.*, 2015). This important migratory area is approximately 269,488 km² and is comprised of the waters of the continental shelf offshore the East Coast of the United States.

Right whales occur here during seasonal movements north or south between their feeding and breeding grounds (Firestone *et al.*, 2008; Knowlton *et al.*, 2002). During their migration, North Atlantic right whales prefer shallower waters, with the majority of sightings occurring within 56 km of the coast and in water depths shallower than 45 m (Knowlton *et al.*,

2002). When whales are seen further offshore, it is in the northern part of their migratory path south of New England. Comparatively, L-DEO's survey would occur at a minimum of 80 km off the coast in water depths ranging from >100 m to 5,200 m.

Right whales have been observed in or near Georgia waters from September through April, which coincides with the migratory timeframe for this species (Knowlton *et al.*, 2002). They have been acoustically detected throughout the winter months from late October through early April in the southeastern U.S. (Hodge *et al.*, 2015). They are typically most common in the spring (late March) when they are migrating north and in the winter during their southbound migration to the calving grounds (NOAA Fisheries 2017).

Acoustic detections have been made off the southeastern U.S. in all seasons with peak occurrence during winter (November–February); fewer detections were made the rest of the year (Hodge *et al.*, 2015; Davis *et al.*, 2017; Palka *et al.*, 2021). On WhaleMap (<https://whalemap.org/>), there are ~2,000 records for the waters off the southeastern U.S. between 2010 and 2022; all sightings were made between November and March, but no detections were made in the proposed survey area (Johnson *et al.* 2021). Similarly, Hayes *et al.* (2022) showed numerous sightings on the shelf off Georgia and Florida for 2015–2019, but no sightings within the proposed survey area. DoN (2008c) showed peak occurrence on the shelf off the southeastern U.S. during winter, including some along the western edge of the proposed survey area; fewer sightings were reported during fall, and nearly no sightings during spring and summer (DoN 2008c). Additionally, there are no Ocean Biodiversity Information System (OBIS) records of right whales for the proposed survey area of the Blake Plateau (OBIS 2022).

All vessels 65 feet (19.8 meters) or longer must travel at 10 knots or less in certain locations (called Seasonal Management Areas (SMA)) along the U.S. east coast at certain times of the year to reduce the threat of vessel collisions with endangered North Atlantic right whales. The purpose of this mandatory regulation is to reduce the likelihood of deaths and serious injuries to these endangered whales that result from collisions with vessels. There are no SMAs designated within the proposed survey area, however there is a SMA adjacent to the survey area near Jacksonville, Florida. This SMA is in effect from November 15 through April 15, requiring vessel speed be restricted in the area bounded to the

north by latitude 31°27' N; to the south by latitude 29°45' N; and to the east by longitude 080°51'36" W. L-DEO intends to complete the survey before November 1, 2023, and NMFS proposes that use of airguns be limited to the period May 1 through October 31. Additional restrictions in higher density areas of the survey area in October are also proposed (see Proposed Mitigation section). The regulations identifying SMAs (50 CFR 224.105) also establish a process under which dynamic management areas (DMA) can be established based on North Atlantic right whale sightings. NMFS established a Slow Zone program in 2020 that notifies vessel operators of areas where maintaining speeds of 10 knots (kn; 18.5 km per hour) or less can help protect North Atlantic right whales from vessel collisions. Right Whale Slow Zones are established around areas where right whales have been recently detected; these areas are identical to DMAs when triggered by right whale visual sightings but they can also be established when right whale detections are confirmed from acoustic receivers. More information on SMAs, DMAs, and Slow Zones can be found at: <https://www.fisheries.noaa.gov/national/endangered-species-conservation/reducing-vessel-strikes-north-atlantic-right-whales#:~:text=Right%20Whale%20Slow%20Zones%20is,right%20whales%20have%20been%20detected.>

On August 1, 2022, NMFS announced proposed changes to the existing North Atlantic right whale vessel speed regulations to further reduce the likelihood of mortalities and serious injuries to endangered right whales from vessel collisions, which are a leading cause of the species' decline and a primary factor in an ongoing UME (87 FR 46921). Should a final vessel speed rule be issued and become effective during the effective period of this IHA (or any other MMPA incidental take authorization), the authorization holder would be required to comply with any and all applicable requirements contained within the final rule. Specifically, where measures in any final vessel speed rule are more protective or restrictive than those in this or any other MMPA authorization, authorization holders would be required to comply with the requirements of the rule. Alternatively, where measures in this or any other MMPA authorization are more restrictive or protective than those in any final vessel speed rule, the measures in the MMPA authorization would remain in place. The responsibility to comply with the

applicable requirements of any vessel speed rule would become effective immediately upon the effective date of any final vessel speed rule and, when notice is published of the effective date, NMFS would also notify L-DEO if the measures in the speed rule were to supersede any of the measures in the MMPA authorization such that they were no longer applicable.

Humpback Whale

In the western North Atlantic, humpback whales feed during spring, summer, and fall over a geographic range encompassing the eastern coast of the United States (including the Gulf of Maine), the Gulf of St. Lawrence, Newfoundland/Labrador, and western Greenland (Katona and Beard 1990). The whales that feed on the eastern coast of the United States are recognized as a distinct feeding stock, known as the Gulf of Maine stock (Palsbøll *et al.* 2001; Vigness-Raposa *et al.* 2010). During winter, these whales mate and calve in the West Indies, where spatial and genetic mixing among feeding stocks occurs (Katona and Beard 1990; Clapham *et al.* 1993; Palsbøll *et al.* 1997; Stevick *et al.* 1998; Kennedy *et al.* 2013).

Humpback whales were listed as endangered under the Endangered Species Conservation Act (ESCA) in June 1970. In 1973, the ESA replaced the ESCA, and humpbacks continued to be listed as endangered. NMFS re-evaluated the status of the species in 2015, and on September 8, 2016, divided the species into 14 distinct population segments (DPS), removed the current species-level listing, and in its place listed 4 DPSs as endangered and 1 DPS as threatened (81 FR 62259, September 8, 2016). The remaining nine DPSs were not listed. Only one DPS occurs in the proposed survey area, the West Indies DPS, which is not listed under the ESA.

The Gulf of Maine stock of humpback whales, a feeding population of the West Indies DPS, occurs primarily in the southern Gulf of Maine and east of Cape Cod during summers to feed (Clapham *et al.* 1993; Hayes *et al.* 2020). Off the southeastern U.S., most sightings have been reported for winter and mostly nearshore (DoN 2008c; Conley *et al.* 2017); there were fewer sightings in fall and spring, and no sightings during summer (DoN 2008c). Similarly, summer surveys by the Northeast Fisheries Science Center (NEFSC) and Southeast Fisheries Science Center (SEFSC) showed no sightings off the southeastern U.S. (Hayes *et al.* 2020). One satellite-tagged humpback whale was reported near the northern portion

of the survey area during January 2021 (DoN 2022). Davis *et al.* (2020) detected humpback whales acoustically off the southeastern U.S. during winter (November–February) and spring (March–April), with few detections during summer (May–July), and no detections during fall (August–October). Kowarski *et al.* (2022) reported acoustic detections on the Blake Plateau during summer. There are no records in the OBIS database for the proposed survey area (OBIS 2022). The humpback whales that could occur in the survey area are of the West Indies breeding population, but not necessarily from the Gulf of Maine feeding population.

Since January 2016, elevated humpback whale mortalities have occurred along the Atlantic coast from Maine to Florida. Partial or full necropsy examinations have been conducted on approximately half of the 194 known cases. Of the whales examined, about 50 percent had evidence of human interaction, either ship strike or entanglement. While a portion of the whales have shown evidence of pre-mortem vessel strike, this finding is not consistent across all whales examined and more research is needed. NMFS is consulting with researchers that are conducting studies on the humpback whale populations, and these efforts may provide information on changes in whale distribution and habitat use that could provide additional insight into how these vessel interactions occurred. Three additional UMEs involving humpback whales have occurred since 2000, in 2003, 2005, and 2006. More information is available at: www.fisheries.noaa.gov/national/marine-life-distress/2016-2021-humpback-whale-unusual-mortality-event-along-atlantic-coast.

Minke Whale

In the Northern Hemisphere, the minke whale is usually seen in coastal areas, but can also be seen in pelagic waters during its northward migration in spring and summer and southward migration in autumn (Stewart and Leatherwood, 1985). The Canadian East Coast stock can be found in the area from the western half of the Davis Strait (45° W) to the Gulf of Mexico (Hayes *et al.*, 2020). Minke whales in the Atlantic

have a strong seasonal component to their distribution, with acoustic detections indicating that they migrate south in mid-October to early November, and return from wintering grounds starting in March through early April (Hayes *et al.*, 2020). Northward migration appears to track the warmer waters of the Gulf Stream along the continental shelf, while southward migration is made farther offshore (Risch *et al.* 2014).

Based on modeling for the western North Atlantic, higher densities are expected to occur north of 35° N; very low densities are expected south of 35° N (Mannocci *et al.* 2017; Palka *et al.* 2021). Minke whales are common off the U.S. East Coast over continental shelf waters during spring to fall (CETAP 1982; DoN 2008a,b; Hayes *et al.* 2022). Seasonal movements in the Northwest Atlantic are apparent, with animals moving south and into offshore waters from late fall through early spring (DoN 2008a,b; Hayes *et al.* 2022). Risch *et al.* (2014) deployed acoustic detectors throughout the North Atlantic to detect minke whale occurrence. They found that minke whales migrate north of 30° N from March–April and migrate south from mid-October to early November. During spring migration, animals migrate along the continental shelf, whereas they migrate farther offshore during fall.

In the southeastern U.S., minke whales were commonly detected during winter; at recorders situated at the shelf edge, detections were from November through April, with no detections during the summer (Risch *et al.* 2014; Kowarski *et al.* 2022). However, detections were made during every season in deep, offshore waters (Kowarski *et al.* 2022). Based on a reduced number of acoustic detections during summer off the southeastern U.S., Risch *et al.* (2014) suggested that most minke whales likely occur in Canadian waters during the summer. Off the coasts of Georgia and Florida, there are numerous sightings on the shelf during winter (December–April), but there were no records for summer, and very few during spring and fall (DoN 2008c). Summer surveys by NEFSC and SEFSC found no sightings off the southeastern U.S. (Hayes *et al.* 2022). There are no records in the OBIS

database for the proposed survey area (OBIS 2022).

Since January 2017, elevated minke whale mortalities have occurred along the U.S. Atlantic coast from Maine through South Carolina, with a total of 147 known strandings. This event has been declared a UME. Full or partial necropsy examinations were conducted on more than 60 percent of the whales. Preliminary findings in several of the whales have shown evidence of human interactions or infectious disease, but these findings are not consistent across all of the whales examined, so more research is needed. More information is available at: www.fisheries.noaa.gov/national/marine-life-distress/2017-2021-minke-whale-unusual-mortality-event-along-atlantic-coast.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Not all marine mammal species have equal hearing capabilities (e.g., Richardson *et al.*, 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007, 2019) recommended that marine mammals be divided into hearing groups based on directly measured (behavioral or auditory evoked potential techniques) or estimated hearing ranges (behavioral response data, anatomical modeling, etc.). Note that no direct measurements of hearing ability have been successfully completed for mysticetes (i.e., low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in Table 2.

TABLE 2—MARINE MAMMAL HEARING GROUPS (NMFS, 2018)

Hearing group	Generalized hearing range*
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.

TABLE 2—MARINE MAMMAL HEARING GROUPS (NMFS, 2018)—Continued

Hearing group	Generalized hearing range*
High-frequency (HF) cetaceans (true porpoises, <i>Kogia</i> , river dolphins, Cephalorhynchid, <i>Lagenorhynchus cruciger</i> & <i>L. australis</i>).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater)(sea lions and fur seals)	60 Hz to 39 kHz.

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

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section provides a discussion of the ways in which components of the specified activity may impact marine mammals and their habitat. The Estimated Take section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The Negligible Impact Analysis and Determination section considers the content of this section, the Estimated Take section, and the Proposed Mitigation section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and whether those impacts are reasonably expected to, or reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Description of Active Acoustic Sound Sources

This section contains a brief technical background on sound, the characteristics of certain sound types, and on metrics used in this proposal inasmuch as the information is relevant to the specified activity and to a discussion of the potential effects of the specified activity on marine mammals found later in this document.

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in hertz (Hz) or cycles per second. Wavelength is the distance between two peaks or corresponding points of a sound wave (length of one cycle). Higher frequency sounds have shorter wavelengths than lower frequency sounds, and typically attenuate (decrease) more rapidly, except in certain cases in shallower water. Amplitude is the height of the sound pressure wave or the “loudness”

of a sound and is typically described using the relative unit of the dB. A sound pressure level (SPL) in dB is described as the ratio between a measured pressure and a reference pressure (for underwater sound, this is 1 micropascal (μPa)) and is a logarithmic unit that accounts for large variations in amplitude; therefore, a relatively small change in dB corresponds to large changes in sound pressure. The source level (SL) represents the SPL referenced at a distance of 1 m from the source (referenced to 1 μPa) while the received level is the SPL at the listener's position (referenced to 1 μPa).

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

Sound exposure level (SEL; represented as dB re 1 $\mu\text{Pa}^2\text{-s}$) represents the total energy contained within a pulse and considers both intensity and duration of exposure. Peak sound pressure (also referred to as zero-to-peak sound pressure or 0-p) is the maximum instantaneous sound pressure measurable in the water at a specified distance from the source and is represented in the same units as the rms sound pressure. Another common metric is peak-to-peak sound pressure (pk-pk), which is the algebraic difference between the peak positive and peak negative sound pressures. Peak-to-peak pressure is typically approximately 6 dB higher than peak pressure (Southall *et al.*, 2007).

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

Even in the absence of sound from the specified activity, the underwater environment is typically loud due to ambient sound. Ambient sound is defined as environmental background sound levels lacking a single source or point (Richardson *et al.*, 1995), and the sound level of a region is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.*, wind and waves, earthquakes, ice, atmospheric sound), biological (*e.g.*, sounds produced by marine mammals, fish, and invertebrates), and anthropogenic (*e.g.*, vessels, dredging, construction) sound. A number of sources contribute to ambient sound, including the following (Richardson *et al.*, 1995):

Wind and waves: The complex interactions between wind and water surface, including processes such as breaking waves and wave-induced bubble oscillations and cavitation, are a main source of naturally occurring ambient sound for frequencies between 200 Hz and 50 kHz (Mitson, 1995). In general, ambient sound levels tend to increase with increasing wind speed and wave height. Surf sound becomes important near shore, with measurements collected at a distance of 8.5 km from shore showing an increase of 10 dB in the 100 to 700 Hz band during heavy surf conditions;

Precipitation: Sound from rain and hail impacting the water surface can become an important component of total

sound at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times;

Biological: Marine mammals can contribute significantly to ambient sound levels, as can some fish and snapping shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz; and

Anthropogenic: Sources of anthropogenic sound related to human activity include transportation (surface vessels), dredging and construction, oil and gas drilling and production, seismic surveys, sonar, explosions, and ocean acoustic studies. Vessel noise typically dominates the total ambient sound for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they attenuate rapidly. Sound from identifiable anthropogenic sources other than the activity of interest (e.g., a passing vessel) is sometimes termed background sound, as opposed to ambient sound.

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

Sounds are often considered to fall into one of two general types: Pulsed and non-pulsed. The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (e.g., NMFS, 2018; Ward, 1997 in Southall *et al.*, 2007). Please see Southall *et al.* (2007) for an in-depth discussion of these concepts.

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

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

Airgun arrays produce pulsed signals with energy in a frequency range from about 10–2,000 Hz, with most energy radiated at frequencies below 200 Hz. The amplitude of the acoustic wave emitted from the source is equal in all directions (*i.e.*, omnidirectional), but airgun arrays do possess some directionality due to different phase delays between guns in different directions. Airgun arrays are typically tuned to maximize functionality for data acquisition purposes, meaning that sound transmitted in horizontal directions and at higher frequencies is minimized to the extent possible.

Acoustic Effects

Here, we discuss the effects of active acoustic sources on marine mammals.

*Potential Effects of Underwater Sound*¹—Anthropogenic sounds cover a broad range of frequencies and sound levels and can have a range of highly variable impacts on marine life, from none or minor to potentially severe responses, depending on received

¹Please refer to the information given previously (“Description of Active Acoustic Sound Sources”) regarding sound, characteristics of sound types, and metrics used in this document.

levels, duration of exposure, behavioral context, and various other factors. The potential effects of underwater sound from active acoustic sources can potentially result in one or more of the following: Temporary or permanent hearing impairment; non-auditory physical or physiological effects; behavioral disturbance; stress; and masking (Richardson *et al.*, 1995; Gordon *et al.*, 2004; Nowacek *et al.*, 2007; Southall *et al.*, 2007; Götz *et al.*, 2009). The degree of effect is intrinsically related to the signal characteristics, received level, distance from the source, and duration of the sound exposure. In general, sudden, high level sounds can cause hearing loss, as can longer exposures to lower level sounds. Temporary or permanent loss of hearing, if it occurs at all, will occur almost exclusively in cases where a noise is within an animal’s hearing frequency range. We first describe specific manifestations of acoustic effects before providing discussion specific to the use of airgun arrays.

Richardson *et al.* (1995) described zones of increasing intensity of effect that might be expected to occur, in relation to distance from a source and assuming that the signal is within an animal’s hearing range. First is the area within which the acoustic signal would be audible (potentially perceived) to the animal, but not strong enough to elicit any overt behavioral or physiological response. The next zone corresponds with the area where the signal is audible to the animal and of sufficient intensity to elicit behavioral or physiological response. Third is a zone within which, for signals of high intensity, the received level is sufficient to potentially cause discomfort or tissue damage to auditory or other systems. Overlaying these zones to a certain extent is the area within which masking (*i.e.*, when a sound interferes with or masks the ability of an animal to detect a signal of interest that is above the absolute hearing threshold) may occur; the masking zone may be highly variable in size.

We describe the more severe effects of certain non-auditory physical or physiological effects only briefly as we do not expect that use of airgun arrays are reasonably likely to result in such effects (see below for further discussion). Potential effects from impulsive sound sources can range in severity from effects such as behavioral disturbance or tactile perception to physical discomfort, slight injury of the internal organs and the auditory system, or mortality (Yelverton *et al.*, 1973). Non-auditory physiological effects or injuries that theoretically might occur in

marine mammals exposed to high level underwater sound or as a secondary effect of extreme behavioral reactions (e.g., change in dive profile as a result of an avoidance reaction) caused by exposure to sound include neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.*, 2006; Southall *et al.*, 2007; Zimmer and Tyack, 2007; Tal *et al.*, 2015). The survey activities considered here do not involve the use of devices such as explosives or mid-frequency tactical sonar that are associated with these types of effects.

Threshold Shift—Marine mammals exposed to high-intensity sound, or to lower-intensity sound for prolonged periods, can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Finneran, 2015). Threshold shift can be permanent (PTS), in which case the loss of hearing sensitivity is not fully recoverable, or temporary (TTS), in which case the animal's hearing threshold would recover over time (Southall *et al.*, 2007). Repeated sound exposure that leads to TTS could cause PTS. In severe cases of PTS, there can be total or partial deafness, while in most cases the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter, 1985).

When PTS occurs, there is physical damage to the sound receptors in the ear (i.e., tissue damage), whereas TTS represents primarily tissue fatigue and is reversible (Southall *et al.*, 2007). In addition, other investigators have suggested that TTS is within the normal bounds of physiological variability and tolerance and does not represent physical injury (e.g., Ward, 1997). Therefore, NMFS does not typically consider TTS to constitute auditory injury.

Relationships between TTS and PTS thresholds have not been studied in marine mammals, and there is no PTS data for cetaceans but such relationships are assumed to be similar to those in humans and other terrestrial mammals. PTS typically occurs at exposure levels at least several dBs above (a 40-dB threshold shift approximates PTS onset; e.g., Kryter *et al.*, 1966; Miller, 1974) that inducing mild TTS (a 6-dB threshold shift approximates TTS onset; e.g., Southall *et al.*, 2007). Based on data from terrestrial mammals, a precautionary assumption is that the PTS thresholds for impulsive sounds (such as airgun pulses as received close to the source) are at least 6 dB higher than the TTS threshold on a peak-pressure basis and PTS cumulative sound exposure level thresholds are 15 to 20 dB higher than TTS cumulative

sound exposure level thresholds (Southall *et al.*, 2007). Given the higher level of sound or longer exposure duration necessary to cause PTS as compared with TTS, it is considerably less likely that PTS could occur.

For mid-frequency cetaceans in particular, potential protective mechanisms may help limit onset of TTS or prevent onset of PTS. Such mechanisms include dampening of hearing, auditory adaptation, or behavioral amelioration (e.g., Nachtigall and Supin, 2013; Miller *et al.*, 2012; Finneran *et al.*, 2015; Popov *et al.*, 2016).

TTS is the mildest form of hearing impairment that can occur during exposure to sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises, and a sound must be at a higher level in order to be heard. In terrestrial and marine mammals, TTS can last from minutes or hours to days (in cases of strong TTS). In many cases, hearing sensitivity recovers rapidly after exposure to the sound ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals.

Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (i.e., recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious. For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that occurs during a time where ambient noise is lower and there are not as many competing sounds present.

Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts.

Finneran *et al.* (2015) measured hearing thresholds in 3 captive bottlenose dolphins before and after exposure to 10 pulses produced by a seismic airgun in order to study TTS induced after exposure to multiple pulses. Exposures began at relatively low levels and gradually increased over a period of several months, with the highest exposures at peak SPLs from 196 to 210 dB and cumulative (unweighted) SELs from 193–195 dB. No substantial TTS was observed. In addition, behavioral reactions were observed that indicated that animals can learn behaviors that effectively mitigate

noise exposures (although exposure patterns must be learned, which is less likely in wild animals than for the captive animals considered in this study). The authors note that the failure to induce more significant auditory effects was likely due to the intermittent nature of exposure, the relatively low peak pressure produced by the acoustic source, and the low-frequency energy in airgun pulses as compared with the frequency range of best sensitivity for dolphins and other mid-frequency cetaceans.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin, beluga whale (*Delphinapterus leucas*), harbor porpoise (*Phocoena phocoena*), and Yangtze finless porpoise (*Neophocaena asiaeorientalis*)) exposed to a limited number of sound sources (i.e., mostly tones and octave-band noise) in laboratory settings (Finneran, 2015). In general, harbor porpoises have a lower TTS onset than other measured cetacean species (Finneran, 2015). Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species. There is no direct data available on noise-induced hearing loss for mysticetes.

Critical questions remain regarding the rate of TTS growth and recovery after exposure to intermittent noise and the effects of single and multiple pulses. Data at present are also insufficient to construct generalized models for recovery and determine the time necessary to treat subsequent exposures as independent events. More information is needed on the relationship between auditory evoked potential and behavioral measures of TTS for various stimuli. For summaries of data on TTS in marine mammals or for further discussion of TTS onset thresholds, please see Southall *et al.* (2007, 2019), Finneran and Jenkins (2012), Finneran (2015), and NMFS (2018).

Behavioral Effects—Behavioral disturbance may include a variety of effects, including subtle changes in behavior (e.g., minor or brief avoidance of an area or changes in vocalizations), more conspicuous changes in similar behavioral activities, and more sustained and/or potentially severe reactions, such as displacement from or abandonment of high-quality habitat. Behavioral responses to sound are highly variable and context-specific, and any reactions depend on numerous intrinsic and extrinsic factors (e.g., species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors

(*e.g.*, Richardson *et al.*, 1995; Wartzok *et al.*, 2003; Southall *et al.*, 2007, 2019; Weilgart, 2007; Archer *et al.*, 2010). Behavioral reactions can vary not only among individuals but also within an individual, depending on previous experience with a sound source, context, and numerous other factors (Ellison *et al.*, 2012), and can vary depending on characteristics associated with the sound source (*e.g.*, whether it is moving or stationary, number of sources, distance from the source). Please see Appendices B–C of Southall *et al.* (2007) for a review of studies involving marine mammal behavioral responses to sound.

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.*, 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. It is important to note that habituation is appropriately considered as a "progressive reduction in response to stimuli that are perceived as neither aversive nor beneficial," rather than as, more generally, moderation in response to human disturbance (Bejder *et al.*, 2009). The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. As noted, behavioral state may affect the type of response. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.*, 1995; NRC, 2003; Wartzok *et al.*, 2003). Controlled experiments with captive marine mammals have showed pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.*, 1997). Observed responses of wild marine mammals to loud pulsed sound sources (typically seismic airguns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds, 2002; see also Richardson *et al.*, 1995; Nowacek *et al.*, 2007). However, many delphinids approach acoustic source vessels with no apparent discomfort or obvious behavioral change (*e.g.*, Barkaszi *et al.*, 2012).

Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal. If a marine mammal does react briefly to an

underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.*, Lusseau and Bejder, 2007; Weilgart, 2007; NRC, 2005). However, there are broad categories of potential response, which we describe in greater detail here, that include alteration of dive behavior, alteration of foraging behavior, effects to breathing, interference with or alteration of vocalization, avoidance, and flight.

Changes in dive behavior can vary widely, and may consist of increased or decreased dive times and surface intervals as well as changes in the rates of ascent and descent during a dive (*e.g.*, Frankel and Clark, 2000; Ng and Leung, 2003; Nowacek *et al.*, 2004; Goldbogen *et al.*, 2013a, b). Variations in dive behavior may reflect disruptions in biologically significant activities (*e.g.*, foraging) or they may be of little biological significance. The impact of an alteration to dive behavior resulting from an acoustic exposure depends on what the animal is doing at the time of the exposure and the type and magnitude of the response.

Disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (*e.g.*, bubble nets or sediment plumes), or changes in dive behavior. As for other types of behavioral response, the frequency, duration, and temporal pattern of signal presentation, as well as differences in species sensitivity, are likely contributing factors to differences in response in any given circumstance (*e.g.*, Croll *et al.*, 2001; Nowacek *et al.*, 2004; Madsen *et al.*, 2006; Yazvenko *et al.*, 2007). A determination of whether foraging disruptions incur fitness consequences would require information on or estimates of the energetic requirements of the affected individuals and the relationship between prey availability, foraging effort and success, and the life history stage of the animal.

Visual tracking, passive acoustic monitoring (PAM), and movement recording tags were used to quantify sperm whale behavior prior to, during, and following exposure to airgun arrays at received levels in the range 140–160 dB at distances of 7–13 km, following a phase-in of sound intensity and full array exposures at 1–13 km (Madsen *et*

al., 2006; Miller *et al.*, 2009). Sperm whales did not exhibit horizontal avoidance behavior at the surface. However, foraging behavior may have been affected. The sperm whales exhibited 19 percent less vocal, or buzz, rate during full exposure relative to post exposure, and the whale that was approached most closely had an extended resting period and did not resume foraging until the airguns had ceased firing. The remaining whales continued to execute foraging dives throughout exposure; however, swimming movements during foraging dives were 6 percent lower during exposure than control periods (Miller *et al.*, 2009). These data raise concerns that seismic surveys may impact foraging behavior in sperm whales, although more data are required to understand whether the differences were due to exposure or natural variation in sperm whale behavior (Miller *et al.*, 2009).

Variations in respiration naturally vary with different behaviors and alterations to breathing rate as a function of acoustic exposure can be expected to co-occur with other behavioral reactions, such as a flight response or an alteration in diving. However, respiration rates in and of themselves may be representative of annoyance or an acute stress response. Various studies have shown that respiration rates may either be unaffected or could increase, depending on the species and signal characteristics, again highlighting the importance in understanding species differences in the tolerance of underwater noise when determining the potential for impacts resulting from anthropogenic sound exposure (*e.g.*, Kastelein *et al.*, 2001, 2005, 2006; Gailey *et al.*, 2007, 2016).

Marine mammals vocalize for different purposes and across multiple modes, such as whistling, echolocation click production, calling, and singing. Changes in vocalization behavior in response to anthropogenic noise can occur for any of these modes and may result from a need to compete with an increase in background noise or may reflect increased vigilance or a startle response. For example, in the presence of potentially masking signals, humpback whales and killer whales have been observed to increase the length of their songs or amplitude of calls (Miller *et al.*, 2000; Frstrup *et al.*, 2003; Foote *et al.*, 2004; Holt *et al.*, 2012), while right whales have been observed to shift the frequency content of their calls upward while reducing the rate of calling in areas of increased anthropogenic noise (Parks *et al.*, 2007). In some cases, animals may cease sound

production during production of aversive signals (Bowles *et al.*, 1994).

Cerchio *et al.* (2014) used PAM to document the presence of singing humpback whales off the coast of northern Angola and to opportunistically test for the effect of seismic survey activity on the number of singing whales. Two recording units were deployed between March and December 2008 in the offshore environment; numbers of singers were counted every hour. Generalized Additive Mixed Models were used to assess the effect of survey day (seasonality), hour (diel variation), moon phase, and received levels of noise (measured from a single pulse during each 10 minutes sampled period) on singer number. The number of singers significantly decreased with increasing received level of noise, suggesting that humpback whale communication was disrupted to some extent by the survey activity.

Castellote *et al.* (2012) reported acoustic and behavioral changes by fin whales in response to shipping and airgun noise. Acoustic features of fin whale song notes recorded in the Mediterranean Sea and northeast Atlantic Ocean were compared for areas with different shipping noise levels and traffic intensities and during a seismic airgun survey. During the first 72 hours of the survey, a steady decrease in song received levels and bearings to singers indicated that whales moved away from the acoustic source and out of the study area. This displacement persisted for a time period well beyond the 10-day duration of seismic airgun activity, providing evidence that fin whales may avoid an area for an extended period in the presence of increased noise. The authors hypothesize that fin whale acoustic communication is modified to compensate for increased background noise and that a sensitization process may play a role in the observed temporary displacement.

Seismic pulses at average received levels of 131 dB re 1 $\mu\text{Pa}^2\text{-s}$ caused blue whales to increase call production (Di Iorio and Clark, 2010). In contrast, McDonald *et al.* (1995) tracked a blue whale with seafloor seismometers and reported that it stopped vocalizing and changed its travel direction at a range of 10 km from the acoustic source vessel (estimated received level 143 dB pk-pk). Blackwell *et al.* (2013) found that bowhead whale call rates dropped significantly at onset of airgun use at sites with a median distance of 41–45 km from the survey. Blackwell *et al.* (2015) expanded this analysis to show that whales actually increased calling rates as soon as airgun signals were

detectable before ultimately decreasing calling rates at higher received levels (*i.e.*, 10-minute cumulative sound exposure level (SEL_{cum}) of ~127 dB). Overall, these results suggest that bowhead whales may adjust their vocal output in an effort to compensate for noise before ceasing vocalization effort and ultimately deflecting from the acoustic source (Blackwell *et al.*, 2013, 2015). These studies demonstrate that even low levels of noise received far from the source can induce changes in vocalization and/or behavior for mysticetes.

Avoidance is the displacement of an individual from an area or migration path as a result of the presence of sound or other stressors, and is one of the most obvious manifestations of disturbance in marine mammals (Richardson *et al.*, 1995). For example, gray whales are known to change direction—deflecting from customary migratory paths—in order to avoid noise from seismic surveys (Malme *et al.*, 1984). Humpback whales show avoidance behavior in the presence of an active seismic array during observational studies and controlled exposure experiments in western Australia (McCauley *et al.*, 2000). Avoidance may be short-term, with animals returning to the area once the noise has ceased (*e.g.*, Bowles *et al.*, 1994; Goold, 1996; Stone *et al.*, 2000; Morton and Symonds, 2002; Gailey *et al.*, 2007). Longer-term displacement is possible, however, which may lead to changes in abundance or distribution patterns of the affected species in the affected region if habituation to the presence of the sound does not occur (*e.g.*, Bejder *et al.*, 2006; Teilmann *et al.*, 2006).

Forney *et al.* (2017) detail the potential effects of noise on marine mammal populations with high site fidelity, including displacement and auditory masking, noting that a lack of observed response does not imply absence of fitness costs and that apparent tolerance of disturbance may have population-level impacts that are less obvious and difficult to document. Avoidance of overlap between disturbing noise and areas and/or times of particular importance for sensitive species may be critical to avoiding population-level impacts because (particularly for animals with high site fidelity) there may be a strong motivation to remain in the area despite negative impacts. Forney *et al.* (2017) state that, for these animals, remaining in a disturbed area may reflect a lack of alternatives rather than a lack of effects. Forney *et al.* (2017) specifically discuss beaked whales, noting that anthropogenic effects in areas where

they are resident could cause severe biological consequences, in part because displacement may adversely affect foraging rates, reproduction, or health, while an overriding instinct to remain could lead to more severe acute effects.

A flight response is a dramatic change in normal movement to a directed and rapid movement away from the perceived location of a sound source. The flight response differs from other avoidance responses in the intensity of the response (*e.g.*, directed movement, rate of travel). Relatively little information on flight responses of marine mammals to anthropogenic signals exist, although observations of flight responses to the presence of predators have occurred (Connor and Heithaus, 1996). The result of a flight response could range from brief, temporary exertion and displacement from the area where the signal provokes flight to, in extreme cases, marine mammal strandings (Evans and England, 2001). However, it should be noted that response to a perceived predator does not necessarily invoke flight (Ford and Reeves, 2008), and whether individuals are solitary or in groups may influence the response.

Behavioral disturbance can also impact marine mammals in more subtle ways. Increased vigilance may result in costs related to diversion of focus and attention (*i.e.*, when a response consists of increased vigilance, it may come at the cost of decreased attention to other critical behaviors such as foraging or resting). These effects have generally not been demonstrated for marine mammals, but studies involving fish and terrestrial animals have shown that increased vigilance may substantially reduce feeding rates (*e.g.*, Beauchamp and Livoreil, 1997; Fritz *et al.*, 2002; Purser and Radford, 2011). In addition, chronic disturbance can cause population declines through reduction of fitness (*e.g.*, decline in body condition) and subsequent reduction in reproductive success, survival, or both (*e.g.*, Harrington and Veitch, 1992; Daan *et al.*, 1996; Bradshaw *et al.*, 1998). However, Ridgway *et al.* (2006) reported that increased vigilance in bottlenose dolphins exposed to sound over a 5-day period did not cause any sleep deprivation or stress effects.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hour cycle). Disruption of such functions resulting from reactions to stressors, such as sound exposure, are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.*, 2007). Consequently, a behavioral response

lasting less than 1 day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.*, 2007). Note that there is a difference between multi-day substantive behavioral reactions and multi-day anthropogenic activities. For example, just because an activity lasts for multiple days does not necessarily mean that individual animals are either exposed to activity-related stressors for multiple days or, further, exposed in a manner resulting in sustained multi-day substantive behavioral responses.

Stone (2015) reported data from at-sea observations during 1,196 seismic surveys from 1994 to 2010. When arrays of large airguns (considered to be 500 in³ or more in that study) were firing, lateral displacement, more localized avoidance, or other changes in behavior were evident for most odontocetes. However, significant responses to large arrays were found only for the minke whale and fin whale. Behavioral responses observed included changes in swimming or surfacing behavior, with indications that cetaceans remained near the water surface at these times. Cetaceans were recorded as feeding less often when large arrays were active. Behavioral observations of gray whales during a seismic survey monitored whale movements and respirations pre-, during, and post-seismic survey (Gailey *et al.*, 2016). Behavioral state and water depth were the best “natural” predictors of whale movements and respiration and, after considering natural variation, none of the response variables were significantly associated with seismic survey or vessel sounds.

Stress Responses—An animal’s perception of a threat may be sufficient to trigger stress responses consisting of some combination of behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses (*e.g.*, Seyle, 1950; Moberg, 2000). In many cases, an animal’s first and sometimes most economical (in terms of energetic costs) response is behavioral avoidance of the potential stressor. Autonomic nervous system responses to stress typically involve changes in heart rate, blood pressure, and gastrointestinal activity. These responses have a relatively short duration and may or may not have a significant long-term effect on an animal’s fitness.

Neuroendocrine stress responses often involve the hypothalamus-pituitary-adrenal system. Virtually all neuroendocrine functions that are affected by stress—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary

hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction, altered metabolism, reduced immune competence, and behavioral disturbance (*e.g.*, Moberg, 1987; Blecha, 2000). Increases in the circulation of glucocorticoids are also equated with stress (Romano *et al.*, 2004).

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and distress is the cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose serious fitness consequences. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other functions. This state of distress will last until the animal replenishes its energetic reserves sufficiently to restore normal function.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well-studied through controlled experiments and for both laboratory and free-ranging animals (*e.g.*, Holberton *et al.*, 1996; Hood *et al.*, 1998; Jessop *et al.*, 2003; Krausman *et al.*, 2004; Lankford *et al.*, 2005). Stress responses due to exposure to anthropogenic sounds or other stressors and their effects on marine mammals have also been reviewed (Fair and Becker, 2000; Romano *et al.*, 2002b) and, more rarely, studied in wild populations (*e.g.*, Romano *et al.*, 2002a). For example, Rolland *et al.* (2012) found that noise reduction from reduced ship traffic in the Bay of Fundy was associated with decreased stress in North Atlantic right whales. These and other studies lead to a reasonable expectation that some marine mammals will experience physiological stress responses upon exposure to acoustic stressors and that it is possible that some of these would be classified as “distress.” In addition, any animal experiencing TTS would likely also experience stress responses (NRC, 2003).

Auditory Masking—Sound can disrupt behavior through masking, or interfering with, an animal’s ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.*, those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation) (Richardson *et al.*, 1995; Erbe *et al.*, 2016). Masking occurs when the receipt of a sound is interfered with

by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (*e.g.*, snapping shrimp, wind, waves, precipitation) or anthropogenic (*e.g.*, shipping, sonar, seismic exploration) in origin. The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (*e.g.*, signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal’s hearing abilities (*e.g.*, sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age or TTS hearing loss), and existing ambient noise and propagation conditions.

Under certain circumstances, significant masking could disrupt behavioral patterns, which in turn could affect fitness for survival and reproduction. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs during the sound exposure. Because masking (without resulting in TS) is not associated with abnormal physiological function, it is not considered a physiological effect, but rather a potential behavioral effect.

The frequency range of the potentially masking sound is important in predicting any potential behavioral impacts. For example, low-frequency signals may have less effect on high-frequency echolocation sounds produced by odontocetes but are more likely to affect detection of mysticete communication calls and other potentially important natural sounds such as those produced by surf and some prey species. The masking of communication signals by anthropogenic noise may be considered as a reduction in the communication space of animals (*e.g.*, Clark *et al.*, 2009) and may result in energetic or other costs as animals change their vocalization behavior (*e.g.*, Miller *et al.*, 2000; Foote *et al.*, 2004; Parks *et al.*, 2007; Di Iorio and Clark, 2009; Holt *et al.*, 2009). Masking may be less in situations where the signal and noise come from different directions (Richardson *et al.*, 1995), through amplitude modulation of the signal, or through other compensatory behaviors (Houser and Moore, 2014). Masking can be tested directly in captive species (*e.g.*, Erbe, 2008), but in wild populations it must be either modeled or inferred from evidence of masking compensation. There are few studies addressing real-world masking sounds likely to be experienced by marine

mammals in the wild (e.g., Branstetter *et al.*, 2013).

Masking affects both senders and receivers of acoustic signals and can potentially have long-term chronic effects on marine mammals at the population level as well as at the individual level. Low-frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of SPL) in the world's ocean from pre-industrial periods, with most of the increase from distant commercial shipping (Hildebrand, 2009). All anthropogenic sound sources, but especially chronic and lower-frequency signals (e.g., from vessel traffic), contribute to elevated ambient sound levels, thus intensifying masking.

Masking effects of pulsed sounds (even from large arrays of airguns) on marine mammal calls and other natural sounds are expected to be limited, although there are few specific data on this. Because of the intermittent nature and low duty cycle of seismic pulses, animals can emit and receive sounds in the relatively quiet intervals between pulses. However, in exceptional situations, reverberation occurs for much or all of the interval between pulses (e.g., Simard *et al.* 2005; Clark and Gagnon 2006), which could mask calls. Situations with prolonged strong reverberation are infrequent. However, it is common for reverberation to cause some lesser degree of elevation of the background level between airgun pulses (e.g., Gedamke 2011; Guerra *et al.* 2011, 2016; Klinck *et al.* 2012; Guan *et al.* 2015), and this weaker reverberation presumably reduces the detection range of calls and other natural sounds to some degree. Guerra *et al.* (2016) reported that ambient noise levels between seismic pulses were elevated as a result of reverberation at ranges of 50 km from the seismic source. Based on measurements in deep water of the Southern Ocean, Gedamke (2011) estimated that the slight elevation of background noise levels during intervals between seismic pulses reduced blue and fin whale communication space by as much as 36–51 percent when a seismic survey was operating 450–2,800 km away. Based on preliminary modeling, Wittekind *et al.* (2016) reported that airgun sounds could reduce the communication range of blue and fin whales 2,000 km from the seismic source. Nieu Kirk *et al.* (2012) and Blackwell *et al.* (2013) noted the potential for masking effects from seismic surveys on large whales.

