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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0891; Project Identifier AD–2022–00585–A,E,R; Amendment 39–22432; AD 2023–09–09]

RIN 2120–AA64

Airworthiness Directives; Various Airplanes, Helicopters, and Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for turbocharged, reciprocating engine-powered airplanes and helicopters and turbocharged, reciprocating engines with a certain v-band coupling installed. This AD was prompted by multiple failures of spot-welded, multi-segment v-band couplings at the tailpipe to the turbocharger exhaust housing flange (also referred to as ''spot-welded, multi-segment exhaust tailpipe v-band coupling''). This AD establishes a life limit for the spot-welded, multi-segment exhaust tailpipe v-band coupling and requires repetitively inspecting the spot-welded, multi-segment exhaust tailpipe v-band coupling. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 17, 2023.

ADDRESSES: *AD Docket:* You may examine the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–0891; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Thomas Teplik, Aviation Safety Engineer, Central Certification Branch, FAA, 1801 S Airport Road, Wichita, KS 67209; phone: (316) 946–4196; email: *thomas.teplik@faa.gov* or *Wichita-COS@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to turbocharged, reciprocating engine-powered airplanes and helicopters and turbocharged, reciprocating engines with a certain v-band coupling installed. The NPRM published in the **Federal Register** on July 27, 2022 (87 FR 45036). The NPRM was prompted by multiple failures of spot-welded, multi-segment v-band couplings at the tailpipe to the turbocharger exhaust housing flange. In the NPRM, the FAA proposed to establish a life limit for the spot-welded, multi-segment exhaust tailpipe v-band coupling and require repetitively inspecting the spot-welded, multi-segment exhaust tailpipe v-band coupling.

Since the mid-1970s, failures of v-band couplings that attach the exhaust tailpipe to the turbocharger exhaust outlet have resulted in a significant number of incidents and accidents (fatal and non-fatal) on both airplanes and helicopters. Since 1974, National Transportation Safety Board (NTSB) accident and incident investigations have led to the issuance of 7 NTSB Safety Recommendations concerning exhaust systems and/or exhaust v-band couplings; 20 FAA ADs to address the unsafe condition with exhaust systems and/or exhaust v-band couplings; and 10 FAA Special Airworthiness Information Bulletins (SAIBs). Industry has also taken action to raise awareness of the concerns associated with v-band coupling failures.

NTSB Safety Recommendations Affecting V-Band Couplings

NTSB safety recommendation	Description	Make/model
A–90–166	Exhaust system	Piper PA–32RT–300T, PA–32R–301T.
A–90–165	Exhaust system	Piper PA–32RT–300T, PA–32R–301T.
A–90–164	Exhaust system	Piper PA–32RT–300T, PA–32R–301T.
A–88–151	Exhaust system	Piper PA–32RT–300T.
A–88–150	Exhaust system	Piper PA–32RT–300T.
A–88–147	Exhaust system	Piper PA–32RT–300T.
A–74–099	V-band engine exhaust clamp failures	Textron (Cessna) turbocharged 300/400 series.

You may examine these NTSB Safety Recommendations in the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–0891.

ADs on V-Band Couplings

AD	Make/model
AD 2018–06–11, Amendment 39–19231 (83 FR 13383, March 29, 2018).	Textron Aviation Inc. Model A36TC and B36TC airplanes, all serial numbers, equipped with a turbocharged engine; Textron Aviation Inc. Model S35, V35, V35A, and V35B airplanes, all serial numbers, equipped with the Continental TSIO–520–D engine with AiResearch turbocharger during manufacture; and Textron Aviation Inc. Model S35, V35, V35A, and V35B airplanes, all serial numbers, equipped with Standard Aero Supplemental Type Certificate (STC) SA1035WE.
AD 2014–23–03, Amendment 39–18019 (79 FR 67340, November 13, 2014).	Piper Aircraft, Inc. Model PA–31P airplanes, serial numbers 31P–1 through 31P–80 and 31P–7300110 through 31P–7730012.
AD 2013–10–04, Amendment 39–17457 (78 FR 35110, June 12, 2013; corrected September 5, 2013 (78 FR 54561)).	Piper Aircraft, Inc. Model PA–31, PA–31–325, and PA–31–350 airplanes, all serial numbers.
AD 2010–13–07, Amendment 39–16338 (75 FR 35619, June 23, 2010; corrected July 26, 2010 (75 FR 43397)).	Piper Aircraft, Inc. Model PA–32R–301T airplanes, serial numbers 3257001 through 3257311; and Model PA–46–350P airplanes, serial numbers 4622001 through 4622200 and 4636001 through 4636341.
AD 2004–23–17, Amendment 39–13872 (69 FR 67809, November 22, 2004).	Mooney Airplane Company Inc. (currently Mooney International Corporation) Model M20M airplanes, serial numbers 27–0001 through 27–0321.
AD 2001–08–08, Amendment 39–12185 (66 FR 20192, April 20, 2001).	Raytheon Aircraft Company (previously The Beech Aircraft Corporation; currently Textron Aviation Inc.) Model 35–C33A, E33A, E33C, F33A, F33C, S35, V35, V35A, V35B, 36, and A36 airplanes, all serial numbers, with Tornado Alley Turbo, Inc. STC SA5223NM and STC SE5222NM incorporated and with a Teledyne Continental engine equipped with a turbonormalizing system.
AD 2000–11–04, Amendment 39–11752 (65 FR 34941, June 1, 2000).	Commander Aircraft Company Model 114TC airplanes, serial numbers 20001 through 20027.
AD 2000–01–16, Amendment 39–11514 (65 FR 2844, January 19, 2000).	Cessna Aircraft Company (currently Textron Aviation Inc.) Model T310P, T310Q, T310R, 320, 320A, 320B, 320C, 320D, 320E, 320F, 320–1, 335, 340, 340A, 321 (Navy OE–2), 401, 401A, 401B, 402, 402A, 402B, 402C, 404, 411, 411A, 414, 414A, 421, 421A, 421B, and 421C airplanes, all serial numbers.
AD 91–21–01 R1, Amendment 39–9470 (61 FR 29003, June 7, 1996; corrected September 6, 1996 (61 FR 47051)).	Textron Lycoming Model TIO–540–S1AD reciprocating engines installed on, but not limited to, Piper Aircraft, Inc. PA–32 series airplanes.
AD 81–23–03 R2, Amendment 39–4491 (47 FR 51101, November 12, 1982).	Cessna (currently Textron Aviation Inc.) Model P210N airplanes, serial numbers P21000001 through P21000811.

These ADs require v-band coupling replacements (life limit) and/or repetitive inspections, or changing the type design of the v-band coupling. This AD does not apply to airplanes that have complied with one of these ADs. You may examine these ADs in the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–0891.

SAIBs on V-Band Couplings

SAIB	Subject
CE–18–21	Exhaust Turbochargers; Announce the availability of the ''Best Practices Guide for Maintaining Exhaust System Turbocharger to Tailpipe V-band Couplings/Clamps.''
CE–18–07	Exhaust Turbocharger; V-band Couplings Used in Engine Exhaust Systems on Turbocharged Reciprocating Engine Powered Aircraft.
CE–13–45	Engine Exhaust; Tailpipe V-band Couplings [for turbocharged, reciprocating engine-powered airplanes].
CE–13–07R1	Engine Exhaust; Tailpipe V-band Couplings [for Cessna Aircraft Company (currently Textron Aviation Inc.) Model T206H airplanes].
CE–13–07	Engine Exhaust; Tailpipe V-band Couplings [for Cessna Aircraft Company (currently Textron Aviation Inc.) Model T206H airplanes].
CE–10–33R1	Engine Exhaust [for reciprocating engine-powered airplanes].
CE–10–33	Engine Exhaust [for reciprocating engine-powered airplanes].
CE–09–11	Turbocharged Engines [for turbocharged engine-powered airplanes].
CE–05–13	Alternative method of compliance (AMOC) to AD 91–03–15, Amendment 39–6870 (56 FR 3025, January 28, 1991) for Mooney Aircraft Corporation Model M20M airplanes.
CE–04–22	Exhaust System Components for reciprocating engine-powered airplanes.
CE–03–46	Mooney Model M20M airplanes with turbocharged engines using V-band clamps.

You may examine these SAIBs in the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–0891.

In spite of these efforts, failures continue to occur and the number of significant safety events continues to increase. As a result, the General Aviation Joint Steering Committee (GA–JSC), which is comprised of both the FAA and industry, developed a working group to study v-band coupling failures

associated with turbocharged reciprocating engine-powered aircraft and develop recommended corrective actions. This v-band coupling working group was comprised of aviation industry manufacturers, type/user groups, and government entities. The working group was tasked to examine the turbocharger to tailpipe interface and develop recommendations to enhance the safety of the fleet.

The working group recommended mandatory corrective actions that are tailored to each specific coupling type (spot-welded, riveted, or single piece), thereby minimizing the impact to owner/operators. The working group recommended a mandatory coupling replacement time (life limit) and annual inspection. The working group also recommended non-mandatory actions to aid and educate maintenance personnel in appropriate v-band coupling removal, installation, and inspection practices. Finally, the working group recommended actions for new designs, which incorporate lessons learned from review of the in-service fleet. For new designs incorporating a v-band coupling immediately downstream of the turbocharger exhaust discharge, the working group recommended that a replacement interval (500 hours for spot-welded and 2,000 hours for riveted and single-piece) be incorporated in the Airworthiness Limitations sections of the maintenance manual.

In January 2018, the working group published a final report titled ''Exhaust System Turbocharger to Tailpipe V-band Coupling/Clamp Working Group Final Report'' (final report). Appendix B of the final report contains the Best Practices Guide. The final report may be found in the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–0891.

The final report concluded that the common denominator in the incidents and accidents reviewed is the spot-welded, multi-segment exhaust tailpipe v-band coupling (see Figure A). These couplings come in either two or three segment varieties. The segments are the number of v-retainer segments, which are attached to the outer band via spot welds. Although multi-segment exhaust tailpipe couplings can also be riveted, the riveted couplings do not create an unsafe condition.

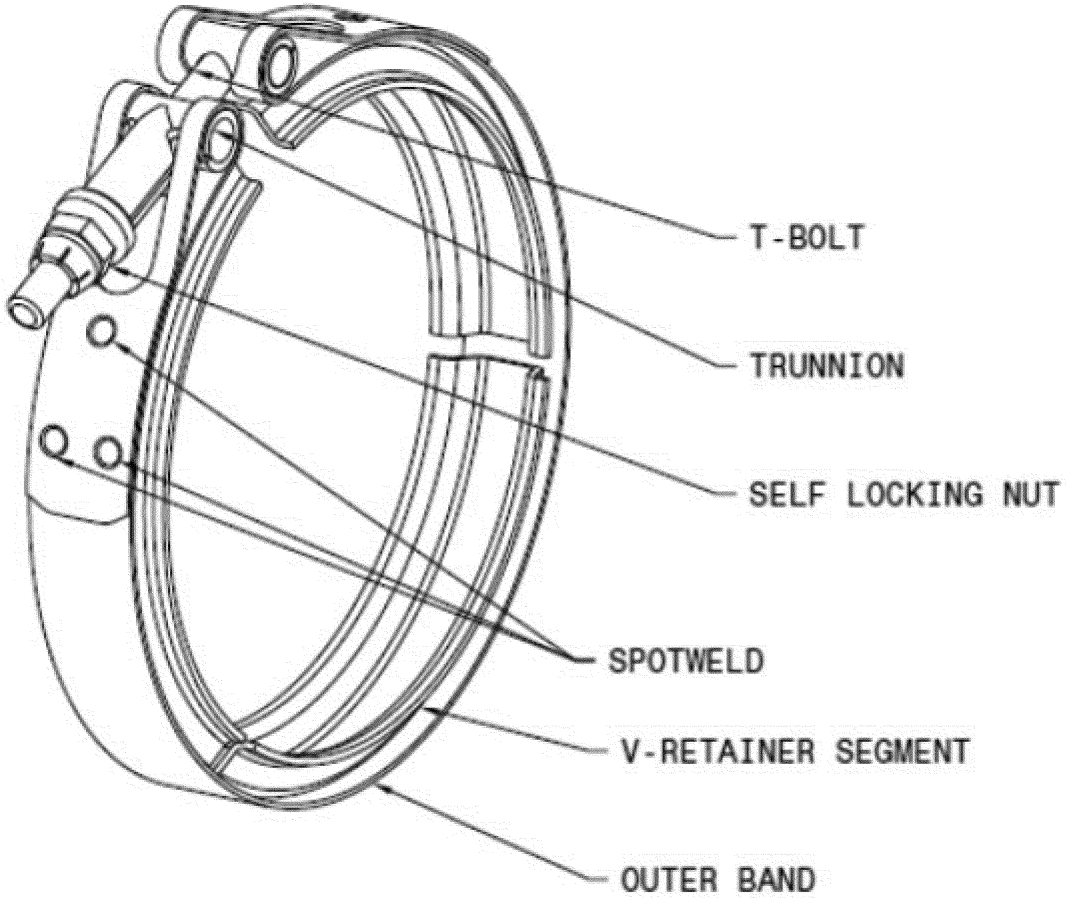

Figure A

Spot-welded, multi-segment exhaust tailpipe v-band coupling

The majority of the events studied by the working group indicated fatigue failure of spot-welded, multi-segment exhaust tailpipe v-band couplings as a result of stress corrosion cracking that originated at or near a spot weld. This is the same unsafe condition identified in the other v-band coupling AD actions previously referenced. The data studied by the working group contained evidence of pre-existing cracking of the couplings, known embrittlement at the

spot weld locations simply due to that manufacturing method, and outer band cupping on the multi-segment couplings (which is the result of age, over-use, and potential over-torqueing). The working group also found that many of the couplings had safety wire across the bolt end. The safety wire could be helpful if there was a bolt or nut failure (extremely rare events) or the nut was missing. However, the safety wire was of no value when the failure was transverse band cracking and total separation at the spot weld. The data studied by the working group indicated many accidents were due to v-band couplings that were of the multi-segment, spot-welded design, when used in a specific location (the tailpipe to the turbocharger exhaust housing flange on turbocharged reciprocating engine-powered aircraft).

After the working group published the final report, the FAA issued SAIB CE–18–21, dated July 13, 2018. This SAIB announced the availability of the Best Practices Guide from the final report and recommended the public apply the best practices in the maintenance of turbocharged reciprocating engine powered aircraft. The FAA also assessed the recommendations contained in the final report and determined an unsafe condition exists in turbocharged reciprocating engine-powered aircraft with a spot-welded, multi-segment v-band coupling installed. Because these v-band couplings are widely used by many design approval holders on various models (engines and aircraft), several Aircraft Certification Office Branches were involved in the decision to propose a single AD. The FAA also determined that the corrective actions recommended in the final report were appropriate to address this unsafe condition.

This condition, if not addressed, could lead to failure of the spot-welded, multi-segment exhaust tailpipe v-band coupling, leading to detachment of the exhaust tailpipe from the turbocharger and allowing high-temperature exhaust gases to enter the engine compartment. This could result in smoke in the cockpit, in-flight fire, and loss of control of the aircraft. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from 32 commenters. The commenters were Aerostar Aircraft Corporation (Aerostar), European Union Aviation Safety Agency (EASA), NTSB, Vulcanair S.p.A, and 28 individuals. The NTSB and four individual commenters supported the AD without change. Aerostar, EASA, Vulcanair S.p.A., and 19 individual commenters do not necessarily oppose the NPRM but recommended certain changes. Five individual commenters oppose the proposal in its entirety. The following presents the comments received on the NPRM and the FAA's response to each comment.

A. Requests Regarding Withdrawing the NPRM

Three individual commenters stated that current inspections are adequate and implied that they opposed the NPRM. Two other individual commenters stated that they opposed the NPRM. One of the commentors implied current inspections were sufficient and stated inspections of the v-band clamp at each oil change and on-condition replacement would be enough. One of the commenters who opposed the NPRM in its entirety also requested that information regarding exhaust couplers be added to FAA Advisory Circular (AC) 43.13–1B, *Acceptable Methods, Techniques, and Practices—Aircraft Inspection and Repair,* dated September 8, 1998 (AC 43.13–1B). The FAA infers that these commenters are requesting that the NPRM be withdrawn.

The FAA disagrees. This AD requires specific inspections that are not included in current inspections. The accident and incident failure data and existing ADs that are included in paragraphs (d) (1) through (10) of this AD demonstrate that a 500-hour time-in-service (TIS) life limit is appropriate for this type of multi-segment coupling. Regarding the request to revise AC 43.13–1B, that change is outside the scope of this AD and actions in an advisory circular provide guidance but are not mandatory.

The FAA has not changed this AD as a result of these comments.

B. Requests Regarding Estimated Costs

1. Increase Work-Hour Rate

Three individual commenters requested that the FAA increase the cost per work-hour specified in the NPRM. These commenters stated that $85 per work-hour is too low and does not reflect the true rate charged by their local maintenance facilities, which ranges from $100 to $140 per work-hour. One of these commenters also reported that the estimated records review rate of $42.50 was not supported by industry practice and should be increased.

The FAA disagrees. The FAA Office of Aviation Policy and Plans provides the labor rate of $85 per work-hour used when estimating the labor costs for complying with AD requirements. The estimate for the records review rate was based on ½ hour at $85 per work-hour.

The FAA has not changed this AD as a result of these comments.

2. Increase V-Band Coupling Removal and Replacement Costs

Two individual commenters requested changes regarding the estimated costs in the NPRM for removal and replacement of v-band couplings. One of those commenters stated that there could be a discrepancy in the estimated costs per owner/operator. This commenter stated that the estimated figures did not appear to be unduly expensive in the interest of preventing a potential in-flight fire. The FAA infers that this commenter is requesting a revision to the estimated costs for removal and replacement of a v-band coupling based on the requested review of the cost estimates.

The other individual commenter encouraged the FAA to increase the estimated cost in the NPRM for replacement of a v-band coupling and provided a cost of over $700 for the Piper Model PA–28R–201 airplane v-band coupling. The FAA infers that the commenter is referring to the estimated parts cost of $400 for a single-engine aircraft.

The FAA acknowledges that there may be discrepancies in the estimated costs among owners/operators for removing and replacing a v-band coupling. The FAA's estimated number of work-hours were based on the actions required in AD 2018–06–11 and the parts costs were based on current pricing. Additional labor and parts costs were added for twin-engine aircraft. In the NPRM, the FAA estimated costs in single-engine and twin-engine aircraft. The FAA disagrees that the cost of the v-band coupling needs to be increased. The estimated v-band coupling cost of $400 for a single-engine aircraft was based on a sampling of a range of parts costs for different aircraft. The FAA determined that $400 was an accurate parts cost for a single-engine aircraft.

The FAA has not changed this AD as a result of these comments.

C. Requests Regarding Life Limit

1. Clarification of Mitigation for Installation of a V-Band Coupling That Exceeds 500-Hours TIS

EASA suggested that there should be a mitigation of risk in place if a v-band coupling having 500 or more hours TIS

as of the effective date of the final rule is installed on an aircraft. EASA noted that paragraph (l)(1) of the proposed AD would allow the installation of a used v-band coupling of any age (*i.e.,* more than 500 hours TIS) within the first two years after the effective date of the final rule. EASA asked if requiring the repetitive inspections specified in paragraph (i)(2) of the proposed AD would mitigate this risk or, alternatively, if there should be a prohibition of the installation of a v-band coupling that has accumulated 500 or more hours TIS as of the effective date of the final rule.

The FAA does not agree. The FAA provides mitigation for the risk associated with installing a v-band coupling having 500 or more hours TIS by requiring inspections every 6 months or every 100 hours TIS, whichever occurs first, for two years after the effective date of this AD. The inspections and inspection criteria are the same for the v-band couplings regardless of the inspection time interval. Paragraph (i)(2) of this AD was provided to allow compliance with the requirements of this AD with regards to hardware availability.

2. Justification for 500-Hour TIS Life Limit

An anonymous commenter requested justification for the v-band coupling 500-hour TIS life limit specified in the NPRM and stated that the 500-hour TIS life limit seemed low. In regards to the study of accident rates where failure of the v-band coupling was determined to be at fault, the commenter asked how many hours the v-band coupling had accumulated since its initial installation. The commenter also inquired about the failure rate of higher grade material v-band couplings and asked if higher grade v-band coupling material would have an effect on the failure rate.

The FAA determined the 500-hour TIS v-band coupling replacement time is necessary to correct the unsafe condition. The FAA based this determination on past precedence of some of the existing ADs that are included in paragraphs (d)(1) through (10) of this AD. The v-band couplings addressed in this AD are of similar steel material. The FAA has an obligation to issue an AD to address an unsafe condition. This AD addresses the unsafe condition through repetitive inspections and replacements. The FAA would consider any future design improvements as an AMOC following the procedures outlined in paragraph (n) of this AD.

The FAA has not changed this AD in regard to this comment.

3. Replacement of V-Band Coupling Solely Based on Hours TIS

Two commenters did not agree with the replacement of the v-band coupling based solely on flight hours (v-band coupling hours TIS). One commenter asserted the inspections specified in the proposed AD were adequate to uncover defects that would require replacing a v-band coupling and stated if a v-band clamp continuously passes inspection, there is no reason to discard it based on TIS. The other commenter stated that v-band couplings on its helicopters are already inspected for cracking, and the surrounding area is inspected for signs of cracking or soot, as part of pre-flight inspections. This commenter also stated that Enstrom Helicopter Corporation issued Service Directive Bulletin 0122 (Enstrom SDB 0122) that addresses inspections for cracks.

The FAA disagrees with removing the requirement in paragraph (i) of this AD to replace a v-band coupling before it accumulates 500 hours TIS and instead allowing on-condition replacement based upon inspection results. The accident/incident failure rate and existing ADs that are included in paragraphs (d)(1) through (10) of this AD demonstrate that a 500-hour TIS life limit is appropriate for this type of multi-segment v-band coupling. Regarding Enstrom SDB 0122, the FAA has not issued an AD that mandates using that service information.

The FAA has not changed this AD in regard to these comments.

D. Requests Regarding V-Band Coupling Serialization

Two individual commenters recommended serialization of the v-band coupling.

One of those commenters stated it would be difficult to determine the total hours TIS unless these parts are serialized. The other commenter recommended serialization by vibro-etching the tailpipe v-band coupling to differentiate it from v-band couplings in other locations of an aircraft.

The FAA disagrees that determination of a v-band coupling's hours TIS cannot be done without serialization either by vibro-etching or other means. Existing ADs that are included in paragraphs (d)(1) through (10) of this AD, regarding a v-band coupling with life limits have not required serialization. Once the hours TIS of a v-band coupling is established, subsequent maintenance actions will be based on hours TIS.

The FAA has not changed this AD in regard to these comments.

E. Requests Regarding V-Band Coupling: Type Design and Manufacturing

One individual commenter stated that instead of being spot-welded, the rings (v-band couplings) should be solid state welded. This commenter researched spot-welded couplings that revealed if the heat and pressure on the metal prior to the spot-weld is not consistent, the spot-weld will fail. Another individual commenter stated that spot-welds are good in tension and not in shear. The commenter further explained that as the v-band coupling is tightened, the spot-weld is in shear, and that adding dynamic loads reduces the spot-weld's life even further. This commenter suggested that a different type of attachment be used such as a braze joint or a laser weld.

Regarding the type design changes, an individual commenter asked if the installation of a riveted clamp would terminate the 500-hour TIS replacement schedule. Another individual commenter recommended using the v-band coupling information in Navair Technical Manual 1–1A–8, ''Engineering Manual Series Aircraft and Missile Repair, Structural Hardware,'' which is used by the military, and adding this information to AC 43.13–1B. Another individual commenter stated that additional information on v-band couplings can be found in military specifications MS27116C, ''Coupling, Clamp, Grooved, V Band 1.750 To 14.250 Flange OD (Minus 320 Deg. To Plus 1500 Deg. F),'' and MIL–DTL–27536C, ''Coupling, Clamp, Grooved, V-Band.'' A different individual commenter suggested that by allowing a small [tungsten inert gas] TIG weld on the edges of the clamp, the concern regarding the spot welds holding would be addressed. An additional individual commenter referenced an unspecified photo linked to the NPRM and said it was not representative of current v-band coupling design.

An individual commenter stated that during manufacturing, the single spot-welds might be placed too close to the trunnions, thereby causing failure points. This commenter suggested using a total of four spot-welds instead of two spot-welds. The FAA infers that the commenter is requesting a change to the manufacturing of the v-band coupling.

The FAA has determined that inspections, in combination with life limits, are sufficient to mitigate the risk. The FAA would consider any future design improvements as an AMOC request following the procedures outlined in paragraph (n) of this AD. Regarding the proposed revision to AC

43.13–1B, that change is outside the scope of this AD and actions in an advisory circular are recommendations, not mandatory.

The FAA has not changed this AD in regard to these comments.

F. Request for Clarification Regarding the Number/Percentage of In-Flight Smoke and/or Fire Events

An individual commenter requested clarification regarding the number or percentage of in-flight smoke and/or fire events related to the NPRM.

The FAA does not have data indicating the specific number or percentage of incidents/accidents in which the v-band coupling failure caused a smoke event or an in-flight fire. At least one fatal accident and two non-fatal accidents involving a v-band coupling failure had occurrences of a fire. Smoke or fire could occur due to a separation of the v-band coupling or loss of the tailpipe because of the hot exhaust gases impinging on surrounding surfaces. This information was included in the FAA's determination that an unsafe condition existed to justify issuing this AD.

The FAA has not changed this AD as a result of this comment.

G. Requests Regarding Applicability

1. Remove Airplanes With STC SA4976NM Installed

Aerostar explained that airplanes with STC SA4976NM installed have eliminated the v-band coupling at the tailpipe to turbocharger connections and are not affected by the unsafe condition described in the proposed AD. Aerostar stated that STC SA4976NM was approved as an AMOC for the repetitive inspections required by AD 90–01–02, Amendment 39–6517, January 5, 1990 (issued as a priority letter), that required repetitive dismantling inspections of the exhaust tailpipe assembly at intervals not to exceed 50-hours TIS. The FAA infers that Aerostar requested a change to the Applicability in the proposed AD to remove airplanes with STC SA4976NM installed.

The FAA agrees. The installation of STC SA4976NM on Aerostar Model PA–600, –601, –601P, –602P and –700P airplanes eliminates the v-band coupling at the tailpipe to turbocharger connection. Paragraph (d), Applicability, of this AD was revised to add STC SA4976NM to the list of airplanes excepted from the applicability.

2. Remove Vulcanair S.p.A Model P.68B From the Applicability

Vulcanair requested that Vulcanair S.p.A Model P.68B airplanes be removed from the Applicability Table in paragraph (d) of the proposed AD. The commenter stated Vulcanair S.p.A Model P.68B airplanes are equipped with two normally aspirated reciprocating engines.

The FAA agrees and revised Table 1 to paragraph (d) of this AD to remove Vulcanair S.p.A Model P.68B airplanes. FAA Type Certificate Data Sheet A31EU lists the Model P.68B airplane as equipped with two Lycoming IO–360–A1B or Lycoming IO–360–A1B6 engines, which are normally aspirated. If the airplane is modified after certification by an STC, parts manufacturer approval, or field approval, with a turbocharged reciprocating engine with a spot-welded, multi-segment v-band coupling installed at the tailpipe to turbocharger exhaust housing flange, this AD is applicable.

3. Add Textron Aviation Inc. Model T182 and TR182 Airplanes Equipped With Lycoming O–540–L3C5D Engines

An individual commenter asked why Model T182 and TR182 airplanes equipped with Lycoming O–540–L3C5D engines were not included in the applicability of the proposed AD. The FAA infers that this commenter is requesting that these airplane and engine combinations be added to the applicability of the proposed AD.

The FAA agrees that these airplane models are affected by the requirements of this AD but a change to this AD is not necessary because Table 1 to paragraph (d) of this AD already includes Model T182 and TR182 airplanes.

The FAA has not changed this AD in regard to this comment.

4. Add Mooney Model M20F Airplanes With Aftermarket Installation

An individual commenter asked if Model M20F airplanes with an aftermarket RayJay normalizing turbocharger are included in the applicability of the proposed AD. The FAA infers that this commenter is requesting that the applicability of the proposed AD be revised to include these airplane models.

The FAA disagrees with adding the Mooney Model M20F airplanes equipped with an aftermarket RayJay normalizing turbocharger to the applicability of this AD because the FAA could not determine the STC that was being referred to. However, based on the way the final rule is written with language of ''as installed, but not limited to the following aircraft'', this AD would still apply to all turbocharged, reciprocating engine-powered airplanes and helicopters and turbocharged, reciprocating engines with a spot-welded, multi-segment v-band coupling installed at the tailpipe to turbocharger exhaust housing flange, except for airplanes that are in compliance with an AD listed in paragraphs (d)(1) through (10) of this AD or have STC SA4976NM installed. These ADs are available in the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–0891. These v-band couplings are installed on, but not limited to, the products listed in Table 1 to paragraph (d) of this AD. This AD would apply regardless of whether the turbocharger is installed as part of the type certificate, or under an STC, parts manufacture approval, or field approval. Outside of type certification, it is the responsibility of the owner working with a licensed mechanic to determine if the configuration of the aircraft includes the spot-welded multi segment v-band coupling installed at the tailpipe to the turbocharger exhaust housing.

The FAA has not changed this AD in regard to this comment.

5. Add Turbine Helicopters With V-Band Clamps

An individual commenter asked if the NPRM needed to address v-band couplings installed on turbine helicopters. The FAA infers that the commenter requested to add turbine helicopters to the applicability of the proposed AD.

The FAA disagrees. The use of the v-band couplings on turbine helicopters is not addressed in this AD. This AD addresses the unsafe condition for spot-welded, multi-segment v-band coupling installed at the tailpipe to turbocharger exhaust housing flange for turbocharged, reciprocating engine-powered airplanes and helicopters and turbocharged, reciprocating engines. The vibratory environment for turbine engines on helicopters is different and as such is not part of the identified unsafe condition.

The FAA has not changed this AD in regard to this comment.

6. No Justification for Mooney Model M20K Airplanes

An individual commenter stated that there is not enough information to justify an AD for a Mooney Model M20K airplane. The commenter cited FAA SAIB CE–18–07, ''Exhaust Turbocharger; V-band Couplings Used in Exhaust Systems on Turbocharged Reciprocating Engine Powered Aircraft,'' dated December 14, 2017 (SAIB CE–18–07), which states the ''concern [was] not considered an unsafe condition that would warrant AD

action.'' The commenter also stated that a review of the FAA's Aviation Safety Information Analysis and Sharing System and the NTSB's Accident Database could not find any serious incidents involving defective v-band couplings on Mooney Model M20K airplanes. The commenter supported an inspection regime and includes it in the pre-flight check and does an unspecified inspection of the v-band coupling at each oil change when the turbo is easily accessible. The commenter explained that there is a difference between ''big block'' 520–550 cubic-inch engines and smaller 360 turbocharged engines, and that the NTSB safety recommendations referred to in the NPRM refer to the ''big block'' engines. The commenter also pointed out that all of the ADs specified in the proposed AD apply to larger displacement turbocharged reciprocating engines.

The FAA disagrees that there is not enough justification to include Mooney Model M20K airplanes in the applicability of this AD. When SAIB CE–18–07 was issued, the FAA was still evaluating this issue and had not determined that there was an unsafe condition warranting AD action. The v-band couplings that are the subject of this AD are used on both larger and smaller engines, and the inspections proposed in the NPRM are not part of current inspection criteria. The accident/incident failure data and existing AD actions demonstrate that a 500-hour TIS life limit is appropriate for this type of multi-segment coupling and that an unsafe condition exists.

The FAA has not changed this AD in regard to this comment.

H. Requests Regarding Inspections

1. Revise Paragraph (j) of the Proposed AD To Separate Compliance Times From Inspection Procedures

EASA requested that paragraph (j) of the proposed AD, ''Inspections Without Removal of the V-Band Coupling,'' be separated into two paragraphs with one paragraph containing the requirement for an annual inspection with references to both an inspection with the v-band coupling removed and an inspection with the v-band coupling installed, and the other paragraph containing the inspection procedure. The commenter stated that having the inspection timeline and the inspection procedures in the same paragraph may cause confusion.

The FAA agrees that having the inspection compliance times and inspection procedures in the same paragraph could cause confusion. The FAA added paragraph (j), ''V-band Coupling Inspections,'' in this AD to specify only the inspection compliance times and re-designated the subsequent paragraphs accordingly. Paragraph (i)(2) of this AD still provides an alternative to initially removing the v-band coupling from service by doing the inspections required by paragraphs (k)(1) through (7) or (l) of this AD.

2. Remove Paragraph (j) of the Proposed AD

EASA requested that paragraph (j) of the proposed AD, ''Inspections Without Removal of the V-Band Coupling,'' be removed because it is not possible to do a thorough inspection with the v-band coupling installed.

The FAA disagrees. The procedures that the FAA included for the inspection of an installed v-band coupling were tested and it was determined that these procedures are adequate to verify the condition of the v-band coupling. If any of the inspection criteria for an installed v-band coupling are not met, the v-band coupling is required to either be replaced or undergo additional inspections with the v-band coupling removed. These procedures have been used with success in existing ADs that are included in paragraphs (d)(1) through (10) of this AD.

The FAA has not changed this AD in regard to this comment.

3. Request To Revise Paragraph (j)(3) of the Proposed AD

An individual commenter requested that paragraph (j)(3) of the proposed AD be moved to paragraph (k) of the proposed AD. The commenter stated that it could not be determined if the v-segments are loose with respect to the outer band with the outer band T-bolt torqued to specification. The commenter requested this inspection be moved to paragraph (j) after the v-band coupling is removed.

The FAA disagrees with moving this inspection from paragraph (j)(3) of the proposed AD to paragraph (k) of this AD. Looseness of the v-band coupling may occur if the coupling is not properly installed. Looseness of the outer band may occur if the outer band has separated from the v-band retainer segment or if the spot weld attachment is in the process of failing or has failed. Therefore, this inspection must be done without removing the v-band coupling.

The FAA has not changed this AD in regard to this comment.

4. Include a Non-Destructive Inspection

An individual commenter requested the FAA consider adding a requirement for a non-destructive inspection (NDI). The commenter stated the clamps are constantly stressed even in the absence of heat cycling.

The FAA disagrees with adding a requirement for an NDI to this AD. Due to the various v-band couplings, an NDI would have to be determined by the v-band coupling manufacturer and the FAA has determined that the visual inspections along with replacements will mitigate the unsafe condition. However, additional inspections are acceptable as long as they do not conflict with the visual inspection requirements, replacement, and life limit requirements of this AD.

The FAA has not changed this AD in regard to this comment.

5. Insufficient Justification for Paragraph (j) of the Proposed AD

An individual commenter believed that there is not enough data to justify an AD, specifically for paragraph (j) of the proposed AD regarding repetitive inspections of v-band couplings. The commenter cited multiple examples where root cause analysis was determined in other AD actions. The commenter stated that the FAA has not made a determination of what the root cause is for the proposed AD.

The FAA disagrees that there is no root cause for this AD. The FAA issues an AD when an unsafe condition is found. The unsafe condition addressed by this AD is fatigue failure of spot-welded, multi-segment exhaust tailpipe v-band couplings as a result of stress corrosion cracking that originated at or near a spot weld. As stated in the Background, the data studied by the working group contained evidence of pre-existing cracking of the couplings, known embrittlement at the spot weld locations simply due to that manufacturing method, and outer band cupping on the multi-segment couplings (which is the result of age, over-use, and potential over-torqueing). These are the root causes of the unsafe condition. Current inspection procedures are inadequate to detect these cracks in a timely manner. Accordingly, the FAA is mandating inspection procedures and a life limit to protect the fleet. The life limit and inspections directly address the unsafe condition, have been used in previous ADs, and therefore are appropriate for this type of multi-segment coupling.

The FAA has not changed this AD in regard to this comment.

I. Request To Use Generic Terms in Paragraph (k) of the Proposed AD

EASA suggested that generic terms be used in paragraph (k)(1)(i) of the proposed AD, such as ''fine abrasive

cloth and mineral spirits'' instead of ''crocus cloth and mineral spirits or Stoddard solvent'' because the current terminology in the proposed AD might not be recognized outside of the United States.

The FAA partially agrees. The term ''crocus cloth'' is a general term and not specific. The term ''Stoddard solvent'' refers to the original developer of the solvent. This AD already includes the term ''mineral spirts.'' The FAA revised paragraph (l)(1)(i) of this AD to include ''crocus cloth or fine abrasive cloth and mineral spirits or Stoddard solvent.''

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Costs of Compliance

The FAA estimates that this AD affects up to 41,058 airplanes, helicopters, and engines (products of U.S. registry). The FAA has no way of determining the number of these products that could have an affected spot-welded, multi-segment v-band coupling installed. The FAA's estimated cost on U.S. operators reflects the maximum possible cost based on the 41,058 products of U.S. registry. Based on this, the FAA estimates the following costs to comply with this AD:

The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Number of U.S. products	Cost on U.S. operators
Aircraft records review	0.5 work hour × $85 = $42.50	N/A	$42.50	41,058	$1,744,965.
Removal of the coupling from service and replacement (single-engine aircraft).	2 work-hours × $85 per hour = $170.	$400	$570	31,248	$17,811,360.
Removal of the couplings from service and replacement (twin-engine aircraft).	4 work-hours × $85 per hour = $340.	800	$1,140	9,810	$11,183,400.
Inspection of the coupling without removal (single-engine aircraft).	0.5 work-hour × $85 per hour = $42.50.	N/A	$42.50 per inspection cycle	31,248	$1,328,040 per inspection cycle.
Inspection of the couplings without removal (twin-engine aircraft).	1 work-hour × $85 per hour = $85.	N/A	$85 per inspection cycle	9,810	$833,850 per inspection cycle.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Inspection of the coupling, including removal and reinstallation (single-engine aircraft)	1.5 work-hours × $85 per hour = $127.50.	N/A	$127.50
Inspection of the couplings, including removal and reinstallation (twin-engine aircraft)	3 work-hours × $85 per hour = $255.	N/A	255

This AD provides operators the option of performing an inspection with the coupling removed from the aircraft instead of an inspection of the coupling without removing it from the aircraft. In some cases, an inspection with the coupling removed may be required.

A coupling may need to be removed from service before it reaches its 500-hour TIS life limit if it does not meet all of the inspection criteria at each inspection. The FAA has no way of determining the number of products that may need to remove the coupling from service before reaching its 500-hour TIS life limit.

Authority for This Rulemaking

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

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

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2023–09–09 Various Airplanes, Helicopters, and Engines: Amendment 39 22432; Docket No. FAA–2022–0891; Project Identifier AD–2022–00585–A,E,R.

(a) Effective Date

This airworthiness directive (AD) is effective July 17, 2023.

(b) Affected ADs

None.

(c) Definitions

(1) For purposes of this AD, a ''v-band coupling'' means a spot-welded, multi-segment v-band coupling installed at the tailpipe to turbocharger exhaust housing flange.

(2) For purposes of this AD, ''new'' means zero hours time-in-service (TIS).

(d) Applicability

This AD applies to all turbocharged, reciprocating engine-powered airplanes and helicopters and turbocharged, reciprocating engines, certificated in any category, with a spot-welded, multi-segment v-band coupling installed at the tailpipe to turbocharger exhaust housing flange, except for airplanes that are in compliance with an AD listed in paragraphs (d)(1) through (10) of this AD, or have the supplemental type certificate (STC) listed in paragraph (d)(11) of this AD installed. These v-band couplings are installed on, but not limited to, the products listed in Table 1 to paragraph (d) of this AD.

(1) AD 2018–06–11, Amendment 39–19231 (83 FR 13383, March 29, 2018).

(2) AD 2014–23–03, Amendment 39–18019 (79 FR 67340, November 13, 2014).

(3) AD 2013–10–04, Amendment 39–17457 (78 FR 35110, June 12, 2013; corrected September 5, 2013 (78 FR 54561)).

(4) AD 2010–13–07, Amendment 39–16338 (75 FR 35619, June 23, 2010; corrected July 26, 2010 (75 FR 43397)).

(5) AD 2004–23–17, Amendment 39–13872 (69 FR 67809, November 22, 2004).

(6) AD 2001–08–08, Amendment 39–12185 (66 FR 20192, April 20, 2001).

(7) AD 2000–11–04, Amendment 39–11752 (65 FR 34941, June 1, 2000).

(8) AD 2000–01–16, Amendment 39–11514 (65 FR 2844, January 19, 2000).

(9) AD 91–21–01 R1, Amendment 39–9470 (61 FR 29003, June 7, 1996; corrected September 6, 1996 (61 FR 47051)).

(10) AD 81–23–03 R2, Amendment 39–4491 (47 FR 51101, November 12, 1982).

(11) STC Number SA4976NM for Type Certificate Number: A17WE, Make: Aerostar, Model: PA–60–600, –601, –601P, –602P, and –700P.

TABLE 1 TO PARAGRAPH (d)—APPLICABILITY INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING AIRPLANES, HELICOPTERS, AND ENGINES WHEN TURBOCHARGED

Type certificate holder	Model
Aerostar Aircraft Corporation	PA–60–600 (Aerostar 600), PA–60–601 (Aerostar 601), PA–60–601P (Aerostar 601P), PA–60–602P (Aerostar 602P), and PA–60–700P (Aerostar 700P).
B–N Group Ltd. (formerly Pilatus Britten-Norman Limited).	BN–2, BN–2A, BN–2A–6, BN–2A–8, and BN–2A–9.
Cirrus Design Corporation	SR22, SR22T.
Commander Aircraft Corporation (formerly CPAC, Inc.; Commander Aircraft Company; Gulfstream Aerospace Corporation; Gulfstream American Corporation; and Rockwell International, Commander Aircraft Division).	112TC, 112TCA, and 114TC.
Continental Aerospace Technologies, Inc. (formerly Continental Motors, Inc., and Teledyne Continental Motors).	LTSIO–360–E, LTSIO–360–EB, LTSIO–360–KB, LTSIO–360–RB; TSIO–360–E, TSIO–360–EB, TSIO–360–F, TSIO–360–FB, TSIO–360–KB, TSIO–360–LB, TSIO–360–MB, TSIO–360–RB, TSIO–360–SB; TSIO–520–BE, TSIO–520–L, TSIO–520–LB, TSIO–520–T, TSIO–520–WB; TSIO–550–A, TSIO–550–B, TSIO–550–C, TSIO–550–E, TSIO–550–G, TSIO–550–J, TSIO–550–K, TSIO–550–N; TSIOF–550–D, TSIOF–550–J, IO–520–B, IO–520–BA, IO–520–BB, IO–520–D, IO–550–B, IO–550–E, and IO–550–N.
Costruzioni Aeronautiche Tecnam S.P.A	P2012 Traveller.
Daher Aerospace (formerly SOCATA and SOCATA—Groupe AEROSPATIALE).	TB 21.
Diamond Aircraft Industries Inc. (formerly Diamond Aircraft Industries GmbH).	DA 40.
The Enstrom Helicopter Corporation	F–28C, F–28C–2, F–28C–2R, F–28F, F–28F–R, 280C, 280F, and 280FX.
Helio Aircraft LLC	500.
Helio Alaska, Inc	H–295 (USAF U–10D) and H–395 (USAF L–28A or U–10B).
The King's Engineering Fellowship (formerly Evangel-Air).	4500–300 and 4500–300 Series II.
Lycoming Engines (formerly Textron Lycoming)	IO–540–AA1A5, IO–540–AG1A5, IO–540–S1A5, TIO–540–AE2A, TIO–540–AH1A, TIO–540–J2BD, TO–360–C1A6D, TO–360–E1A6D, LTO–360–A1A6D, LTO–360–E1A6D, and LTIO–540–J2BD.
Maule Aerospace Technology, Inc. (formerly Maule Aircraft Corporation).	M–5–210TC.
Merlyn Products, Inc	IO–540–MX1.
Mooney International Corporation (formerly Mooney Aviation Company, Inc.; Mooney Airplane Company, Inc.; Mooney Aircraft Corporation; Aerostar Aircraft Corporation of Texas; and Mooney Aircraft Inc.).	M20J, M20K, M20M, M20TN, and M20V.
Piper Aircraft, Inc. (formerly The New Piper Aircraft, Inc.).	PA–23, PA–23–160, PA–23–235, PA–23–250, PA–23–250 (Navy UO–1), PA–E23–250, PA–24–250, PA–24–260, PA–24–400, PA–28–201T, PA–28R–201T, PA–28RT–201T, PA–30, PA–31, PA–31–325, PA–31–350, PA–31P, PA–31P–350, PA–32–260, PA–32R–300, PA–32RT–300T, PA–32R–301(SP), PA–32–301T, PA–32R–301T, PA–34–200, PA–34–200T, PA–34–220T, PA–39, PA–44–180T, PA–46–310P, and PA–46–350P.
Revo, Incorporated (formerly Global Amphibians, LLC; Consolidated Aeronautics, Inc.; Lake Aircraft Corporation; and Colonial Aircraft Company).	Lake Model LA–4, Lake Model LA–4A, Lake Model LA–4–200, and Lake Model 250.
Scott's-Bell 47, Inc. (formerly Bell Helicopter Textron Inc.).	47G–3B, 47G–3B–1, 47G–3B–2, and 47G–3B–2A.
Siam Hiller Holdings, Inc. (formerly Rogerson Hiller Corporation; Hiller Helicopters; Rogerson Aircraft Corporation; Hiller Aviation; Heli-Parts, Inc.; Fairchild Industries, Inc.; and Hiller Aircraft Corporation).	UH–12L and UH–12L4.
SST FLUGTECHNIK GmbH (formerly Extra Flugzeugproduktions-und Vertriebs-GmbH and Extra Flugzeugbau GmbH Flugplatz).	EA 400.

TABLE 1 TO PARAGRAPH (d)—APPLICABILITY INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING AIRPLANES, HELICOPTERS, AND ENGINES WHEN TURBOCHARGED—Continued

Type certificate holder	Model
Textron Aviation Inc. (formerly Beechcraft Corporation, Hawker Beechcraft Corporation, Raytheon Aircraft Company, and Beech Aircraft Corporation).	35–33, 35–A33, 35–B33, 35–C33, 35–C33A, E33, E33A, E33C, F33, F33A, F33C, H35, J35, K35, M35, N35, P35, S35, V35, V35A, V35B, 36, A36, A36TC, B36TC, D55, E55, 56TC (Turbo Baron), A56TC (Turbo Baron), 58, G58, 60 (Duke), A60 (Duke), B60 (Duke), 95, 95–C55, B95, B95A, D95A, and E95.
Textron Aviation Inc. (formerly Cessna Aircraft Company).	185, 185A, 185B, 185C, 185D, 185E, A185E, A185F, A188, A188A, A188B, A188C, T182, T182T, TR182, T188C, 206, P206, P206A, P206B, P206C, P206D, P206E, T206H, TP206A, TP206B, TP206C, TP206D, TP206E, TU206A, TU206B, TU206C, TU206D, TU206E, TU206F, TU206G, U206, U206A, U206B, U206C, U206D, U206E, U206F, U206G, T207, T207A, 210, 210A, 210B, 210C, 210–5 (205), 210–5A (205A), P210N, T210G, T210H, T210J, T210K, T210L, T210M, T210N, T240, T303, 310, 310B, 310C, 310D, 310E (USAF U–3B), 310F, 310G, 310H, 310I, 310J, T310P, T310Q, T310R, 320, 320A, 320B, 320C, 320D, 320E, 320F, 320–1, 321, 335, 340, 340A, LC40–550FG, LC41–550FG, LC42–550FG, FT337E, FT337F, FT337GP, FT337HP, P337H, T337B, T337C, T337D, T337E, T337F, T337G, T337H, T337H–SP, 401, 401A, 401B, 402, 402A, 402B, 402C, 404, 411, 411A, 414, 414A, 421, 421A, 421B, 421C.
Triton Aerospace LLC (formerly Triton America LLC; AAI Acquisition, Inc.; and Adam Aircraft).	A500.
Twin Commander Aircraft LLC (formerly Twin Commander Aircraft Corporation; Gulfstream Aerospace Corporation; Gulfstream American Corporation; Rockwell-Standard & Associates; and Aero Design and Engineering Company, also known as Aero Commander Aircraft).	500, 500A, 500B, 500S, 500U, 560A, 560E, and 685.
Vulcanair S.p.A. (formerly Partenavia Costruzioni Aeronautiche S.p.A.).	P.68C–TC, and P.68TC ''Observer''.

(e) Subject

Joint Aircraft System Component (JASC) Code 8100, Exhaust Turbine System (Recip).

(f) Unsafe Condition

This AD was prompted by multiple failures of spot-welded, multi-segment v-band couplings installed at the tailpipe to turbocharger exhaust housing flange. The FAA is issuing this AD to prevent failure of the spot-welded, multi-segment exhaust tailpipe v-band coupling. The unsafe condition, if not addressed, could lead to detachment of the exhaust tailpipe from the turbocharger and allow high-temperature exhaust gases to enter the engine compartment. This could result in smoke in the cockpit, in-flight fire, and loss of control of the aircraft.

(g) Compliance

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

(h) Review of the Maintenance Records

Within 50 hours TIS after the effective date of this AD, review the aircraft maintenance records to determine the number of hours TIS accumulated on each v-band coupling.

(i) V-Band Coupling Life Limit

(1) Within the compliance times specified in paragraph (i)(1)(i) or (ii) or (i)(2) of this AD, remove the v-band coupling from service and install a new v-band coupling. Apply correct torque as necessary to the v-band coupling nut.

(i) If the v-band coupling has accumulated less than 500 hours TIS: Initially remove the v-band coupling from service before it accumulates 500 hours TIS or within 50 hours TIS after the effective date of this AD, whichever occurs later. Thereafter, remove the v-band coupling from service before it accumulates 500 hours TIS.

(ii) If the v-band coupling has accumulated 500 or more hours TIS or if the hours TIS of the v-band coupling cannot be determined: Initially remove the v-band coupling from service within 50 hours TIS after the effective date of this AD. Thereafter, remove the v-band coupling from service before it accumulates 500 hours TIS.

(2) As an alternative to initially removing the v-band coupling from service as required by paragraph (i)(1) of this AD, you may perform the inspections required by paragraphs (k)(1) through (7) or (l) of this AD. Do the initial inspections at the time the v-band coupling would have been removed from service and thereafter at intervals not to exceed 6 months or 100 hours TIS, whichever occurs first, for a period not to exceed 2 years after the effective date of this AD. If the v-band coupling fails to meet any inspection criteria in paragraphs (k)(1) through (7) or (l) of this AD, it must be removed from service before further flight. Removing the v-band coupling from service and installing a new v-band coupling does not terminate the requirement to do these repetitive inspections.

Note 1 to paragraph (i): Instructions for installing a v-band coupling can be found in Appendix B: Best Practices Guide, paragraph 3.1, of the ''Exhaust System Turbocharger to Tailpipe V-band Coupling/Clamp Working Group Final Report,'' dated January 2018.

(j) V-Band Coupling Inspections

At the next annual inspection after the effective date of this AD or within the next 12 months after the effective date of this AD, whichever occurs first, and repetitively thereafter at intervals not to exceed 12 months, visually inspect the v-band coupling as required by paragraphs (k)(1) through (7) of this AD. Removing the v-band coupling from service and installing a new v-band coupling does not terminate the requirement to do these repetitive inspections.

(k) Inspections Without Removal of the V-Band Coupling

(1) Inspect the v-band coupling and area around the v-band coupling for exhaust stains, sooting, and discoloration. If any of those conditions are found, remove the coupling and, instead of the inspections in paragraphs (k)(2) through (7) of this AD, do the inspections in paragraph (l) of this AD.

(2) Inspect the v-band coupling outer band for cracks, paying particular attention to the spot weld areas. If there is a crack, before further flight, remove the v-band coupling from service and install a new v-band coupling.

(3) Inspect the v-band coupling for looseness and for separation of the outer band from the v-retainer segments at all spot welds. If there is any looseness or separation of the outer band from any retainer segment, before further flight, remove the v-band coupling from service and install a new v-band coupling.

(4) Inspect the v-band coupling outer band for cupping, bowing, and crowning as depicted in figure 1 to paragraph (l)(1)(iii) of this AD. If there is any cupping, bowing, or crowning, before further flight, remove the coupling and, instead of the inspections in paragraphs (k)(5) through (7) of this AD, do the inspections in paragraph (l) of this AD.

(5) Inspect the area of the v-band coupling, including the outer band, opposite the t-bolt for damage and distortion. If there is any damage or distortion, before further flight, remove the v-band coupling from service and install a new v-band coupling.

(6) Using a mirror, inspect the v-band coupling to determine whether there is a space between the two v-retainer coupling segments next to the t-bolt. If there is no space between the two v-retainer coupling segments next to the t-bolt, before further flight, remove the v-band coupling from service and install a new v-band coupling.

(7) Determine whether the v-band coupling nut is properly torqued and apply correct torque as necessary.

(l) Inspections With the Spot-Welded, Multi-Segment Exhaust Tailpipe V-Band Coupling Removed

(1) Remove the v-band coupling and do the inspections in paragraphs (l)(1) and (2) of this AD if required by paragraph (k)(1) or (4) of this AD or as an alternative to the inspections required by paragraph (k) of this AD. Removing the v-band coupling from service and installing a new v-band coupling does not terminate the requirement to repeat the inspections in paragraph (k) or (l) of this AD.

(i) Using crocus cloth or fine abrasive cloth and mineral spirits or Stoddard solvent, clean the outer band of the v-band coupling. Pay particular attention to the spot weld areas on the v-band coupling. If there is corrosion that cannot be removed by cleaning or if there is pitting, before further flight, remove the v-band coupling from service and install a new v-band coupling.

(ii) Using a 10X magnifying glass, visually inspect the outer band for cracks, paying particular attention to the spot weld areas. If there is a crack, before further flight, remove the v-band coupling from service and install a new v-band coupling.

(iii) Visually inspect the flatness of the outer band using a straight edge. Lay the straight edge across the width of the outer band as depicted in figure 1 to paragraph (l)(1)(iii) of this AD. If the gap between the outer band and the straight edge exceeds 0.062 inch, before further flight, remove the v-band coupling from service and install a new v-band coupling.

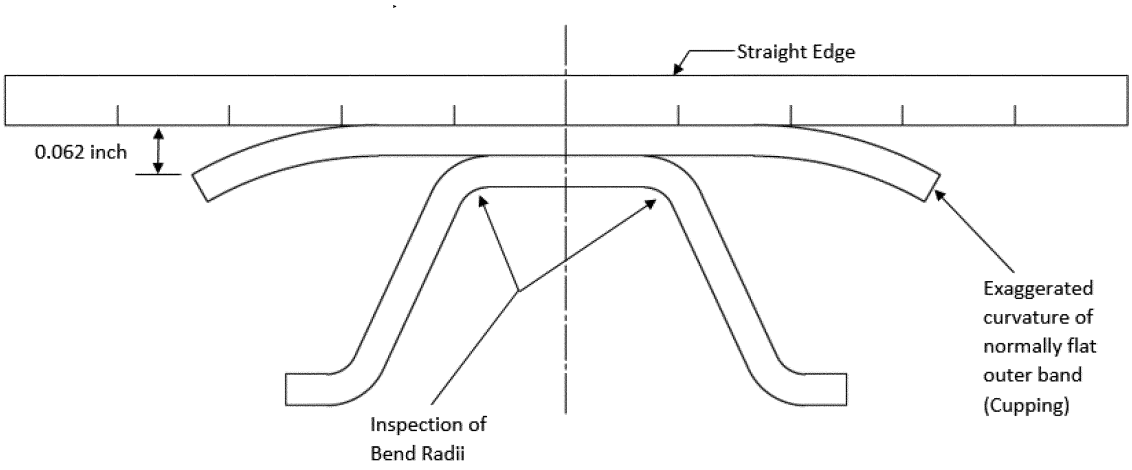

Figure 1 to paragraph (l)(1)(iii) – Inspection Depiction

(iv) With the t-bolt in the 12 o'clock position, visually inspect the attachment of the outer band to the v-retainer coupling segments for gaps between the outer band and the v-retainer coupling segments from the 1 o'clock through 11 o'clock positions. If there are any gaps between the outer band and the v-retainer coupling segments, before further flight, remove the v-band coupling from service and install a new v-band coupling.

Note 2 to paragraph (l)(1)(iv): You may use backlighting to see gaps.

(v) Visually inspect the bend radii of the v-retainer coupling segments, throughout the length of the segment, as depicted in figure 1 to paragraph (l)(1)(iii) of this AD, for cracks. If there are any cracks, before further flight, remove the v-band coupling from service and install a new v-band coupling.

(vi) Visually inspect the outer band opposite the t-bolt for damage (distortion, creases, bulging, or cracks) caused by excessive spreading of the coupling during installation or removal. If there is any damage, before further flight, remove the v-band coupling from service and install a new v-band coupling.

(2) If the v-band coupling passes all of the inspections in paragraphs (l)(1)(i) through (vi) of this AD, it may be re-installed.

(i) Apply correct torque as necessary to the v-band coupling nut.

(ii) Inspect the v-band coupling to determine whether there is space between the two v-retainer coupling segments next to the t-bolt. If there is no space between the two v-retainer coupling segments next to the t-bolt, before further flight, remove the v-band coupling from service and install a new v-band coupling.

(m) Installation Prohibitions

(1) From the effective date of this AD until two years after the effective date of this AD, do not install a v-band coupling that has accumulated more than zero hours TIS on any turbocharged airplane, helicopter, or engine, unless it has passed all inspections required by paragraph (k) or (l) of this AD.

(2) As of two years after the effective date of this AD, do not install a v-band coupling that has accumulated more than zero and less than 500 hours TIS on any turbocharged airplane, helicopter, or engine, unless it has passed all inspections required by paragraph (k) or (l) of this AD.

(3) As of two years after the effective date of this AD, do not install a v-band coupling that has accumulated 500 or more hours TIS on any turbocharged airplane, helicopter, or engine.

(n) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the Operational Safety Branch, send it to the attention of Tom Teplik, add this AD number AD 2023–09–09 to the subject line, and email to: *AMOC@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(o) Related Information

(1) For more information about this AD, contact Thomas Teplik, Aviation Safety Engineer, Central Certification Branch, FAA, 1801 S Airport Road, Wichita, KS 67209; phone: (316) 946–4196; email: *thomas.teplik@faa.gov* or *Wichita-COS@faa.gov.*

(2) The ''Exhaust System Turbocharger to Tailpipe V-band Coupling/Clamp Working Group Final Report,'' dated January 2018, may be found in the AD docket at *regulations.gov* by searching for and locating Docket No. FAA–2022–0891.

(p) Material Incorporated by Reference

None.

Issued on May 9, 2023.

Gaetano A. Sciortino,

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

[FR Doc. 2023–12417 Filed 6–9–23; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200, 229, 249, 270, 274 and 275

[Release No. 33–11197; 34–97621; IA–6316; IC–34932]

Technical Amendments to Commission Rules and Forms

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; technical amendments.

SUMMARY: The Securities and Exchange Commission (''Commission'') is adopting technical amendments to various rules and forms under the Securities Act of 1933 (''Securities Act''), the Securities Exchange Act of 1934 (''Exchange Act''), and the Investment Company Act of 1940 (''Investment Company Act''), as well as to the rule setting forth undertakings that certain registrants must include in their registration statements, and to the general authority provision corresponding to Commission rules under the Investment Advisers Act of 1940 (''Investment Advisers Act''). These revisions make changes to correct errors that are technical in nature, including typographical errors and erroneous cross-references in various Commission rules and forms.

DATES: This rule is effective June 12, 2023, except for the amendment to 17 CFR 200.30–5 at instruction 2, which is effective July 2, 2024.

FOR FURTHER INFORMATION CONTACT: Quinn Kane, Senior Counsel, or Amanda Hollander Wagner, Senior Special Counsel, at (202) 551–6792, Investment Company Regulation Office, Division of Investment Management, at the Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is amending the following rules and forms:

Commission reference	CFR citation (17 CFR)
Regulation S–K:	
Item 512	§ 229.512.
Securities Act and Investment Company Act: [1]	
Form N–2	§§ 239.14 and 274.11a–1.
Form N–14	§ 239.23.
Investment Company Act:	
Rule 12d1–1	§ 270.12d1–1.
Rule 12d1–3	§ 270.12d1–3.
Rule 27i–1	§ 270.27i–1.
Rule 30–5	§ 200.30–5.
Exchange Act: [2]	
Form 13F	§ 249.325.

The amendments make technical changes to various Commission rules and forms. Some of the amendments update or correct cross-references to other rules or provisions. The amendments to Rule 12d1–1 and Rule 12d1–3 under the Investment Company Act update cross-references to former National Association of Securities Dealers (NASD) rules that have been superseded by Financial Industry Regulatory Authority (FINRA) rules. The amendment to Form 13F corrects an erroneous cross-reference resulting from recent amendments to the form, which became effective on January 3, 2023.[2]

Other amendments are intended to make technical updates to instructions associated with certain form requirements, and to make typographical and other corrections to inadvertent errors or omissions, including removing outdated references in rules and forms. The amendments related to Instruction 3.D to the Calculation of Filing Fee Tables and Related Disclosure in Item 25 of Form N–2 and Item 16 of N–14 make typographical corrections designed to make the instructions consistent with a simplified construction that was incorporated in parallel instructions to other forms as part of a recent Commission rulemaking.[3] Other amendments to Form N–2 and Item 512 of Regulation S–K modify references that have in recent years been rendered obsolete.[4] The amendment to Rule 27i–1 under the Investment Company Act restores language in the rule text that was inadvertently removed when this rule was renumbered in a recent rulemaking, in light of the renumbering of section 27(c) of the Investment Company Act to section 27(i) enacted by the National Securities Market Improvement Act of 1996.[5] The corrections to Rule 30–5 under the Investment Company Act are designed to conform the rule to the standard paragraph numbering structure for Commission rules.

Lastly, the Commission is removing an erroneously included general authority provision for 17 CFR part 275, which contains Commission rules under the Investment Advisers Act.[6]

List of Subjects

17 CFR Part 200

Administrative practice and procedure, Organization and functions (Government agencies).

17 CFR Part 229

Reporting and recordkeeping requirements, Securities.

17 CFR Part 249, 270 and 274

Investment companies, Reporting and recordkeeping requirements, Securities.

17 CFR Part 275

Investment advisers, Reporting and recordkeeping requirements.

Statutory Authority

We are adopting these technical amendments under the authority set

[1] 15 U.S.C. 77a *et seq.;* 15 U.S.C. 80a *et seq.*

[2] *See Electronic Submission of Applications for Orders under the Advisers Act and the Investment Company Act, Confidential Treatment Requests for Filings on Form 13F, and Form ADV–NR; Amendments to Form 13F,* Investment Company Act Release No. 34635 (June 23, 2022) [87 FR 38943 (June 30, 2022)]. Special Instruction 11 to Form 13F erroneously states that the Information Table should be presented ''in accordance with the column instructions provided in Special Instructions 11.b.i through *12.b.viii.*'' (emphasis added). This error is the result of Special Instruction 2 being deleted, causing a renumbering of the ensuing instructions. The Commission is therefore adopting an amendment to update the Special Instruction to provide an accurate cross-reference consistent with the Commission's statement that this Instruction would cross reference ''. . . the column instructions provided in Special Instructions 11.b.i through *11b.viii.*'' (emphasis added).

[3] *See Filing Fee Disclosure and Payment Methods Modernization,* Investment Company Act Release No. 34396 (Oct. 13, 2021) [86 FR 70166 (Dec. 9, 2021)] (''2021 Fee Tagging Release''). In this rulemaking the Commission amended a number of fee-bearing forms, schedules, statements, and related rules to require each filing fee table and accompanying disclosure to include all required information for fee calculation in a structured format. Specifically, we are correcting language in an example to the above-referenced instruction that currently refers to a pre-effective amendment *to the filing of the Form N–2 on* 2/15/20X1 by changing this language to instead refer to a pre-effective amendment *to the Form N–2 filed on* 2/15/20X1.

[4] Item 34.3.a.(2) of Form N–2 currently contains an exception to a requirement for filers to furnish certain undertakings to reflect fundamental changes to information provided in registration statements for changes in the price and volume of an offering that deviates by no more than 20% from the maximum aggregate offering price set forth in the Calculation of Registration Fee table. This table was removed pursuant to the 2021 Fee Tagging Release and was replaced with the Calculation of Filing Fee tables, filed as an exhibit to the fund's effective registration exhibit. Item 34.3.a.(2) should have therefore been amended at that time to instead refer to the Calculation of Filing Fee tables, which set forth the maximum aggregate offering price upon which this exception is contingent. Accordingly, we are amending Item 34.3.a(2) in this release in order to correct this erroneous reference. We are making corresponding amendments to Item 512(a)(1)(ii) of Regulation S–K, which the undertaking in Item 34.3.a mirrors, for the same reasons.

[5] *See Updated Disclosure Requirements and Summary Prospectus for Variable Annuity and Variable Life Insurance Contracts,* Investment Company Act Release No. 33814 (Mar. 11, 2020) [85 FR 25964 (May 1, 2020)] at 26110.

[6] This authority provision was added in conjunction with a rule 211h–1 under the Advisers Act, which the Commission had proposed but did not adopt. *See Form CRS Relationship Summary; Amendments to Form ADV,* Exchange Act Release No. 86032 (June 5, 2019) [84 FR 33492 July 12, 2019] at n. 1198.

forth in Section 19(a) of the Securities Act, Section 38(a) of the Investment Company Act, Section 211(a) of the Investment Advisers Act, and Section 23 of the Securities Exchange Act.

Text of Amendments

For reasons set forth in the preamble, title 17, chapter II of the Code of Federal Regulations is amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION REQUESTS

■ 1. The authority for part 200 continues to read as follows:

Authority: 5 U.S.C. 552, 552a, 552b, and 557; 11 U.S.C. 901 and 1109(a); 15 U.S.C. 77c, 77e, 77f, 77g, 77h, 77j, 77o, 77q, 77s, 77u, 77z–3, 77ggg(a), 77hhh, 77sss, 77uuu, 78b, 78c(b), 78d, 78d–1, 78d–2, 78e, 78f, 78g, 78h, 78i, 78k, 78k–1, 78*l,* 78m, 78n, 78*o,* 78*o*–4, 78q, 78q–1, 78w, 78t–1, 78u, 78w, 78*ll*(d), 78mm, 78eee, 80a–8, 80a–20, 80a–24, 80a–29, 80a–37, 80a–41, 80a–44(a), 80a–44(b), 80b–3, 80b–4, 80b–5, 80b–9, 80b–10(a), 80b–11, 7202, and 7211 *et seq.;* 29 U.S.C. 794; 44 U.S.C. 3506 and 3507; Reorganization Plan No. 10 of 1950 (15 U.S.C. 78d nt); sec. 8G, Pub. L. 95–452, 92 Stat. 1101 (5 U.S.C. App.); sec. 913, Pub. L. 111–203, 124 Stat. 1376, 1827; sec. 3(a), Pub. L. 114–185, 130 Stat. 538; E.O. 11222, 30 FR 6469, 3 CFR, 1964–1965 Comp., p. 36; E.O. 12356, 47 FR 14874, 3 CFR, 1982 Comp., p. 166; E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235; Information Security Oversight Office Directive No. 1, 47 FR 27836; and 5 CFR 735.104 and 5 CFR parts 2634 and 2635, unless otherwise noted.

Subpart A—Organization and Program Management

§ 200.30–5 [Amended]

■ 2. Effective July 2, 2024, amend § 200.30–5 by redesignating the paragraphs in the ''Old paragraph'' column as the paragraphs in the ''New paragraph'' column in the following table:

Old paragraph	New paragraph
(b–1)	(c)
(b–2)	(c)(3)
(b–2)(1	(c)(3)(i)
(b–2)(2)	(c)(3)(ii)
(b–3)	(c)(4)
(b–3)(1)	(c)(4)(i)
(b–3)(2)	(c)(4)(ii)
(b–4)	(c)(5)
(b–4)(1)	(c)(5)(i)
(b–5)	(c)(6)
(b–5)(1)	(c)(6)(i)
(b–5)(2)	(c)(6)(ii)
(c)	(d)
(c–1)	(e)
(d)	(f)
(e)	(g)
(f)	(h)
(g)	(i)
(h)	(j)
(i)	(k)
(j)	(l)
(k)	(m)
(l)	(n)

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

■ 3. The authority citation for part 229 continues to read as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78j–3, 78*l,* 78m, 78n, 78n–1, 78*o,* 78u–5, 78w, 78*ll,* 78 mm, 80a–8, 80a–9, 80a–20, 80a–29, 80a–30, 80a–31(c), 80a–37, 80a–38(a), 80a–39, 80b–11 and 7201 *et seq.;* 18 U.S.C. 1350; sec. 953(b), Pub. L. 111–203, 124 Stat. 1904 (2010); and sec. 102(c), Pub. L. 112–106, 126 Stat. 310 (2012).

■ 4. Effective June 12, 2023, amend § 229.512 by revising the last sentence of paragraph (a)(1)(ii) to read as follows:

§ 229.512 (Item 512) Undertakings.

(a) * * *

(1) * * *

(ii) * * * Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) (§ 230.424(b) of this chapter) if, in the aggregate, the changes in volume and price represent no more than 20% change in the maximum aggregate offering price set forth in the ''Calculation of Filing Fee Tables'' or ''Calculation of Registration Fee'' table, as applicable, in the effective registration statement.

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

■ 5. The general authority for part 249 continues to read as follows:

Authority: 15 U.S.C. 78a *et seq.* and 7201 *et seq.;* 12 U.S.C. 5461 *et seq.;* 18 U.S.C. 1350; Sec. 953(b) Pub. L. 111–203, 124 Stat. 1904; Sec. 102(a)(3) Pub. L. 112–106, 126 Stat. 309 (2012), Sec. 107 Pub. L. 112–106, 126 Stat. 313 (2012), Sec. 72001 Pub. L. 114–94, 129 Stat. 1312 (2015), and secs. 2 and 3 Pub. L. 116–222, 134 Stat. 1063 (2020), unless otherwise noted.

* * * * *

Note: The amendment to Form 13F will not appear in the Code of Federal Regulations.

■ 6. Effective June 12, 2023, amend Form 13F (referenced in § 249.325) by revising Special Instruction 11 by replacing ''12b.viii'' with ''11.b.viii.''

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

■ 7. The authority for part 270 continues to read, in part, as follows:

Authority: 15 U.S.C. 80a–1 *et seq.,* 80a–34(d), 80a–37, 80a–39, and Pub. L. 111–203, sec. 939A, 124 Stat. 1376 (2010), unless otherwise noted.

* * * * *

Section 270. 22c–1 also issued under secs. 6(c), 22(c), and 38(a) (15 U.S.C. 80a–6(c), 80a22(c), and 80a–37(a)).

* * * * *

§ 270.12d1–1 [Amended]

■ 8. Effective June 12. 2023, amend § 270.12d1–1(b)(1) by:

■ a. Removing ''rule 2830(b)(8) of the Conduct Rules of the NASD'' and adding in its place ''FINRA Rule 2341(b)(8)''; and

■ b. Removing ''rule 2830(b)(9) of the Conduct Rules of the NASD'' and adding in its place ''FINRA Rule 2341(b)(9)''.

§ 270.12d1–3 [Amended]

■ 9. Effective June 12, 2023, amend § 270.12d1–3 by:

■ a. Removing ''rule 2830 of the Conduct Rules of the NASD'' and adding in its place ''FINRA Rule 2341'' in paragraph (a); and

■ b. Removing ''rule 2830(b) of the Conduct Rules of the NASD'' and adding in its place ''FINRA Rule 2341(b)'' in paragraph (b).