Some baleen and toothed whales are known to continue calling in the presence of seismic pulses, and their calls usually can be heard between the

pulses (e.g., Nieu Kirk *et al.* 2012; Thode *et al.* 2012; Bröker *et al.* 2013; Sciacca *et al.* 2016). As noted above, Cerchio *et al.* (2014) suggested that the breeding display of humpback whales off Angola could be disrupted by seismic sounds, as singing activity declined with increasing received levels. In addition, some cetaceans are known to change their calling rates, shift their peak frequencies, or otherwise modify their vocal behavior in response to airgun sounds (e.g., Di Iorio and Clark 2010; Castellote *et al.* 2012; Blackwell *et al.* 2013, 2015). The hearing systems of baleen whales are more sensitive to low-frequency sounds than are the ears of the small odontocetes that have been studied directly (e.g., MacGillivray *et al.*, 2014). The sounds important to small odontocetes are predominantly at much higher frequencies than are the dominant components of airgun sounds, thus limiting the potential for masking. In general, masking effects of seismic pulses are expected to be minor, given the normally intermittent nature of seismic pulses.

Ship Noise

Vessel noise from the Langseth could affect marine animals in the proposed survey areas. Houghton *et al.* (2015) proposed that vessel speed is the most important predictor of received noise levels, and Putland *et al.* (2017) also reported reduced sound levels with decreased vessel speed. Sounds produced by large vessels generally dominate ambient noise at frequencies from 20 to 300 Hz (Richardson *et al.*, 1995). However, some energy is also produced at higher frequencies (Hermannsen *et al.*, 2014); low levels of high-frequency sound from vessels has been shown to elicit responses in harbor porpoise (Dyndo *et al.*, 2015). Increased levels of ship noise have been shown to affect foraging by porpoise (Teilmann *et al.*, 2015; Wisniewska *et al.*, 2018); Wisniewska *et al.* (2018) suggest that a decrease in foraging success could have long-term fitness consequences.

Ship noise, through masking, can reduce the effective communication distance of a marine mammal if the frequency of the sound source is close to that used by the animal, and if the sound is present for a significant fraction of time (e.g., Richardson *et al.* 1995; Clark *et al.*, 2009; Jensen *et al.*, 2009; Gervaise *et al.*, 2012; Hatch *et al.*, 2012; Rice *et al.*, 2014; Dunlop 2015; Erbe *et al.*, 2015; Jones *et al.*, 2017; Putland *et al.*, 2017). In addition to the frequency and duration of the masking sound, the strength, temporal pattern, and location of the introduced sound also play a role in the extent of the

masking (Branstetter *et al.*, 2013, 2016; Finneran and Branstetter 2013; Sills *et al.*, 2017). Branstetter *et al.* (2013) reported that time-domain metrics are also important in describing and predicting masking. In order to compensate for increased ambient noise, some cetaceans are known to increase the source levels of their calls in the presence of elevated noise levels from shipping, shift their peak frequencies, or otherwise change their vocal behavior (e.g., Martins *et al.*, 2016; O'Brien *et al.*, 2016; Tenessen and Parks 2016). Harp seals did not increase their call frequencies in environments with increased low-frequency sounds (Terhune and Bosker 2016). Holt *et al.* (2015) reported that changes in vocal modifications can have increased energetic costs for individual marine mammals. A negative correlation between the presence of some cetacean species and the number of vessels in an area has been demonstrated by several studies (e.g., Campana *et al.* 2015; Culloch *et al.* 2016).

Baleen whales are thought to be more sensitive to sound at these low frequencies than are toothed whales (e.g., MacGillivray *et al.* 2014), possibly causing localized avoidance of the proposed survey area during seismic operations. Reactions of gray and humpback whales to vessels have been studied, and there is limited information available about the reactions of right whales and orquals (fin, blue, and minke whales). Reactions of humpback whales to boats are variable, ranging from approach to avoidance (Payne 1978; Salden 1993). Baker *et al.* (1982, 1983) and Baker and Herman (1989) found humpbacks often move away when vessels are within several kilometers. Humpbacks seem less likely to react overtly when actively feeding than when resting or engaged in other activities (Krieger and Wing 1984, 1986). Increased levels of ship noise have been shown to affect foraging by humpback whales (Blair *et al.*, 2016). Fin whale sightings in the western Mediterranean were negatively correlated with the number of vessels in the area (Campana *et al.* 2015). Minke whales and gray seals have shown slight displacement in response to construction-related vessel traffic (Anderwald *et al.*, 2013).

Many odontocetes show considerable tolerance of vessel traffic, although they sometimes react at long distances if confined by ice or shallow water, if previously harassed by vessels, or have had little or no recent exposure to ships (Richardson *et al.* 1995). Dolphins of many species tolerate and sometimes approach vessels (e.g., Anderwald *et al.*,

2013). Some dolphin species approach moving vessels to ride the bow or stern waves (Williams *et al.*, 1992). Pirotta *et al.* (2015) noted that the physical presence of vessels, not just ship noise, disturbed the foraging activity of bottlenose dolphins. Sightings of striped dolphin, Risso's dolphin, sperm whale, and Cuvier's beaked whale in the western Mediterranean were negatively correlated with the number of vessels in the area (Campana *et al.*, 2015).

There is little data on the behavioral reactions of beaked whales to vessel noise, though they seem to avoid approaching vessels (*e.g.*, Würsig *et al.*, 1998) or dive for an extended period when approached by a vessel (*e.g.*, Kasuya 1986). Based on a single observation, Aguilar Soto *et al.* (2006) suggest foraging efficiency of Cuvier's beaked whales may be reduced by close approach of vessels.

Sounds emitted by the Langseth are low frequency and continuous, but would be widely dispersed in both space and time. Vessel traffic associated with the proposed survey is of low density compared to traffic associated with commercial shipping, industry support vessels, or commercial fishing vessels, and would therefore be expected to represent an insignificant incremental increase in the total amount of anthropogenic sound input to the marine environment, and the effects of vessel noise described above are not expected to occur as a result of this survey. In summary, project vessel sounds would not be at levels expected to cause anything more than possible localized and temporary behavioral changes in marine mammals, and would not be expected to result in significant negative effects on individuals or at the population level. In addition, in all oceans of the world, large vessel traffic is currently so prevalent that it is commonly considered a usual source of ambient sound (NSF-USGS 2011).

Vessel Strike

Vessel collisions with marine mammals, or ship strikes, can result in death or serious injury of the animal. Wounds resulting from vessel strike may include massive trauma, hemorrhaging, broken bones, or propeller lacerations (Knowlton and Kraus, 2001). An animal at the surface may be struck directly by a vessel, a surfacing animal may hit the bottom of a vessel, or an animal just below the surface may be cut by a vessel's propeller. Superficial strikes may not kill or result in the death of the animal. These interactions are typically associated with large whales (*e.g.*, fin whales), which are occasionally found

draped across the bulbous bow of large commercial ships upon arrival in port. Although smaller cetaceans are more maneuverable in relation to large vessels than are large whales, they may also be susceptible to strike. The severity of injuries typically depends on the size and speed of the vessel, with the probability of death or serious injury increasing as vessel speed increases (Knowlton and Kraus, 2001; Laist *et al.*, 2001; Vanderlaan and Taggart, 2007; Conn and Silber, 2013). Impact forces increase with speed, as does the probability of a strike at a given distance (Silber *et al.*, 2010; Gende *et al.*, 2011).

Pace and Silber (2005) also found that the probability of death or serious injury increased rapidly with increasing vessel speed. Specifically, the predicted probability of serious injury or death increased from 45 to 75 percent as vessel speed increased from 10 to 14 kn, and exceeded 90 percent at 17 kn. Higher speeds during collisions result in greater force of impact, but higher speeds also appear to increase the chance of severe injuries or death through increased likelihood of collision by pulling whales toward the vessel (Clyne, 1999; Knowlton *et al.*, 1995). In a separate study, Vanderlaan and Taggart (2007) analyzed the probability of lethal mortality of large whales at a given speed, showing that the greatest rate of change in the probability of a lethal injury to a large whale as a function of vessel speed occurs between 8.6 and 15 kn. The chances of a lethal injury decline from approximately 80 percent at 15 kn to approximately 20 percent at 8.6 kn. At speeds below 11.8 kn, the chances of lethal injury drop below 50 percent, while the probability asymptotically increases toward one hundred percent above 15 kn.

The Langseth will travel at a speed of 5 kn while towing seismic survey gear. At this speed, both the possibility of striking a marine mammal and the possibility of a strike resulting in serious injury or mortality are discountable. At average transit speed, the probability of serious injury or mortality resulting from a strike is less than 50 percent. However, the likelihood of a strike actually happening is again discountable. Vessel strikes, as analyzed in the studies cited above, generally involve commercial shipping, which is much more common in both space and time than is geophysical survey activity. Jensen and Silber (2004) summarized vessel strikes of large whales worldwide from 1975–2003 and found that most collisions occurred in the open ocean and involved large vessels (*e.g.*, commercial shipping). No

such incidents were reported for geophysical survey vessels during that time period.

It is possible for vessel strikes to occur while traveling at slow speeds. For example, a hydrographic survey vessel traveling at low speed (5.5 kn) while conducting mapping surveys off the central California coast struck and killed a blue whale in 2009. The State of California determined that the whale had suddenly and unexpectedly surfaced beneath the hull, with the result that the propeller severed the whale's vertebrae, and that this was an unavoidable event. This strike represents the only such incident in approximately 540,000 hours of similar coastal mapping activity ($p = 1.9 \times 10^{-6}$; 95 percent confidence interval = $0-5.5 \times 10^{-6}$; NMFS, 2013). In addition, a research vessel reported a fatal strike in 2011 of a dolphin in the Atlantic, demonstrating that it is possible for strikes involving smaller cetaceans to occur. In that case, the incident report indicated that an animal apparently was struck by the vessel's propeller as it was intentionally swimming near the vessel. While indicative of the type of unusual events that cannot be ruled out, neither of these instances represents a circumstance that would be considered reasonably foreseeable or that would be considered preventable.

Although the likelihood of the vessel striking a marine mammal is low, we propose a robust vessel strike avoidance protocol (see Proposed Mitigation), which we believe eliminates any foreseeable risk of vessel strike during transit. We anticipate that vessel collisions involving a seismic data acquisition vessel towing gear, while not impossible, represent unlikely, unpredictable events for which there are no preventive measures. Given the proposed mitigation measures, the relatively slow speed of the vessel towing gear, the presence of bridge crew watching for obstacles at all times (including marine mammals), and the presence of marine mammal observers, the possibility of vessel strike is discountable and, further, were a strike of a large whale to occur, it would be unlikely to result in serious injury or mortality. No incidental take resulting from vessel strike is anticipated, and this potential effect of the specified activity will not be discussed further in the following analysis.

Stranding—When a living or dead marine mammal swims or floats onto shore and becomes “beached” or incapable of returning to sea, the event is a “stranding” (Geraci *et al.*, 1999; Perrin and Geraci, 2002; Geraci and Lounsbury, 2005; NMFS, 2007). The

legal definition for a stranding under the MMPA is that a marine mammal is dead and is on a beach or shore of the United States; or in waters under the jurisdiction of the United States (including any navigable waters); or a marine mammal is alive and is on a beach or shore of the United States and is unable to return to the water; or on a beach or shore of the United States and, although able to return to the water, is in need of apparent medical attention; or in the waters under the jurisdiction of the United States (including any navigable waters), but is unable to return to its natural habitat under its own power or without assistance.

Marine mammals strand for a variety of reasons, such as infectious agents, biotoxins, starvation, fishery interaction, vessel strike, unusual oceanographic or weather events, sound exposure, or combinations of these stressors sustained concurrently or in series. However, the cause or causes of most strandings are unknown (Geraci *et al.*, 1976; Eaton, 1979; Odell *et al.*, 1980; Best, 1982). Numerous studies suggest that the physiology, behavior, habitat relationships, age, or condition of cetaceans may cause them to strand or might pre-dispose them to strand when exposed to another phenomenon. These suggestions are consistent with the conclusions of numerous other studies that have demonstrated that combinations of dissimilar stressors commonly combine to kill an animal or dramatically reduce its fitness, even though one exposure without the other does not produce the same result (Chroussos, 2000; Creel, 2005; DeVries *et al.*, 2003; Fair and Becker, 2000; Foley *et al.*, 2001; Moberg, 2000; Relyea, 2005a; 2005b, Romero, 2004; Sih *et al.*, 2004).

There is no conclusive evidence that exposure to airgun noise results in behaviorally-mediated forms of injury. Behaviorally-mediated injury (*i.e.*, mass stranding events) has been primarily associated with beaked whales exposed to mid-frequency active (MFA) naval sonar. Tactical sonar and the alerting stimulus used in Nowacek *et al.* (2004) are very different from the noise produced by airguns. One should therefore not expect the same reaction to airgun noise as to these other sources. As explained below, military MFA sonar is very different from airguns, and one should not assume that airguns will cause the same effects as MFA sonar (including strandings).

To understand why military MFA sonar affects beaked whales differently than airguns do, it is important to note the distinction between behavioral sensitivity and susceptibility to auditory

injury. To understand the potential for auditory injury in a particular marine mammal species in relation to a given acoustic signal, the frequency range the species is able to hear is critical, as well as the species auditory sensitivity to frequencies within that range. Current data indicate that not all marine mammal species have equal hearing capabilities across all frequencies and, therefore, species are grouped into hearing groups with generalized hearing ranges assigned on the basis of available data (Southall *et al.*, 2007, 2019). Hearing ranges as well as auditory sensitivity/susceptibility to frequencies within those ranges vary across the different groups. For example, in terms of hearing range, the high-frequency cetaceans (*e.g.*, *Kogia* spp.) have a generalized hearing range of frequencies between 275 Hz and 160 kHz, while mid-frequency cetaceans—such as dolphins and beaked whales—have a generalized hearing range between 150 Hz to 160 kHz. Regarding auditory susceptibility within the hearing range, while mid-frequency cetaceans and high-frequency cetaceans have roughly similar hearing ranges, the high-frequency group is much more susceptible to noise-induced hearing loss during sound exposure, *i.e.*, these species have lower thresholds for these effects than other hearing groups (NMFS, 2018). Referring to a species as behaviorally sensitive to noise simply means that an animal of that species is more likely to respond to lower received levels of sound than an animal of another species that is considered less behaviorally sensitive. So, while dolphin species and beaked whale species—both in the mid-frequency cetacean hearing group—are assumed to generally hear the same sounds equally well and be equally susceptible to noise-induced hearing loss (auditory injury), the best available information indicates that a beaked whale is more likely to behaviorally respond to that sound at a lower received level compared to an animal from other mid-frequency cetacean species that are less behaviorally sensitive. This distinction is important because, while beaked whales are more likely to respond behaviorally to sounds than are many other species (even at lower levels), they cannot hear the predominant, lower frequency sounds from seismic airguns as well as sounds that have more energy at frequencies that beaked whales can hear better (such as military MFA sonar).

Military MFA sonar affects beaked whales differently than airguns do because it produces energy at different

frequencies than airguns. Mid-frequency cetacean hearing is generically thought to be best between 8.8 to 110 kHz, *i.e.*, these cutoff values define the range above and below which a species in the group is assumed to have declining auditory sensitivity, until reaching frequencies that cannot be heard (NMFS, 2018). However, beaked whale hearing is likely best within a higher, narrower range (20–80 kHz, with best sensitivity around 40 kHz), based on a few measurements of hearing in stranded beaked whales (Cook *et al.*, 2006; Finneran *et al.*, 2009; Pacini *et al.*, 2011) and several studies of acoustic signals produced by beaked whales (*e.g.*, Frantzis *et al.*, 2002; Johnson *et al.*, 2004, 2006; Zimmer *et al.*, 2005). While precaution requires that the full range of audibility be considered when assessing risks associated with noise exposure (Southall *et al.*, 2007, 2019), animals typically produce sound at frequencies where they hear best. More recently, Southall *et al.* (2019) suggested that certain species in the historical mid-frequency hearing group (beaked whales, sperm whales, and killer whales) are likely more sensitive to lower frequencies within the group's generalized hearing range than are other species within the group, and state that the data for beaked whales suggest sensitivity to approximately 5 kHz. However, this information is consistent with the general conclusion that beaked whales (and other mid-frequency cetaceans) are relatively insensitive to the frequencies where most energy of an airgun signal is found. Military MFA sonar is typically considered to operate in the frequency range of approximately 3–14 kHz (D'Amico *et al.*, 2009), *i.e.*, outside the range of likely best hearing for beaked whales but within or close to the lower bounds, whereas most energy in an airgun signal is radiated at much lower frequencies, below 500 Hz (Dragoset, 1990).

It is important to distinguish between energy (loudness, measured in dB) and frequency (pitch, measured in Hz). In considering the potential impacts of mid-frequency components of airgun noise (1–10 kHz, where beaked whales can be expected to hear) on marine mammal hearing, one needs to account for the energy associated with these higher frequencies and determine what energy is truly “significant.” Although there is mid-frequency energy associated with airgun noise (as expected from a broadband source), airgun sound is predominantly below 1 kHz (Breitzke *et al.*, 2008; Tashmukhambetov *et al.*, 2008; Tolstoy *et al.*, 2009). As stated by Richardson *et*

al. (1995), “[. . .] most emitted [seismic airgun] energy is at 10–120 Hz, but the pulses contain some energy up to 500–1,000 Hz.” Tolstoy *et al.* (2009) conducted empirical measurements, demonstrating that sound energy levels associated with airguns were at least 20 dB lower at 1 kHz (considered “mid-frequency”) compared to higher energy levels associated with lower frequencies (below 300 Hz) (“all but a small fraction of the total energy being concentrated in the 10–300 Hz range” [Tolstoy *et al.*, 2009]), and at higher frequencies (*e.g.*, 2.6–4 kHz), power might be less than 10 percent of the peak power at 10 Hz (Yoder, 2002). Energy levels measured by Tolstoy *et al.* (2009) were even lower at frequencies above 1 kHz. In addition, as sound propagates away from the source, it tends to lose higher-frequency components faster than low-frequency components (*i.e.*, low-frequency sounds typically propagate longer distances than high-frequency sounds) (Diebold *et al.*, 2010). Although higher-frequency components of airgun signals have been recorded, it is typically in surface-ducting conditions (*e.g.*, DeRuiter *et al.*, 2006; Madsen *et al.*, 2006) or in shallow water, where there are advantageous propagation conditions for the higher frequency (but low-energy) components of the airgun signal (Hermannsen *et al.*, 2015). This should not be of concern because the likely behavioral reactions of beaked whales that can result in acute physical injury would result from noise exposure at depth (because of the potentially greater consequences of severe behavioral reactions). In summary, the frequency content of airgun signals is such that beaked whales will not be able to hear the signals well (compared to MFA sonar), especially at depth where we expect the consequences of noise exposure could be more severe.

Aside from frequency content, there are other significant differences between MFA sonar signals and the sounds produced by airguns that minimize the risk of severe behavioral reactions that could lead to strandings or deaths at sea, *e.g.*, significantly longer signal duration, horizontal sound direction, typical fast and unpredictable source movement. All of these characteristics of MFA sonar tend towards greater potential to cause severe behavioral or physiological reactions in exposed beaked whales that may contribute to stranding. Although both sources are powerful, MFA sonar contains significantly greater energy in the mid-frequency range, where beaked whales hear better. Short-duration, high energy pulses—such as those produced by airguns—have greater potential to

cause damage to auditory structures (though this is unlikely for mid-frequency cetaceans, as explained later in this document), but it is longer duration signals that have been implicated in the vast majority of beaked whale strandings. Faster, less predictable movements in combination with multiple source vessels are more likely to elicit a severe, potentially anti-predator response. Of additional interest in assessing the divergent characteristics of MFA sonar and airgun signals and their relative potential to cause stranding events or deaths at sea is the similarity between the MFA sonar signals and stereotyped calls of beaked whales’ primary predator: the killer whale (Zimmer and Tyack, 2007). Although generic disturbance stimuli—as airgun noise may be considered in this case for beaked whales—may also trigger antipredator responses, stronger responses should generally be expected when perceived risk is greater, as when the stimulus is confused for a known predator (Frid and Dill, 2002). In addition, because the source of the perceived predator (*i.e.*, MFA sonar) will likely be closer to the whales (because attenuation limits the range of detection of mid-frequencies) and moving faster (because it will be on faster-moving vessels), any antipredator response would be more likely to be severe (with greater perceived predation risk, an animal is more likely to disregard the cost of the response; Frid and Dill, 2002). Indeed, when analyzing movements of a beaked whale exposed to playback of killer whale predation calls, Allen *et al.* (2014) found that the whale engaged in a prolonged, directed avoidance response, suggesting a behavioral reaction that could pose a risk factor for stranding. Overall, these significant differences between sound from MFA sonar and the mid-frequency sound component from airguns and the likelihood that MFA sonar signals will be interpreted in error as a predator are critical to understanding the likely risk of behaviorally-mediated injury due to seismic surveys.

The available scientific literature also provides a useful contrast between airgun noise and MFA sonar regarding the likely risk of behaviorally-mediated injury. There is strong evidence for the association of beaked whale stranding events with MFA sonar use, and particularly detailed accounting of several events is available (*e.g.*, a 2000 Bahamas stranding event for which investigators concluded that MFA sonar use was responsible; Evans and England, 2001). D’Amico *et al.*, (2009) reviewed 126 beaked whale mass

stranding events over the period from 1950 (*i.e.*, from the development of modern MFA sonar systems) through 2004. Of these, there were two events where detailed information was available on both the timing and location of the stranding and the concurrent nearby naval activity, including verification of active MFA sonar usage, with no evidence for an alternative cause of stranding. An additional 10 events were at minimum spatially and temporally coincident with naval activity likely to have included MFA sonar use and, despite incomplete knowledge of timing and location of the stranding or the naval activity in some cases, there was no evidence for an alternative cause of stranding. The U.S. Navy has publicly stated agreement that five such events since 1996 were associated in time and space with MFA sonar use, either by the U.S. Navy alone or in joint training exercises with the North Atlantic Treaty Organization. The U.S. Navy additionally noted that, as of 2017, a 2014 beaked whale stranding event in Crete coincident with naval exercises was under review and had not yet been determined to be linked to sonar activities (U.S. Navy, 2017). Separately, the International Council for the Exploration of the Sea reported in 2005 that, worldwide, there have been about 50 known strandings, consisting mostly of beaked whales, with a potential causal link to MFA sonar (ICES, 2005). In contrast, very few such associations have been made to seismic surveys, despite widespread use of airguns as a geophysical sound source in numerous locations around the world.

A more recent review of possible stranding associations with seismic surveys (Castellote and Llorens, 2016) states plainly that, “[s]peculation concerning possible links between seismic survey noise and cetacean strandings is available for a dozen events but without convincing causal evidence.” The authors’ “exhaustive” search of available information found 10 events worth further investigation via a ranking system representing a rough metric of the relative level of confidence offered by the data for inferences about the possible role of the seismic survey in a given stranding event. Only three of these events involved beaked whales. Whereas D’Amico *et al.*, (2009) used a 1–5 ranking system, in which “1” represented the most robust evidence connecting the event to MFA sonar use, Castellote and Llorens (2016) used a 1–6 ranking system, in which “6” represented the most robust evidence connecting the event to the seismic

survey. As described above, D'Amico *et al.* (2009) found that two events were ranked "1" and 10 events were ranked "2" (*i.e.*, 12 beaked whale stranding events were found to be associated with MFA sonar use). In contrast, Castellote and Llorens (2016) found that none of the three beaked whale stranding events achieved their highest ranks of 5 or 6. Of the 10 total events, none achieved the highest rank of 6. Two events were ranked as 5: 1 stranding in Peru involving dolphins and porpoises and a 2008 stranding in Madagascar. This latter ranking can only be broadly associated with the survey itself, as opposed to use of seismic airguns. An exhaustive investigation of this stranding event, which did not involve beaked whales, concluded that use of a high-frequency mapping system (12-kHz multibeam echosounder) was the most plausible and likely initial behavioral trigger of the event, which was likely exacerbated by several site- and situation-specific secondary factors. The review panel found that seismic airguns were used after the initial strandings and animals entering a lagoon system, that airgun use clearly had no role as an initial trigger, and that there was no evidence that airgun use dissuaded animals from leaving (Southall *et al.*, 2013).

However, one of these stranding events, involving two Cuvier's beaked whales, was contemporaneous with and reasonably associated spatially with a 2002 seismic survey in the Gulf of California conducted by L-DEO, as was the case for the 2007 Gulf of Cadiz seismic survey discussed by Castellote and Llorens (also involving two Cuvier's beaked whales). However, neither event was considered a "true atypical mass stranding" (according to Frantzis (1998)) as used in the analysis of Castellote and Llorens (2016). While we agree with the authors that this lack of evidence should not be considered conclusive, it is clear that there is very little evidence that seismic surveys should be considered as posing a significant risk of acute harm to beaked whales or other mid-frequency cetaceans. We have considered the potential for the proposed surveys to result in marine mammal stranding and have concluded that, based on the best available information, stranding is not expected to occur.

Entanglement—Entanglements occur when marine mammals become wrapped around cables, lines, nets, or other objects suspended in the water column. During seismic operations, numerous cables, lines, and other objects primarily associated with the airgun array and hydrophone streamers

will be towed behind the Langseth near the water's surface. However, we are not aware of any cases of entanglement of mysticetes in seismic survey equipment. No incidents of entanglement of marine mammals with seismic survey gear have been documented in over 54,000 nautical miles (100,000 km) of previous NSF-funded seismic surveys when observers were aboard (*e.g.*, Smultea and Holst 2003; Haley and Koski 2004; Holst 2004; Smultea *et al.*, 2004; Holst *et al.*, 2005a; Haley and Ireland 2006; SIO and NSF 2006b; Hauser *et al.*, 2008; Holst and Smultea 2008). Although entanglement with the streamer is theoretically possible, it has not been documented during tens of thousands of miles of NSF-sponsored seismic cruises or, to our knowledge, during hundreds of thousands of miles of industrial seismic cruises. There are a relative few deployed devices, and no interaction between marine mammals and any such device has been recorded during prior NSF surveys using the devices. There are no meaningful entanglement risks posed by the proposed survey, and entanglement risks are not discussed further in this document.

Anticipated Effects on Marine Mammal Habitat

Physical Disturbance—Sources of seafloor disturbance related to geophysical surveys that may impact marine mammal habitat include placement of anchors, nodes, cables, sensors, or other equipment on or in the seafloor for various activities. Equipment deployed on the seafloor has the potential to cause direct physical damage and could affect bottom-associated fish resources.

Placement of equipment, could damage areas of hard bottom where direct contact with the seafloor occurs and could crush epifauna (organisms that live on the seafloor or surface of other organisms). Damage to unknown or unseen hard bottom could occur, but because of the small area covered by most bottom-founded equipment and the patchy distribution of hard bottom habitat, contact with unknown hard bottom is expected to be rare and impacts minor. Seafloor disturbance in areas of soft bottom can cause loss of small patches of epifauna and infauna due to burial or crushing, and bottom-feeding fishes could be temporarily displaced from feeding areas. Overall, any effects of physical damage to habitat are expected to be minor and temporary.

Effects to Prey—Marine mammal prey varies by species, season, and location and, for some, is not well documented. Fish react to sounds which are especially strong and/or intermittent

low-frequency sounds, and behavioral responses such as flight or avoidance are the most likely effects. However, the reaction of fish to airguns depends on the physiological state of the fish, past exposures, motivation (*e.g.*, feeding, spawning, migration), and other environmental factors. Several studies have demonstrated that airgun sounds might affect the distribution and behavior of some fishes, potentially impacting foraging opportunities or increasing energetic costs (*e.g.*, Fewtrell and McCauley, 2012; Pearson *et al.*, 1992; Skalski *et al.*, 1992; Santulli *et al.*, 1999; Paxton *et al.*, 2017), though the bulk of studies indicate no or slight reaction to noise (*e.g.*, Miller and Cripps, 2013; Dalen and Knutsen, 1987; Pena *et al.*, 2013; Chapman and Hawkins, 1969; Wardle *et al.*, 2001; Sara *et al.*, 2007; Jorgenson and Gyselman, 2009; Blaxter *et al.*, 1981; Cott *et al.*, 2012; Boeger *et al.*, 2006), and that, most commonly, while there are likely to be impacts to fish as a result of noise from nearby airguns, such effects will be temporary. For example, investigators reported significant, short-term declines in commercial fishing catch rate of gadid fishes during and for up to five days after seismic survey operations, but the catch rate subsequently returned to normal (Engas *et al.*, 1996; Engas and Lokkeborg, 2002). Other studies have reported similar findings (Hassel *et al.*, 2004). Skalski *et al.*, (1992) also found a reduction in catch rates—for rockfish (*Sebastes* spp.) in response to controlled airgun exposure—but suggested that the mechanism underlying the decline was not dispersal but rather decreased responsiveness to baited hooks associated with an alarm behavioral response. A companion study showed that alarm and startle responses were not sustained following the removal of the sound source (Pearson *et al.*, 1992). Therefore, Skalski *et al.* (1992) suggested that the effects on fish abundance may be transitory, primarily occurring during the sound exposure itself. In some cases, effects on catch rates are variable within a study, which may be more broadly representative of temporary displacement of fish in response to airgun noise (*i.e.*, catch rates may increase in some locations and decrease in others) than any long-term damage to the fish themselves (Streever *et al.*, 2016).

Sound pressure levels of sufficient strength have been known to cause injury to fish and fish mortality and, in some studies, fish auditory systems have been damaged by airgun noise (McCauley *et al.*, 2003; Popper *et al.*, 2005; Song *et al.*, 2008). However, in

most fish species, hair cells in the ear continuously regenerate and loss of auditory function likely is restored when damaged cells are replaced with new cells. Halvorsen *et al.* (2012) showed that a TTS of 4–6 dB was recoverable within 24 hours for one species. Impacts would be most severe when the individual fish is close to the source and when the duration of exposure is long; both of which are conditions unlikely to occur for this survey that is necessarily transient in any given location and likely result in brief, infrequent noise exposure to prey species in any given area. For this survey, the sound source is constantly moving, and most fish would likely avoid the sound source prior to receiving sound of sufficient intensity to cause physiological or anatomical damage. In addition, ramp-up may allow certain fish species the opportunity to move further away from the sound source.

A recent comprehensive review (Carroll *et al.*, 2017) found that results are mixed as to the effects of airgun noise on the prey of marine mammals. While some studies suggest a change in prey distribution and/or a reduction in prey abundance following the use of seismic airguns, others suggest no effects or even positive effects in prey abundance. As one specific example, Paxton *et al.* (2017), which describes findings related to the effects of a 2014 seismic survey on a reef off of North Carolina, showed a 78 percent decrease in observed nighttime abundance for certain species. It is important to note that the evening hours during which the decline in fish habitat use was recorded (via video recording) occurred on the same day that the seismic survey passed, and no subsequent data is presented to support an inference that the response was long-lasting. Additionally, given that the finding is based on video images, the lack of recorded fish presence does not support a conclusion that the fish actually moved away from the site or suffered any serious impairment. In summary, this particular study corroborates prior studies indicating that a startle response or short-term displacement should be expected.

Available data suggest that cephalopods are capable of sensing the particle motion of sounds and detect low frequencies up to 1–1.5 kHz, depending on the species, and so are likely to detect airgun noise (Kaifu *et al.*, 2008; Hu *et al.*, 2009; Mooney *et al.*, 2010; Samson *et al.*, 2014). Auditory injuries (lesions occurring on the statocyst sensory hair cells) have been reported upon controlled exposure to

low-frequency sounds, suggesting that cephalopods are particularly sensitive to low-frequency sound (Andre *et al.*, 2011; Sole *et al.*, 2013). Behavioral responses, such as inking and jetting, have also been reported upon exposure to low-frequency sound (McCauley *et al.*, 2000b; Samson *et al.*, 2014). Similar to fish, however, the transient nature of the survey leads to an expectation that effects will be largely limited to behavioral reactions and would occur as a result of brief, infrequent exposures.

With regard to potential impacts on zooplankton, McCauley *et al.* (2017) found that exposure to airgun noise resulted in significant depletion for more than half the taxa present and that there were two to three times more dead zooplankton after airgun exposure compared with controls for all taxa, within 1 km of the airguns. However, the authors also stated that in order to have significant impacts on r-selected species (*i.e.*, those with high growth rates and that produce many offspring) such as plankton, the spatial or temporal scale of impact must be large in comparison with the ecosystem concerned, and it is possible that the findings reflect avoidance by zooplankton rather than mortality (McCauley *et al.*, 2017). In addition, the results of this study are inconsistent with a large body of research that generally finds limited spatial and temporal impacts to zooplankton as a result of exposure to airgun noise (*e.g.*, Dalen and Knutsen, 1987; Payne, 2004; Stanley *et al.*, 2011). Most prior research on this topic, which has focused on relatively small spatial scales, has showed minimal effects (*e.g.*, Kostyuchenko, 1973; Booman *et al.*, 1996; Sætre and Ona, 1996; Pearson *et al.*, 1994; Bolle *et al.*, 2012).

A modeling exercise was conducted as a follow-up to the McCauley *et al.* (2017) study (as recommended by McCauley *et al.*), in order to assess the potential for impacts on ocean ecosystem dynamics and zooplankton population dynamics (Richardson *et al.*, 2017). Richardson *et al.*, (2017) found that for copepods with a short life cycle in a high-energy environment, a full-scale airgun survey would impact copepod abundance up to 3 days following the end of the survey, suggesting that effects such as those found by McCauley *et al.* (2017) would not be expected to be detectable downstream of the survey areas, either spatially or temporally.

Notably, a more recently described study produced results inconsistent with those of McCauley *et al.* (2017). Researchers conducted a field and laboratory study to assess if exposure to

airgun noise affects mortality, predator escape response, or gene expression of the copepod *Calanus finmarchicus* (Fields *et al.*, 2019). Immediate mortality of copepods was significantly higher, relative to controls, at distances of 5 m or less from the airguns. Mortality one week after the airgun blast was significantly higher in the copepods placed 10 m from the airgun but was not significantly different from the controls at a distance of 20 m from the airgun. The increase in mortality, relative to controls, did not exceed 30 percent at any distance from the airgun. Moreover, the authors caution that even this higher mortality in the immediate vicinity of the airguns may be more pronounced than what would be observed in free-swimming animals due to increased flow speed of fluid inside bags containing the experimental animals. There were no sublethal effects on the escape performance or the sensory threshold needed to initiate an escape response at any of the distances from the airgun that were tested. Whereas McCauley *et al.* (2017) reported an SEL of 156 dB at a range of 509–658 m, with zooplankton mortality observed at that range, Fields *et al.* (2019) reported an SEL of 186 dB at a range of 25 m, with no reported mortality at that distance. Regardless, if we assume a worst-case likelihood of severe impacts to zooplankton within approximately 1 km of the acoustic source, the brief time to regeneration of the potentially affected zooplankton populations does not lead us to expect any meaningful follow-on effects to the prey base for marine mammals.

A recent review article concluded that, while laboratory results provide scientific evidence for high-intensity and low-frequency sound-induced physical trauma and other negative effects on some fish and invertebrates, the sound exposure scenarios in some cases are not realistic to those encountered by marine organisms during routine seismic operations (Carroll *et al.*, 2017). The review finds that there has been no evidence of reduced catch or abundance following seismic activities for invertebrates, and that there is conflicting evidence for fish with catch observed to increase, decrease, or remain the same. Further, where there is evidence for decreased catch rates in response to airgun noise, these findings provide no information about the underlying biological cause of catch rate reduction (Carroll *et al.*, 2017).

In summary, impacts of the specified activity on marine mammal prey species will likely be limited to behavioral responses, the majority of prey species

will be capable of moving out of the area during the survey, a rapid return to normal recruitment, distribution, and behavior for prey species is anticipated, and, overall, impacts to prey species will be minor and temporary. Prey species exposed to sound might move away from the sound source, experience TTS, experience masking of biologically relevant sounds, or show no obvious direct effects. Mortality from decompression injuries is possible in close proximity to a sound, but only limited data on mortality in response to airgun noise exposure are available (Hawkins *et al.*, 2014). The most likely impacts for most prey species in the survey area would be temporary avoidance of the area. The proposed survey would move through an area relatively quickly, limiting exposure to multiple impulsive sounds. In all cases, sound levels would return to ambient once the survey moves out of the area or ends and the noise source is shut down and, when exposure to sound ends, behavioral and/or physiological responses are expected to end relatively quickly (McCaughey *et al.*, 2000b). The duration of fish avoidance of a given area after survey effort stops is unknown, but a rapid return to normal recruitment, distribution, and behavior is anticipated. While the potential for disruption of spawning aggregations or schools of important prey species can be meaningful on a local scale, the mobile and temporary nature of this survey and the likelihood of temporary avoidance behavior suggest that impacts would be minor.

Acoustic Habitat—Acoustic habitat is the soundscape—which encompasses all of the sound present in a particular location and time, as a whole—when considered from the perspective of the animals experiencing it. Animals produce sound for, or listen for sounds produced by, conspecifics (communication during feeding, mating, and other social activities), other animals (finding prey or avoiding predators), and the physical environment (finding suitable habitats, navigating). Together, sounds made by animals and the geophysical environment (*e.g.*, produced by earthquakes, lightning, wind, rain, waves) make up the natural contributions to the total acoustics of a place. These acoustic conditions, termed acoustic habitat, are one attribute of an animal's total habitat.

Soundscapes are also defined by, and acoustic habitat influenced by, the total contribution of anthropogenic sound. This may include incidental emissions from sources such as vessel traffic, or may be intentionally introduced to the

marine environment for data acquisition purposes (as in the use of airgun arrays). Anthropogenic noise varies widely in its frequency content, duration, and loudness and these characteristics greatly influence the potential habitat-mediated effects to marine mammals (please see also the previous discussion on masking under “Acoustic Effects”), which may range from local effects for brief periods of time to chronic effects over large areas and for long durations. Depending on the extent of effects to habitat, animals may alter their communications signals (thereby potentially expending additional energy) or miss acoustic cues (either conspecific or adventitious). For more detail on these concepts see, *e.g.*, Barber *et al.*, 2010; Pijanowski *et al.*, 2011; Francis and Barber, 2013; Lillis *et al.*, 2014.

Problems arising from a failure to detect cues are more likely to occur when noise stimuli are chronic and overlap with biologically relevant cues used for communication, orientation, and predator/prey detection (Francis and Barber, 2013). Although the signals emitted by seismic airgun arrays are generally low frequency, they would also likely be of short duration and transient in any given area due to the nature of these surveys. As described previously, exploratory surveys such as these cover a large area but would be transient rather than focused in a given location over time and therefore would not be considered chronic in any given location.

Based on the information discussed herein, we conclude that impacts of the specified activity are not likely to have more than short-term adverse effects on any prey habitat or populations of prey species. Further, any impacts to marine mammal habitat are not expected to result in significant or long-term consequences for individual marine mammals, or to contribute to adverse impacts on their populations.

Estimated Take

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

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines “harassment” as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a

marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Anticipated takes would primarily be Level B harassment, as use of the airgun arrays have the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) to result for species of certain hearing groups due to the size of the predicted auditory injury zones for those groups. Auditory injury is less likely to occur for mid-frequency species, due to their relative lack of sensitivity to the frequencies at which the primary energy of an airgun signal is found, as well as such species' general lower sensitivity to auditory injury as compared to high-frequency cetaceans. As discussed in further detail below, we do not expect auditory injury for mid-frequency cetaceans. The proposed mitigation and monitoring measures are expected to minimize the severity of such taking to the extent practicable. No mortality is anticipated as a result of these activities. Below we describe how the proposed take numbers are estimated.

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

Acoustic Thresholds

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

Level B Harassment—Though significantly driven by received level, the onset of behavioral disturbance from

anthropogenic noise exposure is also informed to varying degrees by other factors related to the source or exposure context (e.g., frequency, predictability, duty cycle, duration of the exposure, signal-to-noise ratio, distance to the source), the environment (e.g., bathymetry, other noises in the area, predators in the area), and the receiving animals (hearing, motivation, experience, demography, life stage, depth) and can be difficult to predict (e.g., Southall *et al.*, 2007, 2021; Ellison *et al.*, 2012). Based on what the available science indicates and the practical need to use a threshold based on a metric that is both predictable and measurable for most activities, NMFS typically uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS generally predicts that marine mammals are likely to be behaviorally harassed in a manner considered to be Level B harassment when exposed to underwater

anthropogenic noise above root-mean-squared pressure received levels (RMS SPL) of 120 dB (referenced to 1 micropascal (re 1 μ Pa)) for continuous (e.g., vibratory pile-driving, drilling) and above RMS SPL 160 dB re 1 μ Pa for non-explosive impulsive (e.g., seismic airguns) or intermittent (e.g., scientific sonar) sources. Generally speaking, Level B harassment take estimates based on these behavioral harassment thresholds are expected to include any likely takes by TTS as, in most cases, the likelihood of TTS occurs at distances from the source less than those at which behavioral harassment is likely. TTS of a sufficient degree can manifest as behavioral harassment, as reduced hearing sensitivity and the potential reduced opportunities to detect important signals (conspecific communication, predators, prey) may result in changes in behavior patterns that would not otherwise occur.

L-DEO's proposed survey includes the use of impulsive seismic sources

(e.g., Bolt airguns), and therefore the 160 dB re 1 μ Pa is applicable for analysis of Level B harassment.

Level A Harassment—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). L-DEO's proposed survey includes the use of impulsive seismic sources (e.g., airguns).

These thresholds are provided in the table below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS' 2018 Technical Guidance, which may be accessed at: www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.

TABLE 3—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds* (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	Cell 1: $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	Cell 2: $L_{E,LF,24h}$: 199 dB
Mid-Frequency (MF) Cetaceans	Cell 3: $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	Cell 4: $L_{E,MF,24h}$: 198 dB
High-Frequency (HF) Cetaceans	Cell 5: $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	Cell 6: $L_{E,HF,24h}$: 173 dB
Phocid Pinnipeds (PW) (Underwater)	Cell 7: $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	Cell 8: $L_{E,PW,24h}$: 201 dB
Otariid Pinnipeds (OW) (Underwater)	Cell 9: $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	Cell 10: $L_{E,OW,24h}$: 219 dB

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μ Pa, and cumulative sound exposure level (L_E) has a reference value of 1 μ Pa²s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript "flat" is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (i.e., varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that are used in estimating the area ensonified above the acoustic thresholds, including source levels and transmission loss coefficient.

When the NMFS Technical Guidance (2016a) was published, in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed a user spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree,

which may result in some degree of overestimate of Level A harassment take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate.

The proposed survey would entail the use of a 36-airgun array with a total discharge volume of 6,600 in³ at a tow depth of 10–12 m. L-DEO's model results are used to determine the 160 dB_{rms} radius for the 36-airgun array in water depth ranging from >100–5,200 m. Received sound levels have been predicted by L-DEO's model (Diebold *et al.* 2010) as a function of distance from the 36-airgun array. Models for the 36-airgun array used a 12-m tow depth. This modeling approach uses ray tracing

for the direct wave traveling from the array to the receiver and its associated source ghost (reflection at the air-water interface in the vicinity of the array), in a constant-velocity half-space (infinite homogeneous ocean layer, unbounded by a seafloor). In addition, propagation measurements of pulses from the 36-airgun array at a tow depth of 6 m have been reported in deep water (~1,600 m), intermediate water depth on the slope (~600–1,100 m), and shallow water (~50 m) in the Gulf of Mexico (Tolstoy *et al.* 2009; Diebold *et al.* 2010).

For deep and intermediate water cases, the field measurements cannot be used readily to derive the harassment isopleths, as at those sites the calibration hydrophone was located at a roughly constant depth of 350–550 m, which may not intersect all the SPL isopleths at their widest point from the sea surface down to the assumed

maximum relevant water depth (~2,000 m) for marine mammals. At short ranges, where the direct arrivals dominate and the effects of seafloor interactions are minimal, the data at the deep sites are suitable for comparison with modeled levels at the depth of the calibration hydrophone. At longer ranges, the comparison with the model—constructed from the maximum SPL through the entire water column at varying distances from the airgun array—is the most relevant.

In deep and intermediate water depths at short ranges, sound levels for direct arrivals recorded by the calibration hydrophone and L-DEO model results for the same array tow depth are in good alignment (see Figures 12 and 14 in Diebold *et al.* 2010). Consequently, isopleths falling within

this domain can be predicted reliably by the L-DEO model, although they may be imperfectly sampled by measurements recorded at a single depth. At greater distances, the calibration data show that seafloor-reflected and sub-seafloor-refracted arrivals dominate, whereas the direct arrivals become weak and/or incoherent (see Figures 11, 12, and 16 in Diebold *et al.* 2010). Aside from local topography effects, the region around the critical distance is where the observed levels rise closest to the model curve. However, the observed sound levels are found to fall almost entirely below the model curve. Thus, analysis of the Gulf of Mexico calibration measurements demonstrates that although simple, the L-DEO model is a robust tool for conservatively estimating isopleths.

The proposed survey would acquire data with the 36-airgun array at a tow depth of 10–12 m. For deep water (>1,000 m), we use the deep-water radii obtained from L-DEO model results down to a maximum water depth of 2,000 m for the 36-airgun array. The radii for intermediate water depths (100–1,000 m) are derived from the deep-water ones by applying a correction factor (multiplication) of 1.5, such that observed levels at very near offsets fall below the corrected mitigation curve (see Figure 16 in Diebold *et al.* 2010).

L-DEO’s modeling methodology is described in greater detail in L-DEO’s application. The estimated distances to the Level B harassment isopleth for the proposed airgun configuration are shown in Table 4.

TABLE 4—PREDICTED RADIAL DISTANCES FROM THE R/V LANGSETH SEISMIC SOURCE TO ISOPLETH CORRESPONDING TO LEVEL B HARASSMENT THRESHOLD

Airgun configuration	Tow depth (m)	Water depth (m)	Predicted distances (in m) to the Level B harassment threshold
4 strings, 36 airguns, 6,600 in ³	12	>1,000 100–1,000	¹ 6,733 ² 10,100

¹ Distance is based on L-DEO model results.

² Distance is based on L-DEO model results with a 1.5 × correction factor between deep and intermediate water depths.

Table 5 presents the modeled PTS isopleths for each cetacean hearing group based on L-DEO modeling

incorporated in the companion user spreadsheet (NMFS 2018).

TABLE 5—MODELED RADIAL DISTANCE TO ISOPLETHS CORRESPONDING TO LEVEL A HARASSMENT THRESHOLDS

	Low frequency	Mid frequency	High frequency
MCS Surveys			
PTS SEL _{cum}	320.2	0	1
PTS Peak	38.9	13.6	268.3
OBS Surveys			
PTS SEL _{cum}	80	0	0.3
PTS Peak	38.9	13.6	268.3

The largest distance (in bold) of the dual criteria (SEL_{cum} or Peak) was used to estimate threshold distances and potential takes by Level A harassment.

Predicted distances to Level A harassment isopleths, which vary based on marine mammal hearing groups, were calculated based on modeling performed by L-DEO using the Nucleus software program and the NMFS user spreadsheet, described below. The acoustic thresholds for impulsive sounds (e.g., airguns) contained in the NMFS Technical Guidance were presented as dual metric acoustic

thresholds using both SEL_{cum} and peak sound pressure metrics (NMFS 2016a). As dual metrics, NMFS considers onset of PTS (Level A harassment) to have occurred when either one of the two metrics is exceeded (i.e., metric resulting in the largest isopleth). The SEL_{cum} metric considers both level and duration of exposure, as well as auditory weighting functions by marine mammal hearing group. In recognition

of the fact that the requirement to calculate Level A harassment ensounded areas could be more technically challenging to predict due to the duration component and the use of weighting functions in the new SEL_{cum} thresholds, NMFS developed an optional user spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence

to facilitate the estimation of take numbers.

The SEL_{cum} for the 36-airgun array is derived from calculating the modified farfield signature. The farfield signature is often used as a theoretical representation of the source level. To compute the farfield signature, the source level is estimated at a large distance (right) below the array (e.g., 9 km), and this level is back projected mathematically to a notional distance of 1 m from the array's geometrical center. However, it has been recognized that the source level from the theoretical farfield signature is never physically achieved at the source when the source is an array of multiple airguns separated in space (Tolstoy *et al.*, 2009). Near the source (at short ranges, distances <1 km), the pulses of sound pressure from each individual airgun in the source array do not stack constructively as they do for the theoretical farfield signature. The pulses from the different airguns spread out in time such that the source levels observed or modeled are the result of the summation of pulses from a few airguns, not the full array (Tolstoy *et al.*, 2009). At larger distances, away from the source array center, sound pressure of all the airguns in the array stack coherently, but not within one time sample, resulting in smaller source levels (a few dB) than the source level derived from the far-field signature. Because the far-field signature does not take into account the large array effect near the source and is calculated as a point source, the far-field signature is not an appropriate measure of the sound source level for large arrays. See L-DEO's application for further detail on acoustic modeling.

Auditory injury is unlikely to occur for mid-frequency cetaceans, given very small modeled zones of injury for those species (all estimated zones less than 15 m for mid-frequency cetaceans), in context of distributed source dynamics. The source level of the array is a theoretical definition assuming a point source and measurement in the far-field of the source (MacGillivray, 2006). As described by Caldwell and Dragoset (2000), an array is not a point source, but one that spans a small area. In the far-field, individual elements in arrays will effectively work as one source because individual pressure peaks will have coalesced into one relatively broad pulse. The array can then be considered a "point source." For distances within the near-field, *i.e.*, approximately two to three times the array dimensions, pressure peaks from individual elements do not arrive simultaneously because the observation point is not equidistant from each element. The

effect is destructive interference of the outputs of each element, so that peak pressures in the near-field will be significantly lower than the output of the largest individual element. Here, the relevant peak isopleth distances would in all cases be expected to be within the near-field of the array where the definition of source level breaks down. Therefore, actual locations within this distance of the array center where the sound level exceeds the relevant peak SPL thresholds would not necessarily exist. In general, Caldwell and Dragoset (2000) suggest that the near-field for airgun arrays is considered to extend out to approximately 250 m.

In order to provide quantitative support for this theoretical argument, we calculated expected maximum distances at which the near-field would transition to the far-field (Table 5). For a specific array one can estimate the distance at which the near-field transitions to the far-field by:

$$D = \frac{L^2}{4\lambda}$$

With the condition that $D \gg \lambda$, and where D is the distance, L is the longest dimension of the array, and λ is the wavelength of the signal (Lurton, 2002). Given that λ can be defined by:

$$\lambda = \frac{v}{f}$$

where f is the frequency of the sound signal and v is the speed of the sound in the medium of interest, one can rewrite the equation for D as:

$$D = \frac{fL^2}{4v}$$

and calculate D directly given a particular frequency and known speed of sound (here assumed to be 1,500 m per second in water, although this varies with environmental conditions).

To determine the closest distance to the arrays at which the source level predictions in Table 5 are valid (*i.e.*, maximum extent of the near-field), we calculated D based on an assumed frequency of 1 kHz. A frequency of 1 kHz is commonly used in near-field/far-field calculations for airgun arrays (Zykov and Carr, 2014; MacGillivray, 2006; NSF and USGS, 2011), and based on representative airgun spectrum data and field measurements of an airgun array used on the Langseth, nearly all (greater than 95 percent) of the energy from airgun arrays is below 1 kHz (Tolstoy *et al.*, 2009). Thus, using 1 kHz as the upper cut-off for calculating the maximum extent of the near-field

should reasonably represent the near-field extent in field conditions.

If the largest distance to the peak sound pressure level threshold was equal to or less than the longest dimension of the array (*i.e.*, under the array), or within the near-field, then received levels that meet or exceed the threshold in most cases are not expected to occur. This is because within the near-field and within the dimensions of the array, the source levels specified in Appendix A of L-DEO's application are overestimated and not applicable. In fact, until one reaches a distance of approximately three or four times the near-field distance the average intensity of sound at any given distance from the array is still less than that based on calculations that assume a directional point source (Lurton, 2002). The 6,600-in³ airgun array planned for use during the proposed survey has an approximate diagonal of 28.8 m, resulting in a near-field distance of approximately 138.7 m at 1 kHz (NSF and USGS, 2011). Field measurements of this array indicate that the source behaves like multiple discrete sources, rather than a directional point source, beginning at approximately 400 m (deep site) to 1 km (shallow site) from the center of the array (Tolstoy *et al.*, 2009), distances that are actually greater than four times the calculated 138.7-m near-field distance. Within these distances, the recorded received levels were always lower than would be predicted based on calculations that assume a directional point source, and increasingly so as one moves closer towards the array (Tolstoy *et al.*, 2009). Given this, relying on the calculated distance (138.7 m) as the distance at which we expect to be in the near-field is a conservative approach since even beyond this distance the acoustic modeling still overestimates the actual received level. Within the near-field, in order to explicitly evaluate the likelihood of exceeding any particular acoustic threshold, one would need to consider the exact position of the animal, its relationship to individual array elements, and how the individual acoustic sources propagate and their acoustic fields interact. Given that within the near-field and dimensions of the array source levels would be below those assumed here, we believe exceedance of the peak pressure threshold would only be possible under highly unlikely circumstances.

In consideration of the received sound levels in the near-field as described above, we expect the potential for Level A harassment of mid-frequency cetaceans to be de minimis, even before the likely moderating effects of aversion and/or other compensatory behaviors

(e.g., Nachtigall *et al.*, 2018) are considered. We do not believe that Level A harassment is a likely outcome for any mid-frequency cetacean and do not propose to authorize any take by Level A harassment for these species.

The Level A and Level B harassment estimates are based on a consideration of the number of marine mammals that could be within the area around the operating airgun array where received levels of sound ≥ 160 dB re 1 μ Pa rms are predicted to occur (see Table 1). The estimated numbers are based on the densities (numbers per unit area) of marine mammals expected to occur in the area in the absence of seismic surveys. To the extent that marine mammals tend to move away from seismic sources before the sound level reaches the criterion level and tend not to approach an operating airgun array, these estimates likely overestimate the numbers actually exposed to the specified level of sound.

Marine Mammal Occurrence

In this section we provide information about the occurrence of marine mammals, including density or other relevant information that will inform the take calculations.

Habitat-based density models produced by the Duke University Marine Geospatial Ecology Laboratory (Roberts *et al.*, 2016; Roberts and Halpin, 2022) represent the best available information regarding marine mammal densities in the survey area. This density information incorporates aerial and shipboard line-transect survey data from NMFS and other organizations and incorporates data from 8 physiographic and 16 dynamic oceanographic and biological covariates, and controls for the influence of sea

state, group size, availability bias, and perception bias on the probability of making a sighting. These density models were originally developed for all cetacean taxa in the U.S. Atlantic (Roberts *et al.*, 2016). In subsequent years, certain models have been updated based on additional data as well as certain methodological improvements. More information is available online at <https://seamap.env.duke.edu/models/Duke/EC/>. Marine mammal density estimates in the survey area (animals/km²) were obtained using the most recent model results for all taxa.

Monthly density grids (e.g., rasters) for each species were overlaid with the Survey Area and values from all grid cells that overlapped the Survey Area (plus a 40-km buffer) were averaged to determine monthly mean density values for each species. Monthly mean density values within the survey area were averaged for each of the two water depth categories (intermediate and deep) for the months May to October. The highest mean monthly density estimates for each species were used to estimate take.

Take Estimation

Here we describe how the information provided above is synthesized to produce a quantitative estimate of the take that is reasonably likely to occur and proposed for authorization. In order to estimate the number of marine mammals predicted to be exposed to sound levels that would result in Level A or Level B harassment, radial distances from the airgun array to the predicted isopleth corresponding to the Level A harassment and Level B harassment thresholds are calculated, as described above. Those radial distances are then used to calculate the area(s) around the airgun array predicted to be

ensonified to sound levels that exceed the harassment thresholds. The distance for the 160-dB Level B harassment threshold and PTS (Level A harassment) thresholds (based on L-DEO model results) was used to draw a buffer around the area expected to be ensonified (i.e., the survey area). The ensonified areas were then increased by 25 percent to account for potential delays, which is the equivalent to adding 25 percent to the proposed line km to be surveyed. The highest mean monthly density for each species was then multiplied by the daily ensonified areas (increased as described above), and then multiplied by the number of survey days (40) to estimate potential takes (see Appendix B of L-DEO's application for more information).

L-DEO generally assumed that their estimates of marine mammal exposures above harassment thresholds equate to take and requested authorization of those takes. Those estimates in turn form the basis for our proposed take authorization numbers. For the species for which NMFS does not expect there to be a reasonable potential for take by Level A harassment to occur, i.e., mid-frequency cetaceans, we have added L-DEO's estimated exposures above Level A harassment thresholds to their estimated exposures above the Level B harassment threshold to produce a total number of incidents of take by Level B harassment that is proposed for authorization. Estimated exposures and proposed take numbers for authorization are shown in Table 6. As requested by L-DEO with NMFS concurrence, when zero take was calculated we have authorized one group size of take as a precaution since the species could potentially occur in the survey area.

TABLE 6—ESTIMATED TAKE PROPOSED FOR AUTHORIZATION

Species	Stock	Estimated Take		Proposed Authorized Take		Abundance ³	Percent of Stock
		Level B	Level A	Level B	Level A		
North Atlantic right whale	Western North Atlantic	0	0	0	0	4,338	n/a
Humpback whale	Gulf of Maine	0	0	12	0	62,259	<0.1
Fin whale	Western North Atlantic	5	0	5	0	53,587	0.1
Sei whale	Nova Scotia	28	2	28	2	51,043	2.9
Minke whale	Canadian East Coast	20	1	20	1	54,044	0.5
Blue whale	Western North Atlantic	2	0	2	0	633	6.1
Sperm whale	North Atlantic	706	3	709	0	56,576	9.3
Kogia spp.		601	50	601	50	67,980	8.2
Cuvier's beaked whale	Western North Atlantic	365	1	366	0	65,588	6.5
Mesoplodont beaked whales		154	1	155	0	66,526	2.4
Pilot whales		1,424	4	1,428	0	623,905	6
Rough-toothed dolphin	Western North Atlantic	301	1	302	0	61,011	30
Bottlenose dolphin	Western North Atlantic Offshore	4,445	12	4,457	0	568,739	6.5
Pantropical spotted dolphin	Western North Atlantic	419	1	420	0	61,403	30
Atlantic spotted dolphin	Western North Atlantic	1,768	6	1,774	0	539,352	4.5
Spinner dolphin	Western North Atlantic	149	0	149	0	6885	16.8
Clymene dolphin	Western North Atlantic	0	0	2182	0	68,576	2.1
Striped dolphin	Western North Atlantic	0	0	146	0	654,707	<0.1
Fraser's dolphin	Western North Atlantic	226	1	227	0	6658	34.5
Risso's dolphin	Western North Atlantic	1,277	3	1,280	0	524,260	5.3
Common dolphin	Western North Atlantic	181	1	182	0	5144,036	0.1

TABLE 6—ESTIMATED TAKE PROPOSED FOR AUTHORIZATION—Continued

Species	Stock	Estimated Take		Proposed Authorized Take		Abundance ³	Percent of Stock
		Level B	Level A	Level B	Level A		
Melon-headed whale	Western North Atlantic	212	1	213	0	⁶ 618	34.5
Pygmy killer whale	Western North Atlantic	20	0	20	0	⁶ 68	29.4
False killer whale	Western North Atlantic	4	0	² 6	0	⁶ 139	4.3
Killer whale	Western North Atlantic	6	0	6	0	⁶ 73	8.2
Harbor porpoise	Gulf of Maine/Bay of Fundy	0	0	13	0	⁵ 55,049	<0.1

¹ Proposed take increased to mean group size from AMAPPS (Palka *et al.*, 2017 and 2021).

² Proposed take increased to mean group size from OBIS (2023).

³ Modeled abundance (Roberts and Halpin 2022) used unless noted.

⁴ Abundance from draft 2022 U.S. Atlantic and Gulf of Mexico Marine Mammal SARs.

⁵ Averaged monthly (May-Oct) abundance.

⁶ Only single annual abundance given.

Proposed Mitigation

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

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

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

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

Vessel-Based Visual Mitigation Monitoring

Visual monitoring requires the use of trained observers (herein referred to as visual protected species observers (PSO)) to scan the ocean surface for the presence of marine mammals. The area to be scanned visually includes primarily the shutdown zone (SZ), within which observation of certain marine mammals requires shutdown of the acoustic source, but also a buffer zone and, to the extent possible depending on conditions, the surrounding waters. The buffer zone means an area beyond the SZ to be monitored for the presence of marine mammals that may enter the SZ. During pre-start clearance monitoring (*i.e.*, before ramp-up begins), the buffer zone also acts as an extension of the SZ in that observations of marine mammals within the buffer zone would also prevent airgun operations from beginning (*i.e.*, ramp-up). The buffer zone encompasses the area at and below the sea surface from the edge of the 0–500 m SZ, out to a radius of 1,000 m from the edges of the airgun array (500–1,000 m). This 1,000-m zone (SZ plus buffer) represents the pre-start clearance zone. Visual monitoring of the SZ and adjacent waters is intended to establish and, when visual conditions allow, maintain zones around the sound source that are clear of marine mammals, thereby reducing or eliminating the potential for injury and minimizing the potential for more severe behavioral reactions for animals occurring closer to the vessel. Visual monitoring of the buffer zone is intended to (1) provide additional protection to marine mammals that may be in the vicinity of the vessel during pre-start clearance, and (2) during airgun use, aid in establishing and maintaining the SZ by alerting the visual observer and crew of marine mammals that are outside of, but may approach and enter, the SZ.

L–DEO must use dedicated, trained, and NMFS-approved PSOs. The PSOs must have no tasks other than to

conduct observational effort, record observational data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements. PSO resumes shall be provided to NMFS for approval.

At least one of the visual and two of the acoustic PSOs (discussed below) aboard the vessel must have a minimum of 90 days at-sea experience working in those roles, respectively, with no more than 18 months elapsed since the conclusion of the at-sea experience. One visual PSO with such experience shall be designated as the lead for the entire protected species observation team. The lead PSO shall serve as primary point of contact for the vessel operator and ensure all PSO requirements per the IHA are met. To the maximum extent practicable, the experienced PSOs should be scheduled to be on duty with those PSOs with appropriate training but who have not yet gained relevant experience.

During survey operations (*e.g.*, any day on which use of the acoustic source is planned to occur, and whenever the acoustic source is in the water, whether activated or not), a minimum of two visual PSOs must be on duty and conducting visual observations at all times during daylight hours (*i.e.*, from 30 minutes prior to sunrise through 30 minutes following sunset). Visual monitoring of the pre-start clearance zone must begin no less than 30 minutes prior to ramp-up, and monitoring must continue until 1 hour after use of the acoustic source ceases or until 30 minutes past sunset. Visual PSOs shall coordinate to ensure 360° visual coverage around the vessel from the most appropriate observation posts, and shall conduct visual observations using binoculars and the naked eye while free from distractions and in a consistent, systematic, and diligent manner.

PSOs shall establish and monitor the shutdown and buffer zones. These zones shall be based upon the radial distance from the edges of the acoustic source

(rather than being based on the center of the array or around the vessel itself). During use of the acoustic source (*i.e.*, anytime airguns are active, including ramp-up), detections of marine mammals within the buffer zone (but outside the SZ) shall be communicated to the operator to prepare for the potential shutdown of the acoustic source. Visual PSOs will immediately communicate all observations to the on duty acoustic PSO(s), including any determination by the PSO regarding species identification, distance, and bearing and the degree of confidence in the determination. Any observations of marine mammals by crew members shall be relayed to the PSO team. During good conditions (*e.g.*, daylight hours; Beaufort sea state (BSS) 3 or less), visual PSOs shall conduct observations when the acoustic source is not operating for comparison of sighting rates and behavior with and without use of the acoustic source and between acquisition periods, to the maximum extent practicable.

Visual PSOs may be on watch for a maximum of 4 consecutive hours followed by a break of at least 1 hour between watches and may conduct a maximum of 12 hours of observation per 24-hour period. Combined observational duties (visual and acoustic but not at same time) may not exceed 12 hours per 24-hour period for any individual PSO.

Passive Acoustic Monitoring

Passive acoustic monitoring means the use of trained personnel (sometimes referred to as PAM operators, herein referred to as acoustic PSOs) to operate PAM equipment to acoustically detect the presence of marine mammals. Acoustic monitoring involves acoustically detecting marine mammals regardless of distance from the source, as localization of animals may not always be possible. Acoustic monitoring is intended to further support visual monitoring (during daylight hours) in maintaining an SZ around the sound source that is clear of marine mammals. In cases where visual monitoring is not effective (*e.g.*, due to weather, nighttime), acoustic monitoring may be used to allow certain activities to occur, as further detailed below.

PAM would take place in addition to the visual monitoring program. Visual monitoring typically is not effective during periods of poor visibility or at night, and even with good visibility, is unable to detect marine mammals when they are below the surface or beyond visual range. Acoustic monitoring can be used in addition to visual observations to improve detection, identification, and localization of

cetaceans. The acoustic monitoring would serve to alert visual PSOs (if on duty) when vocalizing cetaceans are detected. It is only useful when marine mammals vocalize, but it can be effective either by day or by night, and does not depend on good visibility. It would be monitored in real time so that the visual observers can be advised when cetaceans are detected.

The *R/V Langseth* will use a towed PAM system, which must be monitored by at a minimum one on duty acoustic PSO beginning at least 30 minutes prior to ramp-up and at all times during use of the acoustic source. Acoustic PSOs may be on watch for a maximum of 4 consecutive hours followed by a break of at least 1 hour between watches and may conduct a maximum of 12 hours of observation per 24-hour period. Combined observational duties (acoustic and visual but not at same time) may not exceed 12 hours per 24-hour period for any individual PSO.

Survey activity may continue for 30 minutes when the PAM system malfunctions or is damaged, while the PAM operator diagnoses the issue. If the diagnosis indicates that the PAM system must be repaired to solve the problem, operations may continue for an additional 5 hours without acoustic monitoring during daylight hours only under the following conditions:

- Sea state is less than or equal to BSS 4;
- No marine mammals (excluding delphinids) detected solely by PAM in the applicable EZ in the previous 2 hours;
- NMFS is notified via email as soon as practicable with the time and location in which operations began occurring without an active PAM system; and
- Operations with an active acoustic source, but without an operating PAM system, do not exceed a cumulative total of 10 hours in any 24-hour period.

Establishment of Shutdown and Pre-Start Clearance Zones

An SZ is a defined area within which occurrence of a marine mammal triggers mitigation action intended to reduce the potential for certain outcomes, *e.g.*, auditory injury, disruption of critical behaviors. The PSOs would establish a minimum SZ with a 500-m radius. The 500-m SZ would be based on radial distance from the edge of the airgun array (rather than being based on the center of the array or around the vessel itself). With certain exceptions (described below), if a marine mammal appears within or enters this zone, the acoustic source would be shut down.

The pre-start clearance zone is defined as the area that must be clear of marine mammals prior to beginning ramp-up of the acoustic source, and includes the SZ plus the buffer zone. Detections of marine mammals within the pre-start clearance zone would prevent airgun operations from beginning (*i.e.*, ramp-up).

The 500-m SZ is intended to be precautionary in the sense that it would be expected to contain sound exceeding the injury criteria for all cetacean hearing groups, (based on the dual criteria of SEL_{cum} and peak SPL), while also providing a consistent, reasonably observable zone within which PSOs would typically be able to conduct effective observational effort. Additionally, a 500-m SZ is expected to minimize the likelihood that marine mammals will be exposed to levels likely to result in more severe behavioral responses. Although significantly greater distances may be observed from an elevated platform under good conditions, we believe that 500 m is likely regularly attainable for PSOs using the naked eye during typical conditions. The pre-start clearance zone simply represents the addition of a buffer to the SZ, doubling the SZ size during pre-clearance.

An extended SZ of 1,500 m must be enforced for all beaked whales and *Kogia* species. No buffer of this extended SZ is required, as NMFS concludes that this extended SZ is sufficiently protective to mitigate harassment to beaked whales and *Kogia* species.

Pre-Start Clearance and Ramp-Up

Ramp-up (sometimes referred to as “soft start”) means the gradual and systematic increase of emitted sound levels from an airgun array. Ramp-up begins by first activating a single airgun of the smallest volume, followed by doubling the number of active elements in stages until the full complement of an array’s airguns are active. Each stage should be approximately the same duration, and the total duration should not be less than approximately 20 minutes. The intent of pre-start clearance observation (30 minutes) is to ensure no marine mammals are observed within the pre-start clearance zone (or extended SZ, for beaked whales and *Kogia* spp.) prior to the beginning of ramp-up. During the pre-start clearance period is the only time observations of marine mammals in the buffer zone would prevent operations (*i.e.*, the beginning of ramp-up). The intent of ramp-up is to warn marine mammals of pending seismic survey operations and to allow sufficient time

for those animals to leave the immediate vicinity prior to the sound source reaching full intensity. A ramp-up procedure, involving a step-wise increase in the number of airguns firing and total array volume until all operational airguns are activated and the full volume is achieved, is required at all times as part of the activation of the acoustic source. All operators must adhere to the following pre-start clearance and ramp-up requirements:

- The operator must notify a designated PSO of the planned start of ramp-up as agreed upon with the lead PSO; the notification time should not be less than 60 minutes prior to the planned ramp-up in order to allow the PSOs time to monitor the pre-start clearance zone (and extended SZ) for 30 minutes prior to the initiation of ramp-up (pre-start clearance);

- Ramp-ups shall be scheduled so as to minimize the time spent with the source activated prior to reaching the designated run-in;

- One of the PSOs conducting pre-start clearance observations must be notified again immediately prior to initiating ramp-up procedures and the operator must receive confirmation from the PSO to proceed;

- Ramp-up may not be initiated if any marine mammal is within the applicable shutdown or buffer zone. If a marine mammal is observed within the pre-start clearance zone (or extended SZ, for beaked whales and *Kogia* species) during the 30 minute pre-start clearance period, ramp-up may not begin until the animal(s) has been observed exiting the zones or until an additional time period has elapsed with no further sightings (15 minutes for small odontocetes, and 30 minutes for all mysticetes and all other odontocetes, including sperm whales, beaked whales, and large delphinids, such as pilot whales);

- Ramp-up shall begin by activating a single airgun of the smallest volume in the array and shall continue in stages by doubling the number of active elements at the commencement of each stage, with each stage of approximately the same duration. Duration shall not be less than 20 minutes. The operator must provide information to the PSO documenting that appropriate procedures were followed;

- PSOs must monitor the pre-start clearance zone (and extended SZ) during ramp-up, and ramp-up must cease and the source must be shut down upon detection of a marine mammal within the applicable zone. Once ramp-up has begun, detections of marine mammals within the buffer zone do not require shutdown, but such observation

shall be communicated to the operator to prepare for the potential shutdown;

- Ramp-up may occur at times of poor visibility, including nighttime, if appropriate acoustic monitoring has occurred with no detections in the 30 minutes prior to beginning ramp-up. Acoustic source activation may only occur at times of poor visibility where operational planning cannot reasonably avoid such circumstances;

- If the acoustic source is shut down for brief periods (*i.e.*, less than 30 minutes) for reasons other than implementation of prescribed mitigation (*e.g.*, mechanical difficulty), it may be activated again without ramp-up if PSOs have maintained constant visual and/or acoustic observation and no visual or acoustic detections of marine mammals have occurred within the pre-start clearance zone (or extended SZ, where applicable). For any longer shutdown, pre-start clearance observation and ramp-up are required; and

- Testing of the acoustic source involving all elements requires ramp-up. Testing limited to individual source elements or strings does not require ramp-up but does require pre-start clearance of 30 minutes.

Shutdown

The shutdown of an airgun array requires the immediate de-activation of all individual airgun elements of the array. Any PSO on duty will have the authority to delay the start of survey operations or to call for shutdown of the acoustic source if a marine mammal is detected within the applicable SZ. The operator must also establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the acoustic source to ensure that shutdown commands are conveyed swiftly while allowing PSOs to maintain watch. When both visual and acoustic PSOs are on duty, all detections will be immediately communicated to the remainder of the on-duty PSO team for potential verification of visual observations by the acoustic PSO or of acoustic detections by visual PSOs. When the airgun array is active (*i.e.*, anytime one or more airguns is active, including during ramp-up) and (1) a marine mammal appears within or enters the applicable SZ and/or (2) a marine mammal (other than delphinids, see below) is detected acoustically and localized within the applicable SZ, the acoustic source will be shut down. When shutdown is called for by a PSO, the acoustic source will be immediately deactivated and any dispute resolved only following deactivation. Additionally, shutdown will occur whenever PAM alone

(without visual sighting), confirms presence of marine mammal(s) in the SZ. If the acoustic PSO cannot confirm presence within the SZ, visual PSOs will be notified but shutdown is not required.

Following a shutdown, airgun activity would not resume until the marine mammal has cleared the SZ. The animal would be considered to have cleared the SZ if it is visually observed to have departed the SZ (*i.e.*, animal is not required to fully exit the buffer zone where applicable), or it has not been seen within the SZ for 15 minutes for small odontocetes, or 30 minutes for all mysticetes and all other odontocetes, including sperm whales, beaked whales, *Kogia* species, and large delphinids, such as pilot whales.

The shutdown requirement is waived for small dolphins if an individual is detected within the SZ. As defined here, the small dolphin group is intended to encompass those members of the Family Delphinidae most likely to voluntarily approach the source vessel for purposes of interacting with the vessel and/or airgun array (*e.g.*, bow riding). This exception to the shutdown requirement applies solely to specific genera of small dolphins (*Delphinus*, *Lagenodelphis*, *Stenella*, *Steno*, and *Tursiops*).

We include this small dolphin exception because shutdown requirements for small dolphins under all circumstances represent practicability concerns without likely commensurate benefits for the animals in question. Small dolphins are generally the most commonly observed marine mammals in the specific geographic region and would typically be the only marine mammals likely to intentionally approach the vessel. As described above, auditory injury is extremely unlikely to occur for mid-frequency cetaceans (*e.g.*, delphinids), as this group is relatively insensitive to sound produced at the predominant frequencies in an airgun pulse while also having a relatively high threshold for the onset of auditory injury (*i.e.*, permanent threshold shift).

A large body of anecdotal evidence indicates that small dolphins commonly approach vessels and/or towed arrays during active sound production for purposes of bow riding, with no apparent effect observed (*e.g.*, Barkaszi *et al.*, 2012, Barkaszi and Kelly, 2018). The potential for increased shutdowns resulting from such a measure would require the Langseth to revisit the missed track line to reacquire data, resulting in an overall increase in the total sound energy input to the marine environment and an increase in the total duration over which the survey is active

in a given area. Although other mid-frequency hearing specialists (*e.g.*, large delphinids) are no more likely to incur auditory injury than are small dolphins, they are much less likely to approach vessels. Therefore, retaining a shutdown requirement for large delphinids would not have similar impacts in terms of either practicability for the applicant or corollary increase in sound energy output and time on the water. We do anticipate some benefit for a shutdown requirement for large delphinids in that it simplifies somewhat the total range of decision-making for PSOs and may preclude any potential for physiological effects other than to the auditory system as well as some more severe behavioral reactions for any such animals in close proximity to the Langseth.

Visual PSOs shall use best professional judgment in making the decision to call for a shutdown if there is uncertainty regarding identification (*i.e.*, whether the observed marine mammal(s) belongs to one of the delphinid genera for which shutdown is waived or one of the species with a larger SZ).

L-DEO must implement shutdown if a marine mammal species for which take was not authorized, or a species for which authorization was granted but the authorized takes have been met, approaches the Level A or Level B harassment zones. L-DEO must also implement shutdown if any large whale (defined as a sperm whale or any mysticete species) with a calf (defined as an animal less than two-thirds the body size of an adult observed to be in close association with an adult) and/or an aggregation of six or more large whales are observed at any distance. Finally, L-DEO must implement shutdown upon detection (visual or acoustic) of a North Atlantic right whale at any distance.

Vessel Strike Avoidance

Vessel personnel should use an appropriate reference guide that includes identifying information on all marine mammals that may be encountered. Vessel operators must comply with the below measures except under extraordinary circumstances when the safety of the vessel or crew is in doubt or the safety of life at sea is in question. These requirements do not apply in any case where compliance would create an imminent and serious threat to a person or vessel or to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply.

Vessel operators and crews must maintain a vigilant watch for all marine mammals and slow down, stop their

vessel, or alter course, as appropriate and regardless of vessel size, to avoid striking any marine mammal. A single marine mammal at the surface may indicate the presence of submerged animals in the vicinity of the vessel; therefore, precautionary measures should always be exercised. A visual observer aboard the vessel must monitor a vessel strike avoidance zone around the vessel (distances stated below). Visual observers monitoring the vessel strike avoidance zone may be third-party observers (*i.e.*, PSOs) or crew members, but crew members responsible for these duties must be provided sufficient training to (1) distinguish marine mammals from other phenomena and (2) broadly to identify a marine mammal as a right whale, other whale (defined in this context as sperm whales or baleen whales other than right whales), or other marine mammals.

All vessels, regardless of size, must observe a 10-knot speed restriction in specific areas designated by NMFS for the protection of North Atlantic right whales from vessel strikes. These include all Seasonal Management Areas (SMA) (when in effect) and any dynamic management areas (DMA) (when in effect). See www.fisheries.noaa.gov/national/conservation/endangered-species-conservation/reducing-ship-strikes-north-atlantic-right-whales for specific detail regarding these areas.

Vessel speeds must be reduced to 10 kn or less when mother/calf pairs, pods, or large assemblages of cetaceans are observed near a vessel.

All vessels must maintain a minimum separation distance of 500 m from right whales. If a right whale is sighted within the relevant separation distance, the vessel must steer a course away at 10 knots or less until the 500-m separation distance has been established. If a whale is observed but cannot be confirmed as a species other than a right whale, the vessel operator must assume that it is a right whale and take appropriate action.

All vessels must maintain a minimum separation distance of 100 m from sperm whales and all other baleen whales.

All vessels must, to the maximum extent practicable, attempt to maintain a minimum separation distance of 50 m from all other marine mammals, with an understanding that at times this may not be possible (*e.g.*, for animals that approach the vessel).

When marine mammals are sighted while a vessel is underway, the vessel shall take action as necessary to avoid violating the relevant separation

distance (*e.g.*, attempt to remain parallel to the animal's course, avoid excessive speed or abrupt changes in direction until the animal has left the area). If marine mammals are sighted within the relevant separation distance, the vessel must reduce speed and shift the engine to neutral, not engaging the engines until animals are clear of the area. This does not apply to any vessel towing gear or any vessel that is navigationally constrained.

Operational Restrictions

L-DEO must limit airgun use to between May 1 and October 31. Vessel movement and other activities that do not require use of airguns may occur outside of these dates. If any activities (non-seismic) are conducted between November 1 and April 30, L-DEO must submit daily observations to the NMFS Southeast Regional Office (SERO). L-DEO must also notify SERO on the start and end date of seismic operations in the survey area via email at nmfs.ser.research.notification@noaa.gov.

To further prevent exposure of North Atlantic right whales during a time when they may start to migrate to calving and nursing grounds in coastal and shelf waters adjacent to the survey area, the L-DEO must not conduct seismic survey activities in the nearshore portions (*i.e.*, survey tracklines) of the action area on or after October 1st through April 30. We define "nearshore lines" as those within 100 km of the U.S. shore in areas north of 31 degrees North and within 80 km from the U.S. shore in areas south of 31 degrees North. Relative to the survey area, these nearshore portions of the survey area overlap with higher density areas for North Atlantic right whale during the month of October as shown in Roberts and Halpin (2022).

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

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include

the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present while conducting the activities. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

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

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.*, presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or environment (*e.g.*, source characterization, propagation, ambient noise); (2) affected species (*e.g.*, life history, dive patterns); (3) co-occurrence of marine mammal species with the activity; or (4) biological or behavioral context of exposure (*e.g.*, age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.*, marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

Vessel-Based Visual Monitoring

As described above, PSO observations would take place during daytime airgun operations. During seismic survey operations, at least five visual PSOs would be based aboard the Langseth. Two visual PSOs would be on duty at all times during daytime hours. Monitoring shall be conducted in accordance with the following requirements:

- The operator shall provide PSOs with bigeye binoculars (*e.g.*, 25 x 150; 2.7 view angle; individual ocular focus; height control) of appropriate quality solely for PSO use. These shall be pedestal-mounted on the deck at the

most appropriate vantage point that provides for optimal sea surface observation, PSO safety, and safe operation of the vessel; and

- The operator will work with the selected third-party observer provider to ensure PSOs have all equipment (including backup equipment) needed to adequately perform necessary tasks, including accurate determination of distance and bearing to observed marine mammals.