§ 270.27i–1 [Amended]

■ 10. Effective June 12, 2023, amend § 270.27i–1 by adding to the end of the sentence the phrase ''with respect to such contracts under which payments are being made based upon life contingencies''.

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

■ 11. The general authority for part 274 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78*l,* 78m, 78n, 78*o*(d), 80a–8, 80a–24, 80a–26, 80a–29, and 80a–37, unless otherwise noted.

* * * * *

Note: The text of Form N–2 does not, and these amendments will not, appear in the Code of Federal Regulations.

■ 12. Effective June 12, 2023, amend Form N–2 (referenced in §§ 239.14 and 274.11a–1) by:

■ a. Revising Instruction 3.D to Item 25 (''Fee Offset Source Submission Identification Example'') by removing the phrase ''the pre-effective amendment to the filing of the Form N–2 (333–123456) on 2/15/20X1 in relation to the payment of $5,000 . . .'' in the sixth bullet point of the instruction and replacing it with ''the pre-effective amendment to the Form N–2 (333–123456) filed on 2/15/20X1 in relation to the payment of $5,000 . . .'';

■ b. Revising the second sentence of Item 34.3.a.(2) to read as follows: ''Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20% change in the maximum aggregate offering price set forth in the ''Calculation of Filing Fee Tables'' in the effective registration statement.''.

Note: The text of Form N–14 does not, and these amendments will not, appear in the Code of Federal Regulations.

■ 13. Effective June 12, 2023, amend Form N–14 (referenced in § 239.23) by revising Instruction 3.D to Item 16 (''Fee Offset Source Submission Identification Example'') by removing the phrase ''the pre-effective amendment to the filing of the Form N–2 (333–123456) on 2/15/20X1 in relation to the payment of $5,000 . . .'' in the sixth bullet point of the instruction and replacing it with ''the pre-effective amendment to the Form N–2 (333–123456) filed on 2/15/20X1 in relation to the payment of $5,000 . . .''

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

■ 14. The general authority for part 275 continues to read as follows and the sectional authority for § 275.211h–1 is removed.

Authority: 15 U.S.C. 80b–2(a)(11)(G), 80b–2(a)(11)(H), 80b–2(a)(17), 80b–3, 80b–4, 80b–4a, 80b–6(4), 80b–6a, and 80b–11, unless otherwise noted.

* * * * *

Dated: May 31, 2023.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2023–11845 Filed 6–9–23; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 83

[Docket No. USCG–2022–0071]

RIN 1625–AC81

State Enforcement of Inland Navigation Rules

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is issuing this final rule to adopt the 2022 interim rule removal of an incorrect statement in the Code of Federal Regulations about field preemption of State or local regulations regarding inland navigation. The incorrect language was added by a 2014 final rule, and the error was subsequently discovered. By adopting the removal of this language, this rule clarifies the ability of States to regulate inland navigation as they have historically done. This rule does not require States to take any action.

DATES: This final rule is effective June 12, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *www.regulations.gov,* type USCG–2022–0071 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: For information about this document call or email Jeffrey Decker, Coast Guard Office of Auxiliary and Boating Safety (CG–BSX); telephone 202–372–1507, email *Jeffrey.E.Decker@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Table of Contents for Preamble

I. Abbreviations

APA Administrative Procedure Act
COLREGS International Regulations for Prevention of Collisions at Sea, 1972
CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
Inland Rules Inland Navigation Rules
NAICS North American Industry Classification System
NPRM Notice of proposed rulemaking
OMB Office of Management and Budget
§ Section
SFRBT Sport Fish Restoration and Boating Trust
RFA Regulatory Flexibility Act
U.S.C. United States Code

II. Basis and Purpose, and Regulatory History

Section 3 of the Inland Navigational Rules Act of 1980, as amended by section 303 of the Coast Guard and Maritime Transportation Act of 2004,[1] ''Inland Navigation Rules Promulgation Authority,'' authorizes the Secretary of the Department in which the Coast Guard is operating to issue inland navigation regulations and technical annexes for all vessels on the inland waters of the United States. The goal of such regulations is to be as consistent as possible with the corresponding international regulations. The Secretary delegated this authority to the Coast Guard in Department of Homeland Security (DHS) Delegation 00170.1, Revision No. 01.3, paragraph (II)(79). The purpose of this final rule is to correct an error in title 33 of the Code of Federal Regulations (CFR) part 83, specifically in paragraph (a) of § 83.01, about the preemptive effect of the navigation regulations upon State or local regulation.

On September 6, 2022, the Coast Guard published an interim rule, making this correction effective immediately for good cause. (87 FR 54385) The interim rule also solicited public comments for 90 days.

III. Background

The Inland Navigation Rules (hereafter ''Inland Rules'') are a body of ''special rules'' as referred to in Rule 1 of the International Regulations for Prevention of Collisions at Sea, 1972, often referred to as ''COLREGS'' or ''International Rules.'' The President proclaimed the International Rules as

[1] Public Law 108–293, 118 Stat. 1028, Aug. 9, 2004. Section 3 of the Inland Navigational Rules Act of 1980 is codified at 33 U.S.C. 2071.

U.S. law in accordance with the International Navigational Rules Act of 1977.[2] Congress subsequently set about harmonizing the Inland Rules that remained in use within the United States, including the Western Rivers Rules, Great Lakes Rules, the old Inland Rules, and parts of the Motorboat Act of 1940. These efforts culminated in the Inland Navigational Rules Act of 1980, which codified Rules 1 through 38, considered the main body of the Inland Rules.[3]

Neither the International Navigational Rules Act of 1977 nor the Inland Navigational Rules Act of 1980 contained express language regarding the preemption of State law. A 2009 Sea Tow study (available in the docket where indicated under the **ADDRESSES** portion of the preamble) found that ''each State and Territory has its own version of navigation rules recorded in different locations in State law.'' The study further found that 37 of the 56 States and Territories had either adopted the International Rules or Inland Rules, or enacted laws requiring conformity with them. In April 2010, in accordance with congressional authorization, the Coast Guard issued regulations effectively transferring the Inland Rules from United States Code to the Code of Federal Regulations.[4] The 2010 rule made no specific statements about the preemptive effect of the Inland Rules. The section of the preamble that discussed federalism said that there were no implications for federalism under Executive Order 13132, which addresses preemption.

In 2012, the Coast Guard proposed routine amendments to the Inland Rules to retain consistency with COLREGS amendments approved by the International Maritime Organization.[5] At that time, the Coast Guard proposed to add a statement of preemptive effect to 33 CFR 83.01(a) in accordance with a 2009 Presidential memorandum regarding preemption.[6] A commenter asked the Coast Guard to clarify that the proposed preemption language referred to field preemption rather than conflict preemption, and in the 2014 final rule, the Coast Guard said that it did.[7] This erroneous statement has recently led to questions about whether State and local governments may regulate navigation on State waters where the Inland Rules apply. Some State agencies use State statutes to enforce violations outside the scope of the Inland Rules. These include prohibitions on negligent operations. Others have continued to patrol and enforce State boating violations under State navigation rules.

Field preemption means that State and local governments may not regulate in that field at all. This is distinct from conflict preemption, which allows State and local governments to regulate so long as their actions do not conflict with Federal regulations. Without express guidance from Congress, conflict preemption is the foundation for the relationship between the laws of the Federal government and those of the States. *See Arizona* v. *United States,* 567 U.S. 387 (2012).

The 2014 preemption language was not viewed as a change in authority, and State and local enforcement continued as before. In 2019, however, the Coast Guard learned that a boater had argued that the preemption statement in 33 CFR 83.01(a) meant that State law enforcement could not charge a violation of State navigation rules that were within the field of the Coast Guard's Inland Rules.

The Coast Guard had informal discussions with State boating law administrators about the meaning of the language, and, in 2021, the National Association of State Boating Law Administrators asked the Coast Guard to clarify the issue. The Coast Guard revisited the preemption language and determined that the 2014 statement of field preemption is incorrect and undermines States' efforts to enhance navigational safety. In particular, the Coast Guard determined that Congress is not only aware of States' broad efforts to regulate in the area of boating safety, but also that Congress, in part, funds these efforts through the Sport Fish Restoration and Boating Trust (SFRBT) Fund,[8] which is administered by the Coast Guard. The SFRBT Fund provides funding to States to enforce State boating laws and investigate boating accidents and fatalities, many of which are the direct result of navigation rules violations.

IV. Discussion of Comments

The Coast Guard received one comment on the interim rule, which simply stated ''GOOD.'' As a result, we made no changes to the regulatory text of the interim rule.

V. Discussion of the Rule

This rule adopts the removal of the final sentence of 33 CFR 83.01(a), which states that regulations in 33 CFR parts 83 through 90 have preemptive effect over State or local regulation within the same field. Removing the final sentence clarifies the original statutory language of Rule 1. This rule does not insert any other statement about preemption. This is consistent with prior versions of the Inland Rules, which were also silent on the subject and were historically viewed as conflict preemptive.

Generally, under the Supremacy Clause of the U.S. Constitution, States are precluded from regulating conduct in a certain field (that is, field preemption applies) where a statute contains an express preemption provision, or when Congress has determined that conduct in a particular field must be regulated by its exclusive governance. In the words of the U.S. Supreme Court, ''The intent to displace state law altogether can be inferred from a framework of regulation so pervasive . . . that Congress left no room for the States to supplement it, or where there is a federal interest . . . so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject.'' *Arizona,* 567 U.S. at 399 (internal quotations omitted).

In the case of inland navigation, nothing in the relevant statutory enactments by Congress has ever expressly stated or otherwise implied that the States are preempted from regulating in the field. Rather, the appropriate analysis is one of conflict preemption. Under conflict preemption, State law is preempted by Federal law only when compliance with both the State law and a Federal law is impossible, or the State law stands as an obstacle to the accomplishment and execution of the full purposes and objective of Congress. *See Arizona,* 567 U.S. 387. State regulation in the field of inland navigation is clearly evidenced by the longstanding existence of many State navigation laws and rules around the country, and by Congress' demonstrated awareness of such laws and rules and its lack of action to preempt them.

State and local marine patrols play a significant role in ensuring safety on our waterways by enforcing navigational safety rules. State and local marine patrols outnumber Coast Guard patrols and conduct almost all the on-water safety enforcement interactions with the boating public. Operator inattention, improper lookout, unsafe speed, and other navigation rules violations, such as operating at night without navigation

[2] Public Law 95–75, 91 Stat. 308 (July 27, 1977).

[3] Public Law 96–591, 94 Stat. 3415 (Dec. 24, 1980).

[4] 75 FR 19544, April 15, 2010; 33 CFR part 83.

[5] 77 FR 52175, August 28, 2012.

[6] ''Presidential Memorandum Regarding Preemption,'' May 20, 2009, available at: DCPD–200900384.pdf (*govinfo.gov*).

[7] 79 FR 37897, 37900, July 2, 2014.

[8] 46 U.S.C. Ch. 131: RECREATIONAL BOATING SAFETY (*house.gov*), See Section 13107: Authorization of Appropriations. Last viewed June 2022.

lights, are contributing factors in many boating accidents. The Coast Guard fully supports the efforts of State and local marine patrols to prevent unsafe operations in accordance with the Inland Rules. While Congress has legislated in this area, it has not created a pervasive or dominant framework that indicates any intent to preclude States from regulating or enforcing their own laws and rules. Accordingly, State and local rules are preempted only in the instances described above: where compliance with both a State requirement and a Federal requirement is impossible, or where the State law stands as an obstacle to the accomplishment and execution of the full purposes and objective of Congress.

We believe that most vessel operators, and State boating law administrators, assigned no meaning to the 2014 preemption language. Their ongoing operations will be unchanged by this final rule. Adopting the removal of the incorrect language about field preemption does not alter the obligations of the boating public. They have always been required to comply with the Inland Rules in 33 CFR parts 83 through 90. It also does not impose obligations on State and local government: no State or local government is required to enact its own navigation rules, and that does not change with removal of this language. This final rule merely allows State and local governments to continue to regulate local navigation in a way that is consistent with longstanding practice.

VI. Regulatory Analyses

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

A. Regulatory Planning and Review

TABLE 1—SUMMARY OF IMPACTS OF THE FINAL RULE

Category	Summary
Applicability	The final rule adopts the removal of the last sentence in 33 CFR 83.01(a), ''The regulations in this subchapter (subchapter E, 33 CFR parts 83 through 90) have preemptive effect over State or local regulation within the same field.''
Affected Population	State and local Governments and vessel operators on the inland waterways.
Costs	No estimated costs.
Unquantified Benefits	Adopts the removal of incorrect regulatory language. This removal provides regulatory clarity to State and local governments to enforce their own regulations.

Executive Orders 12866 (Regulatory Planning and Review), as amended by Executive Order 14094 (Modernizing Regulatory Review), and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866, as amended by Executive Order 14094. A regulatory analysis follows.

This final rule adopts the removal of incorrect language from 33 CFR 83.01(a). This rule clarifies that State and local governments are free to continue to regulate navigation consistent with longstanding practice. We believe that most vessel operators, and many local governments, were unaware of the 2014 error, and that their ongoing operations will be unchanged by this rule. No State has changed its Inland Rules since 2014, and our conversations with state regulators suggest they did not understand the preemption language to alter their enforcement ability. Based on our analysis, this rule does not impose any new requirements or regulatory costs on vessel operators, or on State and local governments. Many State and local governments were already enforcing navigation safety regulations, and the boating public has always been required to comply with the Inland Rules.

Affected Population

This rule affects all State and local navigational law enforcement patrols whose laws or regulations were purported to have been preempted by 33 CFR 83.01(a). Although vessel operators on the inland waterways are a part of the affected population of this rule, they will not incur any new regulatory costs because they were already required by Federal law to comply with State and local navigation rules. This rule creates legal clarity about the States' ability to enforce their own navigational rules, which will maintain safe boating conditions for vessel operators. This rule only confirms the States' ability to retain and enforce navigational safety laws within the field of the Inland Rules. We are not aware that any State altered its navigational rules in response to the 2014 preemption statement, so we do not expect any State will alter its navigational rules in response to the statement's removal.

Cost Analysis of the Final Rule

This final rule will not impose any new costs on vessel operators, or on State and local governments. State and local governments were already enforcing State and local regulations, and the boating public has always been required to comply with the Inland Rules. The economic baseline is that all potentially affected vessel operators and States are already in compliance with State and local rules, and, therefore, will not incur any costs from this rule.

Benefits Analysis of the Final Rule

The primary benefit of the final rule is to clarify the Inland Rules by adopting the removal of incorrect regulatory language and, therefore, removing any potential question about whether States and local jurisdictions can enforce navigational rules on vessel operators who navigate the inland waterways. Without adopting this removal, the regulatory text applied as previously written would purport to prevent State and local marine patrols from enforcing the navigation laws or regulations. Continued State and local enforcement of State and local navigational safety rules is essential. Four of the top five factors in recreational boating accidents, as reported in the 2020 Recreational Boating Statistics (Commandant

Publication P16754.34),[9] involve violations of navigation rules. Further, this rule clarifies that field preemption was never intended to be a valid legal defense in State enforcement proceedings.

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this rule would have a significant economic impact on a substantial number of small entities. 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.

There are two affected populations for this final rule, States or State governments and vessel operators on the inland waterways. The North American Industry Classification System (NAICS) codes list State governments under the classification of ''Public Administration'' with a NAICS sector code of ''92.'' Although State governments would be affected by this final rule, they are not considered small entities under the Regulatory Flexibility Act (RFA) because they have populations of 50,000 or more. Local governments and vessel operators may be small entities under the RFA; however, this final rule does not impose any new regulatory requirements or costs on them. As a result, there are no small entities affected by this final rule. Our analysis shows that this final rule will not impose any regulatory costs on States and recreational boaters. The primary benefit of this final rule is to clarify existing regulatory text; therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we offer to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. 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.

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).

D. Collection of Information

This rule calls for no new or revised collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

E. Federalism

A rule has implications for federalism under Executive Order 13132 (Federalism) if it has a substantial direct effect on 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 analyzed this final rule under Executive Order 13132 and determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132. Our analysis follows.

States may not regulate in categories reserved by Congress for the exclusive regulation by the Coast Guard. For example, the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. *See United States* v. *Locke,* 529 U.S. 89 (2000). This final rule, however, is adopting the correction of a misstatement in the Inland Rules to clarify that the Inland Rules are not field preemptive of State regulation of categories touching upon navigational safety. Therefore, this rule is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with federalism implications and preemptive effect, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this rule has implications for federalism under Executive Order 13132, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

F. Unfunded Mandates

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. Although this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform) to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This rule does not have Tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), because it will 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.

K. Energy Effects

We have analyzed this rule under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). We have determined that it is not a ''significant

[9] Recreational-Boating-Statistics-2020.pdf (*menlosecurity.com*), last viewed March 2022.

energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this rule under Department of Homeland Security Management 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 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. 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. This rule meets the criteria for categorical exclusions A3 and L54 in Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev 1. Categorical exclusion A3 pertains to ''promulgation of rules of a strictly administrative or procedural nature;'' and those that ''interpret or amend an existing regulation without changing its environmental effect.'' Categorical exclusion L54 pertains to regulations that are editorial or procedural. This rule is a standalone action to delete an incorrect statement about field preemption of State or local regulations on the topic of inland navigation, the legal implications of which were recently recognized. This rule is not part of a larger action, and it will not result in significant impacts to the human environment. Removing the incorrect language will affirm the ability of States to legally regulate inland navigation as they long have done, well before the Inland Rules were established.

List of Subjects in 33 CFR Part 83

Navigation (water); Waterways.

Accordingly, the interim rule amending 33 CFR part 83, which was published on September 6, 2022 (87 FR 54385), is adopted as a final rule with the following change:

PART 83—NAVIGATION RULES

■ 1. The authority citation for part 83 is revised to read as follows:

Authority: 33 U.S.C. 2071; DHS Delegation No. 00170.1, Revision No. 01.3.

Dated: June 7, 2023.

W.R. Arguin,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Prevention Policy.

[FR Doc. 2023–12466 Filed 6–9–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0481]

RIN 1625–AA87

Security Zones; Corpus Christi Ship Channel, Corpus Christi, TX

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing two temporary, 500-yard radius, moving security zones for certain vessels carrying Certain Dangerous Cargoes (CDC) within the Corpus Christi Ship Channel and La Quinta Channel. The temporary security zones are needed to protect the vessels, the CDC cargo, and the surrounding waterway from terrorist acts, sabotage, or other subversive acts, accidents, or other events of a similar nature. Entry of vessels or persons into these zones is prohibited unless specifically authorized by the Captain of the Port Sector Corpus Christi or a designated representative.

DATES: This rule is effective without actual notice from June 12, 2023 until June 16, 2023. For the purposes of enforcement, actual notice will be used from June 7, 2023, until June 12, 2023.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Anthony Garofalo, Sector Corpus Christi Waterways Management Division, U.S. Coast Guard; telephone 361–939–5130, email *Anthony.M.Garofalo@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Corpus Christi
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 it is impracticable. The Coast Guard must establish these security zones by June 7, 2023 to ensure security of these vessels and lacks sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

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 provide for the security of these vessels.

III. Legal Authority and Need for Rule

The Coast Guard may issue security zone regulations under authority in 46 U.S.C. 70051 and 70124. The Captain of the Port Sector Corpus Christi (COTP) has determined that potential hazards associated with the transit of the Motor Vessel (M/V) COOL DISCOVERER and M/V CELSIUS CHARLOTTE, when loaded, will be a security concern within a 500-yard radius of each vessel. This rule is needed to provide for the safety and security of the vessels, their cargo, and surrounding waterway from terrorist acts, sabotage or other subversive acts, accidents, or other events of a similar nature while they are

transiting within Corpus Christi, TX, from June 7, 2023 through June 16, 2023.

IV. Discussion of the Rule

The Coast Guard is establishing two 500-yard radius temporary moving security zones around M/V COOL DISCOVERER and M/V CELSIUS CHARLOTTE. The vessel names will be clearly marked on the port, starboard, and stern. The zones for the vessels will be enforced from June 7, 2023, through June 16, 2023. The duration of the zones are intended to protect the vessels and cargo and surrounding waterway from terrorist acts, sabotage or other subversive acts, accidents, or other events of a similar nature. No vessel or person will be permitted to enter the security zones without obtaining permission from the COTP or a designated representative.

Entry into these security zones is prohibited unless authorized by the COTP or a designated representative, who will be on scene to enforce the security zone. 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 USCG Sector Corpus Christi. Persons or vessels desiring to enter or pass through each zone must request permission from the COTP or a designated representative on VHF–FM channel 16 or by telephone at 361–939–0450. If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative. The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate for the enforcement times and dates for each security zone.

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, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, duration, and location of the security zones. This rule will impact a small, designated area of 500-yards around the moving vessels in the Corpus Christi Ship Channel and La Quinta Channel as the vessels transit the channel over a seven day period. Moreover, the rule allows vessels to seek permission to enter the zones.

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 temporary security zones 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 contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. If you believe this rule has implications for federalism or Indian Tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 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 moving security zones lasting for the duration of time that the M/V COOL DISCOVERER

and M/V CELSIUS CHARLOTTE are within the Corpus Christi Ship Channel and La Quinta Channel while loaded with cargo. It will prohibit entry within a 500-yard radius of M/V COOL DISCOVERER and M/V CELSIUS CHARLOTTE while the vessels are transiting loaded within Corpus Christi Ship Channel and La Quinta Channel. It is categorically excluded from further review under L60 in 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 contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

List of Subjects in 33 CFR Part 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.T08–0481 to read as follows:

§ 165.T08–0481 Security Zones; Corpus Christi Ship Channel. Corpus Christi, TX.

(a) *Location.* The following areas are moving security zones: All navigable waters encompassing a 500-yard radius around the M/V COOL DISCOVERER and M/V CELSIUS CHARLOTTE while the vessels are in the Corpus Christi Ship Channel and La Quinta Channel.

(b) *Enforcement period.* This section will be enforced from June 7, 2023, through June 16, 2023.

(c) *Regulations.* (1) The general regulations in § 165.33 apply. Entry into the zones is prohibited unless authorized by the Captain of the Port Sector Corpus Christi (COTP) or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Corpus Christi.

(2) Persons or vessels desiring to enter or pass through the zones must request permission from the COTP Sector Corpus Christi on VHF–FM channel 16 or by telephone at 361–939–0450.

(3) If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative.

(d) *Information broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate of the enforcement times and dates for these security zones.

Dated: June 6, 2023.

J.B. Gunning,

Captain, U.S. Coast Guard, Captain of the Port, Sector Corpus Christi.

[FR Doc. 2023–12451 Filed 6–9–23; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 9

[EPA–HQ–OPPT–2021–0227; FRL–8985–03–OCSPP]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances (21–2.F); Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA issued a final rule in the **Federal Register** of Tuesday, April 11, 2023, concerning significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for chemical substances that were the subject of premanufacture notices (PMNs). This document corrects a typographical error in the amendatory instructions.

DATES: This correction is effective June 12, 2023.

FOR FURTHER INFORMATION CONTACT: William Wysong, New Chemicals Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–4163; email address: *wysong.william@epa.gov.*

SUPPLEMENTARY INFORMATION: In FR Doc. 2023–07458 appearing on page 21480 in the **Federal Register** of Tuesday, April 11, 2023 (88 FR 21480; FRL–8985–02–OCSPP), the following correction is made:

§ 9.1 [Corrected]

On page 21484, in the third column, in part 9, in amendment 2, the instruction ''In § 9.1, amend the table by adding entries for §§ 721.11604 through 721.11634 in numerical order under the undesignated center heading ''Significant New Uses of Chemical Substances'' to read as follows:'' is corrected to read ''In § 9.1, amend the table by adding entries for §§ 721.11659 through 721.11686 in numerical order under the undesignated center heading ''Significant New Uses of Chemical Substances'' to read as follows:''

Dated: June 6, 2023.

Mark Hartman,

Deputy Director, Office of Pollution Prevention and Toxics.

[FR Doc. 2023–12386 Filed 6–9–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122 and 123

[EPA–HQ–OW–2022–0834; FRL–10123–06–OW]

RIN 2040–AG27

NPDES Small MS4 Urbanized Area Clarification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is finalizing clarifications to its National Pollutant Discharge Elimination System (NPDES) Stormwater Phase II regulations due to recent changes made by the Census Bureau. The changes to EPA's regulations are limited to clarifying that the designation criteria for small municipal separate storm sewer systems (MS4s), which have been used since the promulgation of the regulations in 1999, will remain the same. These clarifications are necessary due to the Census Bureau's recent decision to discontinue its practice of publishing the location of ''urbanized areas'' along with the 2020 Census and future censuses. The clarifications in this final rule replace the term ''urbanized area'' in the Phase II regulations with the phrase ''urban areas with a population of at least 50,000,'' which is the Census

Bureau's longstanding definition of the term urbanized areas. This change allows NPDES permitting authorities to use 2020 Census and future Census data in a manner that is consistent with existing longstanding regulatory practice.

DATES: This final rule is effective on July 12, 2023.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OW–2022–0834. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Heather Huddle, Water Permits Division (MC4203), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20004; telephone number: (202) 564–7932; email address: *huddle.heather@epa.gov*.

SUPPLEMENTARY INFORMATION: This action is limited to clarifying that EPA is retaining the existing threshold for automatic designation of small MS4s for regulation under the Phase II stormwater permitting regulations. The threshold for automatic designation was used following the 2000 and 2010 Censuses and is based on the MS4 being in an urbanized area of 50,000 or more people. This final rule maintains the threshold for automatic designations of small MS4s and ensures that the designation of new MS4s will continue as originally required under the Phase II regulations.

EPA's action finalizes changes that were proposed on December 2, 2022 (87 FR 74066) in tandem with the publication of a direct final rule (87 FR 73965, December 2, 2022), both of which included the same regulatory changes. EPA withdrew the direct final rule (88 FR 10851, February 22, 2023) after receiving an adverse comment.

Table of Contents

I. General Information

A. Does this action apply to me?

Entities regulated by this action include:

Category	Examples of regulated entities	North American industry classification system (NAICS) code
Federal and state government	EPA or state NPDES stormwater permitting authorities	924110
Local governments	Operators of small municipal separate storm sewer systems	924110
State government	State departments of transportation	926120
Military	Federal military bases	928110
Public academic institutions	Publicly-administered colleges, universities, and professional schools	611310

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table includes the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not included could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the applicability criteria found in 40 CFR 122.28, 122.32, and 122.35, and the discussion in the preamble. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. What action is EPA taking?

EPA is clarifying its NPDES Phase II regulations due to recent changes made by the Census Bureau. The changes to EPA's regulations are limited to clarifying that the designation criteria for small MS4s, which have been used since the promulgation of the regulations in 1999, will remain the same. The clarification replaces the term previously used by the Census Bureau, ''urbanized area,'' with the phrase ''urban areas with a population of at least 50,000,'' which is the Census Bureau's longstanding criteria for defining urbanized areas.

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

The authority for this rulemaking is the Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.,* including sections 402 and 501.

D. Background

1. Statutory and Regulatory Overview

Stormwater discharges are subject to regulation under section 402(p) of the Clean Water Act (CWA). Under this provision, Congress required the following stormwater discharges initially to be subject to NPDES permitting requirements: stormwater discharges for which NPDES permits were issued prior to February 4, 1987; discharges ''associated with industrial activity;'' discharges from MS4s serving

populations of 100,000 or more; and any stormwater discharge determined by EPA or a state to ''contribute[ ] to a violation of a water quality standard or [to be] a significant contributor of pollutants to waters of the United States.'' Congress further directed EPA to study other stormwater discharges and determine which discharges needed additional controls.

EPA developed the stormwater regulations under section 402(p) of the CWA in two phases, as directed by the statute. In the first phase, under section 402(p)(4) of the CWA, EPA promulgated regulations establishing application and other NPDES permit requirements for stormwater discharges from medium (serving populations of 100,000 and up to 250,000) and large (serving populations of 250,000 or more) MS4s, and stormwater discharges associated with industrial activity. EPA published the final Phase I rule on November 16, 1990. 55 FR 47990. The Phase I rule, among other things, defined ''municipal separate storm sewer'' as publicly-owned conveyances or systems of conveyances that discharge to waters of the United States and are designed or used for collecting or conveying stormwater, are not combined sewers, and are not part of a publicly-owned treatment works. 40 CFR 122.26(b)(8).

In the second phase, sections 402(p)(5) and (6) of the CWA required EPA to conduct a study to identify other stormwater discharges that needed further controls ''to protect water quality,'' report to Congress on the results of the study, and designate for regulation additional categories of stormwater discharges not regulated in Phase I in consultation with state and local officials. EPA promulgated the Phase II rule on December 8, 1999, designating discharges from certain small MS4s and from small construction sites (disturbing equal to or greater than one acre and less than five acres) and requiring NPDES permits for these discharges. 64 FR 68722 (December 8, 1999). A regulated small MS4 is generally defined as any MS4 that is not already covered by the Phase I program and is located within the ''urbanized area'' boundary as determined by the latest U.S. Decennial Census. 40 CFR 122.32(a)(1) (''you are regulated if you operate a small MS4, including but not limited to systems operated by Federal, State, Tribal, and local governments, including State departments of transportation; and . . . [y]our small MS4 is located in an urbanized area as determined by the latest Decennial Census by the Bureau of the Census.'').

Separate storm sewer systems such as those serving military bases, universities, large hospitals or prison complexes, and highways are also included in the definition of ''small MS4.'' 40 CFR 122.26(b)(16). In addition, the Phase II rule includes authority for EPA (or states authorized to administer the NPDES program) to require NPDES permits for currently unregulated stormwater discharges through a designation process. 40 CFR 122.26(a)(9)(i)(C) and (D). Other small MS4s located outside of an urbanized area may be designated as a regulated small MS4 if the NPDES permitting authority determines that its discharges cause, or have the potential to cause, an adverse impact on water quality. 40 CFR 122.32(a)(2), 123.35(b)(3).

2. History of Using Urbanized Area Population Threshold for Small MS4 Designations

Beginning with the 1950 Census, the Census Bureau defined ''urbanized area'' as ''one or more cities of 50,000 or more and all the nearby closely settled suburban territory, or urban fringes.'' [1] This definition was in effect when EPA promulgated the Phase II Rule in 1999, and for the two censuses (2000 and 2010 Census) that have been published since then.[2] The Census Bureau's use of this population threshold is significant for the Phase II permit program because where an MS4 is located within an area identified in the latest decennial Census as having a minimum population of 50,000 or more people (*i.e.,* in an ''urbanized area''), the MS4 is automatically designated as regulated under the Phase II regulations.

The Phase II regulations have referred to the term ''urbanized area'' since the small MS4 program's inception and this term has always been used synonymously with the 50,000 population threshold. When EPA initially promulgated the Phase II regulations, EPA explained that it was adopting the Census Bureau's definition of ''urbanized area'' as one of the designation criteria for small MS4s and provided a definition of ''urbanized area'' that was identical to the Census Bureau's definition. EPA stated in the preamble to the Phase II rule that ''[u]nder the Bureau of the Census definition of 'urbanized area,' adopted by EPA for the purposes of this final rule, 'an urbanized area (UA) comprises a place and the adjacent densely settled surrounding territory that together have a minimum population of 50,000 people.' '' 64 FR 68722, 68751 (December 8, 1999).

EPA acknowledged that the Census Bureau could in the future change the criteria by which it defines ''urbanized area,'' which would then in turn affect the way in which new small MS4s would be automatically designated. It is for this reason that EPA explained in the Phase II rule preamble that new MS4 designations ''will be governed by the Bureau of the Census' definition of an urbanized area in effect for that year.'' 64 FR 68722, 68751 (December 8, 1999). However, the Census Bureau has not changed the 50,000 population threshold since they adopted it 70 years ago. From the small MS4 permit program's inception in 1999, therefore, EPA and state permitting authorities have always relied on the 50,000 population threshold to automatically designate and regulate MS4s. It is only now with the 2020 Census that the Census Bureau has announced its decision to no longer separately identify ''urbanized areas.'' 87 FR 16706, 16707 (March 24, 2022).

II. Rationale and Summary of the Rule

A. Why a Change to the Phase II Regulations Is Appropriate

The original Phase II regulatory text did not explicitly instruct EPA how to treat the designation of MS4s in the event that the Census Bureau's decennial censuses determines that it will no longer separately identify ''urbanized areas.'' For the 1999 Phase II rule, EPA always intended the universe of regulated small MS4s to grow in a manner commensurate with the growth of ''urbanized areas'' as identified by the latest decennial census. However, while the Phase II rule preamble explained that additional MS4s would be designated in accordance with the latest census definition of ''urbanized area,'' it did not provide instruction on what to do if a decennial census no longer identifies the location of such urbanized areas.[3]

[1] *1950 Census of Population—Preliminary Counts, Population of Urbanized Areas: April 1, 1950,* U.S. Department of Commerce, Bureau of the Census. Series PC–3 No. 9. February 1, 1951. See *https://www2.census.gov/library/publications/decennial/1950/pc-03/pc-3-09.pdf.*

[2] Urbanized areas have been defined by the Census Bureau as ''urban areas that contain 50,000 or more people. . .''. See 76 FR 53030, 53039 (August 24, 2011); and 67 FR 11663, 116667 (March 15, 2002).

[3] EPA stated in the Phase II rule preamble that: ''Additional designations based on subsequent census years will be governed by the Bureau of the Census' definition of an urbanized area in effect for that year. Based on historical trends, EPA expects that any area determined by the Bureau of the Census to be included within an urbanized area as of the 1990 Census will not later be excluded from the urbanized area as of the 2000 Census. However, it is important to note that even if this situation were to occur, for example, due to a possible change in the Bureau of the Census' urbanized area definition, a small MS4 that is automatically designated into the NPDES program for storm water

EPA is taking this action to address the Census Bureau's changes and clarify for permitting authorities and the public that the scope of which small MS4s are regulated will not change, and that EPA will rely on what that term has always meant rather than having the regulations reference an out-of-date term.

B. Rationale for Clarification to Phase II Regulations

The most straightforward way for EPA to clarify its regulations in a manner that maintains program continuity and consistency is to replace the reference to ''urbanized area'' in the Phase II regulations with text that replicates the 50,000 population threshold on which the Census Bureau and NPDES authorities have historically relied. As discussed in section II.D.2 of this preamble, from the inception of the small MS4 permitting program, the 50,000 population threshold has been used synonymously with the term ''urbanized area'' by both the Census Bureau and NPDES permitting authorities. Replacing the term ''urbanized area'' with text that incorporates this same 50,000 population threshold means that the existing method for designating small MS4s following the latest decennial census will be identical to how it has always been implemented. This change ensures that there is no disruption in the designation of additional MS4s and that the program will be implemented in a historically consistent manner.

Substituting the obsolete references to ''urbanized areas'' with the 50,000 population threshold also ensures that new Census 2020 mapping data and subsequent census mapping data can be used seamlessly to identify newly regulated MS4s. Prior to the recent Census Bureau changes, the location of any ''urbanized areas'' would have been automatically identified with any decennial census. Moving forward, however, each decennial census will be limited to identifying ''urban areas'' without identifying ''urbanized areas'' within those areas. Even though ''urbanized area'' locations will no longer be provided as part of the 2020 Census and future censuses, the Census Bureau will continue to provide population data for each identified urban area.[4] The Census Bureau published these data to its website in January 2023 at *https://www.census.gov/programs-surveys/geography/guidance/geo-areas/urban-rural.html*. These population data will enable EPA and state permitting authorities to identify which urban areas have populations of 50,000 or more people and, therefore, to provide the necessary information to designate new MS4s.