PSOs must have the following requirements and qualifications:

- PSOs shall be independent, dedicated, trained visual and acoustic PSOs and must be employed by a third-party observer provider;
- PSOs shall have no tasks other than to conduct observational effort (visual or acoustic), collect data, and communicate with and instruct relevant vessel crew with regard to the presence of protected species and mitigation requirements (including brief alerts regarding maritime hazards);
- PSOs shall have successfully completed an approved PSO training course appropriate for their designated task (visual or acoustic). Acoustic PSOs are required to complete specialized training for operating PAM systems and are encouraged to have familiarity with the vessel with which they will be working;
- PSOs can act as acoustic or visual observers (but not at the same time) as long as they demonstrate that their training and experience are sufficient to perform the task at hand;
- NMFS must review and approve PSO resumes accompanied by a relevant training course information packet that includes the name and qualifications (*i.e.*, experience, training completed, or educational background) of the instructor(s), the course outline or syllabus, and course reference material as well as a document stating successful completion of the course;
- PSOs must successfully complete relevant training, including completion of all required coursework and passing (80 percent or greater) a written and/or oral examination developed for the training program;
- PSOs must have successfully attained a bachelor's degree from an accredited college or university with a major in one of the natural sciences, a minimum of 30 semester hours or equivalent in the biological sciences, and at least one undergraduate course in math or statistics; and
- The educational requirements may be waived if the PSO has acquired the relevant skills through alternate experience. Requests for such a waiver shall be submitted to NMFS and must

include written justification. Requests shall be granted or denied (with justification) by NMFS within 1 week of receipt of submitted information.

Alternate experience that may be considered includes, but is not limited to (1) secondary education and/or experience comparable to PSO duties; (2) previous work experience conducting academic, commercial, or government-sponsored protected species surveys; or (3) previous work experience as a PSO; the PSO should demonstrate good standing and consistently good performance of PSO duties.

- For data collection purposes, PSOs shall use standardized electronic data collection forms. PSOs shall record detailed information about any implementation of mitigation requirements, including the distance of animals to the acoustic source and description of specific actions that ensued, the behavior of the animal(s), any observed changes in behavior before and after implementation of mitigation, and if shutdown was implemented, the length of time before any subsequent ramp-up of the acoustic source. If required mitigation was not implemented, PSOs should record a description of the circumstances. At a minimum, the following information must be recorded:

- Vessel name, vessel size and type, maximum speed capability of vessel;
- Dates (MM/DD/YYYY) of departures and returns to port with port name;
- PSO names and affiliations, PSO ID (initials or other identifier);
- Date (MM/DD/YYYY) and participants of PSO briefings (as discussed in 3(d));
- Visual monitoring equipment used (description);
- PSO location on vessel and height (meters) of observation location above water surface;
- Watch status (description);
- Dates (MM/DD/YYYY) and times (Greenwich Mean Time/UTC) of survey on/off effort and times (GMC/UTC) corresponding with PSO on/off effort;
- Vessel location (decimal degrees) when survey effort began and ended and vessel location at beginning and end of visual PSO duty shifts;
- Vessel location (decimal degrees) at 30-second intervals if obtainable from data collection software, otherwise at practical regular interval;
- Vessel heading (compass heading) and speed (knots) at beginning and end of visual PSO duty shifts and upon any change;
- Water depth (meters) (if obtainable from data collection software);

- Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions changed significantly), including BSS and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon;

- Factors that may have contributed to impaired observations during each PSO shift change or as needed as environmental conditions changed (description) (e.g., vessel traffic, equipment malfunctions); and

- Vessel/Survey activity information (and changes thereof) (description), such as airgun power output while in operation, number and volume of airguns operating in the array, tow depth of the array, and any other notes of significance (i.e., pre-start clearance, ramp-up, shutdown, testing, shooting, ramp-up completion, end of operations, streamers, etc.).

- Upon visual observation of any marine mammals, the following information must be recorded:

- Sighting ID (numeric);
- Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);

- Location of PSO/observer (description);

- Vessel activity at the time of the sighting (e.g., deploying, recovering, testing, shooting, data acquisition, other);

- PSO who sighted the animal/ID;
- Time/date of sighting (GMT/UTC, MM/DD/YYYY);

- Initial detection method (description);

- Sighting cue (description);
- Vessel location at time of sighting (decimal degrees);

- Water depth (meters);
- Direction of vessel's travel (compass direction);

- Speed (knots) of the vessel from which the observation was made;

- Direction of animal's travel relative to the vessel (description, compass heading);

- Bearing to sighting (degrees);
- Identification of the animal (e.g., genus/species, lowest possible taxonomic level, or unidentified) and the composition of the group if there is a mix of species;

- Species reliability (an indicator of confidence in identification) (1 = unsure/possible, 2 = probable, 3 = definite/sure, 9 = unknown/not recorded);

- Estimated distance to the animal (meters) and method of estimating distance;

- Estimated number of animals (high/low/best) (numeric);

- Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, etc.);

- Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars or markings, shape and size of dorsal fin, shape of head, and blow characteristics);

- Detailed behavior observations (e.g., number of blows/breaths, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior);

- Animal's closest point of approach (meters) and/or closest distance from any element of the airgun array; and
- Description of any actions implemented in response to the sighting (e.g., delays, shutdown, ramp-up) and time and location of the action.

- Photos (Yes/No);

- Photo Frame Numbers (List of numbers);

- Conditions at time of sighting (Visibility; Beaufort Sea State).

If a marine mammal is detected while using the PAM system, the following information should be recorded:

- An acoustic encounter

- Identification number, and whether the detection was linked with a visual sighting;

- Date and time when first and last heard;

- Types and nature of sounds heard (e.g., clicks, whistles, creaks, burst pulses, continuous, sporadic, strength of signal); and

- Any additional information recorded such as water depth of the hydrophone array, bearing of the animal to the vessel (if determinable), species or taxonomic group (if determinable), spectrogram screenshot, and any other notable information.

Reporting

The Holder shall submit a draft comprehensive report on all activities and monitoring results within 90 days of the completion of the survey or expiration of the IHA, whichever comes sooner. The report must describe all activities conducted and sightings of marine mammals, must provide full documentation of methods, results, and interpretation pertaining to all monitoring, and must summarize the dates and locations of survey operations and all marine mammal sightings (dates, times, locations, activities, associated survey activities). The draft report shall also include geo-referenced time-stamped vessel tracklines for all time periods during which acoustic sources were operating. Tracklines should include points recording any change in

acoustic source status (e.g., when the sources began operating, when they were turned off, or when they changed operational status such as from full array to single gun or vice versa). GIS files shall be provided in ESRI shapefile format and include the UTC date and time, latitude in decimal degrees, and longitude in decimal degrees. All coordinates shall be referenced to the WGS84 geographic coordinate system. In addition to the report, all raw observational data shall be made available. The report must summarize data collected as described above in *Data Collection*. A final report must be submitted within 30 days following resolution of any comments on the draft report.

The report must include a validation document concerning the use of PAM, which should include necessary noise validation diagrams and demonstrate whether background noise levels on the PAM deployment limited achievement of the planned detection goals. Copies of any vessel self-noise assessment reports must be included with the report.

Reporting NARW

Although not anticipated, if a North Atlantic right whale is observed at any time by PSOs or personnel on any project vessels, during surveys or during vessel transit, L-DEO must immediately report sighting information to the NMFS North Atlantic Right Whale Sighting Advisory System: 877-WHALE-HELP (877-942-5343). North Atlantic right whale sightings in any location must also be reported to the U.S. Coast Guard via channel 16.

Reporting Injured or Dead Marine Mammals

Discovery of injured or dead marine mammals—In the event that personnel involved in the survey activities discover an injured or dead marine mammal, the L-DEO shall report the incident to the Office of Protected Resources (OPR), NMFS, and to the NMFS Southeast Regional Stranding Coordinator as soon as feasible. The report must include the following information:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);

- Species identification (if known) or description of the animal(s) involved;

- Condition of the animal(s) (including carcass condition if the animal is dead);

- Observed behaviors of the animal(s), if alive;

- If available, photographs or video footage of the animal(s); and

• General circumstances under which the animal was discovered.

Vessel strike—In the event of a strike of a marine mammal by any vessel involved in the activities covered by the authorization, L-DEO shall report the incident to OPR, NMFS, and to the NMFS Southeast Regional Stranding Coordinator as soon as feasible. The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Vessel's speed during and leading up to the incident;
- Vessel's course/heading and what operations were being conducted (if applicable);
- Status of all sound sources in use;
- Description of avoidance measures/requirements that were in place at the time of the strike and what additional measure were taken, if any, to avoid strike;
- Environmental conditions (*e.g.*, wind speed and direction, BSS, cloud cover, visibility) immediately preceding the strike;
- Species identification (if known) or description of the animal(s) involved;
- Estimated size and length of the animal that was struck;
- Description of the behavior of the marine mammal immediately preceding and following the strike;
- If available, description of the presence and behavior of any other marine mammals present immediately preceding the strike;
- Estimated fate of the animal (*e.g.*, dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared); and
- To the extent practicable, photographs or video footage of the animal(s).

Actions To Minimize Additional Harm to Live-Stranded (or Milling) Marine Mammals

In the event of a live stranding (or near-shore atypical milling) event within 50 km of the survey operations, where the NMFS stranding network is engaged in herding or other interventions to return animals to the water, the Director of OPR, NMFS (or designee), will advise L-DEO of the need to implement shutdown procedures for all active acoustic sources operating within 50 km of the stranding. Shutdown procedures for live stranding or milling marine mammals include the following: if at any time, the marine mammal(s) die or are euthanized, or if herding/intervention efforts are stopped, the Director of OPR, NMFS (or designee), will advise the

IHA-holder that the shutdown around the animals' location is no longer needed. Otherwise, shutdown procedures will remain in effect until the Director of OPR, NMFS (or designee), determines and advises L-DEO that all live animals involved have left the area (either of their own volition or following an intervention).

If further observations of the marine mammals indicate the potential for re-stranding, additional coordination with the IHA-holder will be required to determine what measures are necessary to minimize that likelihood (*e.g.*, extending the shutdown or moving operations farther away) and to implement those measures as appropriate.

Additional Information Requests—if NMFS determines that the circumstances of any marine mammal stranding found in the vicinity of the activity suggest investigation of the association with survey activities is warranted, and an investigation into the stranding is being pursued, NMFS will submit a written request to L-DEO indicating that the following initial available information must be provided as soon as possible, but no later than 7 business days after the request for information:

- Status of all sound source use in the 48 hours preceding the estimated time of stranding and within 50 km of the discovery/notification of the stranding by NMFS; and
- If available, description of the behavior of any marine mammal(s) observed preceding (*i.e.*, within 48 hours and 50 km) and immediately after the discovery of the stranding.

In the event that the investigation is still inconclusive, the investigation of the association of the survey activities is still warranted, and the investigation is still being pursued, NMFS may provide additional information requests, in writing, regarding the nature and location of survey operations prior to the time period above.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.*, population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact

determination. In addition to considering estimates of the number of marine mammals that might be "taken" through harassment, NMFS considers other factors, such as the likely nature of any impacts or responses (*e.g.*, intensity, duration), the context of any impacts or responses (*e.g.*, critical reproductive time or location, foraging impacts affecting energetics), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338, September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the baseline (*e.g.*, as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, the discussion of our analysis applies to all the species listed in Table 1, given that the anticipated effects of this activity on these different marine mammal stocks are expected to be similar. Where there are meaningful differences between species or stocks they are included as separate subsections below. NMFS does not anticipate that serious injury or mortality would occur as a result of L-DEO's planned survey, even in the absence of mitigation, and no serious injury or mortality is proposed to be authorized. As discussed in the Potential Effects of Specified Activities on Marine Mammals and Their Habitat section above, non-auditory physical effects and vessel strike are not expected to occur. NMFS expects that the majority of potential takes would be in the form of short-term Level B behavioral harassment in the form of temporary avoidance of the area or decreased foraging (if such activity was occurring), reactions that are considered to be of low severity and with no lasting biological consequences (*e.g.*, Southall *et al.*, 2007).

We are proposing to authorize a limited number of Level A harassment of 4 species in the form of PTS, and Level B harassment only of the remaining marine mammal species. If any PTS is incurred in marine mammals as a result of the planned activity, we expect only a small degree of PTS that would not result in severe hearing impairment because of the constant movement of both the Langseth and of the marine mammals in the project areas, as well as the fact that the vessel

is not expected to remain in any one area in which individual marine mammals would be expected to concentrate for an extended period of time. Additionally, L-DEO would shut down the airgun array if marine mammals approach within 500 m (with the exception of specific genera of dolphins, see Proposed Mitigation), further reducing the expected duration and intensity of sound, and therefore the likelihood of marine mammals incurring PTS. Since the duration of exposure to loud sounds will be relatively short it would be unlikely to affect the fitness of any individuals. Also, as described above, we expect that marine mammals would likely move away from a sound source that represents an aversive stimulus, especially at levels that would be expected to result in PTS, given sufficient notice of the Langseth's approach due to the vessel's relatively low speed when conducting seismic surveys. Accordingly, we expect that the majority of takes would be in the form of short-term Level B behavioral harassment in the form of temporary avoidance of the area or decreased foraging (if such activity were occurring), reactions that are considered to be of low severity and with no lasting biological consequences (e.g., Southall *et al.*, 2007, Ellison *et al.*, 2012).

In addition to being temporary, the maximum expected Level B harassment zone around the survey vessel is 6,733 m for water depths greater than 1,000 m (and up to 10,100 m in water depths of 100 to 1,000 m). Therefore, the ensonified area surrounding the vessel is relatively small compared to the overall distribution of animals in the area and their use of the habitat. Feeding behavior is not likely to be significantly impacted as prey species are mobile and are broadly distributed throughout the survey area; therefore, marine mammals that may be temporarily displaced during survey activities are expected to be able to resume foraging once they have moved away from areas with disturbing levels of underwater noise. Because of the short duration (40 days) and temporary nature of the disturbance and the availability of similar habitat and resources in the surrounding area, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

There are no rookeries, mating, or calving grounds known to be biologically important to marine mammals within the survey area and there are no feeding areas known to be

biologically important to marine mammals within the survey area. There is no designated critical habitat for any ESA-listed marine mammals in the survey area.

Marine Mammal Species With Active UMEs

As discussed above, there are several active UMEs occurring in the vicinity of L-DEO's survey area. Elevated humpback whale mortalities have occurred along the Atlantic coast from Maine through Florida since January 2016. Of the cases examined, approximately half had evidence of human interaction (ship strike or entanglement). The UME does not yet provide cause for concern regarding population-level impacts. Despite the UME, the relevant population of humpback whales (the West Indies breeding population, or DPS) remains stable at approximately 12,000 individuals.

Beginning in January 2017, elevated minke whale strandings have occurred along the Atlantic coast from Maine through South Carolina, with highest numbers in Massachusetts, Maine, and New York. This event does not provide cause for concern regarding population level impacts, as the likely population abundance is greater than 20,000 whales, and the UME is pending closure.

The proposed mitigation measures are expected to reduce the number and/or severity of takes for all species listed in Table 1, including those with active UMEs, to the level of least practicable adverse impact. In particular they would provide animals the opportunity to move away from the sound source throughout the survey area before seismic survey equipment reaches full energy, thus preventing them from being exposed to sound levels that have the potential to cause injury (Level A harassment) or more severe Level B harassment.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect any of the species or stocks through effects on annual rates of recruitment or survival:

- No serious injury or mortality is anticipated or authorized;
- The proposed activity is temporary and of relatively short duration (40 days);
- The vast majority of anticipated impacts of the proposed activity on marine mammals would be temporary behavioral changes due to avoidance of the area around the vessel;

- The availability of alternative areas of similar habitat value for marine mammals to temporarily vacate the survey area during the proposed survey to avoid exposure to sounds from the activity is readily abundant;

- The potential adverse effects on fish or invertebrate species that serve as prey species for marine mammals from the proposed survey would be temporary and spatially limited, and impacts to marine mammal foraging would be minimal;

- The proposed mitigation measures are expected to reduce the number of takes by Level A harassment (in the form of PTS) by allowing for detection of marine mammals in the vicinity of the vessel by visual and acoustic observers; and

- The proposed mitigation measures, including visual and acoustic shutdowns are expected to minimize potential impacts to marine mammals (both amount and severity).

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted previously, only small numbers of incidental take may be authorized under section 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers (86 FR 5322 p- 1024, January 19, 2021). However, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The amount of take NMFS proposes to authorize is below one-third of the estimated stock abundance for all species with available abundance estimates except for melon headed whale and Fraser's dolphin; for these species, the amount of take proposed to

be authorized by NMFS could amount to 34.5 percent of the modeled population abundance. Applying qualitative factors into our analysis, however, NMFS anticipates that actual take will be well below the one-third threshold. First, spatial factors lead us to believe only small numbers of the species will be taken given that the proposed survey area is a very small fraction of these species' range. The melon headed whale occurs in deep waters offshore of the southeastern U.S. and in the Gulf of Mexico extending as far south as southern Brazil, while Fraser's dolphin also occurs off the Western Atlantic in deep waters (1,000 m) from the Gulf of Mexico extending as far south as Uruguay. The Blake Plateau is a tiny fraction of these wide ranges, and NMFS does not anticipate, based on the species' behavior and life histories, a substantial percentage of either stock to concentrate in the Blake Plateau. This prediction is additionally informed by the fact that there have been zero OBIS database sightings of either species within the survey area. Second, temporal factors suggest only small numbers of take given that the activity would occur only over 40 days and during this brief period it is extremely unlikely that significant numbers of individual members of these species will be present near the survey area. Last, our calculation of 34.5% take is conservative in that it assumes that each anticipated take affects a different individual from the population. In fact, certain individuals may experience more than a single take, and given that fact, we would expect actual take to affect well below one-third of the relevant populations.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals would be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable

adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

Section 7(a)(2) of the ESA (16 U.S.C. 1531 *et seq.*) requires that each Federal agency ensure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species, in this case with the ESA Interagency Cooperation Division within the NMFS OPR.

NMFS is proposing to authorize take of blue whales, fin whales, sei whales, and sperm whales, which are listed under the ESA. The OPR Permits and Conservation Division has requested initiation of section 7 consultation with the OPR Interagency Cooperation Division for the issuance of this IHA. NMFS will conclude the ESA consultation prior to reaching a determination regarding the proposed issuance of the authorization.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to L-DEO for conducting a marine geophysical survey in the Blake Plateau in the Northwest Atlantic Ocean during summer/fall of 2023, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-research-and-other-activities>.

Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this notice of proposed IHA for the proposed marine geophysical survey. We also request comment on the potential renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform decisions on the request for this IHA or a subsequent renewal IHA.

On a case-by-case basis, NMFS may issue a one-time, 1-year renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical activities as described in the Description of Proposed Activities section of this notice is planned, or (2) the activities as described in the Description of Proposed Activities section of this notice would not be completed by the time the IHA expires and a renewal would allow for completion of the activities beyond that described in the *Dates and Duration* section of this notice, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to the needed renewal IHA effective date (recognizing that the renewal IHA expiration date cannot extend beyond 1 year from expiration of the initial IHA).

- The request for renewal must include the following:

- (1) An explanation that the activities to be conducted under the requested renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.*, reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take).

- (2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: June 1, 2023.

Kimberly Damon-Randall,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

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Part IV

Department of the Treasury

Internal Revenue Service

26 CFR Parts 1, 20, and 25

Use of Actuarial Tables in Valuing Annuities, Interests for Life or a Term of Years, and Remainder or Reversionary Interests; Final Rule

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 20, and 25

[TD 9974]

RIN 1545-BP00

Use of Actuarial Tables in Valuing Annuities, Interests for Life or a Term of Years, and Remainder or Reversionary Interests

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the use of actuarial tables in valuing annuities, interests for life or a term of years in property, and remainder or reversionary interests in property. These regulations are necessary because applicable law requires that the actuarial tables be revised not less frequently than once each 10 years. These regulations will affect persons valuing inter vivos and testamentary transfers of interests in property dependent on one or more measuring lives.

DATES:

Effective date: These regulations are effective on June 1, 2023.

Applicability date: These regulations apply on June 1, 2023.

FOR FURTHER INFORMATION CONTACT:

Mayer R. Samuels at (202) 317-6859 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1), the Estate Tax Regulations (26 CFR part 20), and the Gift Tax Regulations (26 CFR part 25) to reflect revisions to tables used for the valuation of certain interests in property under section 7520 of the Internal Revenue Code of 1986 (Code) to incorporate the most recent mortality experience available.

Section 7520, effective for transfers for which the valuation date is on or after May 1, 1989, generally provides that the value of an annuity, an interest in property for life or a term of years, (interest in property for life or a term of years), and a remainder or reversionary interest in property (remainder or reversionary interest) is to be determined under tables published by the Secretary of the Treasury or her delegate (Secretary) by using an interest rate (rounded to the nearest two-tenths of one percent) equal to 120 percent of the Federal midterm rate in effect under section 1274(d)(1) of the Code for the month in which the valuation date falls. If a charitable contribution is allowable for any part of the property transferred, the taxpayer may elect under section 7520(a) to use such Federal midterm rate for either of the two months preceding the month in which the valuation date falls. As originally enacted, section 7520(c)(2) directed the Secretary to issue tables not later than December 31, 1989, utilizing the most recent mortality experience as of the

date of the issuance of those tables, and to revise these tables not less frequently than once each 10 years to take into account the most recent mortality experience available as of the time of the revision.

On May 5, 2022, the Department of the Treasury (Treasury Department) and the IRS published proposed regulations (REG-122770-18) in the **Federal Register** (87 FR 26806) under sections 642, 664, 2031, 2512, and 7520 of the Code (proposed regulations).¹ The proposed regulations provided a revised mortality table, referred to as Table 2010CM, which is based on data compiled from the 2010 census. The proposed regulations also provided actuarial formulas to allow taxpayers to compute the appropriate actuarial factors based on Table 2010CM for transfers for which the valuation date is on or after the applicability date of the final regulations, which is June 1, 2023. However, for the convenience of taxpayers, the IRS has computed actuarial factors that can be found on IRS.gov and publications that are referenced in these regulations. The proposed regulations also made conforming amendments to various sections of the existing regulations to provide the references to these revised actuarial factors.

The following charts summarize the applicable interest rates, the citations to regulatory sections in 26 CFR parts 1, 20, and 25, textual materials, and tables to use for the various valuation periods.

CROSS REFERENCE TO REGULATION SECTIONS FOR PURPOSES OF SECTION 642

Valuation period	Interest rate	Part 1 section	Table
Valuation, in general		1.642(c)-6	
before 01/01/52	4%	1.642(c)-6A(a)	
01/01/52-12/31/70	3.5%	1.642(c)-6A(b)	
01/01/71-11/30/83	6%	1.642(c)-6A(c)	
12/01/83-04/30/89	10%	1.642(c)-6A(d)	Table G.
05/01/89-04/30/99	§ 7520	1.642(c)-6A(e)	Table S (05/01/89-04/30/99).
05/01/99-04/30/09	§ 7520	1.642(c)-6A(f)	Table S (05/01/99-04/30/09).
05/01/09-05/31/23	§ 7520	1.642(c)-6A(g)	Table S (05/01/09-05/31/23).
on or after 06/01/23	§ 7520	1.642(c)-6(e)	Table S (on or after 06/01/23).

CROSS REFERENCE TO REGULATION SECTIONS FOR PURPOSES OF SECTION 664

Valuation period	Interest rate	Part 1 section	Table
Valuation, in general		1.664-4	
before 01/01/52	4%	1.664-4A(a)	
01/01/52-12/31/70	3.5%	1.664-4A(b)	
01/01/71-11/30/83	6%	1.664-4A(c)	
12/01/83-04/30/89	10%	1.664-4A(d)	Table E, Table F(1).
05/01/89-04/30/99	§ 7520	1.664-4A(e)	Table U(1) (05/01/89-04/30/99).
05/01/99-04/30/09	§ 7520	1.664-4A(f)	Table U(1) (05/01/99-04/30/09).
05/01/09-05/31/23	§ 7520	1.664-4A(g)	Table U(1) (05/01/09-05/31/23).

¹ The proposed regulations were corrected on June 6, 2022 (87 FR 34223).

CROSS REFERENCE TO REGULATION SECTIONS FOR PURPOSES OF SECTION 664—Continued

Valuation period	Interest rate	Part 1 section	Table
on or after 06/01/23	§ 7520	1.664-4(e)	Table U(1) (on or after 06/01/23), Table D, and Table F; See Pub. 1458, ver. 4A (or successor).

CROSS REFERENCE TO REGULATION SECTIONS FOR PURPOSES OF SECTION 2031

Valuation period	Interest rate	Part 20 section	Table
Valuation, in general		20.2031-7	
before 01/01/52	4%	20.2031-7A(a)	
01/01/52-12/31/70	3.5%	20.2031-7A(b)	
01/01/71-11/30/83	6%	20.2031-7A(c)	
12/01/83-04/30/89	10%	20.2031-7A(d)	Tables A, B, and LN.
05/01/89-04/30/99	§ 7520	20.2031-7A(e)	Table S (05/01/89-04/30/99), Table 80CNSMT.
05/01/99-04/30/09	§ 7520	20.2031-7A(f)	Table S (05/01/99-04/30/09), Table 90CM.
05/01/09-05/31/23	§ 7520	20.2031-7A(g)	Table S (05/01/09-05/31/23), Table 2000CM.
on or after 06/01/23	§ 7520	20.2031-7(d)	Table S (on or after 06/01/23), Table 2010CM, Tables B, J, and K; See Pub. 1458, ver. 4A (or successor).

CROSS REFERENCE TO REGULATION SECTIONS FOR PURPOSES OF SECTION 2512

Valuation period	Interest rate	Part 25 section
Valuation, in general		25.2512-5
before 01/01/52	4%	25.2512-5A(a)
01/01/52-12/31/70	3.5%	25.2512-5A(b)
01/01/71-11/30/83	6%	25.2512-5A(c)
12/01/83-04/30/89	10%	25.2512-5A(d)
05/01/89-04/30/99	§ 7520	25.2512-5A(e)
05/01/99-04/30/09	§ 7520	25.2512-5A(f)
05/01/09-05/31/23	§ 7520	25.2512-5A(g)
on or after 06/01/23	§ 7520	25.2512-5(d)

The Treasury Department and the IRS received a total of eight public comments in response to the request for comments set forth in the proposed regulations. After careful consideration of the comments received, the proposed regulations are adopted as revised by this Treasury decision.

Summary of Comments and Explanation of Revisions

I. Decimal Places

Several commenters questioned the apparent lack of consistency with regard to the number of decimal places used in the calculation of different types of factors. Commenters also noted that a change from the three decimal places commonly used in some software could create problems, but others pointed out that a four decimal calculation would be more accurate.

Historically, publications of the Treasury Department and the IRS have stated remainder factors and income interest factors for terms certain to six decimal places, and remainder factors and income interest factors dependent on surviving lives to five decimal places. Annuity factors, for both terms

certain and annuities dependent on mortality, have been stated to four decimal places. In addition, the payout rate adjustment factors have been stated to six decimal places, and the adjusted payout rates have been stated to five decimal places. Tables for commutation factors largely have been stated with seven significant figures (that may include different numbers of decimal places). These practices have been in force at least since the publication of the 1951 tables. The tables published on the IRS website are largely consistent with these historic practices. There are technical reasons for the particular number of decimals used for several of these different factors, but all of the choices described in this paragraph conform to standard practice. The Treasury Department and the IRS have identified no policy or other reason to disrupt these standard practices that have been used consistently since 1951 and therefore have retained these same conventions in the final regulations and the tables referenced therein.

Several commenters noted that the number of decimal places used for various factors is inconsistent in two of the proposed examples involving

interpolation (that is, the estimation of intermediate values in a series based on the known values). In proposed § 1.664-4(e)(5)(iii), the charitable remainder unitrust example calculates the adjusted payout rate expressed as a percentage to four decimal places (which is equivalent to six decimal places when not stated as a percentage), while in proposed § 25.2512-5(d)(2)(v)(B)(2), a unitrust example calculates the adjusted payout rate expressed as a percentage to three decimal places (which is equivalent to five decimal places when not stated as a percentage). That difference was unintended, and the inconsistency has been corrected in the final regulations. Specifically, the example in § 1.664-4(e)(5)(iii) of the final regulations calculates the adjusted payout rate to three decimal places expressed as a percentage (equivalent to five decimal places when not stated as a percentage). Taxpayers may calculate any derived factors to additional decimal places (without rounding until the final result), as explained in more detail in part II of this Summary of Comments and

Explanation of Revisions.² The proposed regulations, however, do not provide that taxpayers may use fewer decimal places than those in the published tables.

II. Permissible Alternatives to Approximation Methods of Computation

One commenter commented on the fact that the proposed regulations allow the use of an alternative method of deriving certain factors in place of the linear interpolation method retained from the regulations in effect prior to the publication of this Treasury decision (current regulations). Specifically, the proposed regulations confirmed that taxpayers may use an exact method of obtaining the applicable factors, such as through software using the actual rate of return and the actuarial formulas provided in the regulations, in place of the generally less accurate interpolation method. The commenter pointed out that using an exact method rather than the interpolation method, may produce a difference in actuarial values that is more than trivial. Another commenter raised a similar concern about a taxpayer using factors with more decimal places for greater precision than the factors published by the IRS. That difference could be significant in value, or it could mean the difference between passing or failing a 10 percent remainder requirement. Accordingly, the commenter suggested that taxpayers may prefer to determine these values using the same method the IRS uses in its review of tax returns.

The provision in the proposed regulations permitting taxpayers to use actuarial formulas or to use more exact methods in place of the approximation methods provided allows taxpayers to produce factors with more accuracy. The Treasury Department and the IRS believe that taxpayers using software in place of using factors from the published tables will incur no additional burden in producing final factors to at least as many decimal places as are provided in the published tables. Therefore, the final regulations clarify that, if taxpayers use the formulas in place of factors from the tables, or use more exact methods than the approximation methods provided in the regulations, taxpayers must use at least as many decimal places in the final factors they compute as are provided for those factors in the final regulations. However, taxpayers are permitted to calculate the final actuarial factors to a

²One commenter also pointed out that the links to Table U2 incorrectly led to the R2 tables. That link was corrected upon receipt of that comment.

greater number of decimal places than provided for in the published tables, as the additional decimal place(s) provide greater precision. Because taxpayers are given this option to use a more accurate calculation method or factors with greater precision than the factors in the IRS tables, the IRS will accept the method used by a taxpayer as long as the taxpayer complies with the requirements described in the final regulations, uses at least as many decimal places as are provided in the published tables, and applies the more accurate calculation method or more precise calculation consistently in valuing all interests in the same property. This consistency requirement will avoid a situation in which the value of a life interest, when added to the value of the remainder interest calculated to a different number of decimal places, does not equal 100% of the value of the property.

III. Transition Period To Include Transactions Occurring on or After May 1, 2019 and Before January 1, 2021

The proposed regulations included a transition rule for valuation dates during the period beginning on January 1, 2021, and ending before June 1, 2023. For valuation dates during this period, taxpayers may choose to use either the actuarial factors in the current regulations that are based on Table 2000CM or the actuarial factors based on Table 2010CM. Several commenters requested that the transition period instead begin on May 1, 2019, which was the tenth anniversary of the applicability date of the tables of actuarial factors based on Table 2000CM. The commenters correctly pointed out that section 7520(c)(2) directs the Secretary to revise the tables prescribed under section 7520 not less frequently than once every 10 years to reflect the most recent mortality experience available at the time of the revision.³ The commenters stated that the delay in issuing the revised actuarial factors was not the fault of taxpayers or the IRS but nevertheless that the unavailability of updated mortality data should not deprive taxpayers of the

³The standard decennial mortality report based on the 2010 census was not issued by the Centers for Disease Control (CDC) until late summer of 2020. The CDC's decennial report provides a standard of consistency that the Treasury Department and the IRS rely upon for purposes of section 7520. Had the Treasury Department and the IRS issued a timely revision to the actuarial tables in the current regulations, the most recent decennial report available at that time would have been the report issued in 2008 with Table 2000CM, which would have merely resulted in a republication of the same actuarial tables in the current regulations.

ability to use the actuarial factors based on that data, once the factors became available, with regard to transactions occurring on or after May 1, 2019.

After careful thought and consideration of these comments as well as the administrative concerns of the IRS, the Treasury Department and the IRS have concluded that the issue of fairness to taxpayers in this circumstance outweighs the foreseeable administrative burdens on the IRS. As a result, the final regulations extend the proposed transition period to apply to transactions that occurred on or after May 1, 2019, and before June 2, 2023. For any transactions occurring during the transition period, a taxpayer may use actuarial factors based on Table 2000CM or based on Table 2010CM. However, with respect to each individual transaction and with respect to all transfers occurring on the same valuation date, the taxpayer must be consistent in using the same mortality basis with respect to each interest (income, remainder, partial, etc.) in the same property, and with respect to all transfers occurring on that valuation date.

IV. Amended Returns for Transactions Occurring on or After May 1, 2019

One commenter requested confirmation that taxpayers may file amended (or supplemental) tax returns for valuations in 2019, 2020, or 2021 to apply the new actuarial factors. As explained in part III of this Summary of Comments and Explanation of Revisions, the final regulations allow a taxpayer to choose actuarial factors based on Table 2000CM or Table 2010CM for any transaction occurring on or after May 1, 2019, and before June 2, 2023. The transition rules therefore necessarily anticipate that taxpayers who have filed returns reporting a valuation date within the transition period may file an amended (or supplemental) return, provided that the taxpayer complies with the standards for filing amended (or supplemental) returns and/or filing claims for refund.

Extending the transition period back to May 1, 2019, means that an applicable limitations period before which an amended or supplemental return may need to be filed may expire soon after the publication of this Treasury decision. Therefore, in the interests of efficient tax administration, and in order to allow the IRS to identify such an amended or supplemental return more easily, the final regulations require that the top of that return include the caption "AMENDED PURSUANT TO TD 9974" or

“SUPPLEMENTED PURSUANT TO TD 9974”, respectively.

V. Election To Use Actuarial Factors Based on Table 2010CM

One commenter requested additional guidance regarding the process and effect of making an election to use the revised actuarial factors based on Table 2010CM for a transaction occurring during the transition period ending on June 1, 2023. Although the final regulations require that a taxpayer include the caption “AMENDED PURSUANT TO TD 9974” or “SUPPLEMENTED PURSUANT TO TD 9974” at the top of any amended income tax return or supplemental gift or estate tax return, respectively, and that the selected tables be used consistently, no other affirmative statement is required to make the election. As on any return, taxpayers should show the relevant computations and factors used.

The availability of the option to use the revised actuarial tables based on Table 2010CM for valuation dates during the transition period, whether or not exercised, is not a condition subsequent and does not limit or otherwise affect the validity of any formula or other condition in a document (even if created before the transition period) that is intended to determine the amount, value, character, or tax treatment of a transfer.

VI. Applicability Dates

These regulations are applicable in the case of annuities, interests for life or terms of years, and remainder or reversionary interests valued as of a date on or after June 1, 2023.

Special Analyses

These regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget (OMB) regarding review of tax regulations. Therefore, a regulatory impact assessment is not required. In addition, the Treasury Department and the IRS have assessed that these regulations do not establish a new collection of information nor modify an existing collection that requires the approval of OMB under the Paperwork Reduction Act (44 U.S.C. chapter 35).

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. The applicability of these regulations is limited to individuals (or their estates) and trusts, which are not small entities

as defined by the Regulatory Flexibility Act (5 U.S.C. 601). This document implements statutorily required periodic revisions to actuarial tables used in valuing various interests in property that are affected by a person's life expectancy. The revisions would not impose any direct compliance requirements on any entities other than the time to read and understand the revisions. Accordingly, a regulatory flexibility analysis is not required.

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

Drafting Information

The principal author of these regulations is Mayer R. Samuels, Office of the Associate Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 20

Estate taxes, Reporting and recordkeeping requirements.

26 CFR Part 25

Gift taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR parts 1, 20, and 25 are amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.170A–12 is amended by:

- 1. Revising paragraphs (b)(2) and (3).
 - 2. Adding paragraph (b)(4).
 - 3. Revising paragraphs (e)(2) and (f)
- The revisions and addition read as follows:

§ 1.170A–12 Valuation of a remainder interest in real property for contributions made after July 31, 1969.

* * * * *

(b) * * *

(2) *Computation of depreciation factor.* If the valuation of the remainder interest in depreciable property is dependent upon the continuation of one life, a special factor must be used. The factor determined under this paragraph (b)(2) is carried to the fifth decimal place. The special factor is to be computed on the basis of the interest rate and life contingency rates from the mortality table prescribed in § 20.2031–7 of this chapter (or for periods before June 1, 2023, §§ 20.2031–7(d)(3) and 20.2031–7A of this chapter) and on the assumption that the property depreciates on a straight-line basis over its estimated useful life. For transfers for which the valuation date is on or after June 1, 2023, special factors for determining the present value of a remainder interest following one life may be computed by taxpayers based on Table 2010CM, found in § 20.2031–7(d)(7)(ii) of this chapter, and using the formula provided in this paragraph (b)(2). Alternatively, taxpayers may use the actuarial factors provided in Table C to determine the special factor for the remainder interest following one life. Table C currently is available, at no charge, electronically via the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). IRS Publication 1459, *Actuarial Valuations Version 4C* (2023), references and explains Table C and provides examples describing the computation. This publication will be available within a reasonable time after June 1, 2023. For transfers for which the valuation date is on or after May 1, 2009, and before June 1, 2023, special factors for determining the present value of a remainder interest following one life and an example describing the computation are contained in the previous version of Table C, which currently is available, at no charge, electronically via the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables>. IRS Publication 1459, *Actuarial Valuations Version 3C* (2009), references and explains this version of Table C and provides examples describing the computation. See, however, § 1.7520–3(b) (relating to exceptions to the use of prescribed tables under certain circumstances). Otherwise, in the case of the valuation of a remainder interest following one life, the special factor may be obtained through use of the formula in Figure 1 to this paragraph (b)(2). The prescribed mortality table is Table 2010CM as set forth in § 20.2031–7(d)(7)(ii) of this chapter, or for periods before June 1, 2023, the appropriate table found in

§ 20.2031-7A of this chapter. Table 2010CM is referenced by IRS Publication 1459, *Actuarial Values Version 4C*. The mortality tables

prescribed for periods before June 1, 2023, are referenced by prior versions of IRS Publication 1459.

Figure 1 to paragraph (b)(2)—Formula for Determining Single Life Remainder Interest in Depreciable Property

$$\left(1 + \frac{i}{2}\right) \sum_{t=0}^{n-1} v^{t+1} ({}_{t+1}q_x - {}_tq_x) \left(1 - \frac{1}{2n} - \frac{t}{n}\right)$$

where:

n = the estimated number of years of useful life;

i = the applicable interest rate under section 7520 of the Internal Revenue Code;

v = 1 / (1 + i) ;

${}_tq_x = 1 - \frac{l_{x+t}}{l_x}$;

x = the age of the measuring life (determined as age at nearest birthday); and

l_x = the number associated with age x as set forth in the prescribed mortality table, representing the number of persons alive at age x.

(3) *Sample factors from actuarial Table S.* The present value of a remainder interest dependent on the termination of one life is determined by using the formula in § 20.2031-7(d)(2)(ii)(B) of this chapter to derive a

remainder factor expressed to at least five decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table S. The complete Table S can be found on the IRS website

at <https://www.irs.gov/retirement-plans/actuarial-tables>. For purposes of the example in paragraph (b)(4) of this section, the following factors from Table S will be used:

TABLE 1 TO PARAGRAPH (b)(3)

Age	Annuity	Life estate	Remainder
Factors from Table S—Based on Table 2010CM			
Interest at 3.2 Percent			
62	14.6131	0.46762	0.53238

(4) *Example.* After June 1, 2023, A, who is 62, donates to Y University a remainder interest in a personal residence, consisting of a house and land, subject to a reserved life estate in A. At the time of the gift, the land has a value of \$30,000 and the house has a value of \$100,000 with an estimated useful life of 28 years, at the end of which period the value of the house is expected to be \$10,000. The portion of the property considered to be depreciable is \$90,000 (the value of the house (\$100,000) less its expected value at the end of 28 years (\$10,000)). The portion of the property considered to be nondepreciable is \$40,000 (the value of the land at the time of the gift (\$30,000) plus the expected value of the house at the end of 28 years (\$10,000)). A

chooses to use the interest rate prescribed under section 7520 for the month in which the gift was made (3.2 percent). Based on an interest rate of 3.2 percent, the remainder factor for \$1.00 prescribed in § 20.2031-7(d) and found in Table S for a person age 62 is 0.53238. The value of the nondepreciable remainder interest is \$21,295.20 (0.53238 times \$40,000). The factor for the remainder interest in depreciable property is computed under the formula described in paragraph (b)(2) of this section and is 0.19392. (This factor, 0.19392, may instead be determined by using Table C, which can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables>, and following the method provided in IRS Publication 1459,

Actuarial Values Version 4C.) The value of the depreciable remainder interest is \$17,452.80 (0.19392 times \$90,000). Therefore, the value of the remainder interest is \$38,748.00 (\$21,295.20 plus \$17,452.80).

* * * * *
(e) * * *

(2) In the case of the valuation of a remainder interest following two lives, the special factor may be obtained through use of the formula in Figure 2 to this paragraph (e)(2). The prescribed mortality table is Table 2010CM as set forth in § 20.2031-7(d)(7)(ii) of this chapter, or for periods before June 1, 2023, the appropriate table found in § 20.2031-7A of this chapter. Table 2010CM is referenced by IRS Publication 1459, *Actuarial Values*

Version 4C. The mortality tables prescribed for periods before June 1,

2023, are referenced by prior versions of IRS Publication 1459.

Figure 2 to Paragraph (e)(2)—Formula for Determining Two-Life Remainder Interest in Depreciable Property

$$\left(1 + \frac{i}{2}\right) \sum_{t=0}^{n-1} v^{t+1} ({}_{t+1}q_x \cdot {}_{t+1}q_y - {}_tq_x \cdot {}_tq_y) \left(1 - \frac{1}{2n} - \frac{t}{n}\right)$$

where:

- n = the estimated number of years of useful life;
- i = the applicable interest rate under section 7520 of the Internal Revenue Code;
- v = 1 / (1 + i) ;
- ${}_tq_x = 1 - \frac{l_{x+t}}{l_x}$;

x and y are the ages of the measuring lives (determined as age at nearest birthday); and l_x = the number associated with age x as set forth in the prescribed mortality table, representing the number of persons alive at age x.

* * * * *
 (f) *Applicability date.* This section applies to contributions made after July 31, 1969, except that paragraphs (b)(2), (3), and (4) and (e)(2) of this section apply to all contributions made on or after June 1, 2023.

■ **Par. 3.** Section 1.170A–14 is amended:

- 1. In paragraph (h)(4) by designating *Example 1* through *12* as paragraphs (h)(4)(i) through (xii), respectively.
- 2. By revising newly designated paragraph (h)(4)(ii).
- 3. In newly designated paragraphs (h)(4)(iii) and (iv) by removing “*Example 2*” and adding “paragraph (h)(4)(ii) of this section (*Example 2*)” in its place.
- 4. In newly designated paragraph (h)(4)(v) by removing “*Example 4*” and adding “paragraph (h)(4)(iv) of this section (*Example 4*)” in its place.
- 5. In newly designated paragraph (h)(4)(vi) by removing “*Example 2*” and adding “paragraph (h)(2)(ii) of this section (*Example 2*)” in its place.
- 6. In newly designated paragraph (h)(4)(viii) by removing “*Example 7*” and adding “paragraph (h)(4)(vii) of this section (*Example 7*)” in its place.
- 7. In newly designated paragraph (h)(4)(xi) by removing “*example 10*” and adding “paragraph (h)(4)(x) of this section (*Example 10*)” in its place.
- 8. By revising paragraph (j).

The revisions read as follows:

§ 1.170A–14 Qualified conservation contributions.

* * * * *

(h) * * *
 (4) * * *

(ii) *Example 2.* In 1984 B, who is 62, donates a remainder interest in Greenacre to a qualifying organization for conservation purposes, retaining an interest for B’s life. Greenacre is a tract of 200 acres of undeveloped woodland that is valued at \$200,000 at its highest and best use. Under § 1.170A–12(b), the value of a remainder interest in real property following one life is determined under § 25.2512–5 of this chapter (Gift Tax Regulations). (See § 25.2512–5A of this chapter with respect to the valuation of annuities, interests for life or a term of years, and remainder or reversionary interests transferred before June 1, 2023.) For transfers occurring after November 30, 1983, and before May 1, 1989, the single life remainder factors, valued at 10 percent, can be found in Table A of § 20.2031–7A(d)(6) of this chapter. The remainder factor under these facts is 0.27998. Accordingly, the value of the remainder interest, and thus the amount eligible for an income tax deduction under section 170(f), is \$55,996 (\$200,000 × 0.27998).

* * * * *

(j) *Applicability dates.* Except as otherwise provided in paragraph (g)(4)(ii) and paragraph (i) of this section, this section applies only to contributions made on or after December 18, 1980. Paragraph (h)(4)(ii) of this section applies on and after June 1, 2023.

■ **Par. 4.** Section 1.642(c)–6 is amended by:

- 1. Revising paragraph (d).
- 2. Redesignating paragraph (e) as paragraph (g) of § 1.642(c)–6A.
- 3. Adding new paragraph (e) and revising paragraph (f).

The revisions and addition read as follows:

§ 1.642(c)–6 Valuation of a remainder interest in property transferred to a pooled income fund.

* * * * *

(d) *Valuation.* The present value of the remainder interest in property transferred to a pooled income fund on or after June 1, 2023, is determined under paragraph (e) of this section. The present value of the remainder interest in property transferred to a pooled income fund for which the valuation date is before June 1, 2023, is determined (subject to paragraph (e)(2) of this section) under the following sections:

TABLE 6 TO PARAGRAPH (d)

Valuation dates		Applicable regulations
After	Before	
12–31–51	01–01–52	§ 1.642(c)–6A(a)
12–31–70	01–01–71	1.642(c)–6A(b)
11–30–83	12–01–83	1.642(c)–6A(c)
04–30–89	05–01–89	1.642(c)–6A(d)
04–30–99	05–01–99	1.642(c)–6A(e)
04–30–99	05–01–09	1.642(c)–6A(f)
04–30–09	06–01–23	1.642(c)–6A(g)

(e) *Present value of the remainder interest in the case of transfers to pooled income funds for which the valuation date is on or after June 1, 2023*—(1) *In general.* In the case of transfers to pooled income funds for which the valuation date is on or after June 1, 2023, the present value of a remainder interest is determined under this section. See, however, § 1.7520-3(b) (relating to exceptions to the use of prescribed tables under certain circumstances). The present value of a remainder interest that is dependent on the termination of the life of one individual is computed by using the formula in § 20.2031-7(d)(2)(ii)(B) of this chapter to derive a remainder factor from the appropriate mortality table to at least five decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table S. Table S currently is available, at no charge, electronically via the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). Table S is referenced and explained by IRS Publication 1457, *Actuarial Valuations Version 4A*, which will be available within a reasonable time after June 1, 2023. For purposes of the computations under this section, the age of an individual is the age at the individual's nearest birthday.

(2) *Transitional rule for valuation of transfers to pooled income funds.* For purposes of section 170, 2055, 2106, 2522, or 2624, in the case of transfers to a pooled income fund for which the valuation date is after April 30, 2019, and on or before June 1, 2023, the present value of the remainder interest under this section is determined by using the section 7520 interest rate for the month in which the valuation date occurs (see §§ 1.7520-1(b) and 1.7520-2(a)(2)) and the appropriate actuarial factors derived from the selected mortality table, either Table 2010CM in § 20.2031-7(d)(7)(ii) of this chapter or Table 2000CM in § 20.2031-7A(g)(4) of this chapter, at the option of the donor or the decedent's executor, as the case may be. If any previously filed income tax return is amended to use the actuarial factors based on Table 2010CM, the amended return must state at the top "AMENDED PURSUANT TO TD 9974." If any previously filed gift or estate tax return is supplemented to use the actuarial factors based on Table 2010CM, the supplemental return must state at the top "SUPPLEMENTED PURSUANT TO TD 9974." For the convenience of taxpayers, actuarial factors based on Table 2010CM appear

in the current version of Table S, and actuarial factors based on Table 2000CM appear in the previous version of Table S. Both versions of Table S currently are available, at no charge, electronically via the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). The donor or decedent's executor must consistently use the same mortality basis with respect to each interest (income, remainder, partial, etc.) in the same property, and with respect to all transfers occurring on the same valuation date. For example, gift and income tax charitable deductions with respect to the same transfer must be determined based on factors with the same mortality basis, and all assets includible in the gross estate and/or estate tax deductions claimed must be valued based on factors with the same mortality basis.

(3) *Present value of a remainder interest.* The present value of a remainder interest in property transferred to a pooled income fund is computed on the basis of—

(i) Life contingencies determined from the values of l_x that are set forth in Table 2010CM in § 20.2031-7(d)(7)(ii) of this chapter (see § 20.2031-7A of this chapter for certain prior periods); and

(ii) Discount at a rate of interest, compounded annually, equal to the highest yearly rate of return of the pooled income fund for the three taxable years immediately preceding its taxable year in which the transfer of property to the fund is made. For purposes of this paragraph (e), the yearly rate of return of a pooled income fund is determined as provided in paragraph (c) of this section unless the highest rate of return is deemed to be the rate described in paragraph (e)(4) of this section for funds in existence less than 3 taxable years. For purposes of this paragraph (e)(3)(ii), the first taxable year of a pooled income fund is considered a taxable year even though the taxable year consists of less than 12 months. However, appropriate adjustments must be made to annualize the rate of return earned by the fund for that period. Where it appears from the facts and circumstances that the highest yearly rate of return of the fund for the three taxable years immediately preceding the taxable year in which the transfer of property is made has been purposely manipulated to be substantially less than the rate of return that otherwise would be reasonably anticipated with the purpose of obtaining an excessive charitable deduction, that rate of return may not be used. In that case, the highest yearly rate

of return of the fund is determined by treating the fund as a pooled income fund that has been in existence for less than three preceding taxable years.

(4) *Pooled income funds in existence less than three taxable years.* If a pooled income fund has been in existence less than three taxable years immediately preceding the taxable year in which the transfer is made to the fund and the transfer to the fund is made on or after May 1, 1989, the highest rate of return is deemed to be the interest rate (rounded to the nearest two-tenths of one percent) that is one percent less than the highest annual average of the monthly section 7520 rates for the three calendar years immediately preceding the calendar year in which the transfer to the pooled income fund is made. The deemed rate of return for transfers to new pooled income funds is recomputed each calendar year using the monthly section 7520 rates for the three year period immediately preceding the calendar year in which each transfer to the fund is made until the fund has been in existence for three taxable years and can compute its highest rate of return for the three taxable years immediately preceding the taxable year in which the transfer of property to the fund is made in accordance with the rules set forth in the first sentence of paragraph (e)(3)(ii) of this section.

(5) *Computation of value of remainder interest*—(i) *Factor.* The factor that is used in determining the present value of a remainder interest that is dependent on the termination of the life of one individual is the factor obtained through use of the formula in § 20.2031-7(d)(2)(ii)(B) of this chapter to derive a remainder factor from the appropriate mortality table to at least five decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table S. Table S currently is available, at no charge, electronically via the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables>. Table S is referenced and explained in IRS Publication 1457, *Actuarial Valuations Version 4A*, which will be available within a reasonable time after June 1, 2023. In using the section of Table S for the interest rate equal to the appropriate yearly rate of return, the appropriate remainder factor is opposite the number that corresponds to the age of the individual upon whose life the value of the remainder interest is based (See § 1.642(c)-6A for certain prior periods). The tables referenced by IRS Publication 1457, *Actuarial Valuations Version 4A*, include factors for yearly rates of return from 0.2 to 20 percent, inclusive, in

increments of two-tenths of one percent. For other situations, see paragraph (b) of this section. If the yearly rate of return is a percentage that is between the yearly rates of return for which factors are provided by Table S, an exact method of obtaining the applicable factors (such as through software using the actual rate of return and the actuarial formulas provided in

§ 20.2031-7(d)(2)(ii)(B) of this chapter) or a linear interpolation must be used, provided whichever method used is applied consistently in valuing all interests in the same property. The applicable remainder factors derived by an exact method or by interpolation must be expressed to at least five decimal places. The present value of the remainder interest is determined by

multiplying the fair market value of the property on the valuation date by the appropriate remainder factor.

(ii) *Sample factors from actuarial Table S.* For purposes of the example in paragraph (e)(5)(iii) of this section, the following factors from Table S will be used:

TABLE 7 TO PARAGRAPH (e)(5)(ii)

Age	Annuity	Life estate	Remainder
Factors from Table S—Based on Table 2010CM			
Interest at 5.4 Percent			
55	13.2515	0.71558	0.28442
Interest at 5.6 Percent			
55	12.9710	0.72637	0.27363

(iii) *Example of interpolation.* After June 1, 2023, A, whose age is 54 years and 8 months, transfers \$100,000 to a pooled income fund, and retains a life income interest in the property. The highest yearly rate of return earned by

the fund for its 3 preceding taxable years is 5.43 percent. In Table S, the remainder factor opposite 55 years under 5.4 percent is 0.28442 and under 5.6 percent is 0.27363. The present value of the remainder interest is

\$28,280, computed as illustrated in Figure 1 to this paragraph (e)(5)(iii).

Figure 1 to Paragraph (e)(5)(iii)—Illustration of Interpolation Method

A.	Remainder Factor at 5.4 percent for age 55	0.28442
B.	Less: Remainder Factor at 5.6 percent for age 55	- 0.27363
C.	Difference: A - B	0.01079
D.	Interpolation Adjustment:	
	$\frac{5.43\% - 5.40\%}{5.60\% - 5.40\%} = \frac{z}{0.01079}$	
E.	$\frac{5.43\% - 5.40\%}{5.60\% - 5.40\%} \cdot 0.01079 = z = 0.00162$	
F.	Remainder Factor at 5.4 percent for age 55	0.28442
G.	Less: Interpolation Adjustment z	- 0.00162
H.	Interpolated Factor: F - G	0.28280
I.	Amount Transferred	\$ 100,000
J.	Present Value of Remainder Interest: H x I	\$ 28,280

(6) *Actuarial tables.* In the case of transfers for which the valuation date is on or after June 1, 2023, the present

value of a remainder interest dependent on the termination of one life in the case of a transfer to a pooled income fund is

determined by using the formula in § 20.2031-7(d)(2)(ii)(B) of this chapter to derive a remainder factor from the

appropriate mortality table to at least five decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table S. Table S currently is available, at no charge, electronically via the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables>. Table S is referenced and explained in IRS Publication 1457, *Actuarial Valuations Version 4A*, which will be available within a reasonable time after June 1, 2023.

(f) *Applicability date.* This section applies on and after June 1, 2023.

■ **Par. 5.** The undesignated center heading immediately preceding § 1.642(c)–6A is revised to read as follows:

Pooled Income Fund Actuarial Tables Applicable Before June 1, 2023

■ **Par. 6.** Section 1.642(c)–6A is amended by:

- 1. Revising the section heading.
- 2. In newly redesignated paragraph (g):

■ i. The heading and paragraphs (g)(1) through (5) and (g)(6) introductory text are revised.

■ ii. Paragraph (g)(7) is added.

The revisions and addition read as follows:

§ 1.642(c)–6A Valuation of charitable remainder interests for which the valuation date is before June 1, 2023.

* * * * *

(g) *Present value of the remainder interest in the case of transfers to pooled income funds for which the valuation date is on or after May 1, 2009, and before June 1, 2023—(1) In general.* In the case of transfers to pooled income funds for which the valuation date is on or after May 1, 2009, and before June 1, 2023, the present value of a remainder interest is determined under this section. See, however, § 1.7520–3(b) (relating to exceptions to the use of prescribed tables under certain circumstances). The present value of a remainder interest that is dependent on the termination of the life of one individual is computed by the use of Table S in paragraph (g)(6) of this section. For purposes of the computations under this section, the age of an individual is the age at the individual's nearest birthday.

(2) *Transitional rules for valuation of transfers to pooled income funds.* (i) For purposes of section 2055, 2106, or 2624, if on May 1, 2009, the decedent was under a mental disability so that the disposition of the property could not be changed, and the decedent died on or after May 1, 2009, but before June 2, 2023, without having regained the

ability to dispose of the decedent's property, or if the decedent died within 90 days of the date that the decedent first regained that ability on or after May 1, 2009, but before June 2, 2023, the present value of a remainder interest is determined as if the valuation date with respect to the decedent's gross estate is either before May 1, 2009, or after April 30, 2009, at the option of the decedent's executor.

(ii) For purposes of section 170, 2055, 2106, 2522, or 2624, in the case of transfers to a pooled income fund for which the valuation date is on or after May 1, 2009, and before July 1, 2009, the present value of the remainder interest under this section is determined by using the section 7520 interest rate for the month in which the valuation date occurs (see §§ 1.7520–1(b) and 1.7520–2(a)(2)) and the appropriate actuarial tables under either paragraph (f)(6) or (g)(6) of this section, at the option of the donor or the decedent's executor, as the case may be.

(iii) For purposes of paragraphs (g)(2)(i) and (ii) of this section, where the donor or decedent's executor is given the option to use the appropriate actuarial tables under either paragraph (f)(6) or (g)(6) of this section, the donor or decedent's executor must consistently use the same mortality basis with respect to each interest (income, remainder, partial, etc.) in the same property, and with respect to all transfers occurring on the same valuation date. For example, gift and income tax charitable deductions with respect to the same transfer must be determined based on factors with the same mortality basis, and all assets includible in the gross estate and/or estate tax deductions claimed must be valued based on factors with the same mortality basis.

(iv) In the case of transfers to a pooled income fund for which the valuation date is after April 30, 2019, and before June 1, 2023, the present value of the remainder interest under this section is determined under § 1.642(c)–6(e)(2).

(3) *Present value of a remainder interest.* The present value of a remainder interest in property transferred to a pooled income fund is computed on the basis of—

(i) Life contingencies determined from the values of I_x that are set forth in Table 2000CM in § 20.2031–7A(g)(4) of this chapter; and

(ii) Discount at a rate of interest, compounded annually, equal to the highest yearly rate of return of the pooled income fund for the three taxable years immediately preceding its taxable year in which the transfer of property to the fund is made. The

provisions of § 1.642(c)–6(c) apply for determining the yearly rate of return. However, where the taxable year is less than 12 months, the provisions of § 1.642(c)–6(e)(3)(ii) apply for the determining the yearly rate of return.

(4) *Pooled income funds in existence less than three taxable years.* The provisions of § 1.642(c)–6(e)(4) apply for determining the highest yearly rate of return when the pooled income fund has been in existence less than three taxable years.

(5) *Computation of value of remainder interest.* The factor that is used in determining the present value of a remainder interest that is dependent on the termination of the life of one individual is the factor from Table S in paragraph (g)(6) of this section under the appropriate yearly rate of return opposite the number that corresponds to the age of the individual upon whose life the value of the remainder interest is based. Table S in paragraph (g)(6) of this section includes factors for yearly rates of return from 0.2 to 14 percent, inclusive, in increments of two-tenths of one percent. Actuarial factors that do not appear in paragraph (g)(6) of this section may be computed directly by using the formula in § 20.2031–7(d)(2)(ii)(B) of this chapter to derive a remainder factor from the appropriate mortality table to at least five decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table S that is referenced and explained by IRS Publication 1457, *Actuarial Valuations Version 3A* (2009). The table is available at no charge, electronically via the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). For other situations, see § 1.642(c)–6(b). If the yearly rate of return is a percentage that is between the yearly rates of return for which factors are provided by Table S, an exact method of obtaining the applicable factors (such as through software using the actual rate of return and actuarial formulas provided in § 20.2031–7(d)(2)(ii)(B) of this chapter) or a linear interpolation must be used, provided whichever method used is applied consistently in valuing all interests in the same property. The present value of the remainder interest is determined by multiplying the fair market value of the property on the valuation date by the appropriate remainder factor. For an example of a computation of the present value of a remainder interest requiring a linear interpolation adjustment, see § 1.642(c)–6(e)(5).

(6) *Actuarial tables.* In the case of transfers for which the valuation date is on or after May 1, 2009, and before June 1, 2023, and without regard to the headings in the tables in this paragraph (g)(6) that do not contain this termination date for the applicability of the tables, the present value of a remainder interest dependent on the termination of one life in the case of a transfer to a pooled income fund is determined by using the following tables:

* * * * *

(7) *Applicability dates.* Paragraphs (g)(1) through (6) of this section apply on and after May 1, 2009, and before June 1, 2023.

■ **Par. 7.** Section 1.664–2 is amended by revising paragraphs (c) and (e) as follows:

§ 1.664–2 Charitable remainder annuity trust.

* * * * *

(c) *Calculation of the fair market value of the remainder interest of a charitable remainder annuity trust.* For purposes of sections 170, 2055, 2106, and 2522, the fair market value of the remainder interest of a charitable remainder annuity trust (as described in this section) is the net fair market value (as of the appropriate valuation date) of the property placed in trust less the present value of the annuity. For purposes of this section, *valuation date* means, in general, the date on which the property is transferred to the trust by the donor regardless of when the trust is created. In the case of transfers to a charitable remainder annuity trust for which the valuation date is after April 30, 1999, if an election is made under section 7520 and § 1.7520–2(b) to compute the present value of the charitable interest by using the interest rate component for either of the 2 months preceding the month in which the transfer is made, the month so elected is the valuation date for purposes of determining the interest rate and mortality tables. For purposes of section 2055 or 2106, the valuation date is the date of death unless the alternate valuation date is elected in accordance with section 2032 in which event, and within the limitations set forth in section 2032 and the regulations in this part under section 2032, the valuation date is the alternate valuation date. If the decedent's estate elects the alternate valuation date under section 2032 and also elects, under section 7520 and § 1.7520–2(b), to use the interest rate component for one of the 2 months preceding the alternate valuation date, the month so elected is the valuation date for purposes of determining the

interest rate and mortality tables. The present value of an annuity is computed under § 20.2031–7(d) of this chapter for transfers for which the valuation date is on or after June 1, 2023, or under § 20.2031–7A(a) through (g) of this chapter, whichever is applicable, for transfers for which the valuation date is before June 1, 2023. See, however, §§ 20.2031–7(d)(3) and 25.2512–5(d)(3) (transition rules) and 1.7520–3(b) (relating to exceptions to the use of prescribed tables under certain circumstances).

* * * * *

(e) *Applicability date.* Paragraph (c) of this section applies on and after June 1, 2023.

■ **Par. 8.** Section 1.664–4 is amended by:

- 1. Revising paragraphs (a)(1) and (d).
- 2. In paragraph (e):
 - i. Redesignating the heading and paragraphs (e)(1), (2), (5), and (7) as the heading for § 1.664–4A(g) and paragraphs (g)(1), (2), (5), and (6), respectively.
 - ii. Adding a new heading and new paragraphs (e)(1), (2), and (5).
 - iii. Revising the heading for paragraph (e)(6).
 - iv. Redesignating the text of paragraph (e)(6) as paragraph (e)(6)(iii).
 - v. Adding paragraphs (e)(6)(i) and (ii).
 - vi. Revising the introductory text of newly redesignated paragraph (e)(6)(iii).
 - vii. Adding a new paragraph (e)(7).
- 3. Revising paragraph (f).

The additions and revisions read as follows:

§ 1.664–4 Calculation of the fair market value of the remainder interest in a charitable remainder unitrust.

(a) * * *

(1) Life contingencies determined as to each life involved, from the values of l_x set forth in Table 2010CM in § 20.2031–7(d)(7)(ii) of this chapter in the case of transfers for which the valuation date is on or after June 1, 2023; or from Table 2000CM contained in § 20.2031–7A(g)(4) of this chapter in the case of transfers for which the valuation date is on or after May 1, 2009, and before June 1, 2023. See § 20.2031–7A(a) through (f) of this chapter, whichever is applicable, for transfers for which the valuation date is before May 1, 2009;

* * * * *

(d) *Valuation.* The fair market value of a remainder interest in a charitable remainder unitrust (as described in § 1.664–3) for transfers for which the valuation date is on or after June 1, 2023, is its present value determined under paragraph (e) of this section. The

fair market value of a remainder interest in a charitable remainder unitrust (as described in § 1.664–3) for transfers for which the valuation date is before June 1, 2023, is its present value determined under the following sections:

TABLE 1 TO PARAGRAPH (d)

Valuation dates		Applicable regulations
After	Before	
	01–01–52	1.664–4A(a)
12–31–51	01–01–71	1.664–4A(b)
12–31–70	12–01–83	1.664–4A(c)
11–30–83	05–01–89	1.664–4A(d)
04–30–89	05–01–99	1.664–4A(e)
04–30–99	05–01–09	1.664–4A(f)
04–30–09	06–01–23	1.664–4A(g)

(e) *Valuation of charitable remainder unitrusts having certain payout sequences for transfers for which the valuation date is on or after June 1, 2023—(1) In general.* Except as otherwise provided in paragraph (e)(2) of this section, in the case of transfers for which the valuation date is on or after June 1, 2023, the present value of a remainder interest is determined under paragraphs (e)(3) through (7) of this section, provided that, in a short taxable year, the trustee must prorate the unitrust amount as provided in § 1.664–3(a)(1)(v). See, however, § 1.7520–3(b) (relating to exceptions to the use of the prescribed tables under certain circumstances).

(2) *Transitional rule for valuation of charitable remainder unitrusts.* For purposes of section 170, 2055, 2106, 2522, or 2624, in the case of transfers to a charitable remainder unitrust for which the valuation date is after April 30, 2019, and on or before June 1, 2023, the present value of a remainder interest based on one or more measuring lives is determined under this section by using the section 7520 interest rate for the month in which the valuation date occurs (see §§ 1.7520–1(b) and 1.7520–2(a)(2)) and the appropriate actuarial factors derived from the selected mortality table, either Table 2010CM in § 20.2031–7(d)(7)(ii) of this chapter or Table 2000CM in § 20.2031–7A(g)(4) of this chapter, at the option of the donor or the decedent's executor, as the case may be. If any previously filed income tax return is amended to use the actuarial factors based on Table 2010CM, the amended return must state at the top “AMENDED PURSUANT TO TD 9974.” If any previously filed gift or estate tax return is supplemented to use the actuarial factors based on Table 2010CM, the supplemental return must state at the top “SUPPLEMENTED PURSUANT TO TD 9974.” For the

convenience of taxpayers, actuarial factors based on Table 2010CM appear in the current version of Table U(1), and actuarial factors based on Table 2000CM appear in the previous version of Table U(1). Both versions of Table U(1) currently are available, at no charge, electronically via the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). The donor or decedent’s executor must consistently use the same mortality basis with respect to each interest (income, remainder, partial, etc.) in the same property, and with respect to all transfers occurring on the same valuation date. For example, gift and income tax charitable deductions with respect to the same transfer must be determined based on factors with the same mortality basis, and all assets includible in the gross estate and/or estate tax deductions claimed must be valued based on factors with the same mortality basis.

* * * * *

(5) *Period is the life of one individual*—(i) *Factor*. If the period described in § 1.664–3(a)(5) is the life of one individual, the factor that is used in determining the present value of the remainder interest for transfers for

which the valuation date is on or after June 1, 2023, is the factor obtained through the use of the formula in Figure 1 to this paragraph (e)(5)(i) to at least five decimal places. The prescribed mortality table is Table 2010CM as set forth in § 20.2031–7(d)(7)(ii) of this chapter, or for periods before June 1, 2023, the appropriate table found in § 20.2031–7A of this chapter. Table 2010CM is referenced by IRS Publication 1458, *Actuarial Values Version 4B*. The mortality tables prescribed for periods before June 1, 2023, are referenced by prior versions of IRS Publication 1458. Alternatively, the remainder factors have been determined for the convenience of taxpayers and appear in Table U(1) under the appropriate adjusted payout rate. Table U(1) currently is available, at no charge, electronically via the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). Table U(1) is referenced and explained by IRS Publication 1458, *Actuarial Valuations Version 4B*, which will be available within a reasonable time after June 1, 2023. For purposes of the computations described in this paragraph (e)(5), the age of an individual is the age of that individual at the individual’s nearest birthday. If

the adjusted payout rate is an amount that is between adjusted payout rates for which factors are provided in the appropriate table, an exact method of obtaining the applicable remainder factors (such as through software using the actual adjusted payout rate and the actuarial formula in this paragraph (e)(5)) or a linear interpolation must be used, provided whichever method used is applied consistently in valuing all interests in the same property. The applicable remainder factors derived by an exact method or by interpolation must be expressed to at least five decimal places. The present value of the remainder interest is determined by multiplying the net fair market value (as of the valuation date as determined in § 1.664–4(e)(4)) of the property placed in trust by the factor determined under this paragraph (e)(5). If the adjusted payout rate is from 0.2 to 20.0 percent, inclusive, taxpayers may see the actuarial tables referenced and explained by IRS Publication 1458, *Actuarial Valuations Version 4B*. Alternatively, the Commissioner may supply a factor upon a request for a ruling. See paragraph (b) of this section.

**Figure 1 to Paragraph (e)(5)(i)—
Formula for Determining Unitrust
Remainder Factors**

$$\left(1 + \frac{i}{2}\right) \sum_{t=0}^{\infty} v^{t+1} ({}_{t+1}q_x - {}_tq_x)$$

where:

r = the adjusted payout rate;

v = 1 - r;

i = r / (1 - r)

${}_tq_x = 1 - \frac{l_{x+t}}{l_x}$;

x = the age of the measuring life (determined as age at nearest birthday); and

l_x = the number associated with age x as set forth in the prescribed mortality table, representing the number of persons alive at age x.

(ii) *Sample factors from actuarial Table U(1)*. For purposes of the example

in paragraph (e)(5)(iii) of this section, the following factors from Table U(1)

and Table F(3.2) (see paragraph (e)(6)(ii) of this section) will be used:

TABLE 2 TO PARAGRAPH (e)(5)(ii)
FACTORS FROM TABLE U(1)—BASED ON TABLE 2010CM

Adjusted payout rate			
Age	4.8%	5.0%	5.2%
77	0.61491	0.60343	0.59223

Factors from Table F(3.2)
Factors for Computing Adjusted Payout Rates for Unitrusts

Interest at 3.2 Percent			
# of Months from Annual Valuation to First Payout		Adjustment Factors for Payments at End of Period	
At Least	But Less Than	Annual	Semiannual
6	7	0.984374	0.976683

(iii) *Example of interpolation.* After June 1, 2023, A, whose age is 76 years and 11 months, transfers \$100,000 to a charitable remainder unitrust on January 1st. The trust instrument requires that the trust pay to A semiannually (on June 30 and December 31) 5 percent of the fair market value of

the trust assets as of January 1st during A's life. The section 7520 rate for January is 3.2 percent. Under Table F(3.2), the appropriate adjustment factor is 0.976683 for semiannual payments payable at the end of the semiannual period. The adjusted payout rate is 4.883% (5% × 0.976683). Based on

interpolating between the remainder factors in Table U(1), the present value of the remainder interest is \$61,015, computed as illustrated in Figure 2 to this paragraph (e)(5)(iii).

**Figure 2 to Paragraph (e)(5)(iii)—
Illustration of Unitrust Interpolation Method**

A. Table U(1) Factor at 4.8 percent for age 77	0.61491
B. Less: Table U(1) Factor at 5.0 percent for age 77	- 0.60343
C. Difference: A - B	0.01148

D. Interpolation Adjustment:

$$\frac{4.883\% - 4.80\%}{5.0\% - 4.80\%} = \frac{z}{0.01148}$$

E. $\frac{4.883\% - 4.80\%}{5.0\% - 4.80\%} \cdot 0.01148 = z = 0.00476$

F. Table U(1) Factor at 4.8 percent for age 77	0.61491
G. Less: Interpolation Adjustment z	- 0.00476
H. Interpolated Factor: F - G	0.61015

I. Amount Transferred	\$ 100,000
J. Present Value of Remainder Interest: H x I	\$ 61,015

(6) *Actuarial Table D and Tables F(0.2) through F(20.0) for transfers for which the valuation date is on or after May 1, 1989—(i) Remainder factors for charitable remainder unitrusts.* For

transfers for which the valuation date is on or after May 1, 1989, the present value of a charitable remainder unitrust interest that is dependent upon a term of years is determined by using the

formula in Figure 3 to this paragraph (e)(6)(i) and calculating the final result to at least six decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS

and appear in Table D. Table D can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). Table D is referenced and explained in IRS Publication 1458, *Actuarial Valuations Version 4B*, which will be available within a reasonable time after June 1,

2023. The remainder factors from Table D also can be found in paragraph (e)(6)(iii) of this section, but only for adjusted payout rates from 4.2 to 14 percent, inclusive. For transfers for which the valuation date is on or after June 1, 2023, where the present value of a charitable remainder unitrust interest is dependent on the termination of a life

interest, see paragraph (e)(5) of this section. See, however, § 1.7520-3(b) (relating to exceptions to the use of prescribed tables under certain circumstances).

**Figure 3 to Paragraph (e)(6)(i)—
Formula for Determining Term Certain
Unitrust Remainder Factors**

$$(1 - r)^n$$

where:

n = the term in years or fractions of a year; and

r = the adjusted payout rate.

(ii) *Unitrust payout rate adjustment factors.* For transfers for which the valuation date is on or after May 1, 1989, the unitrust payout rate adjustment factors are determined by using the formula in Figure 4 to this paragraph (e)(6)(ii) and calculating the final result to at least six decimal places. For the convenience of taxpayers, actuarial factors have been computed by

the IRS, for interest rates from 0.2 to 20 percent, inclusive, and appear in Tables F(0.2) through F(20.0). Tables F(0.2) through F(20.0) can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). Tables F(0.2) through F(20.0) are referenced and explained in IRS Publication 1458,

Actuarial Valuations Version 4B, which will be available within a reasonable time after June 1, 2023. The factors from Table F also can be found in paragraph (e)(6)(iii) of this section, but only for interest rates from 4.2 to 14 percent, inclusive.

**Figure 4 to Paragraph (e)(6)(ii)—
Formula for Determining Unitrust
Payout Rate Adjustment Factors**

$$\frac{(1 + i)^{(1/p)} \cdot i \cdot v^{(d/12)}}{p(1 + i)[(1 + i)^{(1/p)} - 1]}$$

where:

p = the number of payments per year;

i = the applicable interest rate under section 7520 of the Internal Revenue Code;

v = 1 / (1 + i); and

d = the number of months between the annual valuation date and the regular

first payout date of a standard full year of the trust.

(iii) *Table D and Tables F(4.2) through F(14.0).* The unitrust remainder factors from Table D, for interest rates from 4.2 to 14 percent, inclusive, and the unitrust payout factors from Tables F(4.2) through F(14.0) are as follows:

(7) *Actuarial Table U(1) for transfers for which the valuation date is on or after June 1, 2023.* The present value of a remainder interest in a charitable remainder unitrust that is dependent on the termination of a life interest is determined by using the section 7520 rate, Tables F(0.2) through (20.0) (see paragraph (e)(6)(ii) of this section), and

the formula in paragraph (e)(5)(i) of this section to derive a remainder factor from the appropriate mortality table to at least five decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table U(1). For transfers for which the valuation date is on or after June 1, 2023, the actuarial tables are currently available, at no charge, electronically via the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables>. These actuarial tables are referenced and explained by IRS Publication 1458, *Actuarial Valuations Version 4B* (2023). This publication will

be available within a reasonable time after June 1, 2023. See, however, § 1.7520-3(b) (relating to exceptions to the use of prescribed tables under certain circumstances).

(f) *Applicability date.* This section applies on and after June 1, 2023.

■ **Par. 9.** The undesignated center heading immediately preceding § 1.664-4A is revised to read as follows:

Unitrust Actuarial Tables Applicable Before June 1, 2023.

■ **Par. 10.** Section 1.664-4A is amended by:

- 1. Revising the section heading.
- 2. In newly redesignated paragraph (g):
 - i. Revising the heading and paragraphs (g)(1) and (2).
 - ii. Adding paragraphs (g)(3) and (4).
 - iii. Revising paragraph (g)(5).
 - iv. In paragraph (g)(6), revising the introductory text.
 - v. Adding paragraph (g)(7).

The additions and revisions read as follows:

§ 1.664-4A Valuation of charitable remainder interests for which the valuation date is before June 1, 2023.

* * * * *

(g) *Valuation of charitable remainder unitrusts having certain payout sequences for transfers for which the valuation date is on or after May 1, 2009, and before June 1, 2023*—(1) *In general.* Except as otherwise provided in paragraph (g)(2) of this section, in the case of transfers for which the valuation date is on or after May 1, 2009, and before June 1, 2023, the present value of a remainder interest is determined under paragraphs (g)(3) through (6) of this section, provided that the amount of the payout as of any payout date during any taxable year of the trust is not larger than the amount that the trust could distribute on such date under § 1.664-3(a)(1)(v) if the taxable year of the trust were to end on such date. See, however, § 1.7520-3(b) (relating to exceptions to the use of the prescribed tables under certain circumstances).

(2) *Transitional rules for valuation of charitable remainder unitrusts.* (i) For purposes of section 2055, 2106, or 2624, if on May 1, 2009, the decedent was under a mental disability so that the disposition of the property could not be changed, and the decedent died on or after May 1, 2009, but before June 2, 2023, without having regained the ability to dispose of the decedent's property, or if the decedent died within 90 days of the date that the decedent first regained that ability on or after May 1, 2009, but before June 2, 2023, the present value of a remainder interest under this section is determined as if the valuation date with respect to the decedent's gross estate is either before May 1, 2009, or after April 30, 2009, at the option of the decedent's executor.

(ii) For purposes of section 170, 2055, 2106, 2522, or 2624, in the case of transfers to a charitable remainder unitrust for which the valuation date is on or after May 1, 2009, and before July 1, 2009, the present value of a remainder interest based on one or more measuring lives is determined under this section by using the section 7520 interest rate for the month in which the

valuation date occurs (see §§ 1.7520-1(b) and 1.7520-2(a)(2)) and the appropriate actuarial tables under either paragraph (f)(6) or (g)(6) of this section, at the option of the donor or the decedent's executor, as the case may be.

(iii) For purposes of paragraphs (g)(2)(i) and (ii) of this section, where the donor or decedent's executor is given the option to use the appropriate actuarial tables under either paragraph (f)(6) or (g)(6) of this section, the donor or decedent's executor must consistently use the same mortality basis with respect to each interest (income, remainder, partial, etc.) in the same property, and with respect to all transfers occurring on the same valuation date. For example, gift and income tax charitable deductions with respect to the same transfer must be determined based on factors with the same mortality basis, and all assets includible in the gross estate and/or estate tax deductions claimed must be valued based on factors with the same mortality basis.

(iv) In the case of transfers to a charitable remainder unitrust for which the valuation date is after April 30, 2019, and before June 1, 2023, the present value of the remainder interest under this section is determined under § 1.664(c)-4(e)(2).

(3) *Adjusted payout rate.* The adjusted payout rate is determined by applying the formula in § 1.664-4(e)(6)(ii) for the section 7520 interest rate applicable to the transfer to derive a factor and calculating the final result to at least six decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS, for interest rates from 0.2 to 20 percent, inclusive, and appear in Tables F(0.2) through F(20.0). Tables F(0.2) through F(20.0) can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). Tables F(0.2) through F(20.0) are referenced and explained in IRS Publication 1458, *Actuarial Valuations Version 3B*. The payout adjustment factors from Table F can also be found in § 1.664-4(e)(6)(iii), but only for interest rates from 4.2 to 14 percent, inclusive. Alternatively, the Commissioner may supply a factor upon a request for a ruling. See § 1.664-4(b). See § 1.664-4(e) for rules applicable in determining the adjusted payout rate.

(4) *Period is a term of years.* If the period described in § 1.664-3(a)(5) is a term of years, the factor that is used in determining the present value of the remainder interest is determined by applying the formula in § 1.664-4(e)(6)(i) under the appropriate adjusted payout rate corresponding to the

number of years in the term and calculating the final result to at least six decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table D. Table D can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). Table D is referenced and explained in IRS Publication 1458, *Actuarial Valuations Version 3B*. The remainder factors from Table D also can be found in § 1.664-4(e)(6)(iii), but only for adjusted payout rates from 4.2 to 14 percent, inclusive. If the adjusted payout rate is a percentage that is between the adjusted payout rate for which factors are provided by Table D, an exact method of obtaining the applicable remainder factors (such as through software using the actual rate of return and the actuarial formula provided in § 1.664-4(e)(6)(i)) or a linear interpolation must be used, provided whichever method used is applied consistently in valuing all interests in the same property. The applicable remainder factors derived by an exact method or by interpolation must be expressed to at least six decimal places. The present value of the remainder interest is determined by multiplying the net fair market value (as of the appropriate valuation date) of the property placed in trust by the factor determined under this paragraph (g)(4). Generally, for purposes of this section, the valuation date is, in the case of an inter vivos transfer, the date on which the property is transferred to the trust by the donor, and, in the case of a testamentary transfer under section 2055, 2106, or 2624, the valuation date is the date of death. See § 1.664-4(e)(4) for additional rules regarding the valuation date, and for an example that illustrates the application of this paragraph (g)(4).

(5) *Period is the life of one individual.* If the period described in § 1.664-3(a)(5) is the life of one individual, the factor that is used in determining the present value of the remainder interest for transfers for which the valuation date is on or after May 1, 2009, and before June 1, 2023, may be computed directly by using the formula in § 1.664-4(e)(5)(i) to derive a remainder factor from the appropriate mortality table and calculating the final result to at least five decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table U(1). Table U(1) can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding

URL as may be updated from time to time). Table U(1) is referenced and explained in IRS Publication 1458, *Actuarial Valuations Version 3B*. The remainder factors from Table U(1) also can be found in paragraph (g)(6) of this section, but only for adjusted payout rates from 4.2 to 14 percent, inclusive. For purposes of the computations described in this paragraph (g)(5), the age of an individual is the age of that individual at the individual's nearest birthday. If the adjusted payout rate is a percentage that is between the adjusted payout rate for which factors are provided by Table U(1), an exact method of obtaining the applicable factors (such as through software using the actual rate of return and the actuarial formula provided in § 1.664-4(e)(5)(i)) or a linear interpolation must be used, provided whichever method used is applied consistently in valuing all interests in the same property. The applicable remainder factors derived by an exact method or by interpolation must be expressed to at least five decimal places. The rules provided in § 1.664-4(e)(5) apply for determining the present value of the remainder interest. See § 1.664-4(e)(5) for an example illustrating the application of this paragraph (g)(5) (using current actuarial tables).