C. Summary of Changes to Phase II Regulations

The changes to the Phase II regulations are limited to replacing the existing references to ''urbanized area'' as a criterion for designating small MS4s for regulation with text that incorporates the underlying population threshold associated with that term, or more specifically ''urban areas with a population of 50,000 or more people.'' This change is made in the following specific sections:

- *40 CFR 122.28(a)(1)(vi):* This provision describes the requirement that general permits can only be used to provide coverage to discharges in a specific geographic area. The final rule replaces the original reference to ''urbanized areas'' in one of the examples of geographic or political boundary areas that meet this requirement with the described 50,000 population threshold.
- *40 CFR 122.32(a)(1):* This original provision specified that small MS4s located in ''urbanized areas'' are regulated as small MS4s. The reference to ''urbanized areas'' is replaced by the described 50,000 population threshold.
- *40 CFR 122.32(d):* The original provision indicated that small MS4s regulated under 40 CFR 122.32(a)(1) for ''urbanized areas'' may be eligible for an NPDES waiver if they meet the applicable criteria. The reference to ''urbanized areas'' is substituted with a reference to the revised text in 40 CFR 122.32(a)(1).
- *40 CFR 122.33(b)(3):* The original provision referenced the ability of regulated small MS4s located in the same ''urbanized area'' as a medium or large MS4 to be included as a limited co-permittee in the same NPDES permit as the medium or large MS4. The reference to ''urbanized area'' is modified to read ''urban area'' instead.
- *40 CFR 123.35(b)(1)(ii):* The original provision included a reference to an ''urbanized area'' in the context of regulatory guidance on criteria that state permitting authorities may use to designate other small MS4s for regulation, including ''contiguity to an urbanized area.'' The reference to ''urbanized area'' is replaced by the described 50,000 population threshold.
- *40 CFR 123.35(b)(2):* The original provision included a reference to an ''urbanized area'' in the context of applying state permitting authority criteria for designating additional small MS4s for regulation, including MS4s located outside of an ''urbanized area'' serving a jurisdiction with a population density of at least 1,000 people per square mile and a population of at least 10,000. The reference to ''urbanized area'' is replaced by the described 50,000 population threshold.
- *40 CFR 123.35(d)(1):* The original provision indicated that small MS4s regulated under 40 CFR 122.32(a)(1) for ''urbanized areas'' may be eligible for an NPDES waiver if they meet the applicable criteria. The reference to ''urbanized areas'' is substituted with the described 50,000 population threshold.

D. Costs of This Action

The regulatory clarifications in this rule ensure that the population basis for regulating small MS4s remains the same. As a result, these clarifications do not result in increased costs to small MS4 permittees or to state and EPA permitting programs, nor do the rule changes result in regulating additional MS4s beyond what was required by the 1999 Phase II regulations.

E. Implementation and Technical Assistance

EPA will be providing technical assistance to permitting authorities in several ways to help with the implementation of the MS4 program following publication of the new census data. The following is a summary of EPA's ongoing technical assistance activities:

- *Publish new MS4 mapping information:* EPA will work with permitting authorities on new MS4 mapping information. Using the now published 2020 Census urban area information, EPA will identify which urban areas have a population of 50,000 or more people. EPA will also use the 2020 Census data to identify where urban areas with a population of 50,000 or more people are located in the United States and where these areas are located

under an urbanized area calculation for any given Census year will remain regulated regardless of the results of subsequent urbanized area calculations.'' 64 FR 68751 (December 8, 1999).

[4] In its *2020 Urban Areas Frequent Asked Questions,* the Census Bureau provided the following answer in response to the question ''Is it true that the Census Bureau is no longer defining urbanized areas?'': ''No. The Census Bureau will no longer identify an individual urban area as either an urbanized area or an urban cluster. We will refer to all areas as ''urban areas'' regardless of population size. *We will publish population and housing counts for each urban area when we announce results of the 2020 Census urban area delineation. Data users and program will be able to use those counts and subsequent American Community Survey estimates to categorize urban areas according to population size.*'' (emphasis added) See *https://www2.census.gov/geo/pdfs/reference/ua/2020_Urban_Areas_FAQs.pdf.*

with respect to municipal boundaries. EPA will share this information with permitting authorities to enable them to determine which jurisdictions are likely operating MS4s within urban areas that meet the 50,000 population threshold. EPA will provide mapping information that compares the 2010 Census and 2020 Census locations of these urban areas. Permitting authorities will be able to use this information to pinpoint the location of newly designated MS4s and compare how the urban area boundaries have changed for existing MS4s since the 2010 Census.

- *Provide permitting authorities with a preliminary list of newly designated MS4s:* To assist NPDES permitting authorities, EPA is using the mapping information described under the previous bullet point to preliminarily identify newly designated MS4s that are located within urban areas with a population of 50,000 or more people. EPA provided a similar list of newly designated MS4s following the 2010 Census. Permitting authorities are then free to evaluate the MS4s identified on this list to determine if the information is accurate and whether any changes are needed. Permitting authorities may also need to assess any requests for permitting waivers submitted by newly designated MS4s that have been notified of their designation by the permitting authority.
- *Provide guidance materials for permitting authorities:* EPA is providing additional guidance related to the process of permitting newly designated MS4s that NPDES authorities may choose to use. EPA provided similar guidance following the publication of the 2010 Census, which included tips on the suggested steps to follow from initial contact with the new MS4 operators to including them in the applicable NPDES permit. After the 2010 Census, EPA also provided a letter template that permitting authorities could use to inform new MS4 operators of their designation and what to expect from the permitting process moving forward. The Agency is updating these materials for the 2020 Census and will explore what additional technical assistance may be needed.
- *Rescind interim guidance:* In 2022, EPA published on its website *Interim Guidance on Census Elimination of ''Urbanized Areas''* (see *https://www.epa.gov/npdes/interim-guidance-census-elimination-urbanized-area-definition*). The guidance was intended to provide interim recommendations to permitting authorities regarding the implementation of their small MS4 permitting programs following the finalization of the Census Bureau's designation criteria changes while EPA evaluated how best to clarify its regulations. With the publication of this final rule, the interim guidance is no longer necessary and has been rescinded.

III. Statutory and Executive Orders Reviews

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

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

This action is not a significant regulatory action as defined in Executive Order 12866, as amended by Executive Order 14094, and was therefore not subject to a requirement for Executive Order 12866 review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2040–0004. This rule contains no new requirements for reporting and recordkeeping.

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. In making this determination, EPA concludes that the impact of concern for this rule is any significant adverse economic impact on small entities and that the Agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities because the rule has no net burden on the small entities subject to the rule. EPA limits this rule to substituting the use of the term ''urbanized area'' with the underlying population criteria that has been used synonymously with this term since the 1999 promulgation of the regulations in four subsections of the Phase II regulations. See discussion in sections II.B and C of this preamble. Although making this clarification is important to ensure program continuity and consistency, EPA views this change as akin to a clerical correction to remove an obsolete term and ensure that program applicability remains unchanged. EPA has therefore concluded that this action will have no net regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

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

E. Executive Order 13132: Federalism

This action does not have federalism implications. 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. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. 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 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

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

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

I. National Technology Transfer and Advancement Act (NTTAA)

This rule does not involve technical standards.

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

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

EPA believes that the human health and environmental conditions that exist prior to this action do not result in disproportionate and adverse effects on people of color, low-income populations, and/or indigenous peoples. This action makes a technical clarification to a previously promulgated regulatory action and will not change the human health and environmental conditions that currently exist with the implementation of the Phase II regulations.

EPA believes that this action is not likely to result in new disproportionate and adverse effects on people of color, low-income populations and/or indigenous peoples. This regulatory action is a technical clarification to a previously promulgated regulatory action and does not have any disproportionate and adverse impact on people of color, low-income populations, and/or indigenous peoples.

K. Congressional Review Act (CRA)

This action is subject to the CRA, 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 122

Environmental protection, Stormwater, Water pollution.

40 CFR Part 123

Environmental protection, Stormwater, Water pollution.

Michael S. Regan,

Administrator.

For the reasons stated in the preamble, EPA amends 40 CFR parts 122 and 123 as set forth below:

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

■ 1. The authority citation for part 122 continues to read as follows:

Authority: The Clean Water Act, 33 U.S.C. 1251 *et seq.*

■ 2. Amend § 122.28 by revising paragraph (a)(1)(vi) to read as follows:

§ 122.28 General permits (applicable to State NPDES programs, see § 123.25).

(a) * * *

(1) * * *

(vi) Urban areas with a population of 50,000 or more people as determined by the latest Decennial Census by the Bureau of the Census; or

* * * * *

■ 3. Amend § 122.32 by revising paragraphs (a)(1) and (d) introductory text to read as follows:

§ 122.32 As an operator of a small MS4, am I regulated under the NPDES storm water program?

(a) * * *

(1) Your small MS4 is located in an urban area with a population of 50,000 or more people as determined by the latest Decennial Census by the Bureau of the Census. (If your small MS4 is not located entirely within an urban area with a population of 50,000 or more people, only the portion that is within this urban area is regulated); or

* * * * *

(d) The NPDES permitting authority may waive permit coverage if your MS4 serves a population of less than 1,000 within the urban area identified in paragraph (a)(1) of this section and you meet the following criteria:

* * * * *

■ 4. Amend § 122.33 by revising paragraph (b)(3) to read as follows:

§ 122.33 Requirements for obtaining permit coverage for regulated small MS4s.

* * * * *

(b) * * *

(3) *Co-permittee alternative.* If the regulated small MS4 is in the same urban area as a medium or large MS4 with an NPDES storm water permit and that other MS4 is willing to have the small MS4 operator participate in its storm water program, the parties may jointly seek a modification of the other MS4 permit to include the small MS4 operator as a limited co-permittee. As a limited co-permittee, the small MS4 operator will be responsible for compliance with the permit's conditions applicable to its jurisdiction. If the small MS4 operator chooses this option it must comply with the permit application requirements of § 122.26, rather than the requirements of paragraph (b)(2)(i) of this section. The small MS4 operator does not need to comply with the specific application requirements of § 122.26(d)(1)(iii) and (iv) and (d)(2)(iii) (discharge characterization). The small MS4 operator may satisfy the requirements in § 122.26(d)(1)(v) and (d)(2)(iv) (identification of a management program) by referring to the other MS4's storm water management program.

* * * * *

PART 123—STATE PROGRAM REQUIREMENTS

■ 5. The authority citation for part 123 continues to read as follows:

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

■ 6. Amend § 123.35 by revising paragraphs (b)(1)(ii), (b)(2), and (d)(1) introductory text to read as follows:

§ 123.35 As the NPDES Permitting Authority for regulated small MS4s, what is my role?

* * * * *

(b) * * *

(1) * * *

(ii) *Guidance:* For determining other significant water quality impacts, EPA recommends a balanced consideration of the following designation criteria on a watershed or other local basis: discharge to sensitive waters, high growth or growth potential, high population density, contiguity to an urban area with a population of 50,000 people or more as determined by the latest Decennial Census by the Bureau of the Census, significant contributor of pollutants to waters of the United States, and ineffective protection of water quality by other programs;

(2) Apply such criteria, at a minimum, to any small MS4 located outside of an urban area with a population of 50,000 people or more as determined by the latest Decennial Census by the Bureau of the Census serving a jurisdiction with a population density of at least 1,000 people per square mile and a population of at least 10,000;

* * * * *

(d) * * *

(1) You may waive permit coverage for each small MS4s in jurisdictions with a population under 1,000 within the urban area with a population of 50,000 people or more as determined by the latest Decennial Census by the Bureau of the Census where all the following criteria have been met:

* * * * *

[FR Doc. 2023–12494 Filed 6–9–23; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 88, No. 112
Monday, June 12, 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 3

[Docket No.: FAA–2023–1194; Notice No. 23–07]

RIN 2120–AL85

U.S. Agents for Service on Individuals With Foreign Addresses Who Hold or Apply for Certain Certificates, Ratings, or Authorizations

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes that individuals with foreign addresses, and no U.S. physical address of record on file with the FAA, who hold or apply for certain certificates, ratings, or authorizations designate a U.S. agent for service of FAA documents. The U.S. agent would receive service of FAA documents on the certificate holder or applicant's behalf. This proposed rule would facilitate the FAA's ability to accomplish prompt and cost-effective service of process and service of other safety-critical or time-sensitive documents to individuals abroad through service on their U.S. agents.

DATES: Send comments on or before August 11, 2023.

ADDRESSES: Send comments identified by docket number FAA–2023–1194 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 (DOT), 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.

FOR FURTHER INFORMATION CONTACT: Jessica Kabaz-Gomez, Office of the Chief Counsel, Enforcement Division, AGC–300, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; (202) 267–7395; email *Jessica.Kabaz-Gomez@faa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Executive Summary

A. Overview of Proposed Rule

This rulemaking proposes adding a new subpart C to part 3 of title 14 of the Code of Federal Regulations (14 CFR). Proposed subpart C will require individuals who have a foreign address and no U.S. physical address of record on file with the FAA to designate a U.S. agent for service if they apply for a certificate, rating, or authorization issued under 14 CFR part 47, 61, 63, 65, 67, or 107, or hold a certificate, rating, or authorization issued under any of these parts.

The U.S. agent would receive service of FAA documents on behalf of the certificate, rating, or authorization holder or applicant. This proposed rule would facilitate the FAA's ability to accomplish prompt and cost-effective service of process and service of other safety-critical or time-sensitive documents to individuals abroad through service on their U.S. agents. This would conserve agency resources, ensure that lengthy delays in service of process do not compromise aviation safety, and provide individuals abroad with timely notice of FAA actions and the opportunity for more expedient due process.

B. Background and Statement of the Problem

Currently, only air carriers and foreign air carriers are required to designate a U.S. agent for service of FAA documents.[1] However, individuals across the world are able to hold and apply for FAA certificates, ratings, and authorizations. As of July 2022, there were approximately 115,000 individuals holding certificates, ratings, or authorizations issued under 14 CFR part 47, 61, 63, 65, 67, or 107 who had a foreign address and did not have a U.S. physical address of record on file with the FAA. Serving certain documents on these individuals outside of the U.S. presents a challenge for the FAA. Accomplishing valid service of process abroad requires compliance with international service requirements under multi-lateral treaties (*i.e.,* the Hague Service Convention, 20 U.S.T. 361 (signed Nov. 15, 1965), and the

[1] *See* 49 U.S.C. 46103(a)(1) (requiring air carriers and foreign air carriers to designate an agent) and 14 CFR 119.49 and 129.9 (implementing 46103(a)(1)).

Inter-American Convention on Letters Rogatory, adopted January 30, 1975, together with the Additional Protocol to the Convention (IACAP), adopted May 8, 1979, S. Treaty Doc. No. 98–27 (1986)) or by other means that comport with the receiving country and U.S.'s applicable laws regulating extraterritorial service.

These international service requirements are triggered by the FAA's service of process abroad, specifically when the FAA sends documents abroad that compel compliance and are subject to administrative or judicial review. Such documents may include notices of proposed civil penalties, orders of suspension or revocation, and emergency orders of suspension or revocation. International service requirements can significantly delay service of these documents for months (and in some cases over a year), and also impose additional costs on the agency. These international service requirements cannot be waived by document recipients, or circumvented by sending documents electronically.

C. Summary of the Costs and Benefits

Approximately 115,000 individuals outside the U.S. as of July 2022 hold certificates, ratings, or authorizations issued under 14 CFR part 47, 61, 63, 65, 67, or 107 and do not have a U.S. physical address of record on file with the FAA. Service of process abroad imposes burdensome costs on the FAA. This proposed rule would eliminate a majority of the costs of affecting international service and transfer some of these transaction costs back to the individual that necessitated them by requiring designation of a U.S. agent. The costs experienced by these individuals will depend on the arrangements made (*e.g.,* hiring a professional U.S. agent for service of process could cost $150 to $300 annually). Although there may be some initial costs to the FAA to revise its systems to accommodate the change, these costs will be offset by avoiding the foreign process costs that include international mailings and foreign translations.

II. Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety, such as the rules governing service that are addressed in this notice, 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, including the authority to issue regulations.

This rulemaking is issued under the authority described in 49 U.S.C. 44701(a)(5), which establishes the authority of the Administrator to prescribe regulations and minimum standards for other practices, methods, and procedures the Administrator finds necessary for safety in air commerce and national security. These regulations are within the scope of that authority and are consistent with 49 U.S.C. 46103, which governs the FAA's service and provides that the FAA may effectuate service on an agent.

III. Discussion of the Proposal

This proposed rule would amend 14 CFR part 3. If adopted, the proposal would require individuals who hold or apply for certificates, ratings, or authorizations issued under 14 CFR part 47, 61, 63, 65, 67, or 107 and who have a foreign address and no U.S. physical address of record on file with the FAA to designate a U.S. agent for service. The U.S. agent would receive service of FAA documents on the individual's behalf.

A. Proposed Rule

Individuals who hold or apply for FAA certificates, ratings, or authorizations are not currently required to designate a U.S. agent for service of FAA documents. However, the FAA may serve documents on an agent as permitted under 49 U.S.C. 46103. The FAA therefore proposes to amend 14 CFR part 3 to add subpart C with §§ 3.301 through 3.303 to require individuals with foreign addresses, and no U.S. physical address of record on file with the FAA, who hold or apply for certificates, ratings, or authorizations issued under 14 CFR part 47, 61, 63, 65, 67, or 107, as specified below, to designate a U.S. agent for service of certain FAA documents.

1. Rationale for Proposed Rule

The FAA is proposing this rulemaking to enable prompt and cost-effective service of documents to individuals abroad through service on their U.S. agents. This would avoid international service associated with service of process, which can impose significant costs and cause tremendous delays to service. As previously discussed, the FAA's service of process abroad can trigger international service requirements. International service requirements can delay service of these documents for months (and in some cases over a year) and impose burdensome costs on the agency. These service requirements cannot be circumvented by stipulation or agreement between the FAA and the individual receiving the document as that could violate a country's national sovereignty and potentially U.S. treaty obligations.[2] Similarly, the FAA cannot avoid these international service requirements by sending these documents electronically by email.[3]

The two international service conventions applicable to the FAA's service of these documents are the Hague Service Convention, 20 U.S.T. 361 (signed Nov. 15, 1965), and the Inter-American Convention on Letters Rogatory, adopted January 30, 1975, together with the Additional Protocol to the Convention (IACAP), adopted May 8, 1979, S. Treaty Doc. No. 98–27 (1986). The main method for service under these conventions, when a country has objected to postal service under either convention, is through the country's designated central authority, which is cumbersome, slow, and costly compared to service of process accomplished directly through registered mail on the intended recipient. It can take three to six months for a country's central authority to effect service of process and provide proof of such service to the requester under the Hague Service Convention, and six months to a year under the IACAP. However, service times under the IACAP and Hague Service Convention are country dependent, with some countries taking a year or more.

These delays can create a serious risk to aviation safety. For example, when the FAA is serving emergency orders on an individual the FAA finds unqualified to hold FAA certificates, ratings, or authorizations, the individual may attempt to continue exercising the associated privileges until the FAA serves the individual in accordance with international service requirements. Service delays may also impact when individuals receive notice of the FAA's action and their opportunity to timely respond.

Additionally, international service requirements impose costs on the FAA in the form of fees from receiving countries' central authorities that process the FAA's service requests and document translation costs. The cost of

[2] Failure to honor such international treaty obligations or respect a country's national sovereignty when serving legal enforcement documents is in contravention of international and foreign law. In such instances, the offended country's government issues a demarche to the U.S. Department of State, which notifies the U.S. Department of Justice when the incident involves a U.S. Government attorney. Such incidents could harm diplomatic relations between the offended country and the United States.

[3] International service conventions do not expressly authorize email service of process abroad, and email service abroad could violate the internal law of the receiving state and potentially result in judgments that are unenforceable in foreign courts.

service through a country's central authority varies for each country, with the United States' Central Authority imposing a $95 fee and many countries imposing a reciprocal fee. However, service of process to some remote locations within countries can cost several hundred dollars. In addition, countries that are parties to the IACAP, and many that are parties to the Hague Service Convention, impose translation requirements for the central authority to serve documents. The FAA currently must procure translation services when these treaties require translation, adding additional expense. If the FAA could serve its documents domestically on U.S. agents, then these international service treaties and their requirements would not apply. The FAA could save the costs of countries' central authority service fees and translation costs, as the FAA could serve the documents in English directly on individuals' U.S. agents.

Further, most countries are not parties to the Hague Service Convention or the IACAP. Service of process to individuals in these countries must comport with the receiving country's laws and U.S. law regulating extraterritorial service of process. There is no central repository specifying what the service requirements are in each of these countries. Accordingly, at minimum, service to these countries requires the FAA to consult with the Department of State, Department of Justice, or local counsel in the receiving country to determine what constitutes effective and legally permissible service in that country. If a country objects to postal service, letters rogatory are likely the only available and recognized means of service. Letters rogatory through diplomatic channels take eighteen months or more.

In sum, these international service requirements cause tremendous delays to service, with safety implications, and they impose significant costs on the agency. By requiring individual certificate holders abroad to designate a U.S. agent for service, this rulemaking would enable prompt and cost-effective service of documents to individuals abroad through service on their U.S. agents. This would conserve agency resources, ensure that lengthy delays in service of process do not compromise aviation safety, and provide individuals abroad with timely notice of FAA action. As previously discussed, for consistency, and to streamline service on U.S. agents, the agency is also proposing to serve other time-sensitive or safety-critical documents in its discretion on U.S. agents even when international service requirements are not triggered.

2. Applicability (§ 3.301)

The FAA proposes to add § 3.301 to specify subpart C's applicability. This new requirement to designate a U.S. agent for service would only apply to individuals, not entities. Additionally, only those individuals with a foreign address who do not have a U.S. physical address [4] of record on file with the FAA, and who hold or apply for certificates, ratings, or authorizations issued under 14 CFR part 47, 61, 63, 65, 67, or 107, would be required to designate a U.S. agent for service. Foreign addresses are those that are not in the U.S. or its possessions or territories.

The proposed rule would apply to individuals and not to entities because the FAA already has various means of easily reaching certificated entities abroad, but not a fast and cost-effective way of reaching individuals. For example, air carriers and foreign air carriers already designate an agent for service in their operation specifications, as required by 14 CFR 119.49 and 129.9. Foreign repair stations are required to provide a physical address to the FAA of their facilities, make these stations available for inspection, and notify the agency of any change to their address, in addition to complying with foreign business registration requirements, which may include designating agents for service in the country in which they are located. Other foreign entities, like design approval holders under 14 CFR part 21, are under the jurisdiction of their foreign civil aviation authority.

Additionally, individuals are traditionally more difficult to locate and serve than entities, given that entities have business registration, address, inspection, and agent requirements. Though certificated individuals are required to maintain a current mailing address on record with the FAA, if they fail to do so, the FAA has greater difficulty locating an individual certificate holder abroad than an entity or an individual in the United States. For these reasons, the proposed rule would only apply to individuals with a foreign address who do not have a U.S. physical address of record on file with the FAA.

For the proposed rule to apply to these individuals, they must hold or apply for FAA certificates, ratings, or authorizations issued under 14 CFR part 47, 61, 63, 65, 67, or 107. These individuals comprise the majority of individuals holding FAA certificates, ratings, and authorizations abroad and represent those who the agency most commonly serves with process and other safety-critical or time-sensitive documents. Individuals who only hold or apply for FAA certificates, ratings, or authorizations other than those issued under 14 CFR part 47, 61, 63, 65, 67, or 107 are not covered by the proposed rule due to the limited benefit that would be derived by having the proposed rule apply to them. For instance, there are very few part 21 certificate holders who are individuals, with even fewer abroad, and the FAA could not identify any prior instances that required service of documents abroad to these certificate holders.

Similarly, this rulemaking does not include FAA designees abroad who do not hold or apply for certificates issued under 14 CFR part 47, 61, 63, 65, 67, or 107. FAA designees communicate through the designee management system (DMS) and their designations are privileges that the FAA can suspend or terminate within DMS, such that there are no issues or concerns with service abroad.

For these reasons, proposed § 3.301 provides that this proposed rule only applies to individuals who hold or apply for FAA certificates, ratings, or authorizations issued under 14 CFR part 47, 61, 63, 65, 67, or 107 with a foreign address who do not have a U.S. physical address of record on file with the FAA.

3. U.S. Agent for Service Defined (§ 3.302)

The proposed rule defines a U.S. agent for service as an entity or an adult (18 or older) with a U.S. address who a certificate, rating, or authorization holder or applicant designates to receive FAA service on their behalf. Accordingly, individuals can hire any entity, including registered agent service companies, with a U.S. address to be their designated U.S. agent for service. Alternatively, they can designate any adult who is 18 or older with a U.S. address, including a relative or associate, to be their U.S. agent for service.

Regardless of who an individual designates as a U.S. agent, the U.S. agent must have a U.S. address for the FAA to serve. If an entity is serving as the U.S. agent, the FAA proposes that the U.S. agent's address must be the entity's office address. If an adult individual is serving as the U.S. agent, the FAA proposes that the U.S. agent address must be the U.S. agent's usual place of residence, or, if applicable, the U.S. agent's military office address in the

[4] A U.S. physical address is an address in the States of the United States, the District of Columbia, or any U.S. territory or possession, but excludes PO boxes, mail drop boxes, and commercial addresses that are not also residential addresses.

United States.[5] A post office (PO) box, military post office (APO), or mail drop box would not suffice as a U.S. agent address as these types of addresses create service difficulties.

Under the proposed rule, the FAA would serve the designated U.S. agent in lieu of serving the individual or applicant at their foreign address. The U.S. agent would directly receive the FAA's service of process, and other time-sensitive or safety critical documents. Service of process includes the FAA's service of documents that compel compliance and are subject to administrative or judicial review. Examples include initiating legal enforcement action documents, such as notices of proposed civil penalty or assessment, orders of suspension or revocation, and emergency orders of suspension or revocation. For consistency, and to streamline service on U.S. agents, the agency in its discretion is also proposing to serve other time-sensitive or safety-critical documents on U.S. agents. Examples of such documents include reexamination letters, letters of investigation, Office of Aerospace Medicine letters requesting additional information or denying a medical certificate, and notices to aircraft owners of ineffective or invalid aircraft registration.

In some instances, the appeal and reply deadlines of these documents can be very short. For example, FAA emergency orders have a two-day deadline, from receipt by the U.S. agent, for the certificate holder to seek review of the FAA's emergency determination, and ten days from the order's date of service for appeal of the order. As discussed in greater detail below, the U.S. agent would be responsible for timely transmitting all documents the FAA served on the U.S. agent to the certificated individual or applicant who designated them.

Ultimately, the individual who holds the certificate, rating, or authorization is responsible for ensuring that service can be effectuated on their designated U.S. agent at the U.S. agent address provided. If the U.S. agent is unavailable for service, the individual who holds the certificate, rating, or authorization is responsible for ensuring that he or she timely receives the mail in question. For example, if a U.S. agent for service is on travel at the time of mailing, the individual who holds the certificate, rating, or authorization may want to have a friend or associate collect the mail and notify the individual of the service. The specific requirements and responsibilities for designated U.S. agents are further detailed below.

4. U.S. Agent Designation Requirements (§ 3.303)

The FAA proposes that individuals designate a U.S. agent for service in writing to the FAA in a form and manner prescribed by the Administrator. The FAA will publish an Advisory Circular with the final rule specifying the proposed acceptable form and manner for individuals to submit their designation of a U.S. agent for service. The FAA will encourage individuals to designate their U.S. agent for service electronically, for expediency. An individual designating a U.S. agent for service would be required to provide the U.S. agent's full name; their U.S. agent address, as previously discussed; their email address, should electronic service be feasible; their fax number (optional); and their phone number (optional), in the event of service issues.

Individuals who hold or apply for more than one FAA certificate, rating, or authorization issued under 14 CFR part 47, 61, 63, 65, 67, or 107, would only be required to designate a single U.S. agent for service. Once an individual designates a U.S. agent there would be no need to re-designate a U.S. agent with each certificate, rating, or authorization renewal or application for a new certificate, rating, or authorization. However, all individuals would be required to keep their U.S. agent designation current. The FAA proposes that individuals notify the FAA of any change to their U.S. agent's contact information or a change to whom they have designated as their U.S. agent within thirty calendar days of the change.

Absent extraordinary circumstances, the FAA would consider service on an individual's U.S. agent the equivalent of service directly on the individual, triggering all applicable appeal and reply deadlines. As previously explained, the reply and appeal deadlines in documents served can be very short. For these reasons, prior to designating a U.S. agent for service, the FAA proposes that individuals ensure the U.S. agent they have selected understands the requirements for serving as a U.S. agent, including timely transmitting FAA documents to the individual who designated them, and agrees to serve in that capacity. In addition, the FAA proposes under § 3.303 that a U.S. agent must be mentally competent to assume this duty. The FAA further proposes that the responsibility for ensuring these requirements are met falls on the individual designating the U.S. agent. Individuals designating U.S. agents would be required to certify to the FAA, under penalty of perjury, that a U.S. agent has accepted the responsibility of receiving FAA service on behalf of the individual.

5. Effective Date and Consequences for Failing To Comply (§ 3.303)

Enforceability of this proposed rule is important to provide its intended benefit to the FAA and the public. Accordingly, the FAA proposes consequences for noncompliance with the requirement to designate a U.S. agent for service. If six months after publication of the final rule, an individual has not designated a U.S. agent as required, the FAA proposes to not permit an individual to exercise the privileges of any certificate, rating, or authorization issued under part 47, 61, 63, 65, 67, or 107, and an individual aircraft owner's aircraft registration certificate would not be considered effective.

The FAA may take enforcement action against individuals who fail to timely comply with the proposed rule consistent with FAA Enforcement and Compliance Order 2150.3. This six-month time span is proposed to provide sufficient time for affected individuals to comply with this rulemaking. Additionally, after publication of the final rule, the FAA proposes to preclude issuance of certificates, ratings, or authorizations under part 47, 61, 63, 65, 67, or 107 to applicants with a foreign address who do not have a U.S. physical address unless they designate a U.S. agent at the time of application, as required by this proposed rule. For applications currently before the agency for review when the final rule is published, the FAA proposes to notify applicants of the requirement to designate a U.S. agent for service and provide them sufficient opportunity to comply with the requirements before the FAA would permit issuance of their certificates, ratings, or authorizations.

IV. Regulatory Notices and Analyses

Federal agencies consider impacts of regulatory actions under a variety of Executive orders and other requirements. First, Executive Order 12866 and Executive Order 13563, as amended by Executive Order 14094 (''Modernizing Regulatory Review''), direct that each Federal agency to propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory

[5] A designated U.S. agent may only use a military office address if they are serving as a U.S. agent in their official capacity, rather than their personal capacity.

Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year. The current threshold after adjustment for inflation is $165,000,000, using the most current (2021) Implicit Price Deflator for the Gross Domestic Product. This portion of the preamble summarizes the FAA's analysis of the economic impacts of this rulemaking.

In conducting these analyses, the FAA has determined that this proposed rule: will result in benefits that justify costs; is not an economically ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866; will not have a significant economic impact on a substantial number of small entities; will not create unnecessary obstacles to the foreign commerce of the United States; and will not impose an unfunded mandate on State, local, or Tribal governments, or on the private sector.

A. Regulatory Impact Analysis

1. Baseline for the Analysis

As mentioned previously, approximately 115,000 individuals in July 2022 applied for or held certificates, ratings, and authorizations issued under 14 CFR parts 47, 61, 63, 65, 67, and 107 using a foreign address. The FAA estimates that approximately 97 percent of these individuals that used a foreign address are citizens of foreign countries. As also described above, service of process abroad imposes burdensome costs on the agency. The FAA estimates that it sends over 8,000 documents abroad annually, including both service of process and other documents, at a cost close to $600,000 including mailing costs, staff time, and translation services when required.[6] Examples of documents that have been sent abroad are shown in Table 1.

[6] The average cost to FAA per document served is $75.

TABLE 1—EXAMPLES OF DOCUMENTS SERVED ABROAD

Documents
Aerospace Medicine's letters, for example: • All Denial Letters. • Withdrawal of Special Issuance (SI) Authorization Letters. • Special Issuance Authorization Letters. • Re-examination/Request for Information Letters. • Lack of Qualification Letters with Referral to Legal. • Letters of investigation.
Aerospace Medicine's Federal Drug and Alcohol Testing Letters of Investigation
Enforcement action documents, for example: • Notice of Proposed Civil Penalty (NOPCP). • Final Notice of Civil Penalty (FNPCP). • Order Assessing Civil Penalty (OACP). • Notice of Proposed Assessment (NOPA). • Civil Penalty Letter. • Notice of Proposed Certificate Action (NOPCA). • Order of Suspension (OS). • Order of Revocation (OR). Emergency enforcement action documents, for example: • Emergency Order of Revocation (EOR). • Emergency Order of Suspension (EOS).
Flight Standards Reexamination Letters
All FAA Program Office's Letters of Investigation. Aircraft Registry's letters, for example: • Notices to Aircraft Owners of Ineffective Aircraft Registration • Notices to Aircraft Owners of Invalid Aircraft Registration

2. Benefits

The benefits of the proposed rule include prompt and cost-effective service of these documents to individuals abroad through service on their U.S. agents. Prompt service will conserve agency resources, ensure that lengthy delays in service do not compromise aviation safety, and provide individuals abroad timely notice of the FAA's actions. However, these benefits are not quantified because the ultimate impacts on aviation are not known.

3. Costs

Under the proposed rulemaking, the affected individuals will bear the transaction costs associated with having a foreign address on file with the FAA. There is a minimal cost associated with designating new U.S. agent and any updates thereafter. Individuals may designate an entity or an adult (18 or older) with a U.S. address to serve as their U.S. agent. The FAA determined that the cost of hiring a registered U.S. agent service company may range from $150 to $300 annually.[7] However, it is possible that many individuals with foreign addresses have a friend or family member residing in the U.S. whom they may choose to designate as their U.S. agent. Given the uncertainty regarding how individuals with foreign addresses may choose to comply with this proposed rule, the FAA solicits comments and data on the estimated costs of compliance.

The FAA would incur implementation costs to collect the U.S. agent information. However, the FAA anticipates developing an automated system that would not require agency staff processing time. The initial implementation costs will then be offset by saving the baseline foreign service process costs and avoiding the costs of translation services (required by contracting parties to the Hague Service Convention or IACAP).

4. Comparison of Costs and Benefits

In summary, the FAA expects that the benefits of prompt document service, which could affect aviation safety, will exceed any costs associated with implementing this administrative change. Costs associated with designating a U.S. agent for affected individuals abroad would be largely incurred by the individual who holds the certificate, rating, or authorization, rather than the FAA. This proposed rule would eliminate a majority of the costs of affecting international service and transfer some of these transaction costs back to the individual that necessitated them by requiring designation of a U.S. agent. The FAA solicits comments regarding this assessment of impacts.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980, Public Law 96–354, 94 Stat. 1164 (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857, Mar. 29, 1996) and the Small Business Jobs Act of 2010 (Pub. L. 111–240, 124 Stat. 2504, Sept. 27, 2010), requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term ''small entities'' comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and

[7] *See https://www.legalzoom.com/articles/how-much-does-it-cost-to-have-a-registered-agent* (last accessed Dec. 19, 2022).

governmental jurisdictions with populations of less than 50,000.

The FAA did not identify any small entities that would be affected by the proposed rule because this rule concerns only individuals and not their employers or entities or businesses the individuals are associated with. Therefore, the FAA proposes to certify that the rule will not have a significant economic impact on a substantial number of small entities. The FAA welcomes comments on the basis for this certification.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has determined that this proposed rule is not considered an unnecessary obstacle to trade.

D. Unfunded Mandates Assessment

Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. The current threshold after adjustment for inflation is $177 million using the most current (2022) Implicit Price Deflator for the Gross Domestic Product.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. According to the 1995 amendments to the Paperwork Reduction Act (5 CFR 1320.8(b)(2)(vi)), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement, unless it displays a currently valid Office of Management and Budget (OMB) control number.

This action contains the following proposed new information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA has submitted the proposed information collection to OMB for its review.