(6) *Actuarial Table U(1) for transfers for which the valuation date is on or after May 1, 2009, and before June 1, 2023.* For transfers for which the valuation date is on or after May 1, 2009, and before June 1, 2023, and without regard to the headings in the tables in this paragraph (g)(6) that do not contain this termination date for the applicability of the tables, the present value of a charitable remainder unitrust interest that is dependent on the termination of a life interest is determined by using the section 7520 rate, Table U(1) in this paragraph (g)(6), and Tables F(4.2) through F(14.0) in § 1.664-4(e)(6)(iii). See, however, § 1.7520-3(b) (relating to exceptions to the use of prescribed tables under certain circumstances). Actuarial factors that do not appear in the following tables may be computed directly by using the formula in § 1.664-4(e)(5)(i) to derive remainder factors from the appropriate mortality table and calculating the result to at least five decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table U(1) that is referenced and explained by IRS Publication 1458, *Actuarial Valuations Version 3B* (2009). The table is available at no charge, electronically via the IRS website at

<https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time).

* * * * *

(7) *Applicability dates.* Paragraphs (g)(1) through (6) of this section apply on and after May 1, 2009, and before June 1, 2023.

■ **Par. 11.** Section 1.7520-1 is amended by revising paragraphs (a)(1) and (2), (b)(2), (c), and (d) and adding paragraphs (e) and (f) to read as follows:

§ 1.7520-1 Valuation of annuities, interests for life or a term of years, and remainder or reversionary interests.

(a) * * * (1) Except as otherwise provided in this section and in § 1.7520-3 (relating to exceptions to the use of prescribed tables under certain circumstances), in the case of certain transactions after April 30, 1989, subject to income tax, the fair market value of annuities, interests for life or a term of years (including unitrust interests), and remainder or reversionary interests is their present value determined under this section. See § 20.2031-7(d) of this chapter (and, for periods prior to June 1, 2023, §§ 20.2031-7(d)(3) and 20.2031-7A of this chapter) for the computation of the value of annuities, interests for life or a term of years, and remainder or reversionary interests other than interests described in paragraphs (a)(2) and (3) of this section.

(2) For a transfer to a pooled income fund, see § 1.642(c)-6(e) (or, for periods prior to June 1, 2023, § 1.642(c)-6A) with respect to the valuation of the remainder interest.

* * * * *

(b) * * *

(2) *Mortality component.* The mortality component reflects the mortality data in the most recently available decennial mortality report based on the United States census. As the appropriate new decennial mortality report becomes available after each decennial census, the Treasury Department and the IRS will revise the mortality component described in this section and will update the appropriate regulations to adopt the revised mortality component tables. For transactions with valuation dates on or after June 1, 2023, the mortality component table (Table 2010CM) is in § 20.2031-7(d)(7)(ii) of this chapter, is referenced by IRS Publication 1457, *Actuarial Valuations Version 4A*, and can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). See § 20.2031-7A of this chapter

for mortality component tables applicable to transactions for which the valuation date falls before June 1, 2023.

(c) *Actuarial factors.* The present value on the valuation date of an annuity, an interest for life or a term of years, and a remainder or reversionary interest is computed by using the section 7520 interest rate component that is described in paragraph (b)(1) of this section and the mortality component that is described in paragraph (b)(2) of this section. Actuarial factors for determining these present values may be calculated by taxpayers using the actuarial formulas in § 20.2031-7(d)(2) of this chapter but, for the convenience of taxpayers, are included in tables that are referenced and explained by publications of the Internal Revenue Service. If a factor for a particular situation is required in order to value an interest, that factor may be calculated by taxpayers using the actuarial formulas in § 20.2031-7(d)(2) of this chapter or the taxpayer may request a ruling to obtain the factor from the Internal Revenue Service. The request for a ruling must be accompanied by a recitation of the facts, including the date of birth for each measuring life and copies of relevant instruments. A request for a ruling must comply with the instructions for requesting a ruling published periodically in the Internal Revenue Bulletin (see Rev. Proc. 2023-1, 2023-1 I.R.B. 1, or successor revenue procedure(s), and §§ 601.201 and 601.601(d)(2)(ii)(b) of this chapter) and must include payment of the required user fee.

(d) *IRS publications referencing and explaining actuarial tables with rates from 0.2 to 20 percent, inclusive, at intervals of two-tenths of one percent, for valuation dates on or after June 1, 2023.* The publications listed in paragraphs (d)(1) through (3) of this section will be available within a reasonable time after June 1, 2023. The underlying actuarial tables referenced and explained by these publications currently are available, at no charge, electronically via the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables>:

(1) IRS Publication 1457, *Actuarial Valuations Version 4A* (2023). This publication references tables of valuation factors and provides examples that show how to compute other valuation factors, for determining the present value of annuities, interests for life or a term of years, and remainder or reversionary interests, measured by one or two lives. These factors may also be used in the valuation of interests in a charitable remainder annuity trust as

defined in § 1.664–2 and a pooled income fund as defined in § 1.642(c)–5. This publication references and explains Table S (single life remainder factors), Table R(2) (two-life last-to-die remainder factors), Table B (actuarial factors used in determining the present value of an interest for a term of years), Table H (commutation factors), Table J (term certain annuity beginning-of-interval adjustment factors), and Table K (annuity end-of-interval adjustment factors). See earlier versions of the publication, § 1.642(c)–6A, or § 20.2031–7A of this chapter for Table S applicable to valuation dates before June 1, 2023. Earlier versions of the publication also contain earlier versions of Tables H and R(2). Tables B, J, and K also can be found in § 20.2031–7(d)(6) of this chapter, but only for interest rates from 4.2 to 14 percent, inclusive.

(2) IRS Publication 1458, *Actuarial Valuations Version 4B* (2023). This publication references and explains term certain tables and tables of one and two life valuation factors for determining the present value of remainder interests in a charitable remainder unitrust as defined in § 1.664–3. This publication references Table U(1) (unitrust single life remainder factors), Table U(2) (unitrust two-life last-to-die remainder factors), Table D (actuarial factors used in determining the present value of a remainder interest postponed for a term of years), Table F (adjustment payout rate factors), and Table Z (unitrust commutation factors). See earlier versions of the publication or § 1.664–4A for Table U(1) applicable to valuation dates before June 1, 2023. Earlier versions of the publication also contain earlier versions of Tables U(2) and Z. Table D also can be found in § 1.664–4(e)(6)(iii), but only for adjusted payout rates from 4.2 to 14 percent, inclusive. Table F also can be found in § 1.664–4(e)(6)(iii), but only for interest rates from 4.2 to 14 percent, inclusive.

(3) IRS Publication 1459, *Actuarial Valuations Version 4C* (2023). This publication references and explains Table C, which provides factors for making adjustments to the standard remainder factor for valuing gifts of depreciable property. See § 1.170A–12.

(4) The publications identified in paragraphs (d)(1) through (3) of this section also reference Table 2010CM, the mortality component table.

(e) *Use of approximation methods for obtaining factors when the required valuation rate falls between two listed rates.* For certain cases, this part and IRS publications provide approximation methods (for example, interpolation) for obtaining factors when the required

valuation rate falls between two listed rates (such as in the case of a pooled income fund's rate of return or a unitrust's adjusted payout rate). In general, exact methods of obtaining the applicable factors are allowed, such as through software using the applicable interest rate and the proper actuarial formula, provided such direct methods are applied consistently in valuing all interests in the same property. The actuarial formula in § 20.2031–7(d)(2)(ii)(B) of this chapter is used to determine the remainder factor for pooled income funds and the actuarial formula in § 1.664–4(e)(5)(i) is used to determine the remainder factor for unitrusts. The approximation method provided in this part, computed to at minimum the same number of decimal places as provided in this part, must be used if more exact methods are not available.

(f) *Applicability date.* This section applies on and after June 1, 2023.

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

■ **Par. 12.** The authority citation for part 20 continues to read in part as follows:

Authority: 26 U.S.C. 7805.

* * * * *

■ **Par. 13.** Section 20.2031–0 is revised to read as follows:

§ 20.2031–0 Table of contents.

This section lists the section headings and undesignated center headings that appear in the regulations in this part under section 2031.

20.2031–1	Definition of gross estate; valuation of property.
20.2031–2	Valuation of stocks and bonds.
20.2031–3	Valuation of interests in businesses.
20.2031–4	Valuation of notes.
20.2031–5	Valuation of cash on hand or on deposit.
20.2031–6	Valuation of household and personal effects.
20.2031–7	Valuation of annuities, interests for life or a term of years, and remainder or reversionary interests.
20.2031–8	Valuation of certain life insurance and annuity contracts; valuation of shares in an open-end investment company.
20.2031–9	Valuation of other property.

Actuarial Tables Applicable Before June 1, 2023

20.2031–7A Valuation of annuities, interests for life or a term of years, and remainder or reversionary interests for estates of decedents for which the valuation date of the gross estate is before June 1, 2023.

■ **Par. 14.** Section 20.2031–7 is amended by:

- 1. Revising paragraph (c), the heading of paragraph (d), and paragraphs (d)(1) through (5).
- 2. Redesignating paragraph (d)(7) as paragraph (g)(4) of § 20.2031–7A.
- 3. Adding new paragraph (d)(7).
- 4. Revising paragraph (e).

The revisions and addition read as follows:

§ 20.2031–7 Valuation of annuities, interests for life or a term of years, and remainder or reversionary interests.

* * * * *

(c) *Actuarial valuations.* The present value of annuities, interests for life or a term of years, and remainder or reversionary interests for estates of decedents for which the valuation date of the gross estate is on or after June 1, 2023, is determined under paragraph (d) of this section. The present value of annuities, interests for life or a term of years, and remainder or reversionary interests for estates of decedents for which the valuation date of the gross estate is before June 1, 2023, is determined (subject to paragraph (d)(3) of this section) under the following sections:

TABLE 1 TO PARAGRAPH (C)

Valuation dates		Applicable regulations
After	Before	
12–31–51	01–01–52	§ 20.2031–7A(a)
12–31–70	01–01–71	20.2031–7A(b)
11–30–83	12–01–83	20.2031–7A(c)
04–30–89	05–01–89	20.2031–7A(d)
04–30–99	05–01–99	20.2031–7A(e)
04–30–99	05–01–09	§ 20.2031–7A(f)
04–30–09	06–01–23	20.2031–7A(g)

(d) *Actuarial valuations on or after June 1, 2023—(1) In general.* Except as otherwise provided in paragraph (b) of this section and § 20.7520–3(b) (pertaining to certain limitations on the use of prescribed tables), if the valuation date for the gross estate of the decedent is on or after June 1, 2023, the fair market value of annuities, interests for life or a term of years, and remainder or reversionary interests is the present value determined by using standard or special section 7520 actuarial factors. Many of these standard factors are derived by using the actuarial formulas provided in paragraph (d)(2) of this section, the appropriate section 7520 interest rate, and, if applicable, the mortality component for the valuation date of the interest that is being valued. For purposes of the computations described in this section, the age of an individual is the age of that individual at the individual's nearest birthday. For the convenience of taxpayers, paragraph

(d)(2) of this section provides for published tables of factors for specific types of interests. These published tables provide factors for rates from 0.2 to 20 percent, inclusive, at intervals of two-tenths of one percent. In general, appropriate factors instead may be computed directly from the actuarial formulas provided in paragraph (d)(2) of this section. In some cases, specific examples in this part and IRS publications illustrate approximation methods (for example, interpolation) for obtaining factors when the required valuation rate falls between two listed rates (such as in the case of a pooled income fund's rate of return or a unitrust's adjusted payout rate). Exact methods of obtaining the applicable actuarial factors are allowed, such as through software using the actual rate of return and the actuarial formulas provided in paragraph (d)(2) of this section, provided that the taxpayer uses at least the same number of decimal places as are provided in the published tables. The approximation method provided in this part, again using at least the same number of decimal places as provided in this part, must be used if more exact methods are not available. See §§ 20.7520–1 through 20.7520–4. The selected method must be applied

consistently in valuing all interests in the same property.

(2) *Specific interests*—(i) *Pooled income funds and charitable remainder trusts*. The fair market value of a remainder interest in a pooled income fund, as defined in § 1.642(c)-5 of this chapter, is its value determined under § 1.642(c)-6(e) of this chapter. The fair market value of a remainder interest in a charitable remainder annuity trust, as defined in § 1.664–2(a) of this chapter, is the present value determined under § 1.664–2(c) of this chapter. The fair market value of a remainder interest in a charitable remainder unitrust, as defined in § 1.664–3 of this chapter, is its present value determined under § 1.664–4(e) of this chapter. The fair market value of a life interest or an interest for a term of years in a charitable remainder unitrust is the fair market value of the property as of the date of valuation less the fair market value of the remainder interest on that date determined under § 1.664–4(e)(4) and (5) of this chapter.

(ii) *Ordinary remainder and reversionary interests*—(A) *Remainder and reversionary interests for a term of years*. If the interest to be valued is a remainder or reversionary interest to take effect after a definite number of

years, the present value of the interest is computed by multiplying the value of the property by the appropriate remainder factor (that corresponds to the applicable section 7520 interest rate and the stated term). The factor for an ordinary remainder interest following a term certain may be found using the formula in Figure 1 to this paragraph (d)(2)(ii)(A) and computing the result to at least six decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table B. Table B can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). Table B is referenced and explained in IRS Publication 1457, *Actuarial Valuations Version 4A*, which will be available within a reasonable time after June 1, 2023. The remainder factors from Table B also can be found in paragraph (d)(6) of this section, but only for interest rates from 4.2 to 14 percent, inclusive. For information about obtaining special factors for other situations, see paragraph (d)(4) of this section.

**Figure 1 to Paragraph (d)(2)(ii)(A)—
Formula for Determining Term Certain
Remainder Factors**

$$\left(\frac{1}{1+i} \right)^n$$

where:

n = the term of years; and

i = the interest rate specified under section 7520 of the Internal Revenue Code.

(B) *Remainder and reversionary interests dependent on the life of one individual*. If the interest to be valued is a remainder or reversionary interest to take effect after the death of one individual, the present value of the interest is computed by multiplying the value of the property by the appropriate remainder factor (that corresponds to the applicable section 7520 interest rate and the age of the measuring life of the life interest that precedes the remainder interest). The factor for an ordinary remainder interest following the death

of one individual may be found using the formula in Figure 2 to this paragraph (d)(2)(ii)(B) and computing the result to at least five decimal places. The prescribed mortality table is Table 2010CM as set forth in paragraph (d)(7)(ii) of this section, or for periods before June 1, 2023, the appropriate table found in § 20.2031–7A. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table S. Table S currently is available, at no charge, electronically via the IRS website at [https://](https://www.irs.gov/retirement-plans/actuarial-tables)

www.irs.gov/retirement-plans/actuarial-tables (or a corresponding URL as may be updated from time to time). Table S is referenced and explained by IRS Publication 1457, *Actuarial Valuations Version 4A*, which will be available within a reasonable time after June 1, 2023. For information about obtaining special factors for other situations, see paragraph (d)(4) of this section.

**Figure 2 to Paragraph (d)(2)(ii)(B)—
Formula for Determining Single Life
Remainder Factors**

$$\left(1 + \frac{i}{2}\right) \sum_{t=0}^{\infty} v^{t+1} ({}_{t+1}q_x - {}_tq_x)$$

where:

i = the applicable interest rate under section 7520 of the Internal Revenue Code;

v = $1 / (1 + i)$;

${}_tq_x = 1 - \frac{l_{x+t}}{l_x}$;

x = the age of the measuring life (determined as age at nearest birthday); and

l_x = the number associated with age x as set forth in the prescribed mortality table, representing the number of persons alive at age x .

(iii) *Ordinary interests for a term of years and ordinary interests for life.* If the interest to be valued is the right of a person to receive the income of certain property, or to the use of certain property, for a term of years or for the life of one individual, the present value of the interest is computed by multiplying the value of the property by the appropriate actuarial factor for an interest for a term of years or for a life (that corresponds to the applicable section 7520 interest rate and the durational period). The actuarial factor for an ordinary income interest for a term certain may be found by subtracting from 1.000000 the factor for an ordinary remainder interest following the same term certain that is determined under the formula in paragraph (d)(2)(ii)(A) of this section. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in the “Income Interest” column of Table B which can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). The actuarial factor for an ordinary income interest for the life of one individual may be found by subtracting from 1.000000 the factor for an ordinary remainder interest following the life of the same individual that is determined in paragraph (d)(2)(ii)(B) of this section. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in the “Life Estate” column of Table S. Table S (applicable when the valuation date is on or after June 1, 2023) can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables>. Tables B and S are referenced and explained by IRS Publication 1457,

Actuarial Valuations Version 4A. See § 20.2031–7A or earlier versions of Publication 1457 for valuation of interests before June 1, 2023. For information about obtaining special factors for other situations, see paragraph (d)(4) of this section.

(iv) *Annuities.* (A) If the interest to be valued is the right of a person to receive an annuity that is payable at the end of each year for a term of years or for the life of one individual, the present value of the interest is computed by multiplying the aggregate amount payable annually by the appropriate annuity factor (that corresponds to the applicable section 7520 interest rate and annuity period). The appropriate annuity factor for an annuity payable for a term of years is computed by subtracting from 1.000000 the factor for an ordinary remainder interest following the same term certain that is determined under the formula in paragraph (d)(2)(ii)(A) of this section and then dividing the result by the applicable section 7520 interest rate expressed to at least four decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in the “Annuity” column of Table B which can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). The appropriate annuity factor for an annuity payable for the life of one individual is computed by subtracting from 1.000000 the factor for an ordinary remainder interest following the life of the same individual that is determined under the formula in paragraph (d)(2)(ii)(B) of this section and then dividing the result by the applicable section 7520 interest rate expressed to at

least four decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in the “Annuity” column of Table S. Table S (applicable when the valuation date is on or after June 1, 2023) can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables>. Tables B and S are referenced and explained in IRS Publication 1457, *Actuarial Valuations Version 4A.* See § 20.2031–7A or earlier versions of Publication 1457 for valuation of interests before June 1, 2023. For information about obtaining special factors for other situations, see paragraph (d)(4) of this section.

(B) If the annuity is payable at the end of semiannual, quarterly, monthly, or weekly periods, the product obtained by multiplying the annuity factor by the aggregate amount payable annually is then multiplied by the applicable adjustment factor at the appropriate interest rate component for payments made at the end of the specified periods. The applicable adjustment factor may be found using the formula in Figure 3 to this paragraph (d)(2)(iv)(B) and calculating the result to at least four decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table K. Table K, which is referenced and explained by Publication 1457, can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables>. The provisions of this paragraph (d)(2)(iv)(B) are illustrated by the example in paragraph (d)(2)(iv)(B)(2) of this section.

**Figure 3 to Paragraph (d)(2)(iv)(B)—
Formula for Determining Annuity
Adjustment Factor at the End of the
Specified Period**

$$\frac{i}{p \left[(1 + i)^{(1/p)} - 1 \right]}$$

where:

p = the number of payments per year; and

i = the interest rate specified under section 7520 of the Internal Revenue Code.

(1) *Sample factors from actuarial Tables S and K.* For purposes of the example in paragraph (d)(2)(iv)(B)(2) of

this section, the following factors from Tables S and K will be used:

TABLE 2 TO PARAGRAPH (d)(2)(iv)(B)(1)
FACTORS FROM TABLE S—BASED ON TABLE 2010CM

Age	Annuity	Life estate	Remainder
Interest at 3.2 Percent			
75	9.4053	0.30097	0.69903
Factors from Table K Adjustment Factors for Annuities Payable at the End of Each Interval			
Interest rate	Semi-annually	Quarterly	Monthly
3.2%	1.0079	1.0119	1.0146

(2) *Example.* At the time of the decedent's death, the survivor/annuitant, age 75, is entitled to receive an annuity of \$15,000 per year for life payable in equal monthly installments at the end of each month. The section 7520 rate for the month in which the decedent died is 3.2 percent. Under Table S, the annuity factor at 3.2 percent for an individual aged 75 is 9.4053. Under Table K, the adjustment factor under the column for payments made at the end of each monthly period at the rate of 3.2 percent is 1.0146. The aggregate annual amount, \$15,000, is multiplied by the factor 9.4053 and the product then is multiplied by 1.0146. The present value of the annuity at the date of the decedent's death is, therefore, \$143,139.26 (\$15,000 × 9.4053 × 1.0146).

(C) If an annuity is payable at the beginning of annual, semiannual, quarterly, monthly, or weekly periods for a term of years, the value of the annuity is computed by multiplying the aggregate amount payable annually by the annuity factor described in paragraph (d)(2)(iv)(A) of this section; and the product so obtained then is multiplied by the applicable adjustment factor at the appropriate interest rate component for payments made at the beginning of specified periods. The applicable adjustment factor may be found using the formula in Figure 4 to this paragraph (d)(2)(iv)(C) and calculating the result to at least four decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table J. Table J, which is referenced and

explained by Publication 1457, can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables>. If an annuity is payable at the beginning of annual, semiannual, quarterly, monthly, or weekly periods for one or more lives, the value of the annuity is the sum of the first payment plus the present value of a similar annuity, the first payment of which is not to be made until the end of the payment period, determined as provided in paragraph (d)(2)(iv)(B) of this section.

**Figure 4 to Paragraph (d)(2)(iv)(C)—
Formula for Determining Annuity
Adjustment Factor at the Beginning of
the Specified Period**

$$\frac{i}{p \left[(1 - v)^{(1/p)} \right]}$$

where:

p = the number of payments per year;

v = 1 / (1 + i); and

i = the interest rate specified under section 7520 of the Internal Revenue Code.

(v) *Annuity and unitrust interests for a term of years or until the prior death of an individual.* See § 25.2512–5(d)(2)(v) of this chapter for examples explaining how to compute the present value of an annuity or unitrust interest that is payable until the earlier of the lapse of a term of years or the death of an individual.

(3) *Transitional rule.* If a decedent dies after April 30, 2019, and on or before June 1, 2023, the fair market value of annuities, interests for life or a term of years, and remainder or reversionary interests based on one or more measuring lives included in the gross estate of the decedent is their present value determined under this section by using the section 7520 interest rate for the month in which the valuation date occurs (see §§ 20.7520–1(b) and 20.7520–2(a)(2)) and factors derived from the selected mortality table, either Table 2010CM in paragraph (d)(7)(ii) of this section or Table 2000CM in § 20.2031–7A(g)(4), at the option of the donor or the decedent’s executor, as the case may be. If any previously filed estate tax return is supplemented to use the actuarial factors based on Table 2010CM, the supplemental return must state at the top “AMENDED PURSUANT TO TD 9974.” For the convenience of taxpayers, actuarial factors based on Table 2010CM appear in the current version of Table S, and actuarial factors based on Table 2000CM appear in the previous version of Table S. Both versions of Table S will be available as provided in paragraph (d)(4) of this section. The decedent’s executor must consistently use the same mortality basis with respect to each interest (income, remainder, partial, etc.) in the same property, and with respect to all transfers occurring on the same

valuation date. For example, gift and income tax charitable deductions with respect to the same transfer must be determined based on factors with the same mortality basis, and all assets includible in the gross estate and/or estate tax deductions claimed must be valued based on factors with the same mortality basis.

(4) *Publications and actuarial computations by the Internal Revenue Service.* The factor for determining the present value of a remainder interest that is dependent on the termination of the life of one individual may be computed by using the formula in paragraph (d)(2)(ii)(B) of this section to derive a remainder factor from the appropriate mortality table expressed to at least five decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table S. The remainder factor for determining the present value of a remainder interest following a term certain may be computed by using the formula in paragraph (d)(2)(ii)(A) of this section expressed to at least six decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table B. Adjustment factors for term certain annuities payable at the beginning of each interval may be computed by using the formula in paragraph (d)(2)(iv)(C) of this section expressed to at least four decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table J. Adjustment factors for annuities payable at the end of each interval may be computed by using the formula in paragraph (d)(2)(iv)(B) of this section expressed to at least four decimal places. For the convenience of taxpayers, actuarial factors have been

computed by the IRS and appear in Table K. These tables currently are available, at no charge, electronically via the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). IRS Publication 1457, *Actuarial Valuations Version 4A* (2023), references and explains the factors contained in the actuarial tables and also includes examples that illustrate how to compute many special factors for more unusual situations. This publication will be available within a reasonable time after June 1, 2023. Tables B, J, and K also can be found in paragraph (d)(6) of this section, but only for interest rates from 4.2 to 14 percent, inclusive. If a special factor is required in the case of an actual decedent, the special factor may be calculated by the executor using the actuarial formulas in paragraph (d)(2) of this section or the executor may request a ruling to obtain the factor from the Internal Revenue Service. The request for a ruling must be accompanied by a recitation of the facts including a statement of the date of birth for each measuring life, the date of the decedent’s death, any other applicable dates, and a copy of the will, trust, or other relevant documents. A request for a ruling must comply with the instructions for requesting a ruling published periodically in the Internal Revenue Bulletin (see §§ 601.201 and 601.601(d)(2)(ii)(b) of this chapter) and must include payment of the required user fee.

(5) *Examples.* The provisions of this section are illustrated by the examples in this paragraph (d)(5). For purposes of these examples, the following factors from Tables S, B, and K will be used:

TABLE 3 TO PARAGRAPH (d)(5)

Age	Annuity	Life estate	Remainder
Factors From Table S—Based on Table 2010CM			
Interest at 3.2 Percent			
31	23.8334	0.76267	0.23733
46	20.0146	0.64047	0.35953
Interest at 4.6 Percent			
65	11.7691	0.54138	0.45862
Factors from Table B			
Annuity, Income, and Remainder Interests for a Term Certain			
Interest at 2.6 Percent			
Years	Annuity	Income interest	Remainder
5	4.6325	0.120445	0.879555

TABLE 3 TO PARAGRAPH (d)(5)—Continued

Age	Annuity	Life estate	Remainder
Factors From Table K Adjustment Factors for Annuities Payable at the End of Each Interval			
Interest Rate	Semi-annually	Quarterly	Monthly
2.6%	1.0065	1.0097	1.0119
3.2%	1.0079	1.0119	1.0146

(i) *Example 1: Remainder payable at an individual's death.* The decedent, or the decedent's estate, was entitled to receive certain property worth \$50,000 upon the death of A, to whom the income was bequeathed for life. At the time of the decedent's death, A was 65 years and 5 months old. In the month in which the decedent died, the section 7520 rate was 4.6 percent. Under Table S, the remainder factor at 4.6 percent for determining the present value of the remainder interest due at the death of a person aged 65, A's age at A's nearest birthday to the date of the decedent's death, is 0.45862. The present value of the remainder interest at the date of the decedent's death is, therefore, \$22,931 (\$50,000 times 0.45862).

(ii) *Example 2: Income payable for an individual's life.* A's parent bequeathed an income interest in property to A for life, with the remainder interest passing to B at A's death. At the time of the parent's death, the value of the property was \$50,000 and A was 30 years and 10 months old. The section 7520 rate at the time of the parent's death was 3.2 percent. Under Table S, the factor at 3.2 percent for determining the present value of the life estate given to a person aged 31, A's age at A's nearest birthday to the date of the decedent's death, is 0.76267. The present value of A's income interest at the time of the parent's death is, therefore, \$38,133.50 (\$50,000.00 × 0.76267).

(iii) *Example 3: Annuity payable for an individual's life.* A purchased an annuity for the benefit of both A and B. Under the terms of the annuity contract, at A's death, a survivor annuity of \$10,000 per year, payable in equal semiannual installments made at the end of each interval is payable to B for life. At A's death, B was 45 years and 7 months old. Also, at A's death, the section 7520 rate was 3.2 percent. Under Table S, the factor at 3.2 percent for determining the present value of an annuity interest payable until the death of a person age 46 (B's age at B's nearest birthday to the date of A's death) is 20.0146. The adjustment factor from Table K at an interest rate of 3.2 percent for semiannual annuity payments made at the end of the period is 1.0079. The present value of the annuity at the date of A's death is, therefore, \$201,727.15 (\$10,000 × 20.0146 × 1.0079).

(iv) *Example 4: Annuity payable for a term of years.* The decedent, or the decedent's estate, was entitled to receive an annuity of \$10,000 per year payable in equal quarterly installments at the end of each quarter throughout a term certain. At the time of the decedent's death, the section 7520 rate was 2.6 percent. A quarterly payment had been made immediately prior to the decedent's death and payments were to continue for 5 more years. Under Table B for the interest rate of 2.6 percent, the factor for the present value of an annuity with a term of 5 years is 4.6325.

The adjustment factor from Table K at an interest rate of 2.6 percent for quarterly annuity payments made at the end of the quarter is 1.0097. The present value of the annuity is, therefore, \$46,774.35 (\$10,000 × 4.6325 × 1.0097).

* * * * *

(7) *Actuarial Table S and Table 2010CM where the valuation date is on or after June 1, 2023—(i) Determination of required factors.* Except as provided in § 20.7520-3(b) (pertaining to certain limitations on the use of prescribed tables), for determination of the present value of a remainder interest that is dependent on the termination of a life interest, where the valuation date is on or after June 1, 2023, actuarial remainder factors computed to at least five decimal places directly by using the formula in paragraph (d)(2)(ii)(B) of this section, Table 2010CM, and the section 7520 rate are used in the application of the provisions of this section. For the convenience of taxpayers, the actuarial factors, when the section 7520 interest rate component is from 0.2 to 20 percent, inclusive, have been computed by the IRS and can be found in Table S. Table S currently is available, at no charge, electronically via the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables>. Table S is also referenced and explained by IRS Publication 1457, *Actuarial Valuations Version 4A*, which will be available within a reasonable time after June 1, 2023.

TABLE 4 TO PARAGRAPH (d)(7)(ii)

Age x	<i>l_x</i>	Age x	<i>l_x</i>	Age x	<i>l_x</i>
0	100,000.00	37	97,193.66	74	71,177.55
1	99,382.28	38	97,058.84	75	69,174.83
2	99,341.16	39	96,915.25	76	67,044.59
3	99,313.80	40	96,761.20	77	64,773.93
4	99,292.72	41	96,595.51	78	62,366.05
5	99,276.45	42	96,416.30	79	59,795.50
6	99,261.55	43	96,220.61	80	57,080.84
7	99,248.33	44	96,005.41	81	54,213.71
8	99,236.50	45	95,768.60	82	51,205.27
9	99,226.09	46	95,509.98	83	48,059.88
10	99,217.03	47	95,229.06	84	44,808.51
11	99,208.80	48	94,923.45	85	41,399.79
12	99,199.98	49	94,589.88	86	37,895.25
13	99,188.21	50	94,225.50	87	34,313.98

TABLE 4 TO PARAGRAPH (d)(7)(ii)—Continued

Age x	l_x	Age x	l_x	Age x	l_x
14	99,170.64	51	93,828.33	88	30,700.82
15	99,145.34	52	93,398.01	89	27,106.68
16	99,111.91	53	92,934.52	90	23,586.75
17	99,070.69	54	92,438.08	91	20,198.02
18	99,021.50	55	91,907.95	92	16,996.17
19	98,964.16	56	91,342.02	93	14,032.08
20	98,898.61	57	90,737.24	94	11,348.23
21	98,824.20	58	90,090.97	95	8,975.661
22	98,741.32	59	89,401.06	96	6,931.559
23	98,652.16	60	88,665.95	97	5,218.261
24	98,559.87	61	87,883.66	98	3,823.642
25	98,466.80	62	87,051.88	99	2,722.994
26	98,373.71	63	86,167.86	100	1,882.108
27	98,280.09	64	85,226.77	101	1,261.083
28	98,185.51	65	84,221.59	102	818.2641
29	98,089.05	66	83,142.34	103	513.7236
30	97,989.90	67	81,978.28	104	311.8784
31	97,887.47	68	80,728.83	105	183.0200
32	97,781.58	69	79,387.95	106	103.8046
33	97,672.13	70	77,957.53	107	56.91106
34	97,559.20	71	76,429.84	108	30.17214
35	97,442.53	72	74,797.63	109	15.47804
36	97,321.14	73	73,049.33	110	0.000000

(e) *Applicability date.* This section applies on and after June 1, 2023.

■ **Par. 15.** The undesignated center heading immediately preceding § 20.2031–7A is revised to read as follows:

Actuarial Tables Applicable Before June 1, 2023

■ **Par. 16.** Section 20.2031–7A is amended by:

- 1. Revising the section heading.
- 2. Adding paragraphs (g) heading and (g)(1) through (3).
- 3. In newly redesignated paragraph (g)(4), revising the heading and introductory text.
- 4. Adding paragraph (g)(5).

The revisions and additions read as follows:

§ 20.2031–7A Valuation of annuities, interests for life or a term of years, and remainder or reversionary interests for estates of decedents for which the valuation date of the gross estate is before June 1, 2023.

* * * * *

(g) *Valuation of annuities, interests for life or a term of years, and remainder or reversionary interests for estates of decedents for which the valuation date of the gross estate is on or after May 1, 2009, and before June 1, 2023—(1) In general.* Except as otherwise provided in §§ 20.2031–7(b) and 20.7520–3(b) (pertaining to certain limitations on the use of prescribed tables), if the valuation date for the gross estate of the decedent is on or after May 1, 2009, and before June 1, 2023, the fair market value of annuities, interests for life or a term of

years, and remainder or reversionary interests is the present value of the interests determined by using standard or special section 7520 actuarial factors and the valuation methodology described in § 20.2031–7(d). These factors are derived by using the appropriate section 7520 interest rate and, if applicable, the mortality component for the valuation date of the interest that is being valued. See §§ 20.7520–1 through 20.7520–4. See paragraph (g)(4) of this section for determination of the appropriate table for use in valuing these interests.

(2) *Transitional rules.* (i) If a decedent dies on or after May 1, 2009, and if, on May 1, 2009, the decedent was under a mental disability so that the disposition of the decedent’s property could not be changed, and the decedent dies on or before June 1, 2023, either without having regained the ability to dispose of the decedent’s property or within 90 days of the date on which the decedent first regains that ability, the fair market value of annuities, interests for life or a term of years, and remainder or reversionary interests included in the gross estate of the decedent is their present value determined either under this section or under the corresponding section applicable at the time the decedent first became subject to the mental disability, at the option of the decedent’s executor. For example, see paragraph (d) of this section.

(ii) If a decedent dies on or after May 1, 2009, and before July 1, 2009, the fair market value of annuities, interests for life or a term of years, and remainder or

reversionary interests based on one or more measuring lives included in the gross estate of the decedent is their present value determined under this section by using the section 7520 interest rate for the month in which the valuation date occurs (see §§ 20.7520–1(b) and 20.7520–2(a)(2)) and the appropriate actuarial tables under either paragraph (f)(4) or (g)(4) of this section, at the option of the decedent’s executor.

(iii) For purposes of paragraphs (g)(2)(i) and (ii) of this section, where the decedent’s executor is given the option to use the appropriate actuarial tables under either paragraph (f)(4) or (g)(4) of this section, the decedent’s executor must consistently use the same mortality basis with respect to each interest (income, remainder, partial, etc.) in the same property, and with respect to all transfers occurring on the same valuation date. For example, gift and income tax charitable deductions with respect to the same transfer must be determined based on factors with the same mortality basis, and all assets includible in the gross estate and/or estate tax deductions claimed must be valued based on factors with the same mortality basis.

(iv) If a decedent dies after April 30, 2019, and before June 1, 2023, the fair market value of annuities, interests for life or a term of years, and remainder or reversionary interests based on one or more measuring lives included in the gross estate is their present value determined under § 20.2031–7(d)(3).

(3) *Publications and actuarial computations by the Internal Revenue Service.* The factor for determining the

present value of a remainder interest that is dependent on the termination of the life of one individual may be computed by using the formula in § 20.2031-7(d)(2)(ii)(B) to derive a remainder factor from the appropriate mortality table expressed to at least five decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table S. The factor for determining the present value of a remainder interest following a term certain may be computed by using the formula in § 20.2031-7(d)(2)(ii)(A) expressed to at least six decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table B. Adjustment factors for term certain annuities payable at the beginning of each interval may be computed by using the formula in § 20.2031-7(d)(2)(iv)(C) expressed to at least four decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table J. Adjustment factors for annuities payable at the end of each interval may be computed by using the formula in § 20.2031-7(d)(2)(iv)(B) expressed to at least four decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table K. These tables are referenced and explained by IRS Publication 1457, *Actuarial Values Version 3A* (2009). Publication 1457 includes examples that illustrate how to compute many special factors for more unusual situations. The actuarial tables are available, at no charge, electronically via the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). Table S also can be found in paragraph (g)(4) of this section, but only for interest rates from 0.2 to 14 percent, inclusive. Tables B, J, and K

also can be found in § 20.2031-7(d)(6), but only for interest rates from 4.2 to 14 percent, inclusive. If a special factor is required in the case of an actual decedent, the special factor may be calculated by the executor using the actuarial formulas in § 20.2031-7(d)(2) or the executor may request a ruling to obtain the factor from the Internal Revenue Service. The request for a ruling must be accompanied by a recitation of the facts including a statement of the date of birth for each measuring life, the date of the decedent's death, any other applicable dates, and a copy of the will, trust, or other relevant documents. A request for a ruling must comply with the instructions for requesting a ruling published periodically in the Internal Revenue Bulletin (see §§ 601.201 and 601.601(d)(2)(ii)(b) of this chapter) and must include payment of the required user fee.

(4) *Actuarial tables.* Except as provided in § 20.7520-3(b) (pertaining to certain limitations on the use of prescribed tables), actuarial factors based on Table 2000CM must be used in the application of the provisions of this section. The factor for determining the present value of a remainder interest that is dependent on the termination of the life of one individual may be computed by using the formula in § 20.2031-7(d)(2)(ii)(B) to derive a remainder factor from the appropriate mortality table to at least five decimal places. For the convenience of taxpayers, actuarial factors, when the section 7520 interest rate component is from 0.2 to 20 percent, inclusive, have been computed by the IRS and appear in Table S (applicable on and after May 1, 2009, and before June 1, 2023). These actuarial tables, as referenced and explained by IRS Publication 1457, *Actuarial Valuations Version 3A*, are available, at no charge, electronically

via the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables>. Table S (notwithstanding the lack of the applicable termination date in its heading), where the section 7520 interest rate component is from 0.2 to 14 percent, inclusive, and Table 2000CM are as follows:

* * * * *

(5) *Applicability dates.* Paragraphs (g)(1) through (4) of this section apply on and after May 1, 2009, and before June 1, 2023.

■ **Par. 17.** Section 20.2032-1 is amended by revising paragraphs (f)(1) and (h) to read as follows:

§ 20.2032-1 Alternate valuation.

* * * * *

(f) * * *

(1) *Life estates, remainders, and similar interests—(i) In general.* The values of life estates, remainders, and similar interests are to be obtained by applying the methods prescribed in § 20.2031-7, using the age of each person, the duration of whose life may affect the value of the interest, as of the date of the decedent's death, and the value of the property as of the alternate valuation date.

(ii) *Sample factors from actuarial Table S.* The present value of a remainder interest dependent on the termination of one life is determined by using the formula in § 20.2031-7(d)(2)(ii)(B) to derive a remainder factor from the appropriate mortality table to at least five decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table S. Table S can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). For purposes of the example in paragraph (e)(5)(iii) of this section, the following relevant factors from Table S is used:

TABLE 2 TO PARAGRAPH (f)(1)(ii)
TABLE S—BASED ON TABLE 2010CM

Age	Annuity	Life estate	Remainder
Interest at 4.2 Percent			
65	12.2128	0.51294	0.48706
Interest at 4.6 Percent			
65	11.7691	0.54138	0.45862

(iii) *Example.* Assume that the decedent, or the decedent's estate, was entitled to receive certain property worth \$50,000 upon the death of A, who

was entitled to the income for life. At the time of the decedent's death, A was 65 years and 5 months old, and the section 7520 rate was 4.6 percent. The

value of the decedent's remainder interest at the date of the decedent's death would be, as illustrated in § 20.2031-7(d)(5)(i) (*Example 1*),

\$22,931.00 (\$50,000 × 0.45862). On the date that is 6 months after the decedent's death, A was 65 years and 11 months old, and the section 7520 rate was 4.2 percent. If, because of economic conditions, the property declined in value and was worth only \$40,000 on the date that was 6 months after the date of the decedent's death, and the decedent's executor elected to use the alternate valuation date, the value of the remainder interest would be \$19,482.40 (\$40,000 × 0.48706). When the alternate valuation date is elected, the age of A, and other aspects of valuation which change by reason of the mere passage of time, is determined as of the date of the decedent's death, while the value of the

property and the relevant section 7520 interest rate is determined as of the alternate valuation date. Thus, the computation uses A's age of 65 years old at the date of the decedent's death, even though A would be closest to 66 years old on the alternate valuation date.