Summary: The FAA is proposing to require individuals who hold or apply for certificates, ratings, or authorizations issued under 14 CFR part 47, 61, 63, 65, 67, or 107 and who have a foreign address and no U.S. physical address of record on file with the FAA to designate a U.S. agent.

Use: The information collected and maintained in FAA databases would be used to serve various documents to the designated U.S. agents of individuals with a foreign address.

Respondents: There are currently 115,132 individuals who hold certificates, ratings, or authorizations issued under 14 CFR part 47, 61, 63, 65, 67, or 107 with a foreign address and who do not have a U.S. physical address of record on file with the FAA. After the implementation of the proposed rule in Year 1, the FAA expects that the number of new applicants who would be required to designate a U.S. agent would be 4,362. In addition, the FAA estimates that annually approximately 4,606 respondents might process a change of U.S. agent designation or an update to their U.S. agents' contact information.

Frequency: All 115,132 individuals with a foreign address, with no U.S. physical address, who currently hold certificates, ratings, or authorizations issued under 14 CFR part 47, 61, 63, 65, 67, or 107 will be required to designate a U.S. agent once during the implementation of the rule in Year 1. Similarly, 4,362 respondents identified as new applicants would be required to designate a U.S. agent at the time of their application in Year 2. Additionally, 4,606 respondents might need to change their U.S. agent or update the information for their current U.S. agent. This would require submission of a new U.S. agent designation.

Annual Burden Estimate: The FAA estimates that it would take an individual 10 minutes to submit a U.S. agent designation. In Year 1, the number of annual burden hours would be 19,189 [(115,132 individuals × (10 minutes ÷ 60 minutes)], and 1,495 hours each year afterwards (=[(4,362 + 4,606) × (10 minutes ÷ 60 minutes)]). The annual cost of this U.S. agent designation requirement to individuals would be $1,195,761 in Year 1 and $93,131 each year afterwards.

The collection of the U.S. agent designation will be fully automated. Therefore, there will be no new cost to the government.

The agency is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of collecting information on those who are to respond, including by using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Individuals and organizations may send comments on the information collection requirement to the address listed in the **ADDRESSES** section at the beginning of this preamble by August 11, 2023. Comments also should be submitted to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for FAA, New Executive Building, Room 10202, 725 17th Street NW, Washington, DC 20053.

F. International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

G. Environmental Analysis

FAA Order 1050.1F identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 5–6.6f and involves no extraordinary circumstances.

V. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order (E.O.) 13132, Federalism. The FAA has determined that this action would not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, would not have federalism implications.

B. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Consistent with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments,70 and FAA Order 1210.20, American Indian and Alaska Native Tribal Consultation Policy and Procedures,71 the FAA ensures that Federally Recognized Tribes (Tribes) are given the opportunity to provide meaningful and timely input regarding proposed Federal actions that have the potential to affect uniquely or significantly their respective Tribes. At this point, the FAA has not identified any unique or significant effects, environmental or otherwise, on tribes resulting from this proposed rule.

C. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this proposed rule under E.O. 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The FAA has determined that it would not be a ''significant energy action'' under the Executive order and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

D. Executive Order 13609, Promoting International Regulatory Cooperation

E.O. 13609, Promoting International Regulatory Cooperation, promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of E.O. 13609, and has determined that this action would have no effect on international regulatory cooperation.

VI. Privacy

With regard to the information persons may submit in accordance with this proposed rule's requirements, the FAA conducted a privacy impact assessment (PIA) under section 522(a)(5) of division H of the FY 2005 Omnibus Appropriations Act, Public Law 108–447, 118 Stat. 3268 (Dec. 8, 2004) and section 208 of the E-Government Act of 2002, Public Law 107–347, 116 Stat. 2889 (Dec. 17, 2002). The PIA found the NPRM requirements that affect privacy include the collection of personally identifiable information (PII) of U.S. agents designated by individuals with a foreign address and no U.S. physical address on file with the FAA that hold or apply for certificates, ratings, or authorizations issued under 14 CFR part 47, 61, 63, 65, 67, or 107. The information the NPRM proposes to collect includes the U.S. agent's full name, U.S. address, fax number, phone number, and email address.

As part of the PIA, the FAA analyzed the effect the proposed rule might have on collecting, storing, and disseminating personally identifiable information (PII) of U.S. agents designated by individuals with a foreign address and no U.S. physical address on file with the FAA that hold or apply for certificates, ratings, or authorizations issued under 14 CFR part 47, 61, 63, 65, 67, or 107. The FAA also examined and evaluated protections and alternative information-handling processes in developing the proposed rule to mitigate potential privacy risks. A copy of the draft PIA is posted in the docket for this rulemaking.[8]

VII. Additional Information

A. Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The FAA also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. 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.

[8] Upon finalization, PIAs are posted on the Department of Transportation's Privacy Program page.

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.

The FAA also specifically invites comments and requests data and information in response to the following questions:

(1) How many individuals impacted by this rule are likely to have contacts within the United States that they could designate as their U.S. agent for service at no cost?

(2) Apart from publishing the rulemaking in the **Federal Register** for notice and comment, what other methods of outreach could the agency undertake to inform individuals impacted by this rule?

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

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.*

B. Electronic Access and Filing

A copy of this NPRM, all comments received, any final rule, and all background material may be viewed online at *www.regulations.gov* using the docket number listed above. A copy of this proposed rule will be placed in the docket. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at *www.federalregister.gov* and the Government Publishing Office's website at *www.govinfo.gov.* A copy may also be found at the FAA's Regulations and Policies website at *www.faa.gov/regulations_policies.*

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–9677. Commenters must identify the docket or notice number of this rulemaking.

All documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed in the electronic docket for this rulemaking.

C. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document may contact its local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the internet, visit *www.faa.gov/regulations_policies/rulemaking/sbre_act/.*

List of Subjects in 14 CFR Part 3

Aircraft, Aviation safety, U.S. agent for service.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter I of title 14, Code of Federal Regulations as follows:

PART 3—GENERAL REQUIREMENTS

■ 1. The authority citation for part 3 is revised to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701, 44704, 46111, and 46103.

■ 2. Add subpart C to read as follows:

Subpart C—Designated U.S. Agents for Service

Sec.
3.301 Applicability.
3.302 Definitions.
3.303 Designation of a U.S. agent for service.

§ 3.301 Applicability.

This subpart applies to individuals who:

(a) Do not have a U.S. physical address of record on file with the FAA;

(b) Have a foreign address of record on file with the FAA; and

(c) Hold or apply for certificates, ratings, or authorizations under part 47, 61, 63, 65, 67, or 107 of this chapter.

§ 3.302 Definitions.

U.S. agent address is an address in the States of the United States, the District of Columbia, or any U.S. territory or possession. If the U.S. agent is an entity, the address must be the U.S. agent's office address. If the U.S. agent is an individual, the address must be the U.S. agent's usual place of residence or, if applicable, the individual's U.S. military office address. A U.S. agent may only use a military office address if they are serving as a U.S. agent in their official capacity with the military. A U.S. agent address may not be a post office box, military post office box, or a mail drop box.

U.S. agent for service (U.S. agent) is an entity or an adult (individual who is 18 or older) with a U.S. address who a certificate, rating, or authorization holder or applicant designates to receive FAA service on their behalf.

U.S. physical address is an address in the States of the United States, the District of Columbia, or any U.S. territory or possession, but excludes post office boxes, military post office boxes, mail drop boxes, and commercial addresses that are not also residential addresses.

§ 3.303 Designation of a U.S. agent for service.

(a) Individuals must designate a U.S. agent for service within the U.S. in writing to the FAA in a form and manner prescribed by the Administrator. Individuals designating a U.S. agent must ensure that the U.S. agent understands the requirements for receiving FAA service on behalf of the individual and is competent to perform that responsibility.

(b) The designation must include the U.S. agent's full name, address, email address, and certification by the individual that the U.S. agent has accepted responsibility for receiving FAA service on behalf of the individual. It may also include the U.S. agent's fax number and phone number.

(c) Individuals must notify the FAA in a form and manner prescribed by the Administrator of any change to their U.S. agent designation or the U.S. agent's contact information within 30 days of the change.

(d) Individuals must comply with the requirements listed in this subpart no later than:

(1) [DATE 6 MONTHS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**], for certificate holders. Certificate holders that fail to timely designate a U.S. agent for service and comply with the requirements under this subpart may not exercise the privileges of any certificate, rating, or authorization issued under part 47, 61, 63, 65, 67, or 107, and an individual aircraft owner's aircraft registration certificate will be considered ineffective; and

(2) [EFFECTIVE DATE OF FINAL RULE], for applicants. An applicant that fails to designate a U.S. agent for service and comply with the requirements under this subpart shall not be issued a certificate, rating, or authorization under parts 47, 61, 63, 65, 67, or 107.

3. Effective [DATE 6 MONTHS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**], amend § 3.303 by revising paragraph (d) and adding paragraph (e) to read as follows:

§ 3.303 Designation of a U.S. agent for service.

* * * * *

(d) No individual shall exercise the privileges of any certificate, rating, or authorization issued under part 47, 61, 63, 65, 67, or 107 of this chapter unless the individual has designated a U.S. agent as required under this subpart. Aircraft registration certificates issued to individuals who fail to designate a U.S. agent as required under this subpart will be ineffective.

(e) No individual shall be issued a certificate, rating, or authorization under part 47, 61, 63, 65, 67, or 107 of this chapter unless the individual has designated a U.S. agent as required under this subpart.

Issued under authority provided by 49 U.S.C. 106(f), 44701(a), and 44703 in Washington, DC.

Marc Nichols,

Chief Counsel, Office of the Chief Counsel.

[FR Doc. 2023–12124 Filed 6–9–23; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2016–0243; FRL–5185.1–03–OAR]

RIN 2060–AV56

National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of public comment period.

SUMMARY: On May 18, 2023, the U.S. Environmental Protection Agency (EPA) proposed a rule titled ''National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products.'' The EPA is extending the comment period on this proposed rule that currently closes on July 3, 2023, by 15 days. The comment period will now remain open until July 18, 2023, to allow additional time for stakeholders to review and comment on the proposal.

DATES: The public comment period for the proposed rule published in the **Federal Register** (FR) on May 18, 2023 (88 FR 31856), originally ending July 3, 2023, is being extended by 15 days. Written comments must be received on or before July 18, 2023.

ADDRESSES: Submit comments, identified by Docket ID No. EPA–HQ–OAR–2016–0243, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.* Include Docket ID No. EPA–HQ–OAR–2016–0243 in the subject line of the message.
- *Fax:* (202) 566–9744. Attention Docket ID No. EPA–HQ–OAR–2016–0243.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA–HQ–OAR–2016–0243, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery or Courier (by scheduled appointment only):* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operation are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal holidays).

Instructions. All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For questions about this action, contact Ms. Katie Hanks, Sector Policies and Programs Division (E143–03), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2159; and email address: *hanks.katie@epa.gov.*

SUPPLEMENTARY INFORMATION:

Rationale. On May 18, 2023, the U.S. Environmental Protection Agency (EPA) proposed a rule titled ''National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products.'' 88 FR 31856. The comment period on this proposed rule currently closes on July 3, 2023. The EPA has received numerous requests for additional time to review and comment on this proposed rule. The EPA has decided to extend the period by 15 days. The public comment period will now end on July 18, 2023.

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2016–0243. All documents in the docket are listed in *https://www.regulations.gov.* Although listed, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy. With the exception of such material, publicly available docket materials are available electronically in *Regulations.gov*.

Instructions. Direct your comments to Docket ID No. EPA–HQ–OAR–2016–0243. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit electronically to *https://www.regulations.gov* any information that you consider to be CBI or other information whose disclosure is restricted by statute. This type of information should be submitted as discussed below.

The EPA may publish any comment received to its public docket. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

The *https://www.regulations.gov* website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *https://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *https://www.epa.gov/dockets.*

Submitting CBI. Do not submit information containing CBI to the EPA through *https://www.regulations.gov.* Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, note the docket ID, mark the outside of the digital storage media as CBI, and identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in instructions above. If you submit any digital storage media that does not contain CBI, mark

the outside of the digital storage media clearly that it does not contain CBI and note the docket ID. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

Our preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol (FTP), or other online file sharing services (*e.g.,* Dropbox, OneDrive, Google Drive). Electronic submissions must be transmitted directly to the OAQPS CBI Office at the email address *oaqpscbi@epa.gov,* and as described above, should include clear CBI markings and note the docket ID. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email *oaqpscbi@epa.gov* to request a file transfer link. If sending CBI information through the postal service, please send it to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2016–0243. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

Penny Lassiter,

Director, Sector Policies and Programs Division.

[FR Doc. 2023–12407 Filed 6–9–23; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[RTID 0648–XC749]

Draft Conservation Plan for the Eastern Pacific Stock of Northern Fur Seal (Laaqudan)

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

ACTION: Notice of availability; request for comments.

SUMMARY: The National Marine Fisheries Service (NMFS) announces the availability for public comment the draft Conservation Plan for the Eastern Pacific Stock of Northern Fur Seal (Laaqudan) (Conservation Plan). The Marine Mammal Protection Act (MMPA) requires the Secretary of Commerce to develop a northern fur seal conservation plan for the purpose of conserving and restoring the species or stock to its optimum sustainable population. Accordingly, NMFS published its first conservation plan for the Pribilof Islands population in 1993 and a revised version in 2007. This current revision is required to include the latest research and management changes for the Eastern Pacific stock of northern fur seals (formerly the Pribilof Islands population).

DATES: Comments and information must be received by August 11, 2023.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2023–0024, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2023–0024 in the Search box. Click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic copies of the draft Conservation Plan for the Eastern Pacific Stock of Northern Fur Seal (Laaqudan) are available at: *https://www.regulations.gov/docket/NOAA-NMFS-2023-0024,* can be sent via email, or the NMFS Alaska Region website: *https://www.fisheries.noaa.gov/species/northern-fur-seal#conservation-management.*

FOR FURTHER INFORMATION CONTACT: Michael Williams, NMFS Alaska Region, 907–271–5117, *michael.williams@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Eastern Pacific (formerly Pribilof) stock of northern fur seals was listed as depleted under the MMPA on June 17, 1988, because the population had declined by over 50 percent from the highest population levels estimated in the 1940s and early 1950s (53 FR 17888, May 18, 1988). NMFS developed a Conservation Plan to conserve and restore the stock to its optimum sustainable population (OSP), which is defined as a population size within a range of population sizes from the largest supportable within the ecosystem (*i.e.,* carrying capacity) to a level that results in maximum net productivity (50 CFR 216.3). The first Conservation Plan was published in 1993 and a revised version was published in 2007.

Overall, the stock has continued to decline at about 2 percent per year since the depleted listing, and differences exist in trends in abundance and ecology among St. Paul, St. George, and Bogoslof islands and rookery complexes. Preliminary estimates of age class survival rates since 2010 are similar for both St. Paul and St. George islands; however, since trends in abundance are significantly different (*i.e.,* declining on St. Paul and increasing on St. George) our assumptions regarding site fidelity, emigration, and detection are biased and we are investigating corrections.

Mapping fur seal use of Bering Sea marine foraging areas, characterizing diving, and estimating diet are new additions to the draft Conservation Plan. Improved estimates of fur seal consumption of commercially important prey like pollock, age-specific growth, and bioenergetics have increased the accuracy of ecosystem models to characterize fur seal and prey population dynamics. These new model results have the opportunity to advance ecosystem-based fisheries management to include fur seals where appropriate. Based on these recent model results, it is estimated that the northern fur seal population is one of the top four natural predators of pollock biomass, and consumes both 0–2 year old and 3+ year old pollock. The extent of competition with the pollock fisheries is uncertain due to the spatial segregation of foraging fur seals among the islands, rookery complexes, and in-season changes in the distribution of various segments of the commercial pollock fleet.

Another notable revision to this draft Conservation Plan is the reflection of recent subsistence use regulation changes and the evolution of tribal co-management relationships. The Conservation Plan revision includes valuable input and contributions from the Aleut Community of St. Paul Island and the Traditional Council of St.

George Island, and recognizes Unangan contributions to management and research. As fur seal subsistence use is paramount to the cultural identity of Pribilovians, NMFS used Unangam tunuu (*i.e.,* Aleut language) words where appropriate.

The primary goal of the draft Conservation Plan is to facilitate recovery of the Eastern Pacific stock of northern fur seals to OSP and work towards re-designation as a non-depleted stock. Four objectives are proposed to achieve this goal: (1) Identify and reduce human caused mortality of the Eastern Pacific stock of northern fur seals, (2) Assess and avoid or mitigate adverse effects of human related activities on or near the Pribilof Islands and other habitat essential to the survival and recovery of the Eastern Pacific stock of northern fur seals, (3) Continue and, as necessary, expand research and management programs to monitor trends and detect natural or human-related causes of change in the northern fur seal stock and habitats essential to its survival and recovery, and (4) Coordinate and assess the implementation of the Conservation Plan. The revised Conservation Plan includes updated knowledge of threats, possible causes of decline, critical information gaps, conservation actions and initiatives completed, and research and management actions intended to promote conservation and recovery of the population. The shared resources and cooperative involvement of Federal, state, and tribal governments, Alaska Natives and Alaska Native Organizations, industry, academia, non-governmental organizations, and other stakeholders will be required throughout the recovery period. NMFS is seeking public comment on the draft Conservation Plan, as well as available information on northern fur seal ecology and behavior, threats, gaps in information, and potential research and management actions to promote conservation and recovery.

Dated: June 5, 2023.

Catherine G. Marzin,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2023–12388 Filed 6–9–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648–BM27

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic; Amendment 53

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

ACTION: Announcement of availability of fishery management plan amendment; request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) submitted Amendment 53 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic (FMP) for review, approval, and implementation by NMFS. Amendment 53 would modify management of South Atlantic gag and black grouper. For gag, Amendment 53 would establish a rebuilding plan, revise the overfishing limits, acceptable biological catch (ABC), annual optimum yield (OY), annual catch limits (ACLs), sector allocations, commercial trip limits, recreational bag, vessel, and possession limits, and recreational accountability measures (AMs). For black grouper, Amendment 53 would modify the recreational bag, vessel, and possession limits. The purpose of Amendment 53 is to end overfishing of gag, rebuild the stock, and achieve OY while minimizing, to the extent practicable, adverse social and economic effects.

DATES: Written comments must be received on or before August 11, 2023.

ADDRESSES: You may submit comments on Amendment 53, identified by ''NOAA–NMFS–2023–0045,'' by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov* and enter ''NOAA–NMFS–2023–0045'' in the Search box. Click the ''Comment'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Frank Helies, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic copies of Amendment 53, which includes a fishery impact statement and a regulatory impact review, may be obtained from the Southeast Regional Office website at *https://www.fisheries.noaa.gov/action/amendment-53-rebuilding-plan-gag-and-management-gag-and-black-grouper/.*

FOR FURTHER INFORMATION CONTACT: Frank Helies, telephone: 727–824–5305, or email: *frank.helies@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any fishery management plan or amendment to such a plan to the Secretary of Commerce (the Secretary) for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving a fishery management plan or amendment to such a plan, publish an announcement in the **Federal Register** notifying the public that the plan or amendment is available for review and comment.

The Council prepared the FMP that is being revised by Amendment 53. If approved, Amendment 53 would be implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

Background

The Council manages the snapper-grouper fishery, including gag and black grouper, in Federal waters from North Carolina south to the Florida Keys in the South Atlantic under the FMP. The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the OY from federally managed fish stocks. These mandates are intended to ensure that fishery resources are managed for the greatest overall benefit to the Nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems.

All weights described in this notice are in gutted weight, unless otherwise specified.

In 2006, the gag stock was assessed through the Southeast Data, Assessment, and Review (SEDAR) process as a benchmark assessment (SEDAR 10). The assessment indicated that the gag stock was not overfished but was undergoing overfishing. The Council and NMFS implemented management measures, including implementing a spawning season closure to end overfishing in Amendment 16 to the FMP (74 FR 30964, July 29, 2009).

In 2014, the gag stock was assessed again through the SEDAR 10 Update as a standard assessment. The assessment indicated that the gag stock was not overfished but was still experiencing overfishing. However, the Council's Scientific and Statistical Committee (SSC) noted that the fishing mortality rate for 2012, and the projected fishing mortality rate in 2013, based on the actual landings, suggested that overfishing did not occur in 2012 and 2013. Consequently, NMFS determined that the gag stock was not undergoing overfishing. In response to the SEDAR 10 Update, the Council and NMFS modified the ACLs and management measures through the final rule for Regulatory Amendment 22 to the FMP (80 FR 48277, August 12, 2015).

Amendment 53 responds to the most recent stock assessment for South Atlantic gag (SEDAR 71 2021). The Council's SSC reviewed the gag stock assessment (SEDAR 71 2021) at their June 2021 meeting. The assessment followed a standard approach using data through 2019, and incorporated the revised estimates for recreational catch from the Marine Recreational Information Program (MRIP) Fishing Effort Survey (FES). The findings of the assessment indicated that the South Atlantic gag stock is overfished and undergoing overfishing. The SSC found that the assessment was conducted using the best scientific information available, was adequate for determining stock status and supporting total fishing level recommendations. NMFS notified the Council of the updated status of the gag stock via letter dated July 23, 2021.

Following a notification from NMFS to a Council that a stock is undergoing overfishing and is overfished, the Magnuson-Stevens Act requires the Council to develop an FMP amendment with actions that immediately end overfishing and rebuild the affected stock. The Council developed Amendment 53 to respond to the results of SEDAR 71.

The Council requested several different rebuilding projections for the gag stock including a 50 percent and a 70 percent probability of rebuilding under recent low recruitment and longer-term modeled recruitment scenarios. The SSC recommended acceptable biological catch (ABC) values based on a 70 percent probability of rebuilding in 10 years and recruitment based on the long-term recruitment scenario from SEDAR 71. However, in March 2023, the NMFS Southeast Fisheries Science Center advised the Council that unless gag discards were reduced in similar proportion to the reduction in landings, the probability of rebuilding would be below the expected 70 percent probability of rebuilding but still be above 50 percent, as required under the Magnuson-Stevens Act. The Council accepted the SSC's recommended ABC values, as discussed below.

In Amendment 53, the Council would also revise the overfishing limit (OFL) for gag, and update other biological reference points. Amendment 53 would set the OFL to 367,235 lb (166,575 kg), for 2023; 494,338 lb (224,228 kg), for 2024; 605,227 lb (274,526 kg), for 2025; 706,366 lb (320,402 kg), for 2026; 808,266 lb (366,623 kg), for 2027; 912,033 lb (413,691 kg), for 2028; 1,011,133 lb (458,642 kg), for 2029; 1,098,379 lb (498,216 kg), for 2030; 1,171,120 lb (531,211 kg), for 2031; and 1,230,363 lb (558,083 kg), for 2032 and subsequent fishing years.

The Council intends that Amendment 53 would end overfishing of South Atlantic gag, rebuild the stock, and achieve OY while minimizing, to the extent practicable, adverse social and economic effects.

Actions Contained in Amendment 53

Amendment 53 would establish a rebuilding plan, and revise the catch levels (ABCs and ACLs), sector allocations, recreational AMs, and management measures for gag. Management measures for gag would address commercial trip limits, recreational vessel limits, and a prohibition on captain and crew bag limit retention. Because gag and black grouper are often misidentified by recreational fishermen, Amendment 53 would also address recreational vessel limits and a prohibition on captain and crew bag limit retention for black grouper.

Rebuilding Plan for the South Atlantic Gag Stock

Amendment 53 would establish a 10-year rebuilding plan, which is the longest allowable rebuilding scenario (Tmax) allowed for the gag stock by the Magnuson-Stevens Act (16 U.S.C. 1854(e)(4)(A)). In addition, the Magnuson-Stevens Act National Standard 1 Guidelines state that if the stock is projected to rebuild in 10 years or less, then Tmax is 10 years (50 CFR 600.310(j)(3)(i)(B)(*1*)). The Council intends that their preferred choice of the 10-year timeframe for rebuilding in Amendment 53 beginning in 2023 would reduce the severity of the management measures and thus result in fewer short-term negative social and economic impacts on fishing communities.

ABC and Annual OY

The current OFL of 825,000 lb (374,214 kg) and ABC of 773,000 lb (350,627 kg) are inclusive of Coastal Household Telephone Survey (CHTS) estimates of private recreational and charter landings. The Council's SSC reviewed the latest stock assessment (SEDAR 71) and recommended new ABC levels as determined by SEDAR 71. The assessment and associated ABC recommendations incorporated the revised estimates for recreational catch and effort from the MRIP Access Point Angler Intercept Survey (APAIS) and the updated FES. MRIP began incorporating a new survey design for APAIS in 2013 and replaced the CHTS with FES in 2018. Prior to the implementation of MRIP in 2008, recreational landings estimates were generated using the Marine Recreational Fisheries Statistics Survey (MRFSS). As explained in Amendment 53, total recreational fishing effort estimates generated from MRIP FES are generally higher than both the MRFSS and MRIP CHTS estimates. This difference in estimates is because MRIP FES is designed to more accurately measure fishing activity, not because there was a sudden increase in fishing effort. The MRIP FES is considered a more reliable estimate of recreational effort by the Council's SSC, the Council, and NMFS, and is more robust compared to the MRIP CHTS method. The new ABC recommendations within Amendment 53 also represent the best scientific information available as determined by the SSC.

The Council chose to specify OY for gag on an annual basis and set it equal to the ABC and total ACL, in accordance with the guidance provided in the Magnuson-Stevens Act National Standard 1 Guidelines at 50 CFR 600.310(f)(4)(iv).

Total ACL

Through Regulatory Amendment 22 to the FMP, the total ACL and annual OY were set at 734,350 lb (333,095 kg), which is 95 percent of the current ABC

(80 FR 48277, August 12, 2015). In Amendment 53, the Council would revise the ABC based on SEDAR 71 and the recommendation of the SSC, and set the ABC, ACL, and annual OY equal to each other.

Amendment 53 would revise the total ACL and annual OY equal to the recommended ABC of 175,632 lb (79,665 kg), for 2023; 261,171 lb (118,465 kg), for 2024; 348,352 lb (158,010 kg), for 2025; 435,081 lb (197,349 kg), for 2026; 524,625 lb (237,966 kg), for 2027; 617,778 lb (280,219 kg), for 2028; 711,419 lb (322,694 kg), for 2029; 800,088 lb (362,914 kg), for 2030; 879,758 lb (399,052 kg), for 2031; and 948,911 lb (430,419 kg), for 2032 and subsequent fishing years.

Sector Allocations and ACLs

Amendment 53 would revise the commercial and recreational allocations for gag. The current sector ACLs for gag are based on the commercial and recreational allocations of the total ACL at 51 percent and 49 percent, respectively, that were established through Amendment 16 to the FMP (74 FR 30964, July 29, 2009). The Council used the distribution of landings from 1999 through 2003 to determine the existing allocations.

In Amendment 53, the Council would adjust the commercial and recreational sector allocations based on a unique allocation formula (''split reduction method'') developed by the Council that also accounts for the revisions to the calibrated recreational landings estimates from the MRIP FES. This method would implement the reductions in total harvest needed to achieve the new total ACL proportionally for each sector, based upon the distribution of landings under more recent time periods that the Council determined better reflect the way the fishery is currently operating. The Council chose the 5-year average of commercial and recreational (FES) landings from 2015 through 2019, and split the reduction needed to achieve the new reduced ACL in 2023 proportionally among the sectors. Then in each subsequent year throughout the rebuilding plan, as the ACL increases, the ACL poundage increase is allocated equally between both sectors and added to each sector's respective ACL from the previous year. The proposed adjustments would result in allocation percentages of 49 percent commercial and 51 percent recreational for 2023 through 2026. Each year thereafter would be a 50 percent commercial and 50 percent recreational allocation.

The Council determined that the preferred sector allocation method in Amendment 53 more fairly deals with the initial reduction in landings that results from the updated catch levels, and reduces the proportion of each sector's allowable catch based on recent landings so that the effect on each sector is more equitable. Similarly, the Council noted that the new allocations would achieve a balance between the needs of both sectors and also increase each sector's allowable catch proportionately on a poundage basis throughout the rebuilding plan. The Council determined that the new method distributes both overfishing restrictions and recovery benefits for gag fairly and equitably among both sectors. Thus, the Council considers this allocation method to be fair and equitable to fishery participants in both the commercial and recreational sectors. In addition, this allocation method is also reasonably calculated to promote conservation, since it achieves OY while it remains within the boundaries of a total ACL that is based upon an ABC recommendation that would end overfishing and rebuild the stock, incorporating the best scientific information available.

The current commercial ACL for gag is 347,301 lb (157,533 kg) and was implemented through the final rule for Amendment 16 to the FMP (74 FR 30964, July 29, 2009). In Amendment 53, the commercial ACLs would be 85,326 lb (38,703 kg), for 2023; 128,096 (58,103 kg), for 2024; 171,687 (77,876 kg), for 2025; 215,051 (97,545 kg), for 2026; 259,823 (117,854 kg), for 2027; 306,400 (138,981 kg), for 2028; 353,220 (160,218 kg), for 2029; 397,555 (180,328 kg), for 2030; 437,390 (198,397 kg), for 2031; and 471,966 lb (214,080 kg), for 2032 and subsequent years.

The current recreational ACL for gag is 359,832 lb (171,807 kg) and was implemented through the final rule for Amendment 16 to the FMP ((74 FR 30964, July 29, 2009). In Amendment 53, the recreational ACLs would be 90,306 lb (40,962 kg), for 2023; 133,075 lb (60,362 kg), for 2024; 176,665 lb (80,134 kg), for 2025; 220,030 lb (99,804 kg), for 2026; 264,802 lb (120,112 kg), for 2027; 311,378 lb (141,239 kg), for 2028; 358,199 lb (162,476 kg), for 2029; 402,533 (182,586 kg), for 2030; 442,368 lb (200,655 kg), for 2031; and 476,945 lb (216,339 kg), for 2032 and subsequent years.

Commercial Trip Limits

The final rule for Regulatory Amendment 14 to the FMP established the current commercial trip limit for gag of 1,000 lb (454 kg), until 75 percent of the commercial quota is met, at which time the commercial trip limit is reduced to 500 lb (227 kg), for the remainder of the fishing year or until the commercial quota is met (79 FR 66316, December 8, 2014). Amendment 53 would modify the commercial trip limit for gag to be 300 lb (136 kg), without a trip limit reduction.

Under the proposed trip limit, the Council determined that commercial fishermen could retain a sufficient amount of gag over the longest amount of time during a fishing year, and that it would increase the likelihood of gag remaining open to commercial harvest and available to consumers for as long as possible during the year.

Recreational Vessel Limits for Gag and Black Grouper

There is currently no recreational vessel limit for gag or black grouper. The current recreational bag and possession limits for gag and black grouper in the South Atlantic, specified by the final rule for Regulatory Amendment 22 to the FMP, are one fish per person per day within the three fish aggregate for grouper and tilefish, and no more than one of those fish may be a gag or a black grouper.

Given the substantial reduction in harvest needed to end overfishing immediately and to increase the likelihood of rebuilding the gag stock, the Council decided to establish recreational vessel limits for gag that would continue to allow recreational retention and help constrain harvest to the reduced recreational ACL. As previously mentioned, gag and black grouper are often misidentified by recreational fishermen. Because of these misidentification issues between the two species, coupled with the need to greatly reduce the harvest of gag to end overfishing and rebuild the stock, Amendment 53 would also implement recreational vessel limits to help with harvest constraints for black grouper to indirectly benefit the gag portion of the snapper-grouper fishery.

Amendment 53 would not alter the gag or black grouper recreational bag limits, which would remain one gag or one black grouper per person per day within the three fish aggregate for grouper and tilefish. Amendment 53 would establish a per day gag and black grouper recreational vessel limit for the private angling component and a per trip gag and black grouper vessel limit for the charter vessel and headboat (for-hire) component. These separate vessel limits would be expected to constrain harvest for these two separate components of the recreational sector. Because for-hire vessels may take

multiple trips in a single day, the Council determined that a per trip maximum vessel limit would ensure equal access for new customers on a second for-hire trip of the day by not requiring discarding of a gag or black grouper if one was previously caught and kept by a different customer on the first trip of a day.

Amendment 53 would establish a private recreational vessel limit for gag and also a private recreational vessel limit for black grouper of two fish per vessel per day, not to exceed the daily bag limit of one fish per person per day, whichever is more restrictive. For for-hire recreational vessels, Amendment 53 would establish a vessel limit for gag and also a vessel limit for black grouper of two fish per vessel per trip, not to exceed the daily bag limit of one fish per person per day, whichever is more restrictive.

Prohibition of Captain and Crew Bag Limit Retention for Gag and Black Grouper

The captain and crew on a for-hire vessel with a Federal for-hire snapper-grouper permit may currently retain the daily bag limit of gag or black grouper as is allowed for each for-hire passenger. Amendment 53 would set the gag and black grouper bag limit for captain and crew on a for-hire vessel with a Federal for-hire snapper-grouper permit at zero. The Council determined that because of the need to constrain the harvest of gag to the reduced recreational catch levels and because of the misidentification issues previously discussed, continuing to allow captain and crew to retain a daily bag limit of gag or black grouper would increase the potential gag harvest by recreational for-hire anglers and would prevent necessary reductions in the harvest of gag from being achieved.

Recreational AMs

The current recreational AMs for gag were established through Amendment 34 to the FMP (81 FR 3731, January 22, 2016). The AM includes an in-season closure for the remainder of the fishing year if recreational landings reach or are projected to reach the recreational ACL, regardless of whether the stock is overfished. The recreational AM also includes post-season adjustments. If recreational landings exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings. Also, if the total ACL is exceeded and gag are overfished, the length of the recreational fishing season and the recreational ACL are reduced by the amount of the recreational ACL overage.

Amendment 53 would revise the recreational AMs for gag. The current in-season closure AM would be retained and the post-season recreational AM would be revised. If recreational landings for gag exceed the recreational ACL, the length of the following year's recreational fishing season would be reduced by the amount necessary to prevent the recreational ACL from being exceeded. The proposed AM would remove the current potential duplicate AM application of a reduction in the recreational season length and an overage adjustment (payback) of the recreational ACL overage if the total ACL was exceeded. Under this proposed measure, the AM trigger would not be tied to the total ACL, but only to the recreational ACL. The proposed AM modification would ensure that overages in the recreational sector do not in turn affect the catch levels for the commercial sector. Any reduced recreational season length as a result of the recreational AM being implemented would apply to the recreational fishing season following the year of a recreational ACL overage. Additionally, under the proposed recreational AM, the length of the recreational season would not be reduced if the Regional Administrator determines, using the best scientific information available, that such reduction is unnecessary. Amendment 53 would not revise the commercial AMs because the Council determined that the current commercial AM remains sufficient to ensure commercial landings would not exceed either the current or revised commercial ACL.

Proposed Rule for Amendment 53

A proposed rule to implement Amendment 53 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule for Amendment 53 to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

The Council has submitted Amendment 53 for Secretarial review, approval, and implementation. Comments on Amendment 53 must be received by August 11, 2023. Comments received during the respective comment periods, whether specifically directed to Amendment 53 or the proposed rule, will be considered by NMFS in the decision to approve, partially approve, or disapprove, Amendment 53. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: June 6, 2023.

Jennifer M. Wallace,

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

[FR Doc. 2023–12411 Filed 6–9–23; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 88, No. 112
Monday, June 12, 2023

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by July 12, 2023 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Foreign Agricultural Service

Title: Faculty Exchange Program.

OMB Control Number: 0551—New.

Summary of Collection: The primary purpose for this information collection is to implement the Faculty Exchange Program implemented by USDA's Foreign Agricultural Service, Global Programs, Fellowship Programs. FEP began in 1995 to bring junior or mid-level university professors from countries in the Former Soviet Union to the United States for one semester to increase their knowledge of, and ability to, teach agricultural economics, marketing, and agribusiness management at their home institutions. Between 2002–2012, the program evolved to also include an Agricultural Science area, which focused on subjects such as animal health, food quality, food inspection, phytosanitary measures, and grades and standards, and involved scientists from Africa and Central America in addition to Eastern Europe and Eurasian countries. In 2016, the FEP narrowed its geographic focus solely to Africa, and to the area of Veterinary Science. Since 2016, this Veterinary Science area of the program has hosted 71 early to mid-career instructors at Colleges of Veterinary Science and Medicine from Ethiopia, Ghana, Kenya, Tanzania, and Uganda.

Authority for these programs falls under: National Agricultural Research, Extension, and Teaching Policy Act of 1977, PL 95–113, as amended, 7 U.S.C. 3291 and 3319a.

Need and Use of the Information: The information collected through the application is used to evaluate candidates' qualifications for the Fellowship Exchange Program. The information is collected through the Scientific Exchanges Fellowship Application that candidates submit to FAS staff through an electronic application. The evaluation forms are used by Faculty Exchange Program staff to assess the success of each training program. Fellowship staff use the evaluation forms to assess whether programs goals were achieved and receive feedback from participants on how to improve future programming. This is critical part of Fellowship Programs as it helps improve programs and ensure Fellowship Programs is meeting FAS goals.

Without the application and evaluation form, the Foreign Agricultural Service would not be able to execute the Faculty Exchange Program and it would be severely impacted and the objected and goals would not be met.

Description of Respondents: Individuals or households.

Number of Respondents: 35.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 888.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2023–12397 Filed 6–9–23; 8:45 am]

BILLING CODE 3410–10–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

[Docket No. ATBCB–2023–0002]

Proposed Renewal of Information Collection; OMB Control Number 3014–0012, Online Architectural Barriers Act (ABA) Complaint Form

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Architectural and Transportation Barriers Compliance Board (Access Board) invites comment on the proposed extension of its existing information collection titled, ''Online Architectural Barriers Act (ABA) Complaint Form.'' (OMB Control No. 3014–0012). The information collection is scheduled to expire on September 30, 2023, and we propose to continue using the instrument for an additional three years.

DATES: Consideration will be given to all comments received by August 11, 2023.

ADDRESSES: Submit comments by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. *Regulations.gov* ID for this docket is ATBCB–2023–0002.
- *Email: damiani@access-board.gov.* Include docket number ATBCB–2023–0002 in the subject line of the message.

• *Mail or Hand Delivery/Courier:* Mario Damiani, Office of General Counsel, U.S. Access Board, 1331 F Street NW, Suite 1000, Washington, DC 20004–1111.

Instructions: All submissions received must include the agency name and docket number for this Notice (identified by ATBCB–2023–0002). All comments received, including any personal information provided, will be posted without change to *http://www.regulations.gov.* For this reason, please do not include information of a confidential nature in your comments, such as sensitive personal or proprietary information.

FOR FURTHER INFORMATION CONTACT: Mario Damiani, Office of General Counsel, U.S. Access Board, 1331 F Street NW, Suite 1000, Washington, DC 20004–1111. Phone: 202–272–0050 (voice); 202–272–0064 (TTY). Email: *damiani@access-board.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA and its implementing regulations (5 CFR part 1320), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information,'' within the meaning of the PRA, includes agency requests that pose identical questions to, or impose reporting or recording keeping obligations on, ten or more persons, regardless of whether response to such request is mandatory or voluntary. See 5 CFR 1320.3(c); see also 44 U.S.C. 3502(3). Before seeking clearance from OMB, agencies are generally required, among other things, to publish a 60-day notice in the **Federal Register** concerning any proposed information collection—including extension of a previously-approved collection—and provide an opportunity for comment. See 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1).

OMB Control Number: 3014–0012.

Title: Online Architectural Barriers Act (ABA) Complaint Form.

Form Number: The Online Architectural Barriers Act (ABA) Complaint Form is not assigned a form number.

Type of Review: Renewal of an information collection.

Background: The Access Board enforces the Architectural Barriers Act of 1968 (ABA) by investigating complaints from members of the public concerning particular buildings or facilities, *i.e.,* those that are: constructed or altered by or on behalf of the United States; leased with federal funds; or constructed or altered with funds from a federal grant or loan. Over 90% of complaints the Access Board receives each year are submitted using the standardized, user-friendly, and accessible Online ABA Complaint Form; the remainder are submitted in writing, without the need to use a hard-copy complaint form, by email, mail, or fax. The Online ABA Complaint Form allows complaints to be filed 24 hours per day, seven days per week, and allows for greater efficiency, clarity, and timeliness in the complaint filing process and resolution of complaints.

The Online ABA Complaint Form prompts complainants to provide the information the Access Board needs to investigate their complaint. First, complainants must complete the form fields for at least the name of the building or facility and the city and state in which it is located. Second, complainants must describe each barrier to accessibility they have found at the building or facility. Third, complainants are given the option, but are not required, to provide personal information, including their name, address, telephone number(s), and email address. Where provided, personal information is not disclosed outside the agency without the written permission of the complainant. Complainants are also given the option to upload electronic files containing pictures, drawings, or other documents relevant to their complaint. Once any additional information and the complaint is submitted, the system provides complainants confirmation that their complaint has been submitted successfully, a complaint number for them to use when making inquiries about the status of their complaint, and an option to print their complaint. Complainants also receive an automatically generated email (if they have provided an email address) confirming the submission of their complaint.

Respondents: Individual members of the public; approximately 200 individuals file ABA complaints with the Access Board each year.

Frequency: Complainants need only submit one complaint for each building or facility at which they have found accessibility barriers, regardless of the number of barriers they found. Most complainants file only one ABA complaint. Complainants need to submit a separate form for each additional building or facility at which they have found an accessibility barrier.

Estimated Average Burden per Response: On average, less than 30 minutes; the burden may vary depending on how many allegations the complainant includes in the complaint. There is no financial burden on respondents.

Estimated Total Annual Burden: Approximately 100 hours annually.

Request for Comment: Comments are invited on any aspect of this information collection, including: (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 estimated burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information from respondents; and (d) ways to minimize the burden of the collection of information on those who are to respond.

Christopher Kuczynski,

General Counsel.

[FR Doc. 2023–12452 Filed 6–9–23; 8:45 am]

BILLING CODE 8150–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the South Dakota Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: Commission on Civil Rights.

ACTION: Announcement of public meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that the South Dakota State Advisory Committee to the Commission will convene a business meeting on Monday, July 10, 2023, at 1:00 p.m. Central Time. The purpose of the business meeting is to discuss the publication of their report on voter rights and voter access in South Dakota.

DATES: Monday, July 10, 2023, at 1:00 p.m. Central Time.

ADDRESSES: Meeting will be held via Zoom.

Meeting Link (Audio/Visual): https://tinyurl.com/3stmv9et; password, if needed: USCCR–SD.

Join by Phone (Audio Only): 1–551–285–1373; Meeting ID: 160 729 5158#.

FOR FURTHER INFORMATION CONTACT: Mallory Trachtenberg at *mtrachtenberg@usccr.gov,* or (312) 353–8311.

SUPPLEMENTARY INFORMATION: This committee meeting is available to the public through the registration link above. Any interested member of the public may listen to the meeting. An open comment period will be provided

to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Closed captioning is available by selecting ''CC'' in the meeting platform. To request additional accommodations, please email *ebohor@usccr.gov* at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Mallory Trachtenberg at *mtrachtenberg@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at 1–202–809–9618.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via *www.facadatabase.gov* under the Commission on Civil Rights, South Dakota Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at *ebohor@usccr.gov.*

Agenda

I. Welcome and Roll Call
II. Announcements
III. Discuss Publication of Committee's Report on Voter Rights and Voter Access in South Dakota
IV. Public Comment
V. Adjournment

Dated: June 6, 2023.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2023–12421 Filed 6–9–23; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Puerto Rico Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the Puerto Rico Advisory Committee to the Commission will convene by virtual web conference on Monday, June 26, 2023, at 3:30 p.m. Atlantic Time/Eastern Time. The purpose is to continue discussion on their project on the civil rights impacts of the Insular Cases in Puerto Rico.

DATES: June 26, 2023, Monday, at 3:30 p.m. (AT and ET):

ADDRESSES: Meeting will be held via Zoom.

Registration Link (Audio/Visual): https://tinyurl.com/2deh5dcb.

Join by Phone (Audio Only): 1–551–285–1373; Meeting ID: 160 623 7085#.

FOR FURTHER INFORMATION CONTACT: Email Victoria Moreno, Designated Federal Officer at *vmoreno@usccr.gov,* or by phone at 434–515–0204.

SUPPLEMENTARY INFORMATION: This meeting will take place in Spanish with English interpretation. This committee meeting is available to the public through the registration link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Closed captioning will be available for individuals who are deaf, hard of hearing, or who have certain cognitive or learning impairments. To request additional accommodations, please email *ebohor@usccr.gov* at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Victoria Moreno at *vmoreno@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at 1–312–353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Puerto Rico Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at *ebohor@usccr.gov.*

Agenda

1. Welcome & Roll Call
2. Committee Discussion on Project Regarding the Civil Rights Impacts of the Insular Cases in Puerto Rico
3. Next Steps
4. Public Comment
5. Other Business
6. Adjourn

Dated: June 6, 2023.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2023–12422 Filed 6–9–23; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Guam Advisory Committee; Cancellation

AGENCY: Commission on Civil Rights.

ACTION: Notice; cancellation of business meeting.

SUMMARY: The Commission on Civil Rights published a notice in the **Federal Register** concerning an in-person meeting of the Guam Advisory Committee. This meeting, scheduled for Friday, June 2, 2023, at 9:00 a.m. ChST, has been cancelled due to Typhoon Mawar. The notice is in the **Federal Register** of Thursday, May 11, 2023, in FR Document Number 2023–10088, in the first and second columns of page 30276.

FOR FURTHER INFORMATION CONTACT: Liliana Schiller, Support Services Specialist, at *lschiller@usccr.gov* or (312) 353–8311.

Dated: May 30, 2023.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2023–11831 Filed 6–9–23; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the New York Advisory Committee; Correction

AGENCY: Commission on Civil Rights.

ACTION: Notice; revision to agenda.

SUMMARY: The Commission on Civil Rights published a notice in the **Federal Register** on Thursday, May 18, 2023, concerning a meeting of the New York Advisory Committee. The items on the agenda should be arranged in the following order:

I. Welcome and Roll Call
II. Approval of Minutes
III. Public Comment
IV. Briefing Planning and Panelist Selection Vote
V. Next Steps
VI. Adjournment

FOR FURTHER INFORMATION CONTACT: Mallory Trachtenberg, DFO, at *mtrachtenberg@usccr.gov* or 1–202–809–9618.

Correction

In the **Federal Register** on Thursday, May 18, 2023, in FR Document Number 2023–10677, on page 31675, the second column, please arrange the agenda items in the following order:

I. Welcome and Roll Call
II. Approval of Minutes
III. Public Comment
IV. Briefing Planning and Panelist Selection Vote
V. Next Steps
VI. Adjournment

Dated: June 6, 2023.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2023–12425 Filed 6–9–23; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Tennessee Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA) that a meeting of the Tennessee Advisory Committee to the Commission will convene by Zoom on Thursday, June 22, 2023, at 12:00 p.m. (CT). The purpose of the meeting is to discuss and vote on a statement regarding recent events at the Tennessee General Assembly.

DATES: The meeting will take place on Thursday, June 22, 2023, at 12:00 p.m. (CST).

Registration Link (Audio/Visual): https://www.zoomgov.com/j/1611802321?pwd=cWV5aUZXa0Fua1Fpd1JBOEVHYmR3QT09.

Telephone (Audio Only): Dial (833) 568–8864 USA Toll Free; Access Code: 161 180 2321.

FOR FURTHER INFORMATION CONTACT: Victoria Moreno at *vmoreno@usccr.gov* or by phone at 434–515–0204.

SUPPLEMENTARY INFORMATION: This meeting is available to the public through the Zoom link above. If joining only via phone, callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Individuals who are deaf, deafblind and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the call-in number found through registering at the web link provided above for the meeting.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the respective meeting. Written comments may be emailed to Victoria Moreno at *vmoreno@usccr.gov.* All written comments received will be available to the public.

Persons who desire additional information may contact the Regional Programs Unit at (202) 809–9618. Records and documents discussed during the meeting will be available for public viewing as they become available at the *www.facadatabase.gov.* Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Regional Programs Unit at the above phone number or email address.

Agenda

Thursday, June 22, 2023, at 12:00 p.m. (CT)

1. Welcome & Roll Call
2. Chair's Comments
3. Discussion and Vote on Committee Statement
4. Next Steps on Voting Rights Project
5. Public Comment
6. Adjourn

Dated: June 6, 2023.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2023–12428 Filed 6–9–23; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Arizona Advisory Committee; Correction

AGENCY: Commission on Civil Rights.

ACTION: Notice; change type of meeting and new start time.

SUMMARY: The Commission on Civil Rights published a notice in the **Federal Register** on Wednesday, May 3, 2023, concerning a meeting of the Arizona Advisory Committee. The meeting type and new starting time has since changed.

FOR FURTHER INFORMATION CONTACT: Kayla Fajota, *kfajota@usccr.gov,* (312) 353–8311.

Correction: In the **Federal Register** on Wednesday, May 3, 2023, in FR Document Number 2023–09310, on page 27859, first and second columns, to change the meeting type from a virtual briefing to a planning meeting.

In addition, the link to join will remain the same: *https://www.zoomgov.com/j/1612316896?pwd=bkNaOHZIdzhxZDhXSDJNSk5VZEJtdz09.*

New Start Time: 1:00 p.m.–2:30 p.m. Arizona Time.

Agenda

- Welcome and Roll Call
- Announcements and Updates
- Approval of Prior Minutes
- Panel Planning: Panelists for Briefing #1
- Panel Planning: Potential In-person Briefing
- Public Comment
- Adjournment

Dated: May 30, 2023.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2023–11825 Filed 6–9–23; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Meeting Notice

AGENCY: Commission on Civil Rights.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Government in Sunshine Act, the Commission on Civil Rights is holding a meeting to discuss the Commission's business for the month of June.

DATES: Friday, June 16, 2023, 10 a.m. EST.

ADDRESSES: Meeting to take place virtually and is open to the public via livestream on the Commission's YouTube page: *https://www.youtube.com/user/USCCR/videos.*

FOR FURTHER INFORMATION CONTACT: Angelia Rorison: 202–376–8371; *publicaffairs@usccr.gov*.

SUPPLEMENTARY INFORMATION: This business meeting is open to the public. Computer assisted real-time transcription (CART) will be provided. The web link to access CART (in English) on Friday, June 16, 2023, is *https://www.streamtext.net/player?event=USCCR.* Please note that CART is text-only translation that occurs in real time during the meeting and is not an exact transcript.

Meeting Agenda

I. Approval of Agenda
II. Business Meeting
  A. Discussion and Vote on Presidential Designation of Commissioner Rochelle Mercedes Garza as Chairperson and Victoria Frances Nourse as Vice Chair of the U.S. Commission on Civil Rights
III. Adjourn Meeting

Dated: May 10, 2023.

Angelia Rorison,

USCCR Media and Communications Director.

[FR Doc. 2023–12640 Filed 6–8–23; 4:15 pm]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Colorado Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of public meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Colorado Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a business meeting on Wednesday, June 21, 2023; from 3:00–4:00 p.m. Mountain Time. The purpose of the meeting is to continue working on its project on public school attendance zones in Colorado.

DATES: Wednesday, June 21, 2023; 3:00 p.m. MT.

ADDRESSES: The meeting will be held via Zoom.

Meeting Link (Audio/Visual): https://tinyurl.com/279fjudv; password: USCCR–CO.

Join by Phone (Audio Only): 1–551–285–1373; Meeting ID: 160 614 2807#.

FOR FURTHER INFORMATION CONTACT: Barbara Delaviez, Designated Federal Official at *bdelaviez@usccr.gov,* (312) 353–8311.

SUPPLEMENTARY INFORMATION: This committee meeting is available to the public through the meeting link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Closed captioning will be available for individuals who are deaf, hard of hearing, or who have certain cognitive or learning impairments. To request additional accommodations, please email *ebohor@usccr.gov* at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Barbara Delaviez at *bdelaviez@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at 1–312–353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Colorado Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at *ebohor@usccr.gov.*

Agenda

I. Welcome and Roll Call
II. Discussion of the Committee's Project on Public School Attendance Zones in Colorado
III. Discuss Next Steps
IV. Public Comment
V. Adjournment

Dated: June 1, 2023.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2023–12112 Filed 6–9–23; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Washington Advisory Committee Advisory Committee; Cancellation

AGENCY: Commission on Civil Rights.

ACTION: Notice; cancellation of virtual business meeting.

SUMMARY: The Commission on Civil Rights published a notice in the **Federal Register** concerning a virtual business meeting of the Washington Advisory Committee. The meeting scheduled for Tuesday, June 13, 2023, at 11:00 a.m. Pacific Time is cancelled. The notice is in the **Federal Register** of Monday, April 17, 2023, in FR Doc. 2023–07968 in the second and third columns of page 23395.

FOR FURTHER INFORMATION CONTACT: Brooke Peery, *bpeery@usccr.gov,* (202) 701.1376.

Dated: June 6, 2023.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2023–12426 Filed 6–9–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–36–2023]

Foreign-Trade Zone (FTZ) 142, Notification of Proposed Production Activity; Nexsus Cocoa Services LLC; (Cocoa or Cocoa Equivalent and Sugar Blends); Southern New Jersey

Nexsus Cocoa Services LLC submitted a notification of proposed production activity to the FTZ Board (the Board) for its facility in Southern New Jersey, within FTZ 142. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on June 1, 2023.

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

The proposed finished products include: cocoa liquor (not defatted; wholly or partly defatted); cocoa butter; cocoa powder; wholesale cocoa liquor blend, containing less than 60% by

weight sugar, in blocks or slabs weighing 4.5 kg or more each; wholesale liquid cocoa liquor blend, containing less than 60% by weight sugar, of a content greater than 2 kg in bulk form; wholesale cocoa powder blend, containing less than 65% by weight sugar; wholesale cocoa butter blend, containing less than 65% by weight sugar; wholesale shea butter blend, containing less than 65% by weight sugar; wholesale palm oil blend, containing less than 65% by weight sugar; wholesale illipe butter blend, containing less than 65% by weight sugar; wholesale sal butter blend, containing less than 65% by weight sugar; wholesale kokum butter blend, containing less than 65% by weight sugar; and, wholesale mango seed oil blend, containing less than 65% by weight sugar (duty free to 10%; 0.2¢/kilogram (kg) to 28.8¢/kg + 8.5%).

The proposed foreign-status materials and components include: refined white sugar; cocoa liquor (not defatted; wholly or partly defatted); cocoa butter; cocoa powder (no sugar); cocoa cake (wholly or partly defatted); shea butter; palm oil; illipe butter; sal butter; kokum butter; and, mango seed oil (duty rate is duty free to 3.2%; 3.6606 ¢/kg less 0.020668 ¢/kg for each degree under 100 degrees (and fractions of a degree in proportion) but not less than 3.143854¢/kg; 35.74¢/kg; 0.2¢/kg to 0.52¢/kg). The request indicates that certain materials/components are subject to duties under section 301 of the Trade Act of 1974 (section 301), depending on the country of origin. The applicable section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41). The request also indicates certain types of sugar are subject to tariff-rate quotas.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is July 24, 2023.

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

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

Dated: June 6, 2023.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2023–12431 Filed 6–9–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Simple Network Application Process and Multipurpose Application Form

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before August 11, 2023.

ADDRESSES: Interested persons are invited to submit comments by email to Mark Crace, IC Liaison, Bureau of Industry and Security, at *mark.crace@bis.doc.gov* or to *PRAcomments@doc.gov*). Please reference OMB Control Number 0694–0088 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Mark Crace, IC Liaison, Bureau of Industry and Security, phone 202–482–8093 or by email at *mark.crace@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Section 1761(h) under the Export Control Reform Act (ECRA) of 2018, authorizes the President and the Secretary of Commerce to issue regulations to implement the ECRA including those provisions authorizing the control of exports of U.S. goods and technology to all foreign destinations, as necessary for the purpose of national security, foreign policy and short supply, and the provision prohibiting U.S. persons from participating in certain foreign boycotts. Export control authority has been assigned directly to the Secretary of Commerce by the ECRA and delegated by the President to the Secretary of Commerce. This authority is administered by the Bureau of Industry and Security through the Export Administration Regulations (EAR).

BIS administers a system of export, re-export, and in-country transfer controls in accordance with the EAR. In doing so, BIS requires that parties wishing to engage in certain transactions apply for licenses, submit Encryption Review Requests, or submit notifications to BIS. BIS also reviews, upon request, specifications of various items and determines their proper classification under the EAR.

II. Method of Collection

Electronic.

III. Data

OMB Control Number: 0694–0088.

Form Number(s): BIS–748P, BIS–748P–A, BIS–748P–B.

Type of Review: Regular submission, revision of a current information collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 72,744.

Estimated Time per Response: 29.4 minutes.

Estimated Total Annual Burden Hours: 35,739.

Estimated Total Annual Cost to Public: 0.

Respondent's Obligation: Voluntary.

Legal Authority: Section 1761(h) of the Export Control Reform Act (ECRA).

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal

identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2023–12525 Filed 6–9–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

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

SUMMARY: The Department of Commerce (Commerce) has received requests to conduct administrative reviews of various antidumping duty (AD) and countervailing duty (CVD) orders with April anniversary dates. In accordance with Commerce's regulations, we are initiating those administrative reviews.

DATES: Applicable June 12, 2023.

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

Commerce has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various AD and CVD orders with April anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

With respect to antidumping administrative reviews, if a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (POR), it must notify Commerce within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *https://access.trade.gov,* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on Commerce's service list.

Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POR. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 35 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted within seven days after the placement of the CBP data on the record of this review. Parties wishing to submit rebuttal comments should submit those comments within five days after the deadline for the initial comments.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act, the following guidelines regarding collapsing of companies for purposes of respondent selection will apply. In general, Commerce has found that determinations concerning whether particular companies should be ''collapsed'' (*e.g.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this AD proceeding (*e.g.,* investigation, administrative review, new shipper review, or changed circumstances review). For any company subject to this review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection.

Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (Q&V) Questionnaire for purposes of respondent selection, in general, each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where Commerce considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do so. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

Deadline for Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of a particular market situation (PMS) for purposes of constructed value under section 773(e) of the Act.[2] Section 773(e) of the Act states that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[2] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of initial responses to section D of the questionnaire.

Separate Rates

In proceedings involving non-market economy (NME) countries, Commerce begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is Commerce's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, Commerce analyzes each entity exporting the subject merchandise. In accordance with the separate rates criteria, Commerce assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a Separate Rate Application or Certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, Commerce requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on Commerce's website at *https://access.trade.gov/Resources/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[4] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Application will be available on Commerce's website at *https://access.trade.gov/Resources/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Application, refer to the instructions contained in the application. Separate Rate Applications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

Exporters and producers must file a timely Separate Rate Application or Certification if they want to be considered for individual examination. Furthermore, exporters and producers who submit a Separate Rate Application or Certification and subsequently are selected as mandatory respondents will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following AD and CVD orders and findings. We intend to issue the final results of these reviews not later than April 30, 2024.

[3] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[4] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

	Period to be reviewed
AD Proceedings	
Bahrain: Common Alloy Aluminum Sheet, A–525–001	4/1/22–3/31/23
Gulf Aluminium Rolling Mill B.S.C.	
Brazil: Common Alloy Aluminum Sheet, A–351–854	4/1/22–3/31/23
CBA Itapissuma	
Companhia Brasileira de Aluminio	
Novelis do Brasil Ltda.	
Croatia: Common Alloy Aluminum Sheet, A–891–001	4/1/22–3/31/23
Impol d.o.o.	
Impol-TLM, d. o. o.	
Egypt: Common Alloy Aluminum Sheet, A–729–803	4/1/22–3/31/23
Aluminium Company of Egypt (Egyptalum); Egyptian Copper Works Company	
Germany: Common Alloy Aluminum Sheet, A–428–849	4/1/22–3/31/23
Alanod GmbH & Co. KG	
Constellium Rolled Products Singen GmbH & Co. KG	
Constellium Singen GmbH	
Hydro Aluminum Rolled Products GmbH	
Novelis Deutschland GmbH	
Speira GmbH	
Iceland: Silicon Metal, A–400–001	4/1/22–3/31/23
PCC Bakki Silicon hf	
India: Carbon and Alloy Steel Threaded Rod, A–533–887	4/1/22–3/31/23
A H Enterprises	
Aadi Shree Fastener Industries	
Aanjaney Micro Engy Pvt., Ltd.	
Accurate Steel Forgings (I) Ltd.	
Alps Industries Ltd.	
Apex Thermocon Pvt., Ltd.	
Ash Hammer Union	
Astrotech Steels Pvt., Ltd.	
Atlantic Container Line Pvt., Ltd.	
Ats Exp. 07	
Atz Shipping Trade & Transport Pvt.	
BA Metal Processing	
Babu Exports	
Bhansali Inc.	
Boston Exp. & Engineering Co.	
C.H.Robinson International (India)	
C.P.World Lines Pvt., Ltd.	
Century Distribution Systems Inc.	
Charu Enterprises	
Chirag International	
Daksh Fasteners	
Dedicated Imp. & Exp. Co.	
Dhiraj Alloy & Stainless Steel	
Dsv Air And Sea Pvt., Ltd.	
Eastman Industries Ltd.	
Eos Precision	
ESL Steel Ltd	
Everest Exp.	
Everest Industrial Corporation	
Farmparts Company	
Fence Fixings	
Fine Thread Form Industries	
Galorekart Marketplace Pvt., Ltd.	
Ganga Acrowools Ltd.	
Ganpati Fastners Pvt., Ltd.	
Gateway Engineering Solution	
GDPA Fasteners	
Gee Pee Overseas	
Geodis India Pvt., Ltd. (Indel)	
Goodgood Manufacturers	
Idea Fasteners Pvt., Ltd.	
Jindal Steel And Power Ltd.	
JSW Steel Ltd.	
Kanchan Trading Co.	
Kanhaiya Lal Tandoor (P) Ltd.	
Kanika Exp.	
Kapson India	
Kapurthala Industrial Corporation	
Karna International	
Kei Industries Ltd.	

	Period to be reviewed
King Exports	
Kova Fasteners Pvt., Ltd.	
Linit Exp. Pvt., Ltd.	
Mahajan Brothers	
Maharaja International	
Mangal Steel Enterprises Ltd.	
Maya Enterprises	
Meenakshi India, Ltd.	
Metalink	
MKA Engineers And Exporters Pvt., Ltd.	
National Cutting Tools	
Nishant Steel Industries	
NJ Sourcing	
Noahs Ark International Exp.	
Nuovo Fastenings Pvt., Ltd.	
Oia Global India Pvt., Ltd.	
Otsusa India Pvt., Ltd.	
Paloma Turning Co. Pvt., Ltd.	
Patton International Ltd.	
Perfect Tools & Forgings	
Permali Wallace Pvt., Ltd.	
Polycab India Ltd.	
Pommada Hindustan Pvt., Ltd.	
Poona Forge Pvt., Ltd.	
R A Exp	
R K Fasteners (India)	
Raajratna Ventures Ltd.	
Raashika Industries Pvt., Ltd.	
Rajpan Group	
Rambal Ltd.	
Randack Fasteners India Pvt., Ltd.	
Ratnveer Metals Ltd.	
Rimjhim Ispat Ltd.	
Rods & Fixing Fasteners	
S K Overseas	
S.M Forgings & Engineering	
Sandip Brass Industries	
Sandiya Exp. Pvt., Ltd.	
Sansera Engineering Pvt., Ltd.	
Shree Luxmi Fasteners	
Silverline Metal Engineering Pvt. Lt	
Singhania International Ltd.	
Sri Satya Sai Enterprises	
Steampulse Global Llp	
Steel Authority Of India Ltd.	
Suchi Fasteners Pvt., Ltd.	
Supercon Metals Pvt., Ltd.	
Tekstar Pvt., Ltd.	
The Technocrats Co.	
Tijiya Exp. Pvt., Ltd.	
Tijiya Steel Pvt., Ltd.	
Tong Heer Fasteners	
Trans Tool Pvt., Ltd.	
Universal Engineering And Fabricat	
V.J Industries Pvt., Ltd.	
Vidushi Wires Pvt., Ltd.	
Viraj Profiles Ltd.	
Vrl Automation	
VV Marine Pvt., Ltd.	
Yogendra International	
Zenith Precision Pvt., Ltd.	
Zenith Steel Pipes And Industries L	
India: Common Alloy Aluminum Sheet, A–533–895	4/1/22–3/31/23
Hindalco Industries Limited	
Jindal Aluminum Limited	
Virgo Aluminum Limited	
Indonesia: Common Alloy Aluminum Sheet, A–560–835	4/1/22–3/31/23
PT. Alumindo Light Metal Industry, Tbk.	
PT. Starmas Inti Aluminum Industry	
Italy: Common Alloy Aluminum Sheet, A–475–842	4/1/22–3/31/23
Novelis Italia SpA	
Profilglass SpA	
Oman: Common Alloy Aluminum Sheet, A–523–814	4/1/22–3/31/23

	Period to be reviewed
Oman Aluminium Rolling Company (OARC)	
Romania: Common Alloy Aluminum Sheet, A–485–809	4/1/22–3/31/23
Alro, SA, Vimetco Management Romania, SRL, Vimetco Group	
Serbia: Common Alloy Aluminum Sheet, A–801–001	4/1/22–3/31/23
Impol d.o.o.	
Impol Seval, A.D.	
Otovici d.o.o.	
Slovenia: Common Alloy Aluminum Sheet, A–856–001	4/1/22–3/31/23
Impol 2000	
Impol d.o.o.	
Impol FT d.o.o.	
Impol Servis	
South Africa: Common Alloy Aluminum Sheet, A–791–825	4/1/22–3/31/23
Hulamin Operations (Pty) Limited	
Spain: Common Alloy Aluminum Sheet, A–469–820	4/1/22–3/31/23
Compania Valenciana de Aluminio Baux, S.L.U., Bancolor Baux, S.L.U.	
Aludium Transformación de Productos, S.L.	
Taiwan: Common Alloy Aluminum Sheet, A–583–867	4/1/22–3/31/23
C. S. Aluminium Corporation	
Cheng Pang Blind Industrial Corp.	
Ckm Building Material Corp.	
Friendship Industries Ltd.	
King Da Long Enterprise Corp.	
Meglobe Co., Ltd.	
Meng Sin Material Co., Ltd.	
Mitsubishi Corporation (Taiwan) Ltd.	
Prosperity Tieh Enterprise Co., Ld.	
Ta Chen Empire Aluminium Co., Ltd.	
Taiwell Aluminum Corp.	
Yieh Corp. Ltd.	
Yueh Cheng Enterprise Co., Ltd.	
The People's Republic of China: 1,1,1,2-Tetrafluoroethane (R–134a), A–570–044	4/1/22–3/31/23
Bestcool Inc., Ltd.	
Electrochemical Factory of Zhejiang Juhua Co., Ltd.	
Fujian Qingliu Dongying Chemical Ind. Co., Ltd.	
Hongkong Richmax Ltd.	
Huantai Dongyue International Trade Co. Ltd.	
Jiangsu Bluestar Green Technology Co., Ltd	
ICOOL Chemical Co., Ltd.	
Jiangsu Sanmei Chemicals Co., Ltd.	
Jinhua Binglong Chemical Technology Co., Ltd.	
Jinhua Yonghe Fluorochemical Co., Ltd.	
Ningbo FTZ ICOOL Prime International	
Puremann, Inc.	
Shandong Dongyue Chemical Co., Ltd.	
Shandong Huaan New Material Co., Ltd.	
Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd.	
T.T. International Co., Ltd.	
Weitron International Refrigeration Equipment (Kunshan) Co., Ltd. (aka Weichang Refrigeration Equipment (Kunshan) Co., Ltd.)	
Zhejiang Juhua Co., Ltd.	
Zhejiang Morita New Materials Co., Ltd.	
Zhejiang Organic Fluor-Chemistry Plant, Zhejiang Juhua Co., Ltd.	
Zhejiang Quhua Fluor-Chemistry Co., Ltd.	
Zhejiang Quhua Juxin Fluorochemical Industry Co., Ltd.	
Zhejiang Quzhou Juxin Fluorine Chemical Co., Ltd.	
Zhejiang Quzhou Lianzhou Refrigerants Co., Ltd.	
Zhejiang Sanmei Chemical Industry Co., Ltd., Jiangsu Sanmei Chemicals Co., Ltd.	
Zhejiang Yonghe Refrigerant Co., Ltd.	
Zhejiang Zhonglan Refrigeration Technology Co., Ltd.	
Zibo Feiyuan Chemical Co., Ltd.	
The People's Republic of China: Certain Activated Carbon, A–570–904	4/1/22–3/31/23
Beijing Pacific Activated Carbon Products Co., Ltd.	
Bengbu Modern Environmental Co., Ltd.	
Carbon Activated Tianjin Co., Ltd.	
Datong Hongdi Carbon Co., Ltd.	
Datong Juqiang Activated Carbon Co., Ltd.	
Datong Municipal Yunguang Activated Carbon Co., Ltd.	
Jacobi Carbons AB; Jacobi Carbons Industry (Tianjin) Co., Ltd.; Tianjin Jacobi International Trading Co. Ltd.; Jacobi Adsorbent Materials[5]	
Jilin Bright Future Chemicals Co., Ltd.	
Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd.	
Ningxia Huahui Environmental Technology Co., Ltd. (formerly known as Ningxia Huahui Activated Carbon Co., Ltd.)[6]	

	Period to be reviewed
Ningxia Mineral & Chemical Limited	
Shanxi Dapu International Trade Co., Ltd.	
Shanxi DMD Corp.	
Shanxi Industry Technology Trading Co., Ltd.	
Shanxi Sincere Industrial Co., Ltd.	
Shanxi Tianxi Purification Filter Co., Ltd.	
Sinoacarbon International Trading Co., Ltd.	
Tancarb Activated Carbon Co., Ltd.	
Tianjin Channel Filters Co., Ltd.	
Tianjin Maijin Industries Co., Ltd.	
The People's Republic of China: Aluminum Foil, A–570–053	4/1/22–3/31/23
Alcha International Holdings Limited	
Aluminum Corporation of China Limited	
Anhui Maximum Aluminum Industries Company Ltd.	
Anhui Zhongji Battery Foil Science & Technology Co., Ltd.	
Dingheng New Materials Co., Ltd.	
Dingsheng Aluminum Industries (Hong Kong) Trading Co., Ltd. (Dingsheng Aluminium Industries (Hong Kong) Trading Co., Ltd.)	
Dong-IL Aluminium Co., Ltd.	
Dongwon Systems Corp.	
Eastern Valley Co., Ltd.	
Galex Inc.	
Granges Aluminum (Shanghai) Co., Ltd.	
Hangzhou Dingsheng Import & Export Co. Ltd. (Hangzhou Dingsheng Import and Export Co., Ltd.)	
Hangzhou Five Star Aluminum Co., Ltd.	
Hangzhou Teemful Aluminium Co., Ltd.	
Henan Mingtai Al. Industrial	
Hunan Suntown Marketing Limited	
Inner Mongolia Liansheng New Energy Material Co. Ltd.	
Inner Mongolia Xinxing New Energy Material Co., Ltd.	
Jiangsu Dingsheng New Materials Joint-Stock Co., Ltd.	
Jiangsu Huafeng Aluminum Industry Co., Ltd.	
Jiangsu Zhongji Lamination Materials Co., (HK) Limited	
Jiangsu Zhongji Lamination Materials Co., Ltd.	
Jiangsu Zhongji Lamination Materials Stock Co., Ltd.[7]	
Kataman Metals	
Korea Aluminium Co., LTD.	
Lotte Aluminium Co., Ltd.	
Prosvic Sales Inc.	
Sama Aluminium Co Ltd	
SAM–A Aluminum Co., Ltd.	
Sankyu-Thai Co., Ltd.	
Shandong Nanshan Aluminum Co., Ltd.	
Shanghai Huafon Aluminium Corporation	
Shanghai Shenhuo Aluminium Foil Co., Ltd	
Shanghai Shenyan Packaging Materials Co., Ltd.	
Shanghai Sunho Aluminum Foil Co., Ltd.	
SK Global America Inc.	
Suntown Technology Group Corporation Limited (Suntown Technology Group Co., Ltd.)	
Suzhou Manakin Aluminum Processing Technology Co., Ltd.	
Suzhou Manakin Trading Co., Ltd	
Suzhou Xin Zhao Jin Aluminum Foil Co., Ltd.	
Walson (HK) Trading Co., Limited	
Xiamen Xiashun Aluminium Foil Co., Ltd.	
Yinbang Clad Materials Co., Ltd.	
Zhejiang Yongjie Aluminum Co., Ltd.	
The People's Republic of China: Alloy and Certain Carbon Steel Threaded Rod, A–570–104	4/1/22–3/31/23
Ningbo Zhongjiang High Strength Bolts Co., Ltd.	
Ningbo Dongxin High-Strength Nut Co. Ltd.	
The People's Republic of China: Drawn Stainless Steel Sinks, A–570–983	4/1/22–3/31/23
B&R Industries Limited	
Feidong Import and Export Co., Ltd.	
Foshan Shunde MingHao Kitchen Utensils Co., Ltd.	
Foshan Zhaoshun Trade Co., Ltd.	
Franke Asia Sourcing Ltd.	
Grand Hill Work Company	
Guangdong Dongyuan Kitchenware Industrial Co., Ltd.	
Guangdong G-Top Import & Export Co., Ltd.	
Guangdong New Shichu Import & Export Company Limited	
Guangdong Yingao Kitchen Utensils Co., Ltd.	
Hangzhou Heng's Industries Co., Ltd.	
Hubei Foshan Success Imp & Exp Co. Ltd.	
J&C Industries Enterprise Limited	