* * * * *

(h) *Applicability date.* Paragraph (b) of this section is applicable to decedents dying on or after January 4, 2005. However, pursuant to section 7805(b)(7), taxpayers may elect to apply paragraph (b) of this section retroactively if the period of limitations for filing a claim for a credit or refund of Federal estate or generation-skipping

transfer tax under section 6511 has not expired. Paragraph (f)(1) of this section applies on and after June 1, 2023.

§ 20.2032–1T [Removed]

■ **Par. 18.** Section 20.2032–1T is removed.

■ **Par. 19.** Section 20.2036–1 is amended by:

■ 1. In paragraph (c)(2)(iv), designating *Examples 1 through 3* as paragraphs (c)(2)(iv)(A) through (H), respectively.

■ 2. In newly designated paragraphs (c)(2)(iv)(A), (B), (C), (G), and (H), further redesignating the paragraphs in the first column as paragraphs in the second column:

Old paragraphs	New paragraphs
(c)(2)(iv)(A)(i) and (ii)	(c)(2)(iv)(A)(1) and (2)
(c)(2)(iv)(B)(i) and (ii)	(c)(2)(iv)(B)(1) and (2)
(c)(2)(iv)(C)(i), (ii), and (iii)	(c)(2)(iv)(C)(1), (2), and (3)
(c)(2)(iv)(G)(i), (ii), and (iii)	(c)(2)(iv)(G)(1), (2), and (3)
(c)(2)(iv)(G)(3)(A), (B), (C), (D), (E), and (F)	(c)(2)(iv)(G)(3)(i), (ii), (iii), (iv), (v), and (vi)
(c)(2)(iv)(G)(iv), (v), and (vi)	(c)(2)(iv)(G)(4), (5), and (6)
(c)(2)(iv)(H)(i), (ii), (iii), (iv), (v), (vi), and (vii)	(c)(2)(iv)(H)(1), (2), (3), (4), (5), (6), and (7)

■ 3. Revising newly designated paragraph (c)(2)(iv)(C).

The revision reads as follows:

§ 20.2036–1 Transfers with retained life estate.

* * * * *

(c) * * *
(2) * * *
(iv) * * *

(C) *Example 3.* (1) D created a CRUT within the meaning of section 664(d)(2). The trust instrument directs the trustee to hold, invest, and reinvest the corpus of the trust and to pay to D for D's life, and then to D's child (C) for C's life, in equal quarterly installments payable at the end of each calendar quarter, an amount equal to 6 percent of the fair market value of the trust as valued on December 15 of the prior taxable year of the trust. At the termination of the trust, the then-remaining corpus, together with any and all accrued income, is to be distributed to N, a charitable organization described in sections 170(c), 2055(a), and 2522(a). D dies six years later, survived by C, who was then age 55. The value of the trust assets on D's death was \$300,000. D's executor does not elect to use the alternate valuation date and D's executor does not choose to use the section 7520 interest rate for either of the two months prior to D's death.

(2) The amount of the corpus with respect to which D retained the right to the income, and thus the amount includible in D's gross estate under section 2036(a)(1), is that amount of

corpus necessary to yield the unitrust payments as interest on the corpus. In this case, such amount of corpus is determined by dividing the trust's equivalent income interest rate by the section 7520 rate (which was 5.4 percent at the time of D's death). The equivalent income interest rate is determined by dividing the trust's adjusted payout rate by the excess of 1 over the adjusted payout rate. Based on Table F(5.4) in § 1.664–4(e)(6)(iii) of this chapter, the appropriate adjusted payout rate for the trust at D's death is 5.807 percent (6 percent × 0.967769). Thus, the equivalent income interest rate is 6.165 percent (5.807 percent / (1 – 5.807 percent)). The ratio of the equivalent interest rate to the assumed interest rate under section 7520 is 114.17 percent (6.165 percent / 5.4 percent). Because this exceeds 100 percent, D's retained payout interest exceeds a full income interest in the trust, and D effectively retained the income from all the assets transferred to the trust. Accordingly, because D retained for life an interest at least equal to the right to all income from all the property transferred by D to the CRUT, the entire value of the corpus of the CRUT is includible in D's gross estate under section 2036(a)(1). (The result would be the same if D had retained, instead, an interest in the CRUT for a term of years and had died during the term.) Under the facts presented, section 2039 does not apply to include any amount in D's gross

estate by reason of D's retained unitrust interest. See § 20.2039–1(e).

(3) If, instead, D had retained the right to a unitrust amount having an adjusted payout for which the corresponding equivalent interest rate would have been less than the 5.4 percent assumed interest rate of section 7520, then a correspondingly reduced proportion of the trust corpus would be includible in D's gross estate under section 2036(a)(1). Alternatively, if the interest retained by D was instead only one-half of the 6 percent unitrust interest, then the amount included in D's estate would be the amount needed to produce a 3 percent unitrust interest. All of the results in this paragraph (c)(2)(iv)(C)(3) (*Example 3*) would be the same if the trust had been a grantor retained unitrust instead of a CRUT.

* * * * *

■ **Par. 20.** Section 20.2055–2 is amended by revising paragraphs (e)(3)(iii) and (f)(4) and (6) to read as follows:

§ 20.2055–2 Transfers not exclusively for charitable purposes.

* * * * *

(e) * * *
(3) * * *

(iii)(A) The rule in paragraphs (e)(2)(vi)(a) and (e)(2)(vii)(a) of this section that guaranteed annuity interests or unitrust interests, respectively, may be payable for a specified term of years or for the life or lives of only certain individuals generally is effective in the

case of transfers pursuant to wills and revocable trusts when the decedent dies on or after April 4, 2000. Two exceptions from the application of the rule in paragraphs (e)(2)(vi)(a) and (e)(2)(vii)(a) of this section are provided for transfers pursuant to a will or revocable trust executed on or before April 4, 2000. One exception is for a decedent who dies on or before July 5, 2001, without having republished the will (or amended the trust) by codicil or otherwise. The other exception is for a decedent who was, on April 4, 2000, under a mental disability that prevented a change in the disposition of the decedent's property, and who either does not regain competence to dispose of such property before the date of death, or dies prior to the later of 90 days after the date on which the decedent first regains competence, or July 5, 2001, without having republished the will (or amended the trust) by codicil or otherwise. If a guaranteed annuity interest or unitrust interest created pursuant to a will or revocable trust when the decedent dies on or after April 4, 2000, uses an individual other than one permitted in paragraphs (e)(2)(vi)(a) and (e)(2)(vii)(a) of this section, and the interest does not qualify for this transitional relief, the

interest may be reformed into a lead interest payable for a specified term of years. The term of years is determined by taking the factor for valuing the annuity or unitrust interest for the named individual measuring life and identifying the term of years (rounded up to the next whole year) that corresponds to the equivalent term of years factor for an annuity or unitrust interest. A judicial reformation must be commenced prior to the later of July 5, 2001, or the date prescribed by section 2055(e)(3)(C)(iii). Any judicial reformation must be completed within a reasonable time after it is commenced. A non-judicial reformation is permitted if effective under state law, provided it is completed by the date on which a judicial reformation must be commenced. In the alternative, if a court, in a proceeding that is commenced on or before July 5, 2001, declares any transfer made pursuant to a will or revocable trust where the decedent dies on or after April 4, 2000, and on or before March 6, 2001, null and void ab initio, the Internal Revenue Service will treat such transfers in a manner similar to that described in section 2055(e)(3)(f).

(B) The appropriate annuity factor for an annuity payable for a term of years is computed by subtracting from

1.000000 the factor for an ordinary remainder interest following the same term certain that is determined under the formula in § 20.2031-7(d)(2)(ii)(A) and then dividing the result by the applicable section 7520 interest rate, expressing the annuity factor to at least four decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in the "Annuity" column of Table B. The appropriate annuity factor for an annuity payable for the life of one individual is computed by subtracting from 1.000000 the factor for an ordinary remainder interest following the life of the same individual that is determined under the formula in § 20.2031-7(d)(2)(ii)(B) and then dividing the result by the applicable section 7520 interest rate expressed to at least four decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in the "Annuity" column of Table S. Tables B and S can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). For purposes of the example in paragraph (e)(3)(iii)(C) of this section, the following relevant factors from Tables B and S are used:

TABLE 1 TO PARAGRAPH (e)(3)(iii)(B)

Years	Annuity	Income interest	Remainder
Factors From Table B			
Annuity, Income, and Remainder Interests for a Term Certain			
Interest at 3.2 Percent			
37	21.5068	0.688218	0.311782
38	21.8089	0.697886	0.302114
Factors from Table S—Based on Table 2010CM			
Interest at 3.2 Percent			
Age	Annuity	Life estate	Remainder
40	21.7045	0.69454	0.30546

(C) The following example illustrates how to determine the term of years for a reformed interest as discussed in paragraph (e)(3)(iii)(A) of this section. Assume an annuity interest payable for the life of an individual age 40 at the time of the transfer on or after June 1, 2023, with an interest rate of 3.2 percent under section 7520. Under Table S, the annuity factor at 3.2 percent for the life of an individual age 40 is 21.7045. Based on Table B at 3.2 percent, the factor 21.7045 corresponds to a term of

years between 37 and 38 years. Accordingly, the annuity interest must be reformed into an interest payable for a term of 38 years.

* * * * *

(f) * * *

(4) *Other decedents.* The present value of an interest not described in paragraph (f)(2) of this section is to be determined under § 20.2031-7(d) in the case of decedents where the valuation date of the gross estate is on or after June 1, 2023, or under § 20.2031-7A in the

case of decedents where the valuation date of the gross estate is before June 1, 2023.

* * * * *

(6) *Applicability date.* Paragraphs (e)(3)(iii) and (f)(4) of this section apply on and after June 1, 2023.

■ **Par. 21.** Section 20.2056A-4 is amended by:

- 1. Revising paragraph (c)(4)(ii)(B).
- 2. In paragraph (d), designating *Examples 1 through 5* as paragraphs (d)(1) through (5), respectively.

■ 3. Revising the headings in newly designated paragraphs (d)(1) through (3).

■ 4. Revising newly designated paragraph (d)(4) and paragraph (e).

The revisions read as follows:

§ 20.2056A-4 Procedures for conforming marital trusts and nontrust marital transfers to the requirements of a qualified domestic trust.

* * * * *

- (c) * * *
- (4) * * *
- (ii) * * *

(B) The total present value of the nonassignable annuity or other payment is the present value of the annuity or other payment as of the date of the decedent’s death, determined in accordance with the interest rates and mortality table prescribed by section 7520. The expected annuity term is the number of years that would be required for the scheduled payments to exhaust a hypothetical fund equal to the present value of the scheduled payments. This is determined by first dividing the total present value of the payments by the annual payment. From the quotient so obtained, the expected annuity term is derived by identifying the term of years that corresponds to the lowest annuity factor that is equal to or greater than the quotient. The annuity factor is computed by subtracting from 1.000000

the factor for an ordinary remainder interest following the same term certain that is determined under the formula in § 20.2031-7(d)(2)(ii)(A) and then dividing the result by the applicable section 7520 interest rate expressed to at least four decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in the “Annuity” column of Table B which can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). If the quotient obtained falls between two terms, the longer term is used.

* * * * *

(d) * * *

(1) *Example 1. Transfer and assignment of probate and nonprobate property to QDOT.* * * *

(2) *Example 2. Formula assignment.* * * *

(3) *Example 3. Jointly owned property.* * * *

(4) *Example 4. Computation of corpus portion of annuity payment.* (i) The appropriate annuity factor for an annuity payable for the life of one individual is computed by subtracting from 1.00000 the factor for an ordinary remainder interest following the life of the same individual that is determined under the formula in § 20.2031-

7(d)(2)(ii)(B) and then dividing the result by the applicable section 7520 interest rate expressed to at least four decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in the “Annuity” column of Table S. The appropriate annuity factor for an annuity payable for a term of years is computed by subtracting from 1.000000 the factor for an ordinary remainder interest following the same term certain that is determined under the formula in § 20.2031-7(d)(2)(ii)(A) and then dividing the result by the applicable section 7520 interest rate expressed to at least four decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in the “Annuity” column of Table B. The applicable adjustment factor for annuities that are payable at the end of semiannual, quarterly, monthly, or weekly periods is computed by use of the formula in § 20.2031-7(d)(2)(iv)(B) to at least four decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table K. These actuarial tables can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables>. For purposes of the example in this paragraph (d)(4), the relevant factors from Tables S, B, and K are:

**TABLE 2 TO PARAGRAPH (d)(4)(i)
FACTORS FROM TABLE S—BASED ON TABLE 2010CM**

Age	Annuity	Life Estate	Remainder
Interest at 3.6 Percent			
60	14.6908	0.52887	0.47113

Factors From Table B

Annuity, Income, and Remainder Interests for a Term Certain

Interest at 3.6 Percent			
Years	Annuity	Income Interest	Remainder
21	14.5605	0.524177	0.475823
22	15.0198	0.540712	0.459288

Factors From Table K

Adjustment Factors for Annuities Payable at the End of Each Interval

Interest Rate	Semi-Annually	Quarterly	Monthly
3.6%	1.0089	1.0134	1.0164

(ii) At the time of D’s death, on or after June 1, 2023, D is a participant in an employees’ pension plan described in section 401(a). On D’s death, D’s spouse S, a resident of the United States, becomes entitled to receive a

survivor’s annuity of \$72,000 per year, payable monthly, for life. At the time of D’s death, S is age 60. Assume that under section 7520, the appropriate discount rate to be used for valuing annuities in the case of this decedent is

3.6 percent. Under Table S, the annuity factor at 3.6 percent for a person age 60 is 14.6908. The adjustment factor at 3.6 percent in Table K for monthly payments is 1.0164. Accordingly, the right to receive \$72,000 per year on a

monthly basis is equal to the right to receive \$73,180.80 ($\$72,000 \times 1.0164$) on an annual basis.

(iii) The corpus portion of each annuity payment received by S is determined as follows:

(A) The first step is to determine the present value of S's annuity payments under the plan ($\$73,180.80 \times 14.6908 = \$1,075,084.50$).

(B) The second step is to determine the number of years that would be required for S's annuity to exhaust a hypothetical fund of \$1,075,084.50. The annuity factor of 14.6908 falls between the Table B term certain annuity factors for 21 and 22 years at an interest rate of 3.6 percent. Accordingly, the expected annuity term is 22 years.

(C) The third step is to determine the corpus amount of the annual payment by dividing the expected term of 22 years into the present value of the hypothetical fund ($\$1,075,084.50/22 = \$48,867.48$).

(D) In the fourth step, the corpus portion of each annuity payment is determined by dividing the corpus amount of each annual payment by the annual annuity payment (adjusted for payments more frequently than annually as in paragraph (d)(4)(i) of this section) ($\$48,867.48/73,180.80 = 0.67$).

(iv) Accordingly, 67 percent of each payment to S is deemed to be a distribution of corpus. A marital deduction is allowed for \$1,075,084.50, the present value of the annuity as of D's date of death, if either: S agrees to roll over the corpus portion of each payment to a QDOT and the executor files the Information Statement described in paragraph (c)(5) of this section and the Roll Over Agreement described in paragraph (c)(7) of this section; or S agrees to pay the tax due on the corpus portion of each payment and the executor files the Information Statement described in paragraph (c)(5) of this section and the Payment Agreement described in paragraph (c)(6) of this section.

* * * * *

(e) *Applicability date.* Paragraphs (c)(4)(ii)(B) and (d)(4) of this section are applicable with respect to decedents dying on or after June 1, 2023.

■ **Par. 22.** Section 20.7520-1 is amended by revising paragraphs (a)(1) and (2), (b)(2), (c), and (d) and adding paragraphs (e) and (f) to read as follows:

§ 20.7520-1 Valuation of annuities, interests for life or a term of years, and remainder or reversionary interests.

(a) * * *(1) Except as otherwise provided in this section and in § 20.7520-3 (relating to exceptions to the use of prescribed tables under

certain circumstances), in the case of estates of decedents with valuation dates after April 30, 1989, the fair market value of annuities, interests for life or a term of years (including unitrust interests), and remainder or reversionary interests is their present value determined under this section. See § 20.2031-7(d) (and, for periods prior to June 1, 2023, § 20.2031-7A) for the computation of the value of annuities, interests for life or a term of years, and remainder or reversionary interests, other than interests described in paragraphs (a)(2) and (3) of this section.

(2) For a transfer to a pooled income fund, see § 1.642(c)-6(e) of this chapter (or, for periods prior to June 1, 2023, § 1.642(c)-6A of this chapter) with respect to the valuation of the remainder interest.

* * * * *

(b) * * *

(2) *Mortality component.* The mortality component reflects the mortality data in the most recently available decennial mortality report based on the United States census. As the appropriate new decennial mortality report becomes available after each decennial census, the Treasury Department and the IRS will revise the mortality component described in this section and will update the regulations to adopt the revised mortality component tables. For decedents' estates with valuation dates on or after June 1, 2023, the mortality component table (Table 2010CM) is in § 20.2031-7(d)(7)(ii) and is referenced by IRS Publication 1457, *Actuarial Valuations Version 4A*, and can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). See § 20.2031-7A for mortality component tables applicable to decedents' estates with valuation dates before June 1, 2023.

(c) *Actuarial factors.* The present value on the valuation date of an annuity, an interest for life or a term of years, and a remainder or reversionary interest is computed by using the section 7520 interest rate component that is described in paragraph (b)(1) of this section and the mortality component that is described in paragraph (b)(2) of this section. Actuarial factors for determining these present values may be calculated by using the formulas in § 20.2031-7(d)(2). For the convenience of taxpayers, the IRS has computed actuarial factors and displayed them on tables that are referenced and explained by publications of the Internal Revenue

Service. If a special factor is required in order to value an interest, the special factor may be calculated by the taxpayer using the actuarial formulas in § 20.2031-7(d)(2) or the taxpayer may request a ruling to obtain the factor from the Internal Revenue Service. The request for a ruling must be accompanied by a recitation of the facts, including the date of birth for each measuring life and copies of relevant instruments. A request for a ruling must comply with the instructions for requesting a ruling published periodically in the Internal Revenue Bulletin (see Rev. Proc. 2023-1, 2023-1 I.R.B. 1, or successor revenue procedures, and §§ 601.201 and 601.601(d)(2)(ii)(b) of this chapter) and must include payment of the required user fee.

(d) *IRS publications referencing and explaining actuarial tables with rates from 0.2 to 20 percent, inclusive, at intervals of two-tenths of one percent, for valuation dates on and after June 1, 2023.* The publications listed in paragraphs (d)(1) through (3) of this section will be available within a reasonable time after June 1, 2023. The underlying actuarial tables referenced and explained by these publications currently are available, at no charge, electronically via the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables>:

(1) IRS Publication 1457, *Actuarial Valuations Version 4A* (2023). This publication references tables of valuation factors and provides examples that show how to compute other valuation factors, for determining the present value of annuities, interests for life or a term of years, and remainder or reversionary interests, measured by one or two lives. These factors also may be used in the valuation of interests in a charitable remainder annuity trust as defined in § 1.664-2 of this chapter and a pooled income fund as defined in § 1.642(c)-5 of this chapter. This publication references and explains Tables S (single life remainder factors), R(2) (two-life last-to-die remainder factors), B (actuarial factors used in determining the present value of an interest for a term of years), H (commutation factors), J (term certain annuity beginning-of-interval adjustment factors), and K (annuity end-of-interval adjustment factors). See earlier versions of the publication, § 1.642(c)-6A of this chapter, or § 20.2031-7A for Table S applicable to valuation dates before June 1, 2023. See earlier versions of the publication for Table R(2) applicable to valuation dates before June 1, 2023. Earlier versions of the publication also contain earlier

versions of Tables H and R(2). Tables B, J, and K also can be found in § 20.2031-7(d)(6), but only for interest rates from 4.2 to 14 percent, inclusive.

(2) IRS Publication 1458, *Actuarial Valuations Version 4B* (2023). This publication references and explains term certain tables and tables of one and two life valuation factors for determining the present value of remainder interests in a charitable remainder unitrust as defined in § 1.664-3 of this chapter. This publication references Tables U(1) (unitrust single life remainder factors), U(2) (unitrust two-life last-to-die remainder factors), D (actuarial factors used in determining the present value of a remainder interest postponed for a term of years), F (adjustment payout rate factors), and Z (unitrust commutation factors). See earlier versions of the publication or § 1.664-4A of this chapter for Table U(1) applicable to valuation dates before June 1, 2023. Earlier versions of the publication also contain earlier versions of Tables U(2) and Z. Table D also can be found in § 1.664-4(e)(6)(iii) of this chapter, but only for adjusted payout rates from 4.2 to 14 percent, inclusive. Table F also can be found in § 1.664-4(e)(6)(iii) of this chapter, but only for interest rates from 4.2 to 14 percent, inclusive.

(3) IRS Publication 1459, *Actuarial Valuations Version 4C* (2023). This publication references and explains Table C, which provides factors for making adjustments to the standard remainder factor for valuing gifts of depreciable property. See § 1.170A-12 of this chapter.

(4) The publications identified in paragraphs (d)(1) through (3) of this section also reference Table 2010CM, the mortality component table.

(e) *Use of approximation methods for obtaining factors when the required valuation rate falls between two listed rates.* For certain cases, this part and IRS publications provide approximation methods (for example, interpolation) for obtaining factors when the required valuation rate falls between two listed rates (such as in the case of a pooled income fund's rate of return or a unitrust's adjusted payout rate). In general, exact methods of obtaining the applicable factors are allowed, such as through software using the actual rate of return and the proper actuarial formulas used for the published factors at the listed rates, provided such direct methods are applied consistently in valuing all interests in the same property. The actuarial formula in § 20.2031-7(d)(2)(ii)(B) is used to determine the remainder factor for pooled income funds and the actuarial

formula in § 1.664-4(e)(5)(i) of this chapter is used to determine the remainder factor for unitrusts. When using either an exact method or the approximation method, the resulting actuarial factor must be expressed with at least the same number of decimal places as that used in this part. The approximation method provided in this part must be used if more exact methods are not available.

(f) *Applicability date.* This section applies on and after June 1, 2023.

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

■ **Par. 23.** The authority citation for part 25 continues to read in part as follows:

Authority: 26 U.S.C. 7805.

* * * * *

■ **Par. 24.** Section 25.2512-0 is revised to read as follows:

§ 25.2512-0 Table of contents.

This section lists the section headings that appear in the regulations in this part under section 2512.

- 25.2512-1 Valuation of property; in general.
- 25.2512-2 Stocks and bonds.
- 25.2512-3 Valuation of interests in businesses.
- 25.2512-4 Valuation of notes.
- 25.2512-5 Valuation of annuities, interests for life or a term of years, and remainder or reversionary interests.
- 25.2512-6 Valuation of certain life insurance and annuity contracts; valuation of shares in an open-end investment company.
- 25.2512-7 Effect of excise tax.
- 25.2512-8 Transfers for insufficient consideration.

Actuarial Tables Applicable Before June 1, 2023

- 25.2512-5A Valuation of annuities, interests for life or a term of years, and remainder or reversionary interests transferred before June 1, 2023.

■ **Par. 25.** Section 25.2512-5 is amended by revising paragraphs (c), (d), and (e) to read as follows:

§ 25.2512-5 Valuation of annuities, interests for life or a term of years, and remainder or reversionary interests.

* * * * *

(c) *Actuarial valuations.* The present value of annuities, interests for life or a term of years, and remainder or reversionary interests transferred by gift on or after June 1, 2023, is determined under paragraph (d) of this section. The present value of annuities, interests for life or a term of years, and remainder or reversionary interests transferred by gift before June 1, 2023, is determined (subject to paragraph (d)(3) of this section) under the following sections:

TABLE 1 TO PARAGRAPH (C)

Transfers		Applicable regulations
After	Before	
	01-01-52	§ 25.2512-5A(a)
12-31-51	01-01-71	25.2512-5A(b)
12-31-70	12-01-83	25.2512-5A(c)
11-30-83	05-01-89	25.2512-5A(d)
04-30-89	05-01-99	25.2512-5A(e)
04-30-99	05-01-09	25.2512-5A(f)
04-30-09	06-01-23	25.2512-5A(g)

(d) *Actuarial valuations on or after June 1, 2023—(1) In general.* Except as otherwise provided in paragraph (b) of this section and § 25.7520-3(b) (relating to exceptions to the use of prescribed tables under certain circumstances), the fair market value of annuities, interests for life or a term of years, and remainder or reversionary interests transferred on or after June 1, 2023, is the present value of such interests determined under paragraph (d)(2) of this section and by using standard or special section 7520 actuarial factors. Many of these factors are derived by using the actuarial formulas provided in § 20.2031-7(d)(2) of this chapter, appropriate section 7520 interest rate, and, if applicable, the mortality component for the valuation date of the interest that is being valued. For purposes of the computations described in this section, the age of an individual is the age of that individual at the individual's nearest birthday. For the convenience of taxpayers, paragraph (d)(2) of this section provides for published tables of factors for specific types of interests. These published tables provide factors for rates from 0.2 to 20 percent, inclusive, at intervals of two-tenths of one percent. In general, appropriate factors instead may be computed directly from the actuarial formulas provided in § 20.2031-7(d)(2) of this chapter. In some cases, specific examples in this part and IRS publications illustrate approximation methods (for example, interpolation) for obtaining factors when the required valuation rate falls between two listed rates (such as in the case of a pooled income fund's rate of return or a unitrust's adjusted payout rate). Exact methods of obtaining the applicable actuarial factors are allowed, such as through software using the actual rate of return and the actuarial formulas provided in § 20.2031-7(d)(2) of this chapter. When using either an exact method or the approximation method, the resulting actuarial factor must be expressed with at least the same number of decimal places as that used in this part. The approximation method provided in this part must be used if more exact methods are not available.

See §§ 25.7520–1 through 25.7520–4. The selected method must be applied consistently in valuing all interests in the same property. The fair market value of a qualified annuity interest described in section 2702(b)(1) and a qualified unitrust interest described in section 2702(b)(2) is the present value of such interests determined under § 25.7520–1(c).

(2) *Specific interests.* When the donor transfers property in trust or otherwise and retains an interest therein, generally, the value of the gift is the value of the property transferred less the value of the donor's retained interest. However, if the donor transfers property after October 8, 1990, to or for the benefit of a member of the donor's family, the value of the gift is the value of the property transferred less the value of the donor's retained interest as determined under section 2702. If the donor assigns or relinquishes an annuity, an interest for life or a term of years, a remainder or reversionary interest that the donor holds by virtue of a transfer previously made by the donor or another, the value of the gift is the value of the interest transferred. However, see section 2519 for a special rule in the case of the assignment of an income interest by a person who received the interest from a spouse.

(i) *Pooled income funds and charitable remainder trusts.* The fair market value of a remainder interest in a pooled income fund, as defined in § 1.642(c)–5 of this chapter, is its value determined under § 1.642(c)–6(e) of this chapter (see § 1.642(c)–6A of this chapter for certain prior periods). The fair market value of a remainder interest in a charitable remainder annuity trust, as described in § 1.664–2(a) of this chapter, is its present value determined under § 1.664–2(c) of this chapter. The fair market value of a remainder interest in a charitable remainder unitrust, as defined in § 1.664–3 of this chapter, is its present value determined under § 1.664–4(e) of this chapter. The fair market value of a life interest or term for years interest in a charitable remainder unitrust is the fair market value of the property as of the date of transfer less the fair market value of the remainder interest, determined under § 1.664–4(e)(4) and (5) of this chapter.

(ii) *Ordinary remainder and reversionary interests—(A) Remainder and reversionary interests after a term of years.* If the interest to be valued is a remainder or reversionary interest to take effect after a definite number of years, the present value of the interest is computed by multiplying the value of the property by the appropriate remainder factor (that corresponds to

the applicable section 7520 interest rate and the stated term). The factor for an ordinary remainder interest following a term certain may be found using the formula in § 20.2031–7(d)(2)(ii)(A) of this chapter and computing the result to at least six decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table B. Table B can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). Table B is referenced and explained in IRS Publication 1457, *Actuarial Valuations Version 4A*, which will be available within a reasonable time after June 1, 2023. The remainder factors from Table B also can be found in paragraph (d)(6) of this section, but only for interest rates from 4.2 to 14 percent, inclusive. For information about obtaining special factors for other situations, see paragraph (d)(4) of this section.

(B) *Remainder and reversionary interests dependent on the life of one individual.* If the interest to be valued is a remainder or reversionary interest to take effect after the death of one individual, the present value of the interest is computed by multiplying the value of the property by the appropriate remainder factor (that corresponds to the applicable section 7520 interest rate and the age of the measuring life of the life interest that precedes the remainder interest). The factor for an ordinary remainder interest following the death of one individual may be found by using the formula in § 20.2031–7(d)(2)(ii)(B) of this chapter to derive a remainder factor from the appropriate mortality table to at least five decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table S. Table S currently is available, at no charge, electronically via the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). Table S is referenced and explained by IRS Publication 1457, *Actuarial Valuations Version 4A*, which will be available within a reasonable time after June 1, 2023. For information about obtaining special factors for other situations, see paragraph (d)(4) of this section.

(iii) *Ordinary interests for a term of years and life interests.* If the interest to be valued is the right of a person to receive the income of certain property, or to the use of certain property, for a term of years or for the life of one individual, the present value of the interest is computed by multiplying the value of the property by the appropriate actuarial factor for an interest for a term

of years or for a life interest (that corresponds to the applicable section 7520 interest rate and the durational period). The actuarial factor for an ordinary income interest for a term certain may be found by subtracting from 1.000000 the factor for an ordinary remainder interest following the same term certain that is determined under the formula in § 20.2031–7(d)(2)(ii)(A) of this chapter. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in the “Income Interest” column of Table B which can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). The actuarial factor for an ordinary income interest for the life of one individual may be found by subtracting from 1.000000 the factor for an ordinary remainder interest following the life of the same individual that is determined in § 20.2031–7(d)(2)(ii)(B) of this chapter. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in the “Life Estate” column of Table S. Table S (applicable when the valuation date is on or after June 1, 2023) can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables>. Tables B and S are referenced and explained by IRS Publication 1457, *Actuarial Valuations Version 4A*. See § 20.2031–7A of this chapter or earlier versions of Publication 1457 for valuation of interests before June 1, 2023. For information about obtaining special factors for other situations, see paragraph (d)(4) of this section.

(iv) *Annuities.* (A) If the interest to be valued is the right of a person to receive an annuity that is payable at the end of each year for a term of years or for the life of one individual, the present value of the interest is computed by multiplying the aggregate amount payable annually by the appropriate annuity factor (that corresponds to the applicable section 7520 interest rate and annuity period). The appropriate annuity factor for an annuity payable for a term of years is computed by subtracting from 1.000000 the factor for an ordinary remainder interest following the same term certain that is determined under the formula in § 20.2031–7(d)(2)(ii)(A) of this chapter and then dividing the result by the applicable section 7520 interest rate expressed to at least four decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in the “Annuity” column of Table B which

can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). The appropriate annuity factor for an annuity payable for the life of one individual is computed by subtracting from 1.00000 the factor for an ordinary remainder interest following the life of the same individual that is determined in § 20.2031-7(d)(2)(ii)(B) of this chapter and then dividing the result by the applicable section 7520 interest rate expressed to at least four decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in the “Annuity” column of Table S. Table S (applicable when the valuation date is on or after June 1, 2023) can be found

on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables>. Tables B and S are referenced and explained in IRS Publication 1457, *Actuarial Valuations Version 4A*. See § 20.2031-7A of this chapter or earlier versions of Publication 1457 for valuation of interests before June 1, 2023. For information about obtaining special factors for other situations, see paragraph (d)(4) of this section.

(B) If the annuity is payable at the end of semiannual, quarterly, monthly, or weekly periods, the product obtained by multiplying the annuity factor by the aggregate amount payable annually then is multiplied by the applicable adjustment factor at the appropriate interest rate component for payments made at the end of the specified period.

The applicable adjustment factor may be found using the formula in § 20.2031-7(d)(2)(iv)(B) of this chapter expressed to at least four decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table K. Table K, which is referenced and explained by Publication 1457, can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables>. The provisions of this paragraph (d)(2)(iv)(B) are illustrated by the example in paragraph (d)(2)(iv)(B)(2) of this section.

(1) *Sample factors from actuarial Tables S and K.* For purposes of the example in paragraph (d)(2)(iv)(B)(2) of this section, the relevant factors from Tables S and K are:

TABLE 2 TO PARAGRAPH (d)(2)(iv)(B)(1)

Age	Annuity	Life estate	Remainder
Factors From Table S—Based on Table 2010CM Interest at 3.2 Percent			
68	12.2552	0.39217	0.60783
Factors From Table K Adjustment Factors for Annuities Payable at the End of Each Interval			
Interest rate	Semi-annually	Quarterly	Monthly
3.2%	1.0079	1.0119	1.0146

(2) *Example.* On July 1 of a year after 2021, the donor agrees to pay the annuitant the sum of \$10,000 per year, payable in equal semiannual installments at the end of each period. The semiannual installments are to be made on each December 31st and June 30th. The annuity is payable until the annuitant’s death. On the date of the agreement, the annuitant is 68 years and 5 months old. The donee annuitant’s age is treated as 68 for purposes of computing the present value of the annuity. The section 7520 rate on the date of the agreement is 3.2 percent. Under Table S, the factor at 3.2 percent for determining the present value of an annuity payable until the death of a person aged 68 is 12.2552. The adjustment factor from Table K in the column for payments made at the end of each semiannual period at the rate of 3.2 percent is 1.0079. The aggregate annual amount of the annuity, \$10,000, is multiplied by the factor 12.2552 and the product is multiplied by 1.0079. The present value of the donee’s annuity is, therefore, \$123,520.16 ($\$10,000 \times 12.2552 \times 1.0079$).

(C) If an annuity is payable at the beginning of annual, semiannual, quarterly, monthly, or weekly periods

for a term of years, the value of the annuity is computed by multiplying the aggregate amount payable annually by the annuity factor described in paragraph (d)(2)(iv)(A) of this section; and the product so obtained then is multiplied by the applicable adjustment factor at the appropriate interest rate component for payments made at the beginning of specified periods. The applicable adjustment factor may be found using the formula in § 20.2031-7(d)(2)(iv)(C) of this chapter expressed to at least four decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table J. Table J, which is referenced and explained by Publication 1457, can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables>. If an annuity is payable at the beginning of annual, semiannual, quarterly, monthly, or weekly periods for one or more lives, the value of the annuity is the sum of the first payment and the present value of a similar annuity, the first payment of which is not to be made until the end of the payment period, determined as provided in paragraph (d)(2)(iv)(B) of this section.

(v) *Annuity and unitrust interests for a term of years or until the prior death of an individual—(A) Annuity interests—(1) In general.* (i) The present value of an annuity interest that is payable until the earlier to occur of the lapse of a specific number of years or the death of an individual may be computed with the use of commutation factors and an applicable adjustment factor. The commutation factors are computed directly with the set of formulas in Figure 1 to this paragraph (d)(2)(v)(A)(1)(i). The prescribed mortality table is Table 2010CM as set forth in § 20.2031-7(d)(7)(ii) of this chapter, or for periods before June 1, 2023, the appropriate table found in § 20.2031-7A of this chapter. For the convenience of taxpayers, commutation factors have been computed by the IRS and appear in Table H. Table H currently is available, at no charge, electronically via the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). Table H is referenced and explained by IRS Publication 1457, *Actuarial Valuations Version 4A*, which

will be available within a reasonable time after June 1, 2023.
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Figure 1 to Paragraph (d)(2)(v)(A)(1)(i)—Formulas for Determining Commutation Factors

$$D_x = v^x \cdot l_x$$

$$N_{x+1} = \sum_{t=1}^{\infty} D_{x+t}$$

$$M_x = \sum_{t=0}^{\infty} v^{x+t+1} \cdot d_{x+t}$$

$$\overset{\circ}{N}_x = N_{x+1} + \frac{1}{2} M_x$$

$$\overline{M}_x = \left(1 + \frac{i}{2}\right) \cdot M_x$$

where:

i = the applicable interest rate under Section 7520 of the Internal Revenue Code;

v = 1 / (1 + *i*);

d_x = *l_x* - *l_{x+1}* ;

x = is the age of the measuring life (determined as age at nearest birthday); and

l_x = the number associated with age *x* as set forth in the prescribed mortality table, representing the number of persons alive at age *x*.

(ii) The applicable adjustment factor for annuities that are payable at the end of semiannual, quarterly, monthly, or weekly periods is computed by use of the formula in § 20.2031-7(d)(2)(iv)(B) of this chapter expressed to at least four

decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table K. Table K can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables>. For

purposes of the example in paragraph (d)(2)(v)(A)(2) of this section, the relevant factors from Tables H(2.8) and K are:

TABLE 3 TO PARAGRAPH (d)(2)(v)(A)(1)(ii)

Age (x)	D _x	N _x -factor	M _x -factor
Factors From Table H(2.8) Commutation Factors—Based on Table 2010CM			
Interest Rate of 2.8 Percent			
60	16,911.03	271,994.3	9,295.187
70	11,280.80	133,677.8	7,537.826
Factors From Table K Adjustment Factors for Annuities Payable at the End of Each Interval			
Interest rate	Semi-annually	Quarterly	Monthly
2.8%	1.0070	1.0104	1.0128

(2) *Example.* The donor transfers \$100,000 into a trust on January 1, 2022 and retains the right to receive an annuity from the trust in the amount of \$10,000 per year, payable in equal semiannual installments at the end of each period. The semiannual installments are to be made on each June 30th and December 31st. The

annuity is payable for 10 years or until the donor's prior death. At the time of the transfer, the donor is 59 years and 6 months old. The donor's age is deemed to be 60 for purposes of computing the present value of the retained annuity. If the section 7520 rate for the month in which the transfer occurred is 2.8 percent, the present

value of the donor's retained annuity interest for the shorter of life or term would be is \$82,363.54, determined in Figure 2 to this paragraph (d)(2)(v)(A)(2).

**Figure 2 to Paragraph (d)(2)(v)(A)(2)—
Illustration of Calculation of Present
Value of the Donor's Retained Annuity
Interest for the Shorter of Life or Term**

A. Initial age	60
B. Plus: Term of years	<u>10</u>
C. Sum (Terminal age)	70
D. $\overset{\circ}{N}_x$ factor, Table H(2.8), age 60	271,994.30
E. Less: $\overset{\circ}{N}_x$ factor, Table H(2.8), age 70	<u>133,677.80</u>
F. Difference	138,316.50
G. D_x factor, Table H(2.8), age 60	16,911.03
H. Required Annuity Factor: F / G	8.1791
I. Table K factor, semiannual payments at 2.8%	1.0070
J. Annual Annuity Amount	\$10,000
K. Present value of retained interest: H x I x J	\$82,363.54

(B) *Unitrust interests—(1) In general.* (i) The present value of a unitrust interest that is payable until the earlier to occur of the lapse of a specific number of years or the death of an individual may be computed with the use of an adjusted payout rate factor and unitrust commutation factors. The payout rate adjustment factor is determined by applying the formula in

§ 1.664–4(e)(6)(ii) of this chapter for the section 7520 interest rate applicable to the transfer and computing the result to at least six decimal places. For the convenience of taxpayers, payout rate adjustment factors have been computed by the IRS, for interest rates from 0.2 to 20 percent, inclusive, and appear in Tables F(0.2) through F(20.0). The unitrust commutation factors may be

computed directly with the set of formulas in Figure 3 to this paragraph (d)(2)(v)(B)(1)(i). For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table Z. Tables F and Z can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables>.

**Figure 3 to Paragraph
(d)(2)(v)(B)(I)(i)—Formulas for
Determining Unitrust Commutation
Factors**

$${}^u D_x = {}^u v^x \cdot l_x$$

$${}^u N_{x+1} = \sum_{t=1}^{\infty} {}^u D_{x+t}$$

$${}^u M_x = \sum_{t=0}^{\infty} {}^u v^{x+t+1} \cdot d_{x+t}$$

$${}^u \overset{\circ}{N}_x = {}^u N_{x+1} + \frac{1}{2} {}^u M_x$$

$${}^u \bar{M}_x = \left(1 + \frac{{}^u i}{2}\right) \cdot {}^u M_x$$

where:

r = the adjusted payout rate;

${}^u v$ = $1 - r$;

${}^u i$ = $r / (1 - r)$;

d_x = $l_x - l_{x+1}$;

x = is the age of the measuring life (determined as age at nearest birthday); and

l_x = the number associated with age x as set forth in the prescribed mortality table, representing the number of persons alive at age x .