	Period to be reviewed
Jiangmen Hongmao Trading Co., Ltd.	
Jiangmen New Star Hi-Tech Enterprise Ltd.	
Jiangmen Pioneer Import & Export Co., Ltd.	
Jiangxi Zoje Kitchen & Bath Industry Co., Ltd.	
KaiPing Dawn Plumbing Products, Inc.	
Ningbo Afa Kitchen and Bath Co., Ltd./Yuyao Afa Kitchenware Co., Ltd.	
Ningbo Oulin Kitchen Utensils Co., Ltd.	
Primy Cooperation Limited	
Shenzhen Kehuaxing Industrial Ltd.	
Shunde Foodstuffs Import & Export Company Limited of Guangdong	
Shunde Native Produce Import and Export Co., Ltd. of Guangdong	
Xinhe Stainless Steel Products Co., Ltd.	
Zhongshan Newecan Enterprise Development Corporation	
Zhongshan Silk Imp. & Exp. Group Co., Ltd. of Guangdong	
Zhongshan Superte Kitchenware Co., Ltd.	
Zhuhai Kohler Kitchen & Bathroom Products Co. Ltd.	
The People's Republic of China: Magnesium Metal, A–570–896	4/1/22–3/31/23
Tianjin Magnesium International Co., Ltd.	
Tianjin Magnesium Metal Co., Ltd.	
The People's Republic of China: Mobile Access Equipment and Subassemblies Thereof, A–570–139[8]	4/13/22–3/31/23
Lingong Group Jinan Heavy Machinery Co., Ltd.	
Terex (Changzhou) Machinery Co., Ltd.	
Oshkosh JLG (Tianjin) Equipment Technology Co., Ltd.	
Zhejiang Dingli Machinery Co., Ltd.	
The People's Republic of China: Stainless Steel Sheet and Strip, A–570–042	4/1/22–3/31/23
Ahonest Changjiang Stainless Co., Ltd.	
Angang Guangzhou Stainless Steel Corporation	
Angang Hanyang Stainless Steel Corp.	
Anping Yuanjing Metal Products Co., Ltd.	
Apex Industries Corporation	
Baofeng Xianlong Stainless Steel (Baofeng Steel Group Co.)	
Baojing Steel Ltd.	
Baosteel Desheng Stainless Steel Co., Ltd.	
Baosteel Stainless Steel Co., Ltd.	
Baotou Huayong Stainless Steel Co., Ltd.	
Beihai Chengde Ferronickel Stainless Steel	
Beijing Dayang Metal Industry Co.	
Beijing Hengsheng Tongda Stainless Steel	
Beijing Jingnanfang Decoration Engineering Co., Ltd.	
Benxi Iron and Steel	
Chain Chon Metal (Foshan)	
Chain Chon Metal (Kunshan)	
Changhai Stainless Steel	
Changzhou General Import and Export	
Changzhou Taiye Sensing Technology Co., Ltd.	
Compart Precision Co.	
Dalian Yirui Import and Export Agent Co., Ltd.	
Daming International Import and Export Co., Ltd.	
Dongbei Special Steel Group Co., Ltd.	
Double Stone Steel	
Etco (China) International Trading Co., Ltd.	
FHY Corporation	
Foshan Foreign Economic Enterprise	
Foshan Hermes Steel Co., Ltd.	
Foshan Jinfeifan Stainless Steel Co.	
Foshan Topson Stainless Steel Co.	
Fugang Group	
Fujian Fuxin Special Steel Co., Ltd.	
Fujian Kaixi Stainless Steel	
Fujian Wuhang STS Products Co., Ltd.	
Gangzhan Steel Developing Co., Ltd.	
Globe Express Services Co., Ltd.	
Golden Fund International Trading Co.	
Guangdong Forward Metal Supply Chain Co., Ltd.	
Guangdong Guangxin Suntec Metal Holdings Co., Ltd.	
Guanghan Tiancheng Stainless Steel Products Co., Ltd.	
Guangxi Beihai Chengde Group	
Guangxi Wuzhou Jinhai Stainless Steel Co.	
Guangxi Wuzhou Jinhai Stainless Steel Co.	
Guangzhou Eversunny Trading Co., Ltd.	
Haimen Senda Decoration Material Co.	
Hanyang Stainless Steel Co. (LISCO)	
Hebei Iron & Steel	

	Period to be reviewed
Henan Tianhong Metal (Subsidiary of Foshan Mellow Stainless Steel Company)	
Henan Xinjinhui Stainless Steel Co., Ltd. (Jinhui Group)	
Henan Xuyuan Stainless Steel Co	
Huadi Steel Group Co., Ltd.	
Ideal Products of Dongguan Ltd.	
Irestal Shanghai Stainless Pipe (ISSP)	
Jaway Metal Co., Ltd.	
Jiangdu Ao Jian Sports Apparatus Factory	
Jiangsu Daming Metal Products Co., Ltd.	
Jiangsu Jihongxin Stainless Steel Co., Ltd.	
Jiaxing Winner Import and Export Co., Ltd.	
Jiaxing Zhongda Import and Export Co., Ltd.	
Jieyang Baowei Stainless Steel Co., Ltd	
Jinyun Xintongmao	
Jiuquan Iron & Steel (JISCO)	
Kuehne & Nagel, Ltd. (Ningbo)	
La Qin (Hong Kong) Co., Ltd.	
Lianzhong Stainless Steel Corp. (LISCO)	
Maanshan Sungood Machinery Equipment Co., Ltd.	
Minmetals Steel Co., Ltd.	
Nanhi Tengshao Metal Manufacturing Co.	
NB (Ningbo) Rilson Export & Import Corp.	
Ningbo Baoxin Stainless Steel Co., Ltd.	
Ningbo Bestco Import & Export Co., Ltd.	
Ningbo Bingcheng Import & Export Co., Ltd.	
Ningbo Chinaworld Grand Import & Export Co., Ltd.	
Ningbo Dawon Resources Co., Ltd. No.	
Ningbo Economic and Technological Development Zone (Beilun Xiapu)	
Ningbo Hog Slat Trading Co., Ltd.	
Ningbo New Hailong Import & Export Co.	
Ningbo Polaris Metal Products Co.	
Ningbo Portec Sealing Component	
Ningbo Qiyi Precision Metals Co., Ltd.	
Ningbo Seduno Import & Export Co., Ltd.	
Ningbo Sunico International Ltd.	
Ningbo Swoop Import & Export	
Ningbo Yaoyi International Trading Co., Ltd.	
Onetouch Business Service, Ltd.	
Qianyuan Stainless Steel	
Qingdao Rising Sun International Trading Co,. Ltd.	
Qingdao-Pohang Stainless Steel (QPSS)	
Rihong Stainless Co., Ltd.	
Ruitian Steel	
Samsung Precision Stainless Steel (Pinghu) Co., Ltd.	
Sejung Sea & Air Co., Ltd.	
Shainghai Fengye Industry Co., Ltd.	
Shandong Huaye Stainless Steel Group Co., Ltd.	
Shandong Mengyin Huaran Imp and Exp Co., Ltd.	
Shandong Mingwei Stainless Steel Products Co., Ltd.	
Shanghai Dongjing Import & Export Co.	
Shanghai Ganglian E-Commerce Holdings Co., Ltd.	
Shanghai Krupp Stainless (SKS)	
Shanghai Tankli Alloy Material Co., Ltd. L	
Shanxi Taigang Stainless Steel Co., Ltd. (TISCO)	
Shaoxing Andrew Metal Manufactured Co., Ltd.	
Shaoxing Yuzhihang Import & Export Trade Co., Ltd.	
Shenzhen Brilliant Sign Co., Ltd.	
Sichuan Southwest Stainless Steel	
Sichuan Tianhong Stainless Steel	
Sino Base Metal Co., Ltd.	
Suzhou Xinchen Precision Industrial Materials Co., Ltd.	
Taiyuan Accu Point Technology, Co. Ltd.	
Taiyuan Iron & Steel (TISCO)	
Taiyuan Ridetaixing Precision Stainless Steel Incorporated Co., Ltd.	
Taizhou Durable Hardware Co., Ltd	
Tiancheng Stainless Steel Products	
Tianjin Fulida Supply Co., Ltd.	
Tianjin Hongji Stainless Steel Products Co. Ltd.	
Tianjin Jiuyu Trade Co., Ltd.	
Tianjin Taigang Daming Metal Product Co., Ltd.	
Tianjin Teda Ganghua Trade Co., Ltd.	
Tianjin Tianchengjida Import & Export Trade Co., Ltd.	
Tianjin Tianguan Yuantong Stainless Steel	

	Period to be reviewed
Tiashan Steel	
TISCO Stainless Steel (HK) Ltd.	
Top Honest Stainless Steel Co., Ltd.	
TPCO Yuantong Stainless Steel Ware	
Tsingshan Qingyuan	
World Express Freight Co., Ltd.	
Wuxi Baochang Metal Products Co., Ltd.	
Wuxi Fangzhu Precision Materials Co.	
Wuxi Grand Tang Metal Co., Ltd.	
Wuxi Jinyate Steel Co., Ltd.	
Wuxi Shuoyang Stainless Steel Co., Ltd.	
Xinwen Mining Xinwen	
Yieh Corp. Ltd.	
Yongjin Metal Technology	
Yuyao Purenovo Stainless Steel Co., Ltd.	
Zhangjiagang Pohang Stainless Steel Co., Ltd. (ZPSS)	
Zhejiang Jaguar Import & Export Co., Ltd.	
Zhejiang Yongyin Metal Tech Co.	
Zhengzhou Mingtai Industry Co., Ltd.	
Zhenjiang Huaxin Import & Export	
Zhenshi Group Eastern Special Steel Co., Ltd	
Zun Hua City Transcend Ti-Gold	
The People's Republic of China: Wooden Cabinets and Vanities and Components Thereof, A–570–106	4/1/22–3/31/23
Anhui Xinyuanda Cupboard Co., Ltd	
Changyi Zhengheng Woodwork Co., Ltd.	
Dalian Hualing Wood Co., Ltd.	
Dalian Meisen Woodworking Co., Ltd.	
Deqing Meisheng Import and Export Co., Ltd.	
Dongguan Ri Sheng Home Furnishing Articles Co., Ltd.	
Fujian Dushi Wooden Industry Co., Ltd.	
Fujian Leifeng Cabinetry Co., Ltd.	
Fujian Senyi Kitchen Cabinet Co., Ltd.	
Fuzhou CBM Import & Export Co., Ltd.	
Fuzhou Hauster Kitchen Cabinet Manufacturing Co., Ltd.	
Fuzhou Pyrashine Trading Co., Ltd.	
Goldenhome Living Co., Ltd.	
Guangzhou Nuolande Import and Export Co., Ltd.	
Hangzhou Hoca Kitchen & Bath Products Co., Ltd.	
Honsoar New Building Material Co., Ltd.	
Jiang Su Rongxin Cabinets Ltd.	
Jiang Su Rongxin Import and Export Co., Ltd.	
Jiang Su Rongxin Wood Industry Co., Ltd.	
Jiangsu Beichen Wood Co., Ltd.	
Jiangsu Sunwell Cabinetry Co., Ltd.	
Jiangsu Weisen Houseware Co., Ltd.	
Jiangsu Xiangsheng Bedtime Furniture Co., Ltd	
KM Cabinetry Co., Ltd.	
Kunshan Baiyulan Furniture Co., Ltd.	
Linshu Meibang Furniture Co., Ltd.	
Linyu Bonn Flooring Manufacture Co., Ltd.	
Linyi Bomei Furniture Co., Ltd.	
Linyi Kaipu Furniture Co., Ltd.	
Morewood Cabinetry Co., Ltd.	
Nantong Aershin Cabinets Co., Ltd.	
Pizhou Ouyme Import & Export Trade Co., Ltd.	
Qingdao Shousheng Industry Co., Ltd.	
Quanzhou Ample Furnishings Co., Ltd.	
Qufu Xinyu Furniture Co., Ltd	
Senke Manufacturing Company	
Shandong Jinhua Wood Co., Ltd.	
Shandong Longsen Woods Co., Ltd.	
Shanghai Beautystar Cabinetry Co., Ltd.	
Shanghai Zifeng Industries Development Co., Ltd.	
Shanghai Zifeng International Trading Co., Ltd.	
Sheen Lead International Trading (Shanghai) Co., Ltd.	
Shenzhen Pengchengzhirong Trade Co., Ltd.	
Shouguang Fushi Wood Co., Ltd.	
Suofeiya Home Collection Co., Ltd.	
Suzhou Siemo Wood Import & Export Co., Ltd.	
Taishan Hongxiang Trading Co., Ltd.	
Taishan Oversea Trading Company Ltd.	
Taizhou Overseas Int'l Ltd.	
Tech Forest Cabinetry Co., Ltd.	

	Period to be reviewed
The Ancientree Cabinet Co., Ltd.	
Weifang Fuxing Wood Co., Ltd.	
Weifang Yuanlin Woodenware Co., Ltd.	
Weihai Jarlin Cabinetry Manufacture Co., Ltd.	
Weisen Houseware Co., Ltd.	
Xiamen Adler Cabinetry Co., Ltd.	
Xiamen Golden Huanan Imp. & Exp. Co., Ltd.	
Xiamen Got Cheer Co., Ltd.	
Xuzhou Yihe Wood Co., Ltd.	
Yichun Dongmeng Wood Co., Ltd.	
Yindu Kitchen Equipment Co., Ltd.	
Yixing Pengjia Cabinetry Co. Ltd.	
Yixing Pengjia Technology Co., Ltd.	
Zaozhuang New Sharp Import & Export Trading Co., Ltd.	
ZBOM Cabinets Co., Ltd.	
Zhangzhou OCA Furniture Co., Ltd.	
Zhongshan KM Cabinetry Co., Ltd.	
Zhongshan NU Furniture Co., Ltd.	
Zhoushan For-strong Wood Co., Ltd.	
Turkey: Common Alloy Aluminum Sheet, A–489–839	4/1/22–3/31/23
ASAS Aluminyum Sanayi ve Ticaret A.S.	
Assan Aluminyum Sanayi ve Ticaret A.S.	
Kibar Americas, Inc.	
Kibar Dis Ticaret A.S.	
Panda Aluminyum A.S.	
PMS Metal Profil Aluminyum Sanayi ve Ticaret A.S.	
TAC Metal Ticaret Anonim Sirketi	
Teknik Aluminyum Sanayi A.S.	
CVD Proceedings	
Bahrain: Common Alloy Aluminum Sheet, C–525–002	1/1/22–12/31/22
Gulf Aluminium Rolling Mill B.S.C.	
India: Carbon and Alloy Steel Threaded Rod, C–533–888	1/1/22–12/31/22
Mangal Steel Enterprises Limited	
R K Fasteners of India	
India: Common Alloy Aluminum Sheet	1/1/22–12/31/22
Hindalco Industries Limited	
Jindal Aluminum Limited	
Manaksia Aluminium Company Limited	
Virgo Aluminum Limited	
Morocco: Phosphate Fertilizers, C–714–001	1/1/22–12/31/22
OCP S.A.; Jorf Fertilizers Company I; Jorf Fertilizers Company II; Jorf Fertilizers Company III; Jorf Fertilizers Company IV; Jorf Fertilizers Company V; Maroc Phosphore [9]	
Russia: Granular Polytetrafluoroethylene Resin [10], C–821–830	7/6/21—12/31/22
HaloPolymer Kirovo-Chepetsk, LLC; Joint Stock Company HaloPolymer Perm; Joint Stock Company HaloPolymer; URALCHEM JSC	
Russia: Phosphate Fertilizers, C–821–825	1/1/22–12/31/22
Industrial Group Phosphorite LLC; Mineral and Chemical Company EuroChem, JSC; NAK Azot, JSC; EuroChem Northwest, JSC; Joint Stock Company Kovdorksy GOK; EuroChem-Energo, LLC; EuroChem-Usolsky Potash Complex, LLC; EuroChem-BMU, LLC; JSC Nevinnomyssky Azot; EuroChem Trading Rus, LLC [11]	
Joint Stock Company Apatit; PhosAgro PJSC; PhosAgro-Belgorod LLC; PhosAgro-Don LLC; PhosAgro-Kuban LLC; PhosAgro-Kursk LLC; PhosAgro-Lipetsk LLC; PhosAgro-Orel LLC; PhosAgro-Stavropol LLC; PhosAgro-Volga LLC; PhosAgro-SeveroZapad LLC; PhosAgro-Tambov LLC; Martynovsk AgrokhimSnab LLC [12]	
The People's Republic of China: Aluminum Foil, C–570–054	1/1/22–12/31/22
Alcha International Holdings Limited	
Aluminum Corporation of China Limited	
Anhui Maximum Aluminium Industries Company Ltd.	
Anhui Zhongji Battery Foil Science & Technology Co., Ltd.	
Baotou Alcha Aluminum Co., Ltd.	
Dingheng New Materials Co., Ltd.	
Dingsheng Aluminum Industries (Hong Kong) Trading Co., Ltd.	
Dong-Il Aluminum Co., Ltd	
Dongwon Systems Corp.	
Eastern Valley Co., Ltd	
Gränges Aluminum (Shanghai) Co., Ltd.	
Guangxi Baise Xinghe Aluminum Industry Co., Ltd.	
Hangzhou DingCheng Aluminium Co., Ltd.	
Hangzhou Dingsheng Import & Export Co., Ltd.	
Hangzhou Dingsheng Industrial Group Co., Ltd.	
Hangzhou Five Star Aluminium Co., Ltd.	
Hangzhou Teemful Aluminium Co., Ltd.	
Henan Mingtai Al. Industrial	
Hunan Suntown Marketing Limited	

	Period to be reviewed
Inner Mongolia Liansheng New Energy Material Co., Ltd.	
Inner Mongolia Xinxing New Energy Material Co., Ltd.	
Jiangsu Dingsheng New Materials Joint-Stock Co., Ltd.	
Jiangsu Huafeng Aluminum Industry Co., Ltd.	
Jiangsu Zhongji Lamination Materials Co., (HK) Limited	
Jiangsu Zhongji Lamination Materials Co., Ltd.	
Jiangyin Dolphin Pack Ltd. Co.	
Lotte Aluminium Co., Ltd.	
Luoyang Longding Aluminium Industries Co., Ltd.	
SAM–A Aluminum Co., Ltd.	
Sankyu-Thai Co., Ltd.	
Shandong Nanshan Aluminium Co., Ltd.	
Shandong Yuanrui Metal Material Co., Ltd.	
Shanghai Huafon Aluminium Corporation	
Shanghai Shenhuo Aluminium Foil Co., Ltd.	
Shanghai Shenyan Packaging Materials Co., Ltd.	
Shanghai Sunho Aluminum Foil Co., Ltd.	
Shantou Wanshun Package Material Stock Co., Ltd.	
SNTO International Trade Limited	
Suntown Technology Group Corporation Limited	
Thai Ding Li New Materials Co., Ltd.	
Walson (HK) Trading Co., Limited	
Xiamen Xiashun Aluminium Foil Co., Ltd.	
Yangtai Jintai International Trade Co., Ltd.	
Yantai Donghai Aluminum Co., Ltd.	
Yinbang Clad Material Co., Ltd.	
Zhejiang Yongjie Aluminum Co., Ltd.	
Zhejiang Zhongjin Aluminum Industry Co., Ltd.	
The People's Republic of China: Carbon and Alloy Steel Threaded Rod, C–570–105	1/1/22–12/31/22
Ningbo Dingtuo Imp. & Exp. Co., Ltd.	
Ningbo Dongxin High-Strength Nut Co., Ltd.	
Ningbo Jinding Fastening Piece Co., Ltd.	
Ningbo Zhenghai Yongding Fastener Co., Ltd.	
Ningbo Zhongjiang High Strength Bolts Co., Ltd.; Ningbo Zhongmin Metal Product Co., Ltd [13]	
The People's Republic of China: Stainless Steel Sheet and Strip, C–570–043	1/1/22–12/31/22
Ahonest Changjiang Stainless Co., Ltd	
Angang Guangzhou Stainless Steel Corporation	
Angang Hanyang Stainless Steel Corp.	
Anping Yuanjing Metal Products Co., Ltd	
Apex Industries Corporation	
Baofeng Xianlong Stainless Steel	
Baojing Steel Ltd	
Baotou Huayong Stainless Steel Co., Ltd	
Beihai Chengde Ferronickel Stainless Steel	
Beijing Jingnanfang Decoration Engineering Co., Ltd.	
Chain Chon Metal (Foshan)	
Changhai Stainless Steel	
Changzhou General Import and Export	
Changzhou Taiye Sensing Technology Co., Ltd.	
Compart Precision Co	
Dalian Yirui Import and Export Agent Co., Ltd.	
Daming International Import and Export Co., Ltd	
Etco (China) International Trading Co., Ltd	
FHY Corporation	
Foshan Foreign Economic Enterprise	
Foshan Hermes Steel Co., Ltd.	
Foshan Jinfeifan Stainless Steel Co.	
Foshan Topson Stainless Steel Co	
Fugang Group	
Fujian Fuxin Special Steel Co., Ltd.	
Fujian Kaixi Stainless Steel	
Fujian Wuhang STS Products Co., Ltd.	
Gangzhan Steel Developing Co., Ltd.	
Globe Express Services Co., Ltd	
Golden Fund International Trading Co	
Guangdong Forward Metal Supply Chain Co., Ltd.	
Guanghan Tiancheng Stainless Steel Products Co., Ltd.	
Guangxi Beihai Chengde Group	
Guangxi Wuzhou Jinhai Stainless Steel Co.	
Guangzhou Eversunny Trading Co., Ltd.	
Haimen Senda Decoration Material Co.	
Hanyang Stainless Steel Co. (LISCO)	
Hebei Iron & Steel	

	Period to be reviewed
Henan Xinjinhui Stainless Steel Co., Ltd	
Henan Xuyuan Stainless Steel Co., Ltd	
Huadi Steel Group Co., Ltd.	
Ideal Products of Dongguan Ltd.	
Irestal Shanghai Stainless Pipe (ISSP)	
Jaway Metal Co., Ltd.	
Jiangdu Ao Jian Sports Apparatus Factory	
Jiangsu Daming Metal Products Co., Ltd.	
Jiangsu Jihongxin Stainless Steel Co., Ltd.	
Jiaxing Winner Import and Export Co., Ltd.	
Jiaxing Zhongda Import and Export Co., Ltd.	
Jieyang Baowei Stainless Steel Co., Ltd.	
Jinyun Xintongmao	
Jiuquan Iron & Steel (JISCO)	
Kuehne & Nagel, Ltd. (Ningbo)	
La Qin (Hong Kong) Co., Ltd.	
Minmetals Steel Co., Ltd.	
Nanhi Tengshao Metal Manufacturing Co.	
NB (Ningbo) Rilson Export & Import Corp.	
Ningbo Baoxin Stainless Steel Co., Ltd.; Baoshan Iron & Steel Co., Ltd.; Baosteel Co., Ltd.; Baosteel Desheng Stainless Steel Co., Ltd.; Baosteel Stainless Steel Co., Ltd.; Bayi Iron & Steel Co., Ltd.; Guangdong Shaoguan Iron & Steel Co., Ltd.; Ningbo Iron & Steel Co., Ltd.; Shaoguan Iron & Steel Co., Ltd.; Zhanjiang Iron & Steel Co., Ltd.[14]	
Ningbo Bestco Import & Export Co., Ltd.	
Ningbo Bingcheng Import & Export Co., Ltd.	
Ningbo Bingcheng Import & Export Co., Ltd.	
Ningbo Chinaworld Grand Import & Export Co., Ltd.	
Ningbo Chinaworld Grand Import & Export Co., Ltd.	
Ningbo Dawon Resources Co., Ltd.	
Ningbo Dawon Resources Co., Ltd.	
Ningbo Hog Slat Trading Co., Ltd.	
Ningbo New Hailong Import & Export Co	
Ningbo Polaris Metal Products Co.	
Ningbo Portec Sealing Component	
Ningbo Qiyi Precision Metals Co., Ltd.	
Ningbo Seduno Import & Export Co., Ltd	
Ningbo Sunico International Ltd.	
Ningbo Swoop Import & Export	
Ningbo Yaoyi International Trading Co., Ltd	
Onetouch Business Service, Ltd	
Qianyuan Stainless Steel	
Qingdao Rising Sun International Trading Co., Ltd.	
Qingdao Sincerely Steel	
Qingdao-Pohang Stainless Steel (QPSS)	
Rihong Stainless Co., Ltd	
Ruitian Steel	
Samsung Precision Stainless Steel (Pinghu) Co., Ltd.	
Sejung Sea & Air Co., Ltd.	
Seko International Freight Forwarding Shanghai Co., Ltd.	
Shainghai Fengye Industry Co., Ltd.	
Shandong Huaye Stainless Steel Group Co., Ltd.	
Shandong Mengyin Huaran Imp and Exp Co., Ltd.	
Shandong Mingwei Stainless Steel Products Co., Ltd	
Shanghai Dongjing Import & Export Co.	
Shanghai Ganglian E-Commerce Holdings Co., Ltd	
Shanghai Krupp Stainless (SKS)	
Shanghai Metal Corporation	
Shanghai Tankli Alloy Material Co., Ltd.	
Shanxi Taigang Stainless Steel Co., Ltd.; Shanxi Taigang Stainless Steel Precision Strip Co., Ltd.; Shanxi Taigang Wanbang Furnace Burden Co., Ltd.; Taigang (Group) International Economic and Trade Co., Ltd.; Taiyuan Iron and Steel Group Co., Ltd.; Tianjin TISCO & TPCO Stainless Steel Co., Ltd.; TISCO Metal Recycle Co., Ltd.; TISCO Mining Branch Company[15]	
Shaoxing Yuzhihang Import & Export Trade Co., Ltd.	
Shenzhen Brilliant Sign Co., Ltd.	
Shenzhen Wide International Trade Co., Ltd.	
Shenzhen Y.T.X. Metal Co., Ltd.	
Sichuan Southwest Stainless Steel	
Sichuan Tianhong Stainless Steel	
Sino Base Metal Co., Ltd.	
Suzhou Xinchen Precision Industrial Materials Co., Ltd.	
Taiyuan Accu Point Technology, Co. Ltd.	
Taiyuan Iron & Steel (TISCO)	
Taiyuan Ridetaixing Precision Stainless Steel Incorporated Co., Ltd.	
Taizhou Durable Hardware Co., Ltd.	

	Period to be reviewed
Tiancheng Stainless Steel Products	
Tianjin Fulida Supply Co., Ltd.	
Tianjin Hongji Stainless Steel Products Co. Ltd.	
Tianjin Jiuyu Trade Co., Ltd.	
Tianjin Taigang Daming Metal Product Co., Ltd.	
Tianjin Teda Ganghua Trade Co., Ltd.	
Tianjin Tianchengjida Import & Export Trade Co., Ltd.	
Tiashan Steel	
TISCO Stainless Steel (HK) Ltd.	
Top Honest Stainless Steel Co., Ltd.	
TPCO Yuantong Stainless Steel Ware	
Tsingshan Qingyuan	
World Express Freight Co., Ltd.	
Wuxi Baochang Metal Products Co., Ltd.	
Wuxi Fangzhu Precision Materials Co.	
Wuxi Grand Tang Metal Co., Ltd.	
Wuxi Jinyate Steel Co., Ltd.	
Wuxi Joyray International Corp.	
Wuxi Shuoyang Stainless Steel Co., Ltd.	
Xiamen Lizhou Hardware Spring Co., Ltd.	
Xinwen Mining	
Yieh Corp. Ltd.	
Yongjin Metal Technology	
Yuyao Purenovo Stainless Steel Co., Ltd.	
Zhangjiagang Pohang Stainless Steel Co., Ltd. (ZPSS)	
Zhejiang Baohong Stainless Steel Co., Ltd.	
Zhejiang Huashun Metals Co., Ltd.	
Zhejiang Jaguar Import & Export Co., Ltd.	
Zhejiang New Vision Import & Export	
Zhejiang Yongjin Metal Technology Co., Ltd	
Zhengzhou Mingtai Industry Co., Ltd.	
Zhenjiang Huaxin Import & Export	
Zhenshi Group Eastern Special Steel Co., Ltd	
Zun Hua City Transcend Ti-Gold	
The People's Republic of China: Wooden Cabinets and Vanities and Components Thereof, C–570–107	1/1/22–12/31/22
Changyi Zhengheng Woodwork Co., Ltd	
Dalian Hualing Wood Co., Ltd	
Dalian Meisen Woodworking Co. Ltd.; Dalian Hechang Technology Development Co., Ltd.[16]	
Fujian Dushi Wooden Industry Co., Ltd.	
Fujian Leifeng Cabinetry Co., Ltd.	
Fuzhou CBM Import & Export Co., Ltd.	
GOLDENHOME LIVING CO., LTD.	
Guangzhou Nuolande Import and Export Co., Ltd.	
Honsoar New Building Material Co., Ltd	
Jiangsu Beichen Wood Co., Ltd.	
Jiang Su Rongxin Wood Industry Co., Ltd	
Jiangsu Sunwell Cabinetry Co., Ltd	
Jiangsu Xiangsheng Bedtime Furniture Co., Ltd	
KM Cabinetry Co., Ltd.	
Linyi Bomei Furniture Co., Ltd	
Linyi Bonn Flooring Manufacture Co., Ltd.	
Linyi Kaipu Furniture Co., Ltd.	
Morewood Cabinetry Co., Ltd	
Nantong Aershin Cabinet Co., Ltd	
Pizhou Ouyme Import & Export Trade Co., Ltd.	
Qingdao Shousheng Industry Co., Ltd	
Senke Manufacturing Company	
Shandong Jinhua Wood Co., Ltd.	
Shandong Longsen Woods Co., Ltd.	
Shanghai Beautystar Cabinetry Co., Ltd.	
Shanghai Zifeng International Trading Co., Ltd.	
Shouguang Fushi Wood Co., Ltd	
SUOFEIYA HOME COLLECTION CO., LTD	
Taishan Hongxiang Trading Co., Ltd.	
Taishan Oversea Trading Company Ltd.	
Taizhou Overseas Int'l Ltd.	
The Ancientree Cabinet Co., Ltd; Jiangsu Hongjia Wood Co., Ltd.; Shanghai Hongjia Wood Co., Ltd.; Jiangsu Hongjia Wood Co., Ltd. Shanghai Branch[17]	
Weifang Fuxing Wood Co., Ltd.	
Weifang Yuanlin Woodenware Co., Ltd	
Xiamen Adler Cabinetry Co., Ltd.	
Xuzhou Yihe Wood Co., Ltd	
Yixing Pengjia Cabinetry Co., Ltd.	

	Period to be reviewed
Yixing Pengjia Technology Co., Ltd. Zaozhuang New Sharp Import & Export Trading Co., Ltd Zhangzhou OCA Furniture Co., Ltd. Zhongshan NU Furniture Co., Ltd Zhoushan For-Strong Wood Co. Ltd.	
The Republic of Turkey: Common Alloy Aluminum Sheet, C–489–840	1/1/22–12/31/22
ASAS Aluminyum Sanayi ve Ticaret A.S. Assan Aluminyum Sanayi ve Ticaret A.S.; Kibar Dis Ticaret A.S; Kibar Holding A.S.[18] Kibar Americas, Inc. P.M.S. Metal Profil Aluminyum Sanayi Ve Ticaret A.S. Teknik Aluminyum Sanayi A.S.; TAC Metal Ticaret A.S.[19]	

Suspension Agreements

None.

Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an AD order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), Commerce, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether AD duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

[5] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; and Final Determination of No Shipments; 2020–2021,* 87 FR 67671 (November 9, 2022). We also received a review request for Jacobi Carbons, Inc.; however, Jacobi Carbons, Inc. is a U.S. affiliate of Jacobi Carbons AB.

[6] Commerce determined that Ningxia Huahui Environmental Technology Co., Ltd. is the successor-in-interest of Ningxia Huahui Activated Carbon Co., Ltd. *See Certain Activated Carbon from the People's Republic of China: Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review,* 86 FR 56248 (October 8, 2021).

[7] Commerce is initiating a review of this company because it has been found to be part of a single entity with other companies for which an administrative review was requested. *See Certain Aluminum Foil from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2019–2020,* 87 FR 935 (January 7, 2022).

[8] The notice of opportunity to request an administrative review which published on April 4, 2023 (88 FR 19916) incorrectly listed the period of review as 9/30/2021–3/31/2023. The correct period of review, 4/13/2022–3/31/2023, is listed in this notice.

[9] Commerce has previously found these companies cross-owned. *See Phosphate Fertilizers from the Kingdom of Morocco: Final Affirmative Countervailing Duty Determination,* 86 FR 9482 (February 16, 2021).

[10] In *Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 88 FR 29881 (May 9, 2023), Commerce inadvertently initiated this administrative review with respect to the entity named ''OJSC.'' Commerce hereby corrects that notice, initiating an administrative review only with respect to HaloPolymer Kirovo-Chepetsk, LLC and its cross-owned companies, as requested.

[11] Commerce has previously found these companies cross-owned. *See Phosphate Fertilizers from the Russian Federation: Final Affirmative Countervailing Duty Determination,* 86 FR 9479 (February 16, 2021).

[12] *Id.*

[13] Commerce previously found Ningbo Zhongmin Metal Product Co., Ltd. to be a cross-owned affiliate of Ningbo Zhongjiang High Strength Bolts Co., Ltd. *See Carbon and Alloy Steel Threaded Rod from India and the People's Republic of China: Countervailing Duty Orders,* 85 FR 19927 (April 9, 2020). Accordingly, we are initiating this review with respect to Ningbo Zhongjiang High Strength Bolts Co., Ltd. and its cross-owned entity, Ningbo Zhongmin Metal Product Co., Ltd., listed in this notice.