(ii) For purposes of the example in paragraph (d)(2)(v)(B)(2) of this section, the relevant factors from Tables F(3.4), Z(4.8), and Z(5.0) are:

TABLE 4 TO PARAGRAPH (d)(2)(v)(B)(1)(ii)

Number of months from annual valuation to first payout		Adjustment factors for payments at end of period	
At least	But less than	Annual	Semiannual
Factors From Table F(3.4)			
Factors for Computing Adjusted Payout Rates for Unitrusts			
Interest at 3.4 Percent			
6	7	0.983422	0.975270
Factors From Table Z(4.8)			
Unitrust Commutation Factors—Based on Table 2010CM			
Adjusted Payout Rate of 4.8 Percent			
Age (x)	${}^u D_x$	${}^u N_x$ -factor	${}^u M_x$ -factor
60	4,634.189	58,509.09	1,684.151
70	2,491.406	24,541.74	1,254.007
Factors From Table Z(5.0)			
Unitrust Commutation Factors—Based on Table 2010CM			
Adjusted Payout Rate of 5.0 Percent			
Age (x)	${}^u D_x$	${}^u N_x$ -factor	${}^u M_x$ -factor
60	4,084.822	50,451.77	1,429.466
70	2,150.356	20,823.44	1,054.386

(2) *Example of interpolation.* The donor who, as of the nearest birthday, is 60 years old, transfers \$100,000 to a unitrust on January 1st of a year after 2021. The trust instrument requires that each year the trust pay to the donor, in equal semiannual installments on June 30th and December 31st, 5 percent of the fair market value of the trust assets, valued as of January 1st of that year, for 10 years or until the prior death of the donor. The section 7520 rate for the January in which the transfer occurred is 3.4 percent. Under Table F(3.4), the

appropriate adjustment factor is 0.975270 for semiannual payments payable at the end of the semiannual period. The adjusted payout rate is 4.876 percent ($5\% \times 0.975270$). The present value of the donor's retained interest is \$37,419.00 determined in paragraphs (d)(2)(v)(B)(2)(i) through (iii) of this section. Using Table Z, the method required is to prepare two computations, one at a payout rate of 4.8 percent, and one at 5.0 percent, and interpolate between these two in order to get the result at the adjusted payout

rate of 4.876 percent. As an alternative to using an interpolation method, it also is acceptable to compute the remainder factor directly from the root actuarial formulas using the actual adjusted payout rate of 4.876%.

(i) Determine the terminal age, as illustrated in Figure 4 to this paragraph (d)(2)(v)(B)(2)(i).

Figure 4 to Paragraph (d)(2)(v)(B)(2)(i)—Illustration of Determination of Terminal Age

A. Initial age	60
B. Plus: Term of years	10
C. Sum (Terminal age)	70

(ii) Determine the Payout Interest Factor at the Table Z payout rates

immediately below and above the adjusted payout rate, as illustrated in

Figure 5 to this paragraph (d)(2)(v)(B)(2)(ii).

Figure 5 to Paragraph (d)(2)(v)(B)(2)(ii)—Illustration of Determination of Payout Interest Factors

D. Payout Rate	4.80%	5.00%
E. Equivalent Interest Rate Factor: $D / (1 - D)$	0.05042	0.05263
F. ${}^{\circ}N_x$ factor, Table Z, age 60	58,509.09	50,451.77
G. Less: ${}^{\circ}N_x$ factor, Table Z, age 70	<u>24,541.74</u>	<u>20,823.44</u>
H. Difference	33,967.35	29,628.33
I. ${}^u D_x$ factor, Table Z, age 60	4,634.189	4,084.822
J. Intermediate Factor: H / I	7.32973	7.25327
K. Payout Interest Factor: $E \times J$	0.36956	0.38174

(iii) Interpolate between the Payout Interest Factors at 4.8% and 5.0% to determine the Payout Interest Factor at

the adjusted rate of 4.876%, as illustrated in Figure 6 to this paragraph (d)(2)(v)(B)(2)(iii).

Figure 6 to Paragraph (d)(2)(v)(B)(2)(iii)—Illustration of Interpolation

L. Payout Interest Factor at 5.00%	0.38174
M. Less: Payout Interest Factor at 4.8%	<u>0.36956</u>
N. Difference: $L - M$	0.01218
O. Adjusted Payout Rate	4.876%

P. Interpolation Adjustment:

$$\frac{5.00\% - 4.876\%}{5.00\% - 4.80\%} = \frac{z}{0.01218}$$

$$\frac{5.00\% - 4.876\%}{5.00\% - 4.80\%} \cdot 0.01218 = z = 0.00755$$

Q. Payout Interest Factor at 5.00%	0.38174
R. Less: Interpolation Adjustment z	<u>0.00755</u>
S. Interpolated Payout Interest Factor: $Q - R$	0.37419

T. Amount Transferred	\$100,000
U. Present Value of Retained Payout Interest: $S \times T$	\$37,419

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(3) *Transitional rule.* If the valuation date of a transfer of property by gift is after April 30, 2019, and on or before June 1, 2023, the fair market value of the interest transferred is determined by using the section 7520 interest rate for the month in which the valuation date

occurs (see §§ 25.7520-1(b) and 25.7520-2(a)(2)) and the appropriate actuarial factors derived from the selected mortality table, either Table 2010CM in § 20.2031-7(d)(7)(ii) of this chapter or Table 2000CM in § 20.2031-7A(g)(4) of this chapter, at the option of the donor or the decedent's executor, as

the case may be. If any previously filed gift tax return is supplemented to use the actuarial factors based on Table 2010CM, the supplemental return must state at the top "AMENDED PURSUANT TO TD 9974." For the convenience of taxpayers, actuarial factors based on Table 2010CM appear in the current

version of Table S, and actuarial factors based on Table 2000CM appear in the previous version of Table S. Both versions of Table S will be available as provided in paragraph (d)(4) of this section. With respect to each individual transaction, the donor must consistently use the same mortality basis with respect to each interest (income, remainder, partial, etc.) in the same property, and with respect to all transfers occurring on the same valuation date. For example, gift and income tax charitable deductions with respect to the same transfer must be determined based on factors with the same mortality basis, and all assets includible in the gross estate and/or estate tax deductions claimed must be valued based on factors with the same mortality basis.

(4) *Publications and actuarial computations by the Internal Revenue Service.* The factor for determining the present value of a remainder interest that is dependent on the termination of the life of one individual may be computed by using the formula in § 20.2031-7(d)(2)(ii)(B) of this chapter to derive a remainder factor from the appropriate mortality table expressed to at least five decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table S. The factor for determining the present value of a remainder interest following a term certain may be computed by using the formula in § 20.2031-7(d)(2)(ii)(A) of this chapter expressed to at least six decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table B. Adjustment factors for term certain annuities payable at the beginning of each interval may be computed by using the formula in § 20.2031-7(d)(2)(iv)(C) of this chapter expressed to at least four decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table J. Adjustment factors for annuities payable at the end of each interval may be computed by using the formula in § 20.2031-7(d)(2)(iv)(B) of this chapter expressed to at least four decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table K. These tables currently are available, at no charge, electronically via the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). IRS Publication 1457, *Actuarial Valuations Version 4A* (2023), references and

explains the factors contained in the actuarial tables and also includes examples that illustrate how to compute many special factors for more unusual situations. This publication will be available within a reasonable time after June 1, 2023. Tables B, J, and K also can be found in § 20.2031-7(d)(6) of this chapter, but only for interest rates from 4.2 to 14 percent, inclusive. If a particular factor is required, that factor may be calculated by the taxpayer using the actuarial formula in § 20.2031-7(d)(2) of this chapter or the taxpayer may request a ruling to obtain the factor from the Internal Revenue Service. The request for a ruling must be accompanied by a recitation of the facts including a statement of the date of birth for each measuring life, the date of the gift, any other applicable dates, and a copy of the will, trust, or other relevant documents. A request for a ruling must comply with the instructions for requesting a ruling published periodically in the Internal Revenue Bulletin (see Rev. Proc. 2023-1, 2023-1 I.R.B. 1, or successor revenue procedures, and §§ 601.201 and 601.601(d)(2)(ii)(b) of this chapter) and must include payment of the required user fee.

(e) *Applicability date.* This section applies on and after June 1, 2023.

■ **Par. 26.** The undesignated center heading immediately preceding § 25.2512-5A is revised to read as follows:

Actuarial Tables Applicable Before June 1, 2023

■ **Par. 27.** Section 25.2512-5A is amended by revising the section heading and adding paragraph (g) to read as follows:

§ 25.2512-5A Valuation of annuities, interests for life or a term of years, and remainder or reversionary interests transferred before June 1, 2023.

* * * * *

(g) *Valuation of annuities, interests for life or a term of years, and remainder or reversionary interests transferred on or after May 1, 2009, and before June 1, 2023—(1) In general.* Except as otherwise provided in §§ 25.2512-5(b) and 25.7520-3(b) (pertaining to certain limitations on the use of prescribed tables), if the valuation date of the transferred interest is on or after May 1, 2009, and before June 1, 2023, the fair market value of annuities, interests for life or a term of years, and remainder or reversionary interests transferred by gift is the present value of the interests determined by using standard or special section 7520 actuarial factors and the

valuation methodology described in § 25.2512-5(d). Sections 20.2031-7(d)(6) and 20.2031-7A(g)(4) of this chapter and related sections provide tables with standard actuarial factors and examples that illustrate how to use the tables to compute the present value of ordinary annuity, life, term, and remainder interests in property. Sections 20.2031-7(d)(6) and 20.2031-7A(g)(4) of this chapter also refer to standard and special actuarial factors that may be necessary to compute the present value of similar interests in more unusual fact situations. These factors and examples also generally are applicable for gift tax purposes in computing the values of taxable gifts.

(2) *Transitional rule.* (i) If the valuation date of a transfer of property by gift is on or after May 1, 2009, and before July 1, 2009, the fair market value of the interest transferred is determined by using the section 7520 interest rate for the month in which the valuation date occurs (see §§ 25.7520-1(b) and 25.7520-2(a)(2)) and the appropriate actuarial tables under either § 20.2031-7A(f)(4) or (g)(4) of this chapter, at the option of the donor.

(ii) For purposes of paragraph (g)(2)(i) of this section, where the donor is given the option to use either of two appropriate actuarial tables, the donor must consistently use the same mortality basis with respect to each interest (income, remainder, partial, etc.) in the same property, and with respect to all transfers occurring on the same valuation date. For example, gift and income tax charitable deductions with respect to the same transfer must be determined based on factors with the same mortality basis, and all assets includible in the gross estate and/or estate tax deductions claimed must be valued based on factors with the same mortality basis.

(iii) If the valuation date of a transfer of property by gift is after April 30, 2019, and before June 1, 2023, the fair market value of the interest transferred is determined under § 25.2512-5(d)(3).

(3) *Publications and actuarial computations by the Internal Revenue Service.* The factor for determining the present value of a remainder interest that is dependent on the termination of the life of one individual may be computed by using the formula in § 20.2031-7(d)(2)(ii)(B) of this chapter to derive a remainder factor from the appropriate mortality table to at least five decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table S. The factor for determining the present value of a remainder interest following a term

certain may be computed by using the formula in § 20.2031-7(d)(2)(ii)(A) of this chapter expressed to at least six decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table B. Adjustment factors for term certain annuities payable at the beginning of each interval may be computed by using the formula in § 20.2031-7(d)(2)(iv)(C) of this chapter expressed to at least four decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table J. Adjustment factors for annuities payable at the end of each interval may be computed by using the formula in § 20.2031-7(d)(2)(iv)(B) of this chapter expressed to at least four decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table K. These tables are referenced and explained by IRS Publication 1457, *Actuarial Values Version 3A*, (2009). Publication 1457 includes examples that illustrate how to compute many special factors for more unusual situations. The actuarial tables are available, at no charge, electronically via the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). Table S also can be found in § 20.2031-7A(g)(4) of this chapter, but only for interest rates from 0.2 to 14 percent, inclusive. Tables B, J, and K also can be found in § 20.2031-7(d)(6) of this chapter, but only for interest rates from 4.2 to 14 percent,

inclusive. If a particular factor is required in the case of a completed gift, that factor may be calculated by the donor using the actuarial formulas in § 20.2031-7(d)(2) of this chapter or the donor may request a ruling to obtain the factor from the Internal Revenue Service. The request for a ruling must be accompanied by a recitation of the facts including a statement of the date of birth for each measuring life, the date of the gift, any other applicable dates, and a copy of the will, trust, or other relevant documents. A request for a ruling must comply with the instructions for requesting a ruling published periodically in the Internal Revenue Bulletin (see §§ 601.201 and 601.601(d)(2)(ii)(b) of this chapter) and must include payment of the required user fee.

(4) *Applicability dates.* Paragraphs (g)(1) through (3) of this section apply on and after May 1, 2009, and before June 1, 2023.

■ **Par. 28.** Section 25.2522(c)-3 is amended by:

- 1. In paragraph (d)(2)(iv), designating *Examples 1 through 3* as paragraphs (d)(2)(iv)(A) through (C), respectively.
- 2. Revising the headings for newly designated paragraphs (d)(2)(iv)(A) and (B), newly designated paragraph (d)(2)(iv)(C), and paragraph (e).
- 3. Adding paragraph (f).

The revisions and addition read as follows:

§ 25.2522(c)-3 Transfers not exclusively for charitable, etc., purposes in the case of gifts made after July 31, 1969.

* * * * *

(d) * * *

(2) * * *

(iv) * * *

(A) *Example 1.* * * *

(B) *Example 2.* * * *

(C) *Example 3—(1) Factors.* The appropriate annuity factor for an annuity payable for a term of years is computed by subtracting from 1.000000 the factor for an ordinary remainder interest following the same term certain that is determined under the formula in § 20.2031-7(d)(2)(ii)(A) of this chapter and then dividing the result by the applicable section 7520 interest rate expressed to at least four decimal places. For the convenience of taxpayers, annuity factors have been computed by the IRS and appear in the “Annuity” column of Table B. The actuarial commutation factors can be computed directly by using the formulas in § 25.2512-5(d)(2)(v)(A)(1), the section 7520 rate, and Table 2010CM as set forth in § 20.2031-7(d)(7)(ii) of this chapter. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in Table H. Tables B and H can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). For purposes of the example in paragraph (d)(2)(iv)(C)(2) of this section, the relevant factors from Tables B and H are:

TABLE 1 TO PARAGRAPH (d)(2)(iv)(C)(1)

Years	Annuity	Income interest	Remainder
Factors From Table B			
Annuity, Income, and Remainder Interests for a Term Certain			
Interest at 2.8 Percent			
10	8.6179	0.241302	0.758698
Factors from Table H(2.8)			
Commutation Factors—Based on Table 2010CM			
Interest Rate of 2.8 Percent			
Age (x)	D _x	N _x -factor	M _x -factor
60	16,911.03	271,994.3	9,295.187
70	11,280.80	133,677.8	7,537.826

(2) *Application.* In a year after 2023, D transfers \$65,000 in trust with the requirement that a guaranteed annuity interest (as defined in paragraph (c)(2)(vi) of this section) of \$5,000 a year, payable annually at the end of

each year, be paid to Y Charity for a period of 10 years and that a guaranteed annuity interest (as defined in paragraph (c)(2)(vi) of this section) of \$5,000 a year, payable annually at the end of each year, be paid to W, D’s wife,

aged 60, for 10 years or until her prior death. The annuities are to be paid simultaneously, and the remainder is to be paid to D’s children. The section 7520 interest rate for the date of transfer is 2.8 percent, and the taxpayer elects

not to use the interest rate from either of the two preceding months. The fair market value of the private annuity is \$40,895.50 ($\$5,000 \times 8.1791$), as determined pursuant to § 25.2512-5(d)(2)(v)(A) and by the use of factors derived from Table H and illustrated in paragraph (d)(2)(iv)(C)(3) of this section. The fair market value of the charitable annuity is \$43,089.50 ($\$5,000 \times 8.6179$), determined using the annuity factor from Table B. It is not evident from the

governing instrument of the trust or from local law that the trustee would be required to apportion the trust fund between the wife and charity in the event the fund were insufficient to pay both annuities in a given year. Accordingly, the deduction with respect to the charitable annuity will be limited to \$24,104.50 ($\$65,000$ less $\$40,895.50$ [the value of the private annuity]), which is the minimum amount it is evident the charity will receive.

(3) *Actuarial factor.* In paragraph (d)(2)(iv)(C)(2) of this section, the actuarial factor for determining the value of the private annuity is derived by the use of factors involving one life and a term of years. The factor is determined as illustrated in Figure 1 to this paragraph (d)(2)(iv)(C)(3).

**Figure 1 to Paragraph (d)(2)(iv)(C)(3)—
Illustration of Calculation of Annuity
Factor for Shorter of Term or Life**

A. Initial age	60
B. Plus: Term of years	<u>10</u>
C. Sum (Terminal age)	70
D. $\overset{\circ}{N}_x$ factor, Table H(2.8), age 60	271,994.30
E. Less: $\overset{\circ}{N}_x$ factor, Table H(2.8), age 70	<u>133,677.80</u>
F. Difference	138,316.50
G. D_x factor, Table H(2.8), age 60	16,911.03
H. Required Annuity Factor: F / G	8.1791

* * * * *

(e) *Guaranteed annuity and unitrust interests reformed as an interest for a term of years—(1) In general.* The rules in paragraphs (c)(2)(vi)(a) and (c)(2)(vii)(a) of this section that guaranteed annuity interests or unitrust interests, respectively, may be payable for a specified term of years or for the life or lives of only certain individuals applies to transfers made on or after April 4, 2000. If a transfer is made on or after April 4, 2000, that uses an individual other than one permitted in paragraphs (c)(2)(vi)(a) and (c)(2)(vii)(a) of this section, the interest may be reformed into a lead interest payable for a specified term of years. The term of years is determined by taking the factor for valuing the annuity or unitrust interest for the named individual measuring life and identifying the term of years (rounded up to the next whole year) that corresponds to the equivalent term of years factor for an annuity or unitrust interest. See paragraph (e)(4) of this section for an example.

(2) *Judicial and non-judicial reformations.* A judicial reformation must be commenced prior to October 15th of the year following the year in which the transfer is made and must be completed within a reasonable time after it is commenced. A non-judicial reformation is permitted if effective under state law, provided it is completed by the date on which a judicial reformation must be commenced. In the alternative, if a court, in a proceeding that is commenced on or before July 5, 2001, declares any transfer, made on or after April 4, 2000, and on or before March 6, 2001, null and void ab initio, the Internal Revenue Service will treat such transfers in a manner similar to that described in section 2055(e)(3)(j).

(3) *Sample factors from actuarial Tables B and S.* The appropriate annuity factor for an annuity payable for a term of years is computed by subtracting from 1.000000 the factor for an ordinary remainder interest following the same term certain that is determined under the formula in § 20.2031-7(d)(2)(ii)(A)

of this chapter and then dividing the result by the applicable section 7520 interest rate expressed to at least four decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in the “Annuity” column of Table B. The appropriate annuity factor for an annuity payable for the life of one individual is computed by subtracting from 1.00000 the factor for an ordinary remainder interest following the life of the same individual that is determined under the formula in § 20.2031-7(d)(2)(ii)(B) of this chapter and then dividing the result by the applicable section 7520 interest rate expressed to at least four decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in the “Annuity” column of Table S. Tables B and S can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables>. For purposes of the example in paragraph (e)(4) of this section, the relevant factors from Tables B and S are:

TABLE 2 TO PARAGRAPH (e)(3)

Years	Annuity	Income interest	Remainder
Factors From Table B			
Annuity, Income, and Remainder Interests for a Term Certain			
Interest at 2.4 Percent			
38	24.7471	0.593929	0.406071
39	25.1436	0.603447	0.396553
Factors From Table S—Based on Table 2010CM			
Interest at 2.4 Percent			
Age	Annuity	Life Estate	Remainder
40	24.9063	0.59775	0.40225

(4) *Example.* An annuity interest payable for the life of an individual age 40 at the time of the transfer that occurs on or after June 1, 2023, assuming an interest rate of 2.4 percent under section 7520, has an annuity factor reported in Table S of 24.9063. Based on Table B at 2.4 percent, the factor 24.9063 corresponds to a term of years between 38 and 39 years. Accordingly, the annuity interest must be reformed into an interest payable for a term of 39 years. (To determine the value of a charitable remainder interest payable after this annuity interest, the taxpayer then must satisfy the test illustrated in § 25.7520-3(b)(2)(v)(E).)

(f) *Applicability date.* This section applies only to gifts made after July 31, 1969.

■ **Par. 29.** Section 25.7520-1 is amended by revising paragraphs (a)(1) and (2), (b)(2), (c), and (d) and adding paragraphs (e) and (f) to read as follows:

§ 25.7520-1 Valuation of annuities, interests for life or a term of years, and remainder or reversionary interests.

(a) * * *(1) Except as otherwise provided in this section and in § 25.7520-3(b) (relating to exceptions to the use of prescribed tables under certain circumstances), in the case of certain gifts after April 30, 1989, the fair market value of annuities, interests for life or a term of years (including unitrust interests), and remainder or reversionary interests is their present value determined under this section. See § 20.2031-7(d) of this chapter (and, for periods prior to June 1, 2023, §§ 20.2031-7(d)(3) and 20.2031-7A of this chapter) for the computation of the value of annuities, interests for life or a term of years, and remainder or reversionary interests, other than interests described in paragraphs (a)(2) and (3) of this section.

(2) In the case of a gift to a pooled income fund on or after June 1, 2023, see § 1.642(c)-6(e) of this chapter (or, for periods prior to June 1, 2023, § 1.642(c)-6A of this chapter) with respect to the valuation of the remainder interest.

* * * * *

(b) * * *

(2) *Mortality component.* The mortality component reflects the mortality data most recently available from the United States census. As the appropriate new mortality report becomes available after each decennial census, the Treasury Department and the IRS will revise the mortality component described in this section and will update the appropriate regulations to adopt the revised mortality component tables. For gifts with valuation dates on or after June 1, 2023, the mortality component table (Table 2010CM) is in § 20.2031-7(d)(7)(ii) of this chapter, and is referenced by IRS Publication 1457, *Actuarial Valuations Version 4A*, and can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). See § 20.2031-7A of this chapter for mortality component tables applicable to gifts for which the valuation date falls before June 1, 2023.

(c) *Actuarial factors.* The present value on the valuation date of an annuity, an interest for life or a term of years, and a remainder or reversionary interest is computed by using the section 7520 interest rate component that is described in paragraph (b)(1) of this section and the mortality component that is described in paragraph (b)(2) of this section. Actuarial factors for determining these present values may be calculated using the formulas in § 20.2031-7(d)(2) of this chapter. For the convenience of taxpayers, the IRS has computed actuarial factors and displayed them on

tables that are referenced and explained by publications of the Internal Revenue Service. If a particular factor is required in order to value an interest, that factor may be calculated by the taxpayer using the actuarial formulas in § 20.2031-7(d)(2) of this chapter or the taxpayer may request a ruling to obtain the factor from the Internal Revenue Service. The request for a ruling must be accompanied by a recitation of the facts, including the date of birth for each measuring life and copies of relevant instruments. A request for a ruling must comply with the instructions for requesting a ruling published periodically in the Internal Revenue Bulletin (see Rev. Proc. 2023-1, 2023-1 I.R.B. 1, or successor revenue procedures, and §§ 601.201 and 601.601(d)(2)(ii)(b) of this chapter) and must include payment of the required user fee.

(d) *IRS publications referencing and explaining actuarial tables with rates from 0.2 to 20 percent, inclusive, at intervals of two-tenths of one percent, for valuation dates on or after June 1, 2023.* The publications listed in paragraphs (d)(1) through (3) of this section will be available within a reasonable time after June 1, 2023. The underlying actuarial tables referenced and explained by these publications currently are available, at no charge, electronically via the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables>:

(1) IRS Publication 1457, *Actuarial Valuations Version 4A* (2023). This publication references tables of valuation factors and provides examples that show how to compute other valuation factors, for determining the present value of annuities, interests for life or a term of years, and remainder or reversionary interests, measured by one or two lives. These factors may also be used in the valuation of interests in a

charitable remainder annuity trust as defined in § 1.664–2 of this chapter and a pooled income fund as defined in § 1.642(c)–5 of this chapter. This publication references and explains Tables S (single life remainder factors), R(2) (two-life last-to-die remainder factors), B (actuarial factors used in determining the present value of an interest for a term of years), H (commutation factors), J (term certain annuity beginning-of-interval adjustment factors), and K (annuity end-of-interval adjustment factors). See earlier versions of the publication, § 1.642(c)–6A of this chapter, or § 20.2031–7A of this chapter for Table S applicable to valuation dates before June 1, 2023. Earlier versions of the publication also contain earlier versions of Tables H and R(2). Tables B, J, and K also can be found in § 20.2031–7(d)(6) of this chapter, but only for interest rates from 4.2 to 14 percent, inclusive.

(2) IRS Publication 1458, *Actuarial Valuations Version 4B* (2023). This publication references and explains term certain tables and tables of one and two life valuation factors for determining the present value of remainder interests in a charitable remainder unitrust as defined in § 1.664–3 of this chapter. This publication references Tables U(1) (unitrust single life remainder factors), U(2) (unitrust two-life last-to-die remainder factors), D (actuarial factors used in determining the present value of a remainder interest postponed for a term of years), F (adjustment payout rate factors), and Z (unitrust commutation factors). See earlier versions of the publication or § 1.664–4A of this chapter for Table U(1) applicable to valuation dates before June 1, 2023. Earlier versions of the publication also contain earlier versions of Tables U(2) and Z. Table D also can be found in § 1.664–4(e)(6)(iii) of this chapter, but only for adjusted payout rates from 4.2 to 14 percent, inclusive. Table F also can be found in § 1.664–4(e)(6)(iii) of this chapter, but only for interest rates from 4.2 to 14 percent, inclusive.

(3) IRS Publication 1459, *Actuarial Valuations Version 4C* (2023). This publication references and explains Table C, which provides factors for making adjustments to the standard remainder factor for valuing gifts of depreciable property. See § 1.170A–12 of this chapter.

(4) The publications identified in paragraphs (d)(1) through (3) of this section also reference Table 2010CM, the mortality component table.

(e) *Use of approximation methods for obtaining factors when the required valuation rate falls between two listed*

rates. For certain cases, this part and IRS publications provide approximation methods (for example, interpolation) for obtaining factors when the required valuation rate falls between two listed rates (such as in the case of a pooled income fund's rate of return or a unitrust's adjusted payout rate). In general, exact methods of obtaining the applicable factors are allowed, such as through software using the actual rate of return and the proper actuarial formula, provided such direct methods are applied consistently in valuing all interests in the same property. The actuarial formula in § 20.2031–7(d)(2)(ii)(B) of this chapter is used to determine the remainder factor for pooled income funds and the actuarial formula in § 1.664–4(e)(5)(i) of this chapter is used to determine the remainder factor for unitrusts. When using either an exact method or the approximation method, at least the same number of decimal places as that used in this part must be used for the resulting actuarial factor. The approximation method provided in this part must be used if more exact methods are not available.

(f) *Applicability date.* This section applies on and after June 1, 2023.

■ **Par. 30.** Section 25.7520–3 is amended by:

- 1. Redesignating paragraph (b)(2)(v) as paragraph (b)(2)(vi).
- 2. Adding new paragraph (b)(2)(v).
- 3. In newly redesignated paragraph (b)(2)(vi), designating *Examples 1* through 5 as paragraphs (b)(2)(vi)(A) through (E), respectively.
- 4. Revising the heading of newly designated paragraph (b)(2)(vi)(A).
- 5. In newly designated paragraph (b)(2)(vi)(B):
 - i. Revising the heading.
 - ii. Removing “*Example 1*” and “this paragraph” and adding in their places “paragraph (b)(2)(vi)(A) of this section (*Example 1*)” and “this paragraph (b)(2)(vi)(B)”, respectively.
- 6. Revising the heading for newly designated paragraph (b)(2)(vi)(C).
- 7. In newly designated paragraph (b)(2)(vi)(D):
 - i. Revising the heading.
 - ii. Removing “*Example 3*” and adding “paragraph (b)(2)(vi)(C) of this section (*Example 3*)” in its place.
- 8. Revising newly designated paragraph (b)(2)(vi)(E) and paragraphs (b)(4) and (c).

The revisions read as follows:

§ 25.7520–3 Limitation on the application of section 7520.

- * * * * *
- (b) * * *
- (2) * * *

(v) *Annuity payable from a trust or other limited fund.* The present value of an annuity interest (the subject annuity) payable from a trust or other limited fund (the fund) must be determined by taking into account the possibility of exhaustion of the fund. Thus, the present value of any such annuity that will exhaust the fund (and of any other interest dependent on the present value of such an annuity) is determined by using actuarial factors, under the applicable section 7520 mortality and interest rate assumptions, reflecting the term certain period to the exhaustion of the fund. Because it is assumed under the prescribed mortality component, Table 2010CM, that any measuring life may survive past age 109 and until just before age 110, any life annuity could require payments in the person's 110th year. To determine whether a subject annuity that is payable as a level amount paid annually at the end of each year for a life, will exhaust the fund, the annuitant's age must be subtracted from 110 to determine the longest possible duration of the annuity (maximum number of years) under the prescribed mortality table. If the present value of an annuity for the same level payments, payable for a term certain equal to that maximum number of years, is greater than the value of the fund, the annuity is determined to exhaust the fund before the end of that maximum number of years (under the prescribed assumptions), and the present value of the subject annuity is determined on the basis of life annuity factors limited by the period to exhaustion. The period to exhaustion is the shortest period for which the present value of that same annuity payable for a term certain is greater than or equal to the value of the fund, under the prescribed section 7520 interest rate. If the subject annuity is for life (or for a period depending in part on life) and the period to exhaustion is shorter than the longest possible life period, the present value of the subject annuity is determined as the present value of an annuity for the shorter of life or a term of years limited by the period to exhaustion, and the actuarial commutation factors may be used in determining the present value. The actuarial commutation factors can be computed directly by using the formulas in § 25.2512–5(d)(2)(v)(A)(1), the section 7520 rate, and Table 2010CM as set forth in § 20.2031–7(d)(7)(ii) of this chapter. For the convenience of taxpayers, actuarial commutation factors have been computed by the IRS and appear in Table H. The appropriate annuity factors for an annuity payable for a term of years certain is computed

by subtracting from 1.000000 the factor for an ordinary remainder interest following the same term certain that is determined under the formula in § 20.2031-7(d)(2)(ii)(A) of this chapter and then dividing the result by the applicable section 7520 interest rate expressed to at least four decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in the "Annuity" column of Table B. Tables B and H can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables> (or a corresponding URL as may be updated from time to time). For an annuity payable for the longer of a life (or lives) or a term of years, the year of the last possible annuity payment is determined based on the later of the end of the term period or the year the youngest measuring life would reach age 110. For an annuity payable for the shorter of a life (or lives) or a term of years, the year of the last

possible payment is determined based on the earlier of the end of the term period or the year the youngest measuring life would reach age 110. After determining the point of exhaustion of funds, the approximation method for determining the present value of annuity payments for a life or lives so limited by exhaustion illustrated in the example in paragraph (b)(2)(vi)(E) of this section is to be used if a more exact method (for example, computing the year-by-year present value of each payment until the fund is exhausted) is not used. The selected method must be applied consistently in valuing all interests in the same property.

- (vi) * * *
- (A) *Example 1. Unproductive property.* * * *
- (B) *Example 2. Beneficiary's right to make trust productive.* * * *
- (C) *Example 3. Annuity trust funded with unproductive property.* * * *

(D) *Example 4. Unitrust funded with unproductive property.* * * *

(E) *Example 5. Annuity exhausting a trust or other limited fund.* (1) The donor, who is age 60 and in normal health, transfers property worth \$1,000,000 to a trust created for this purpose on or after June 1, 2023. The trust will pay a 10 percent (\$100,000 per year) annuity to a charitable organization for the life of the donor, payable annually at the end of each year, and the remainder then will be distributed to the donor's child. The trust has no other beneficial interests payable before the end of the annuity. The section 7520 rate for the month of the transfer is 4.4 percent. Under section 7520(a)(2) of the Code, the donor has elected to use the section 7520 rate for the month of transfer. For purposes of this example, the relevant factors from Tables B and H(4.4) are:

TABLE 1 TO PARAGRAPH (b)(2)(vi)(E)(1)

Years	Annuity	Income interest	Remainder
Factors From Table B			
Annuity, Income, and Remainder Interests for a Term Certain			
Interest at 4.4 Percent			
13	9.7423	0.428661	0.571339
14	10.2896	0.452741	0.547259
50	20.0878	0.883862	0.116138
Factors From Table H(4.4)			
Commutation Factors—Based on Table 2010CM			
Interest Rate of 4.4 Percent			
Age (x)	D _x	N _x -factor	M _x -factor
60	6,694.636	90,259.34	2,723.225
73	3,151.228	29,432.25	1,856.209
74	2,941.075	26,452.50	1,777.165

(2) First, it is necessary to determine whether the annuity may exhaust the corpus before all planned annuity payments are made. This determination

is made by using values from Table B as illustrated in Figure 1 to this paragraph (b)(2)(vi)(E)(2).

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Figure 1 to Paragraph (b)(2)(vi)(E)(2)—Illustration of Determining Present Value of Term Certain Annuity

A. Highest age possible under mortality table	110
B. Less: age of the measuring life at date of transfer	- 60
C. Difference: number of years annuity obligation may continue	50
D. Annual annuity payment	\$100,000
E. Table B annuity factor for 50 years at 4.4 percent	20.0878
F. Present value of term certain annuity: D x E	\$2,008,780

(3) Because the present value of an annuity for a term of 50 years exceeds the corpus, the annuity may exhaust the trust before all payments are made. Consequently, the annuity must be valued as an annuity payable for a term of years or until the prior death of the annuitant, with the term of years determined by the number of years to exhaustion of the fund, assuming earnings at the section 7520 rate of 4.4 percent.

(4) If an annuity of \$100,000 payable at the end of each year for a period had an annuity factor of 10.0, it would have a present value exactly equal to the principal available to pay the annuity over the term. The annuity factor for 13 years at 4.4 percent in Table B is 9.7423, so the present value of an annuity of \$100,000 at 4.4 percent, payable at the end of each year for 13 years certain, is \$100,000 times 9.7423 or \$974,230. The annuity factor for 14 years at 4.4 percent is 10.2896, so the present value of an annual annuity of \$100,000 per year at 4.4 percent for 14 years certain is \$100,000 times 10.2896, or \$1,028,960.

Therefore, 14 years is the shortest term for which a term certain annuity of \$100,000 per year is greater than the fund of \$1,000,000. Thus, it is determined, under the prescribed assumptions, that the \$1,000,000 initial transfer will be sufficient to make 13 annual payments of \$100,000, but not to make the entire 14th payment. Subtracting the present value of the 13-year term certain annuity, \$974,230, from the fund of \$1,000,000 leaves a remainder of \$25,770. Of the initial transfer amount, \$25,770 is not needed to make payments for 13 years, so this amount, as accumulated for 14 years, will be available for the final payment. The 14-year accumulation factor at 4.4 percent is $1.827288 ((1 + 0.044)^{14} = 1.827288)$, so the amount available in 14 years is \$25,770 times 1.827288 or \$47,089.21. Therefore, for purposes of this present value determination, the subject annuity is treated as being composed of two distinct annuity components. The two annuity components taken together must equal the total annual amount of \$100,000.

The annual amount of the first annuity component is the exact amount that the trust will have available for the final payment, \$47,089.21. The annual amount of the second annuity component then must be \$100,000 minus \$47,089.21, or \$52,910.79. Under the section 7520 assumptions, the initial corpus will be able to make payments of \$52,910.79 per year for 13 years, as well as payments of \$47,089.21 per year for 14 years. The present value of the subject annuity is computed by adding together the present values of two separate component annuities payable for the shorter of a life or a term.

(5) The actuarial factor for determining the value of the annuity of \$52,910.79 per year payable for 13 years or until the prior death of a person aged 60 is derived by the use of factors involving one life and a term of years, derived from Table H. The factor is determined as illustrated in Figure 2 to this paragraph (b)(2)(vi)(E)(5).

**Figure 2 to Paragraph (b)(2)(vi)(E)(5)—
Illustration of Determining Annuity
Factor for Shorter of Life or 13 Years**

G. Initial age	60
H. Plus: Term of years	+ 13
I. Sum (Terminal age)	73
J. $\overset{\circ}{N}_x$ factor, Table H(4.4), age 60	90,259.34
K. Less: $\overset{\circ}{N}_x$ factor, Table H(4.4), age 73	- <u>29,432.25</u>
L. Difference	60,827.09
M. D_x factor, Table H(4.4), age 60	6,694.636
N. Required Annuity Factor: L / M	9.0859

(6) The actuarial factor for determining the value of the annuity \$47,089.21 per year payable for 14 years or until the prior death of a person aged

60 is derived by the use of factors involving one life and a term of years, derived from Table H. The factor is

determined as illustrated in Figure 3 to this paragraph (b)(2)(vi)(E)(6).

**Figure 3 to Paragraph (b)(2)(vi)(E)(6)—
Illustration of Determining Annuity
Factor for Shorter of Life or 14 Years**

O. Initial age	60
P. Plus: Term of years	+ 14
Q. Sum (Terminal age)	74
R. $\overset{\circ}{N}_x$ factor, Table H(4.4), age 60	90,259.34
S. Less: $\overset{\circ}{N}_x$ factor, Table H(4.4), age 74	- <u>26,452.50</u>
T. Difference	63,806.84
U. D_x factor, Table H(4.4), age 60	6,694.636
V. Required Annuity Factor: T / U	9.5310

(7) Based on the calculations of paragraph (b)(2)(vi)(E)(5) of this section, the present value of an annuity of \$52,910.79 per year payable for 13 years or until the prior death of a person aged 60 is \$480,742.15 (\$52,910.79 × 9.0859). Based on the calculations of paragraph (b)(2)(vi)(E)(6) of this section, the present value of an annuity of \$47,089.21 per year payable for 14 years or until the prior death of a person aged 60 is \$448,807.26 (\$47,089.21 × 9.5310). Thus, the present value of the charitable annuity interest is the sum of the two

component annuities, \$929,549.41 (\$480,742.15 + \$448,807.26).

* * * * *
(4) *Example—terminal illness—(i) Sample factors from actuarial Table S.* The provisions of paragraph (b)(3) of this section are illustrated by the example in paragraph (b)(4)(ii) of this section. The appropriate annuity factor for an annuity payable for the life of one individual is computed by subtracting from 1.00000 the factor for an ordinary remainder interest following the life of the same individual that is determined

under the formula in § 20.2031–7(d)(2)(ii)(B) of this chapter and then dividing the result by the applicable section 7520 interest rate expressed to at least four decimal places. For the convenience of taxpayers, actuarial factors have been computed by the IRS and appear in the “Annuity” column of Table S. Table S can be found on the IRS website at <https://www.irs.gov/retirement-plans/actuarial-tables>. For purposes of the example in paragraph (b)(4)(ii) of this section, the relevant factor from Table S is:

TABLE 2 TO PARAGRAPH (b)(4)(i)
FACTORS FROM TABLE S—BASED ON TABLE 2010CM

Age	Annuity	Life estate	Remainder
Interest at 4.4 Percent			
75	8.6473	0.38048	0.61952

(ii) *Example of donor with terminal illness.* The donor transfers property worth \$1,000,000 to a child on or after June 1, 2023, in exchange for the child’s promise to pay the donor \$80,000 per year for the donor’s life, payable annually at the end of each period. The section 7520 interest rate for the month of the transfer is 4.4 percent. The donor is age 75 but has been diagnosed with an incurable illness and has at least a 50 percent probability of dying within 1 year. Under Table S, the annuity factor at 4.4 percent for a person age 75 in normal health is 8.6473. Thus, if the donor were not terminally ill, the present value of the annuity would be \$691,784 (\$80,000 × 8.6473). Assuming

the presumption provided in paragraph (b)(3) of this section does not apply, because there is at least a 50 percent probability that the donor will die within 1 year, the standard section 7520 annuity factor may not be used to determine the present value of the donor’s annuity interest. Instead, a special section 7520 annuity factor must be computed that takes into account the projection of the donor’s actual life expectancy.

* * * * *
(c) *Applicability dates.* Paragraph (a) of this section is applicable as of May 1, 1989. The provisions of paragraph (b) of this section, except paragraphs

(b)(2)(v), (b)(2)(vi)(E), and (b)(4) of this section, are applicable to gifts made after December 13, 1995. Paragraphs (b)(2)(v), (b)(2)(vi)(E), and (b)(4) of this section are applicable to gifts made on or after June 1, 2023.

Douglas W. O’Donnell,
Deputy Commissioner for Services and Enforcement.

Approved: May 23, 2023.

Lily L. Batchelder,
Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2023–11837 Filed 6–1–23; 4:15 pm]

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