[14] Commerce previously found Ningbo Baoxin Stainless Steel Co., Ltd. to be cross-owned with Baoshan Iron & Steel Co., Ltd.; Baosteel Co., Ltd.; Baosteel Desheng Stainless Steel Co., Ltd.; Baosteel Stainless Steel Co., Ltd.; Bayi Iron & Steel Co., Ltd.; Guangdong Shaoguan Iron & Steel Co., Ltd.; Ningbo Iron & Steel Co., Ltd.; Shaoguan Iron & Steel Co., Ltd.; and Zhanjiang Iron & Steel Co., Ltd. *See Stainless Steel Sheet and Strip from the People's Republic of China: Countervailing Duty Order,* 82 FR 16166 (April 3, 2017). Accordingly, we are initiating this review with respect to Ningbo Baoxin Stainless Steel Co., Ltd. and its cross-owned entities as listed in this notice.

[15] Commerce previously found Shanxi Taigang Stainless Steel Precision Strip Co., Ltd. to be cross-owned with Shanxi Taigang Wanbang Furnace Burden Co., Ltd.; Taigang (Group) International Economic and Trade Co., Ltd.; Taiyuan Iron and Steel Group Co., Ltd.; Tianjin TISCO & TPCO Stainless Steel Co., Ltd.; TISCO Metal Recycle Co., Ltd.; and TISCO Mining Branch Company. *See Countervailing Duty Investigation of Stainless Steel Sheet and Strip from the People's Republic of China: Preliminary Affirmative Determination and Alignment of Final Determination with Final Antidumping Duty Determination,* 81 FR 46643 (July 18, 2018), and accompanying Preliminary Decision Memorandum (PDM) at 27–28, unchanged in *Countervailing Duty Investigation of Stainless Steel Sheet and Strip From the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part,* 82 FR 9714 (February 8, 2017). Accordingly, we are initiating this review with respect to Shanxi Taigang Stainless Steel Precision Strip Co., Ltd. and its cross-owned entities as listed in this notice.

[16] Commerce previously found Dalian Meisen Woodworking Co. Ltd. and Dalian Hechang Technology Development Co., Ltd. to be cross-owned. *See Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Preliminary Affirmative Countervailing Determination, and Alignment of Final Determination With Final Antidumping Duty Determination,* 84 FR 39798 (August 12, 2029), and accompanying PDM at 36–37, unchanged in *Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 85 FR 11962 (February 28, 2020).

[17] Commerce previously found The Ancientree Cabinet Co., Ltd; Jiangsu Hongjia Wood Co., Ltd.; Shanghai Hongjia Wood Co., Ltd.; and Jiangsu Hongjia Wood Co., Ltd. Shanghai Branch to be cross-owned. *See Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Preliminary Affirmative Countervailing Determination, and Alignment of Final Determination With Final Antidumping Duty Determination,* 84 FR 39798 (August 12, 2029), and accompanying PDM at 35–36, unchanged in *Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 85 FR 11962 (February 28, 2020).

[18] Commerce previously found Assan Aluminyum Sanayi ve Ticaret A.S.; Kibar Dis Ticaret A.S.; and Kibar Holding A.S. to be cross-owned. *See Common Alloy Aluminum Sheet from the Republic of Tukey: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination of Critical Circumstances, in Part,* 86 FR 13315 (March 8, 2021) (*Turkey Common Alloy Aluminum Sheet Final CVD Determination*).

[19] Commerce previously found Teknik Aluminyum Sanayi A.S. and TAC Metal Ticaret A.S. to be cross-owned. *See Turkey Common Alloy Aluminum Sheet Final CVD Determination.* Accordingly, we are initiating this review with respect to Teknik Aluminyum Sanayi A.S. and its cross-owned entity, TAC Metal Ticaret A.S., listed in this notice.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant ''gap'' period of the order (*i.e.,* the period following the expiry of

provisional measures and before definitive measures were put into place), if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with the procedures outlined in Commerce's regulations at 19 CFR 351.305. Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Factual Information Requirements

Commerce's regulations identify five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). These regulations require any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The regulations, at 19 CFR 351.301, also provide specific time limits for such factual submissions based on the type of factual information being submitted. Please review the *Final Rule,*[20] available at *www.govinfo.gov/content/pkg/FR-2013-07-17/pdf/2013-17045.pdf,* prior to submitting factual information in this segment. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[21]

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information using the formats provided at the end of the *Final Rule.*[22] Commerce intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable certification requirements.

Extension of Time Limits Regulation

Parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by Commerce.[23] In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning CBP data; and (5) Q&V questionnaires. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This policy also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which Commerce will grant untimely-filed requests for the extension of time limits. Please review the *Final Rule,* available at *https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: June 6, 2023.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2023–12432 Filed 6–9–23; 8:45 am]

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[20] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* the frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[21] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 41363 (July 10, 2020).

[22] *See* section 782(b) of the Act; *see also Final Rule;* and the frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[23] *See* 19 CFR 351.302.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC994]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Army Corps of Engineers Debris Dock Replacement Project, Sausalito, California

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

ACTION: Notice; issuance of incidental harassment authorization.

SUMMARY: NMFS has received a request from the U.S. Army Corps of Engineers (ACOE) to change the effective dates of the second re-issuance of a previously issued incidental harassment authorization (IHA), with the only change being the effective dates. The IHA authorizes take of seven species of marine mammals, by Level A and Level B harassment, incidental to construction associated with the Debris Dock Replacement Project in Sausalito, California. The ACOE has requested re-issuance with new effective dates of July 15, 2023 through July 14, 2024. The scope of the activities and anticipated effects remain the same, authorized take numbers are not changed, and the required mitigation, monitoring, and reporting remains the same as included in the initial IHA. NMFS is, therefore, issuing an identical IHA to cover the incidental take analyzed and authorized in the initial IHA.

DATES: This authorization is effective from July 15, 2023 through July 14, 2024.

ADDRESSES: An electronic copy of the final 2021 IHA previously issued to the ACOE, the ACOE's application, and the **Federal Register** notices proposing and issuing the initial IHA may be obtained by visiting */www.fisheries.noaa.gov/action/incidental-take-authorization-army-corps-engineers-debris-dock-*

replacement-project-sausalito. In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Jessica Taylor, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

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

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

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

Summary of Request

On July 14, 2021, NMFS published final notice of our issuance of an IHA authorizing take of marine mammals incidental to the Debris Dock Replacement project (86 FR 37124). The effective dates of that IHA were September 1, 2021, through August 31, 2022. On December 14, 2021, the ACOE informed NMFS that the project was delayed. None of the work identified in the initial IHA application (*e.g.,* pile driving and removal) had occurred. The ACOE submitted a request that we reissue an identical IHA that would be effective from January 5, 2022 through January 4, 2023, in order to conduct the construction work that was analyzed in support of the previously issued IHA. An identical IHA was reissued on December 27, 2021 (86 FR 73261). However, the project remains delayed and no work has been conducted. On December 6, 2022, the ACOE informed NMFS that, due to a project delay, none of the work identified in the original IHA (*e.g.,* pile driving and removal) has been conducted. The ACOE submitted a request that we reissue another IHA identical to the IHA issued July 14, 2021. The IHA was reissued on March 17, 2023 (88 FR 16412) with effective dates of January 1, 2024 through December 31, 2024. On May 2, 2023, the ACOE requested that the dates of the reissued IHA be updated to be effective from July 15, 2023 through July 14, 2024. As the project activities, anticipated effects, and required mitigation, monitoring, and reporting remain the same, re-issuance of the IHA is appropriate.

Summary of Specified Activity and Anticipated Impacts

The planned activities (including mitigation, monitoring, and reporting), authorized incidental take, and anticipated impacts on the affected stocks are the same as those analyzed and authorized through the previously issued IHA.

The purpose of the ACOE's construction project is to replace the existing decaying dock and other onshore infrastructure used to move marine debris collected from San Francisco Bay onto land for disposal. The location, timing, and nature of the activities, including the types of equipment planned for use, are identical to those described in the initial IHA. The mitigation and monitoring are also as prescribed in the initial IHA.

Species that are expected to be taken by the planned activity include harbor porpoise (*Phocoena phocoena*), harbor seal (*Phoca vitulina*), gray whale (*Eschrichtius robustus*), bottlenose dolphin (*Tursiops truncatus*), California sea lion (*Zalophus californianus*), northern fur seal (*Callorhinus ursinus*), and northern elephant seal (*Mirounga angustirostris*). A description of the methods and inputs used to estimate take anticipated to occur and, ultimately, the take that was authorized is found in the previous documents referenced above. The data inputs and methods of estimating take are identical to those used in the initial IHA. NMFS has reviewed recent Stock Assessment Reports, information on relevant Unusual Mortality Events, and recent scientific literature, and determined that no new information affects our original analysis of impacts or take estimate under the initial IHA.

We refer to the documents related to the previously issued IHA, which include the **Federal Register** notice of the issuance of the initial 2021 IHA for the ACOE's construction work (86 FR 37124), the ACOE's application, the **Federal Register** notice of the proposed IHA (86 FR 28768), and all associated references and documents.

Determinations

The ACOE will conduct activities as analyzed in support of the initial 2021 IHA. As described above, the number of authorized takes of the same species and stocks of marine mammals are identical to the numbers that were found to meet the negligible impact and small numbers standards and authorized under the initial IHA and no new information has emerged that would change those findings. The re-issued 2023 IHA includes identical required mitigation, monitoring, and reporting measures as the initial IHA, and there is no new information suggesting that our analysis or findings should change.

Based on the information contained here and in the referenced documents, NMFS has determined the following: (1) the required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; and (4) the ACOE's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action.

National Environmental Policy Act (NEPA)

This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental take authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do

not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS determined that the issuance of the initial IHA qualified to be categorically excluded from further NEPA review. NMFS has determined that the application of this categorical exclusion remains appropriate for this reissued IHA.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

However, no incidental take of ESA-listed species is authorized or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Authorization

NMFS has issued an IHA to the ACOE for in-water construction activities associated with the specified activity from July 15, 2023 through July 14, 2024. All previously described mitigation, monitoring, and reporting requirements from the initial 2021 IHA are incorporated.

Dated: June 6, 2023.

Catherine Marzin,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2023–12387 Filed 6–9–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[ARV–221004B–PL]

Notice of Intent To Grant an Exclusive Patent License

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Notice of intent.

SUMMARY: Pursuant to the Bayh-Dole Act and implementing regulations, the Department of the Air Force hereby gives notice of its intent to grant an exclusive patent license to Advanced Cooling Technologies, Inc., having a place of business at 1046 New Holland Avenue, Lancaster, PA 17601.

DATES: Written objections must be filed no later than fifteen (15) calendar days after the date of publication of this Notice.

ADDRESSES: Submit written objections to Sara Telano, AFRL/RDOX, 3550 Aberdeen Ave. SE, Kirtland AFB, NM 87117; Phone: (505) 853–3305; or Email: *sara.telano@us.af.mil.* Include Docket No. ARV–221004B–PL in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Sara Telano, AFRL/RDOX, 3550 Aberdeen Ave. SE, Kirtland AFB, NM 87117; Phone: (505) 853–3305; or Email: *sara.telano@us.af.mil.*

Abstract of Patent Application(s)

A thermomodulating heat pipe is provided including a heat pipe envelope having a capillary wick extending substantially continuously the full length of the heat pipe and a void space interior of the capillary wick. The heat pipe envelope has a nominal evaporator section, a nominal condenser section where the nominal condenser section includes an active condenser portion and an inactive condenser portion, and a reservoir section extending from the inactive condenser portion. At a nominal condition, a heat pipe fluid is provided with a liquid phase filling the capillary wick and a vapor phase filling the void space of the nominal evaporator section and the active condenser portion, a non-condensable gas filling the void space of at least the reservoir section and the inactive condenser portion. Depending on thermal conditions, both prograde and retrograde heat transfer are enabled.

Intellectual Property

U.S. Application No. 18/204,114, filed on May 31, 2023, and entitled, ''Thermomodulating Heat Pipe.''

The Department of the Air Force may grant the prospective license unless a timely objection is received that sufficiently shows the grant of the license would be inconsistent with the Bayh-Dole Act or implementing regulations. A competing application for a patent license agreement, completed in compliance with 37 CFR 404.8 and received by the Air Force within the period for timely objections, will be treated as an objection and may be considered as an alternative to the proposed license.

Authority: 35 U.S.C. 209; 37 CFR 404.

Tommy W. Lee,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2023–12424 Filed 6–9–23; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2023–OS–0051]

Proposed Collection, Comment Request

AGENCY: United States Transportation Command (USTRANSCOM), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* USTRANSCOM announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by August 11, 2023.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Component Name: United States Transportation Command, Mailing Address: 1 Scott Drive Bldg. 1900 West, Scott AFB, IL 62225–5006, Name of POC: Mr. Alan Banks, Telephone Number: (618) 817–9537, Alternate POC: Mr. Sean Green, Telephone Number: (618) 817–9538.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Global Air Transportation Execution System; OMB Control Number 0704–0530.

Needs and Uses: GATES is the single DoD port processing and manifesting system providing support for the global air and surface movement of personnel and materiel, to include processing and tracking from port to port. It supports USTRANSCOM air and surface port management, provides functionality for Defense Courier Divisions, SDDC/G3, and AMC/A4T, while providing billing information for Transportation Working Capital Fund (TWCF) accounting.

Affected Public: Individuals or households.

Annual Burden Hours: 17,239.

Number of Respondents: 517,163.

Responses per Respondent: 1.

Annual Responses: 517,163.

Average Burden per Response: 2 minutes.

Frequency: On occasion.

Dated: June 7, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–12514 Filed 6–9–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Expiration of Temporary Changes to TRICARE Regulations During the Coronavirus Disease 2019 (COVID–19) Pandemic

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs (ASD(HA)), Department of Defense (DoD).

ACTION: Notice of expiration of temporary changes.

SUMMARY: The ASD(HA) is publishing this notice to announce that temporary changes to the TRICARE regulations related to the coronavirus disease 2019 (COVID–19) pandemic were terminated on April 10, 2023, for those temporary changes that terminate at the end of the President's national emergency; on May 11, 2023, for changes that terminate at the end of the Health and Human Services (HHS) Public Health Emergency (PHE); and will be terminated on September 30, 2023, for the temporary regulation change creating a diagnosis related group (DRG) add-on for New COVID–19 Treatments Add-on Payments (NCTAPs).

FOR FURTHER INFORMATION CONTACT: Erica Ferron, 303–676–3626, *erica.c.ferron.civ@health.mil.*

SUPPLEMENTARY INFORMATION: The ASD(HA) approved temporary modifications to TRICARE regulations in response to the COVID–19 pandemic and the President's national emergency for the COVID–19 outbreak (Proclamation 9994, 85 **Federal Register** (FR) 15337). Interim final rules (IFRs) implementing temporary changes to the TRICARE regulation were published on May 12, 2020 (85 FR 27921); September 3, 2020 (85 FR 54914); October 30, 2020 (85 FR 68753); and January 12, 2023 (88 FR 1992). All provisions of the IFR published on May 12, 2020, and all but one provision of the IFR published on September 3, 2020, were finalized, with changes, in a final rule published June 1, 2022 (87 FR 33001).

The temporary provisions in the four IFRs, as modified by the final rule where applicable, were set to expire automatically, depending on the particular temporary provision, at: (1) the termination of the President's national emergency; (2) the termination of the associated Secretary of HHS's PHE; (3) the termination of the Centers for Medicare and Medicaid Services' (CMS's) Hospitals Without Walls initiative; or (4) at the end of the fiscal year in which the HHS PHE terminates. On January 30, 2023, the Biden Administration announced plans to terminate both the President's national emergency and the HHS PHE on May 11, 2023.[1] CMS has previously stated that the Hospital Without Walls initiative would terminate when the HHS PHE ended.[2] Public Law 118–3 was subsequently enacted on April 10, 2023, immediately terminating the President's national emergency.[3] Several provisions in the IFRs are permanent changes; these provisions will not expire.

The Department stated in its IFRs that the ASD(HA) would publish a document in the FR announcing the termination dates for the temporary provisions; this FR notice satisfies that requirement. This document also provides notice that the ASD(HA) is not extending any of the provisions overseas beyond their termination in the United States.

A. The following temporary regulatory changes ended at the end of the day on April 10, 2023, in the United States and overseas as stated in this notice. DoD will publish final rules removing these temporary regulatory changes from the Code of Federal Regulations (CFR) after their termination date:

1. Paragraph 199.4(b)(3)(xiv) of Title 32 of the CFR: Temporary waiver of the requirement for a three-day prior hospital stay before admission to a skilled nursing facility ended for all new skilled nursing facility admissions after April 10, 2023.

2. Title 32 CFR 199.4(e)(26)(iii)(B): Temporary coverage of National Institute of Allergy and Infectious Disease (NIAID)-sponsored COVID–19 clinical trials ended on April 10, 2023. Eligible beneficiaries who enrolled in a covered trial on or before April 10, 2023, will continue to have their care covered through the end of the trial.

3. Title 32 CFR 199.4(g)(15)(i)(A): Temporary coverage of the treatment use of investigational drugs under U.S. Food and Drug Administration (FDA)-approved expanded access programs ended for all new episodes of treatment after April 10, 2023.

4. Title 32 CFR 199.6(c)(2)(i): Temporary waiver of certain interstate and international licensing requirements ended for all care received after April 10, 2023.

B. The following temporary regulatory changes ended at the end of the day on May 11, 2023, in the United States and overseas as stated in this notice. DoD will publish final rules removing these temporary regulatory changes from the CFR after their termination date:

1. Title 32 CFR 199.6(b)(4)(i)(I): Temporary waiver of certain acute care facility requirements for facilities registering with Medicare as a hospital under CMS's Hospitals Without Walls initiative ended on May 11, 2023. Care provided after May 11, 2023, will be reimbursed under the methodology appropriate for the facility's current status (ambulatory surgery center, etc.), consistent with Medicare's guidance to facilities qualified as acute care facilities

[1] *https://www.whitehouse.gov/wp-content/uploads/2023/01/SAP-H.R.-382-H.J.-Res.-7.pdf.*

[2] *https://www.cms.gov/files/document/hospitals-and-cahs-ascs-and-cmhcs-cms-flexibilities-fight-covid-19.pdf.*

[3] *https://www.congress.gov/bill/118th-congress/house-joint-resolution/7/text.*

under the Hospital Without Walls initiative.[4]

2. Title 32 CFR 199.14(a)(1)(iii)(E)(*2*): Temporary adjustments to the DRG-based reimbursement amounts for patients diagnosed with COVID–19 ended for all new admissions after May 11, 2023.

3. Title 32 CFR 199.14(a)(9)(i): Temporary reimbursement of all long-term care hospitals (LTCHs) at the LTCH prospective payment system standard Federal rate ended for all new admissions after May 11, 2023.

C. The temporary regulation change creating a DRG add-on for NCTAPs (32 CFR 199.14(a)(1)(iv)(C)) will end for all new admissions after September 30, 2023. The NCTAP is designed to mitigate potential financial disincentives for hospitals to provide new COVID–19 treatments for eligible inpatient cases that use certain new products with current FDA approval or emergency use authorization to treat COVID–19. DoD will publish a final rule removing this temporary regulatory change from the CFR after its termination date.

D. The following provisions permanently adopted in the IFRs, as modified by the final rule, where applicable, remain in effect:

1. Title 32 CFR 199.6(b)(4)(xxi) and paragraph 199.14(c): Addition of freestanding End Stage Renal Disease (ESRD) facilities as authorized institutional providers and adoption of a reimbursement system for freestanding ESRD facilities.

2. Title 32 CFR 199.14(a)(1)(iv)(A): Adoption of Medicare's New Technology Add On Payments; permanent, special payments that are offered because new medical services and new technologies are not yet included in the calculation of standardized DRG rates.

3. Title 32 CFR 199.14(a)(1)(iv)(B): Adoption of Medicare's Hospital Value Based Purchasing Program.

E. The Department is evaluating certain temporary provisions adopted in the IFRs not yet finalized in a final rule (specifically, temporary coverage of the treatment use of investigational drugs approved under FDA expanded access program, NIAID-sponsored clinical trials, and NCTAPs). If the ASD(HA) determines permanent changes to the regulation are required, such changes would be announced in future final rules. The effective date of such coverage would be announced in the final rule. Until such rules publish, these provisions expire as stated in the original IFRs and announced in this notice.

Dated: June 7, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–12479 Filed 6–9–23; 8:45 am]

BILLING CODE 5001–06–P

[4] *https://www.cms.gov/files/document/hospitals-and-cahs-ascs-and-cmhcs-cms-flexibilities-fight-covid-19.pdf.*

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0046]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Federal Work Study (FWS) Wages for Student Aid Index

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a new information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before July 12, 2023.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Federal Work Study (FWS) Wages for Student Aid Index.

OMB Control Number: 1845–NEW.

Type of Review: New ICR.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 3,043.

Total Estimated Number of Annual Burden Hours: 673,465.

Abstract: This new collection will be used to gather information available to participating institutions of higher education (IHE) which is required to fully calculate eligibility for title IV student financial aid for applicants under the Higher Education Act of 1965, as amended (HEA).

The FAFSA Simplification Act (Pub. L. 116–260) introduced a change to the manner in which the Department of Education (ED) may obtain the amount of income an applicant has earned from work under the Federal Work Study (FWS) Program, for the purposes of calculating the applicant's student aid index (SAI) and determine their eligibility for certain title IV aid. Pursuant to section 483(a)(2)(F) of the FAFSA Simplification Act, ED is required to collect an applicant's income earned under the FWS program from the IHE participating in the FWS program and can no longer add additional questions to the FAFSA to obtain this information from the FAFSA applicant.

Dated: June 7, 2023.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2023–12508 Filed 6–9–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Summer Subsistence Allowance Increase for the Foreign Language and Area Studies Fellowship Program for Fiscal Year 2023

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice increasing the summer subsistence allowance amount for Fiscal Year (FY) 2023 for the Foreign Language and Area Studies Fellowships (FLAS) Program, Assistance Listing Number 84.015B. This notice relates to the approved information collection under OMB control number 1840–0807.

DATES: This increase is effective June 12, 2023.

FOR FURTHER INFORMATION CONTACT: Sarah T. Beaton, International Foreign Language Education, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202. Telephone: 202–453–7221. Email: *sarah.beaton@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 FLAS Program allocates academic year and summer fellowships to institutions of higher education (IHEs) and consortia of such institutions to assist meritorious undergraduate and graduate students receiving modern foreign language training in combination with area studies, international studies, or the international aspects of professional studies. FLAS fellowships may also assist graduate students engaged in predissertation level study, preparation for dissertation research, dissertation research abroad, or dissertation writing.

FLAS Fellowship Subsistence Allowances: In FY 2021, the Department published a notice soliciting applications for the FLAS Program (86 FR 71466). That notice established the subsistence allowance for a graduate student academic year fellowship at $20,000; the subsistence allowance for an undergraduate student academic year fellowship at $5,000; and the subsistence allowance for a summer fellowship at $2,500 for graduate and undergraduate students.

In accordance with 34 CFR 657.31(b)(1), the Department is publishing this notice to increase the subsistence allowance amount for a summer session to $3,500 per fellow.

Note: This notice does not solicit applications.

Program Authority: 20 U.S.C. 1122.

Accessible Format: On request to the program 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 (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free on Adobe's website.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Nasser Paydar,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2023–12468 Filed 6–9–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–1955–000]

Earthrise Lincoln Interconnection, LLC; Supplemental Notice That Shared Facilities and Use Agreement Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Earthrise Lincoln Interconnection, LLC's filing of a Shared Facilities and Use Agreement, noting that such filing includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 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://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: June 6, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–12463 Filed 6–9–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG23–177–000.

Applicants: Rayburn Energy Station LLC.

Description: Rayburn Energy Station LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 6/6/23.

Accession Number: 20230606–5132.

Comment Date: 5 p.m. ET 6/27/23.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2732–021; ER10–2733–021; ER10–2734–021; ER10–2736–021; ER10–2737–021; ER10–2741–021; ER10–2749–022; ER10–2752–021; ER12–2492–017; ER12–2493–017; ER12–2494–017; ER12–2495–017; ER12–2496–017; ER16–2455–011; ER16–2456–011; ER16–2457–011; ER16–2459–011; ER18–1404–007; ER19–2096–004.

Applicants: Emera Energy LNG, LLC, NS Power Energy Marketing Inc., Emera Energy Services Subsidiary No. 15 LLC, Emera Energy Services Subsidiary No. 13 LLC, Emera Energy Services Subsidiary No. 12 LLC, Emera Energy Services Subsidiary No. 11 LLC, Emera Energy Services Subsidiary No. 10 LLC, Emera Energy Services Subsidiary No. 9 LLC, Emera Energy Services Subsidiary No. 8 LLC, Emera Energy Services Subsidiary No. 7 LLC, Emera Energy Services Subsidiary No. 6 LLC, Emera Energy Services Subsidiary No. 5 LLC, Emera Energy Services Subsidiary No. 4 LLC, Emera Energy Services Subsidiary No. 3 LLC, Emera Energy Services Subsidiary No. 2 LLC, Emera Energy Services Subsidiary No. 1 LLC, Emera Energy U.S. Subsidiary No. 2, Inc., Emera Energy U.S. Subsidiary No. 1, Inc., Emera Energy Services, Inc.

Description: Triennial Market Power Analysis for Northeast Region of Emera Energy Services, Inc., et al.

Filed Date: 6/2/23.

Accession Number: 20230602–5266.

Comment Date: 5 p.m. ET 8/1/23.

Docket Numbers: ER23–1307–001.

Applicants: New York Independent System Operator, Inc.

Description: Tariff Amendment: NYISO Response to Deficiency Letter re: virtual and external transactions to be effective 9/12/2023.

Filed Date: 6/5/23.

Accession Number: 20230605–5133.

Comment Date: 5 p.m. ET 6/26/23.

Docket Numbers: ER23–2075–000.

Applicants: FirstEnergy Service Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: FirstEnergy Service Company submits tariff filing per 35.13(a)(2)(iii: FirstEnergy submits Operating and Interconnection Agreement, SA No. 2853 to be effective 8/5/2023.

Filed Date: 6/5/23.

Accession Number: 20230605–5140.

Comment Date: 5 p.m. ET 6/26/23.

Docket Numbers: ER23–2076–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 2881R15 City of Chanute, KS NITSA NOA to be effective 6/1/2023.

Filed Date: 6/6/23.

Accession Number: 20230606–5008.

Comment Date: 5 p.m. ET 6/27/23.

Docket Numbers: ER23–2077–000.

Applicants: Louisville Gas and Electric Company.

Description: § 205(d) Rate Filing: Amended Joint Reliability Coordination Agreement LGEKU RS FERC No. 524 to be effective 8/5/2023.

Filed Date: 6/6/23.

Accession Number: 20230606–5043.

Comment Date: 5 p.m. ET 6/27/23.

Docket Numbers: ER23–2078–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Joint Reliability Coordination Agreement TVA LGE/KU to be effective 8/5/2023.

Filed Date: 6/6/23.

Accession Number: 20230606–5051.

Comment Date: 5 p.m. ET 6/27/23.

Docket Numbers: ER23–2079–000.

Applicants: Kentucky Utilities Company.

Description: § 205(d) Rate Filing: KU Concurrence_Amended Joint Reliability Coordination_Agmt LGEKU FERC RS No. 524 to be effective 8/5/2023.

Filed Date: 6/6/23.

Accession Number: 20230606–5055.

Comment Date: 5 p.m. ET 6/27/23.

Docket Numbers: ER23–2080–000.

Applicants: Daylight I, LLC.

Description: § 205(d) Rate Filing: Amended and Restated Facilities Use Agreements to be effective 6/7/2023.

Filed Date: 6/6/23.

Accession Number: 20230606–5073.

Comment Date: 5 p.m. ET 6/27/23.

Docket Numbers: ER23–2081–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Tariff Clean-Up Filing Effective 20230706 to be effective 7/6/2023.

Filed Date: 6/6/23.

Accession Number: 20230606–5098.

Comment Date: 5 p.m. ET 6/27/23.

Docket Numbers: ER23–2082–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2023–06–06_SA 3296 ITC–DIG J1262 J1798 2nd Rev GIA to be effective 5/30/2023.

Filed Date: 6/6/23.

Accession Number: 20230606–5110.

Comment Date: 5 p.m. ET 6/27/23.

Docket Numbers: ER23–2083–000.

Applicants: Edwards Solar Line I, LLC.

Description: Tariff Amendment: Notice of Cancellation to be effective 6/7/2023.

Filed Date: 6/6/23.

Accession Number: 20230606–5117.

Comment Date: 5 p.m. ET 6/27/23.

Docket Numbers: ER23–2084–000.

Applicants: Sanborn Solar Line I, LLC.

Description: § 205(d) Rate Filing: Certificate of Concurrence for Amended and Restated Facilities Use Agreement to be effective 6/7/2023.

Filed Date: 6/6/23.

Accession Number: 20230606–5119.

Comment Date: 5 p.m. ET 6/27/23.

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.

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.*

Dated: June 6, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–12464 Filed 6–9–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas & Oil Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP23–833–000.
Applicants: Northern Border Pipeline Company.
Description: § 4(d) Rate Filing: NBPL—Early Termination Filing to be effective 7/5/2023.
Filed Date: 6/5/23.
Accession Number: 20230605–5110.
Comment Date: 5 p.m. ET 6/20/23.
Docket Numbers: RP23–834–000.
Applicants: Gulf South Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Housekeeping and Clarifications to be effective 7/7/2023.
Filed Date: 6/6/23.
Accession Number: 20230606–5024.
Comment Date: 5 p.m. ET 6/20/23.
Docket Numbers: RP23–835–000.
Applicants: WBI Energy Transmission, Inc.
Description: § 4(d) Rate Filing: 2023 Non-Conforming SA—MDU (FT–009) to be effective 6/8/2023.
Filed Date: 6/6/23.
Accession Number: 20230606–5030.
Comment Date: 5 p.m. ET 6/20/23.

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 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 6, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–12462 Filed 6–9–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket Nos.	File date	Presenter or requester
Prohibited:		
1. CP20–55–000	6–2–2023	FERC Staff.[1]
2. ER23–1435–000	6–5–2023	FERC Staff.[2]
Exempt:		
NONE.		

Dated: June 6, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–12467 Filed 6–9–23; 8:45 am]

BILLING CODE 6717–01–P

[1] Email comments dated 5/20/23 from Christopher Brummer.

[2] Emailed comments from Michael Lebednik and 280 others.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1494–461]

Grand River Dam Authority; Notice of Application Tendered for Filing With the Commission and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 1494–461.

c. *Date Filed:* May 30, 2023.

d. *Applicant:* Grand River Dam Authority (GRDA).

e. *Name of Project:* Pensacola Hydroelectric Project (Pensacola Project).

f. *Location:* The Pensacola Project is located on the Grand (Neosho) River in Craig, Delaware, Mayes, and Ottawa Counties, Oklahoma. The project occupies 8.122 acres of federal Trust Land held by the Bureau of Indian Affairs and 57.69 acres of federal wetland easements.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)-825(r).

h. *Applicant Contact:* Darrell Townsend II, Vice President, Ecosystems and Watershed Management, Grand River Dam Authority, P.O. Box 70, Langley, OK 74350; (918) 981–8472, or email at *darrell.townsend@grda.com*.

i. *FERC Contact:* Adam Peer at (202) 502–8449, or email at *adam.peer@ferc.gov*.

j. This application is not ready for environmental analysis at this time.

k. The Pensacola Project consists of: (1) a reservoir—known as Grand Lake O' the Cherokees (Grand Lake)—with a surface area of 46,056 acres and a storage capacity of 1,440,000 acre-feet at a water surface elevation of 745 feet Pensacola Datum (PD; Pensacola Datum is 1.07 feet lower than National Geodetic Vertical Datum of 1928 [NGVD29] and 1.4 feet higher than North American Vertical Datum of 1988 [NAVD88]); (2) a reinforced-concrete dam consisting of: (a) a west abutment connected to a 28-foot-long, west non-overflow gravity section; (b) a 4,284-foot-long, multiple arch section; (c) an 860-foot-long main spillway containing 21 radial gates; (d) an east abutment connected to a 451-foot-long, east non-overflow gravity section; (e) a 450-foot-long middle spillway section containing 11 radial gates located 0.9 mile east of the east abutment; and (f) a 410-foot-long east spillway section containing 10 radial gates located 700 feet east of the middle spillway section; (3) a 23-foot-wide by 75-foot-high intake structure and trash racks with 3.75-inch bar spacing; (4) six 15-foot-diameter penstocks supplying flow to the main powerhouse; (5) an 87.75-foot-wide by 279-foot-long by 45-foot-tall, multi-story, reinforced concrete main powerhouse containing six generating units of 17,466-kilowatt (kW) capacity each; (6) a 3-foot-diamater penstock that supplies flow to one turbine-generator of 500-kW capacity located in a powerhouse immediately downstream from the dam; (7) an approximate 270-foot-wide, 7,500-foot-long tailrace; (8) single spillway channels located downstream of each of the three spillway sections; (9) six 450 to 650-foot-long, 13.8-kilovolt generator leads connecting the turbine-generator units in the powerhouse to the project switching station; and (10) appurtenant facilities.

Under existing normal operation, when the reservoir surface elevation is below the flood pool elevation of 745 feet PD, the Pensacola Project is operated to target reservoir surface elevations known as the rule curve, which are as follows:

Period	Reservoir elevation (feet PD)
May 1 through May 31	Raise elevation from 742 to 744.
June 1 through July 31	Maintain elevation at 744.
August 1 through August 15	Lower elevation from 744 to 743.
August 16 through September 15	Maintain elevation at 743.
September 16 through September 30	Lower elevation from 743 to 742.
October 1 through April 30	Maintain elevation at 742.

When reservoir elevations are either above or projected to rise above the flood pool elevation of 745 feet PD, the U.S. Army Corps of Engineers (Corps) directs water releases from the project under the terms of Section 7 of the Flood Control Act of 1944. When directed to release water, GRDA first discharges as much water as possible through the project's turbine units. Once the project has reached the project's maximum hydraulic capacity, the Corps may direct GRDA to open one or more spillway gates if the reservoir is still rising, but typically not unless the reservoir elevation exceeds or is projected to exceed 745 feet PD.

GRDA implements a Storm Adaptive Management Plan (SAMP) that is used in anticipation of and during major precipitation events within the Grand/Neosho River basin that may result in high water conditions upstream or downstream of Grand Lake. If available information indicates a high probability of high water occurring, GRDA consults with the Corps to determine whether the flood pool elevation is forecasted to exceed 745 feet PD and determine whether any reservoir management actions can be taken to avoid, reduce, or minimize high water levels upstream or downstream of the project.

GRDA currently implements a Drought Adaptive Management Plan (DAMP) that guides project operations and flow releases in the event of significant drought conditions. GRDA also implements a Dissolved Oxygen Mitigation Plan that involves continuously monitoring dissolved oxygen (DO) downstream of the project dam and initiating turbine releases when DO drops below 6.5 milligrams per liter (mg/L) from October 16 to June 15 and 5.5 mg/L from June 16 to October 15.

During normal operation, GRDA proposes to no longer use a rule curve with seasonal target reservoir elevations. Instead, GRDA proposes to maintain the reservoir elevation between 742 feet and 745 feet PD year-round for the purposes of responding to grid demands, market conditions, and public interest.

GRDA proposes to continue implementing the DO Mitigation Plan, but GRDA proposes to no longer implement the SAMP and DAMP.

l. In addition to publishing the full text of this notice in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this notice, as well as other documents in the proceeding (*e.g.,* license application)

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 (P–1494). For assistance, contact FERC at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). At this time, the Commission has suspended access to the Commission's Public Reference Room. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll free, (886) 208–3676 or TTY (202) 502–8659.

m. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. 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*.

o. *Procedural schedule:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Milestone	Target date
Issue Deficiency Letter (if necessary)	June 2023.
Request Additional Information (if necessary)	July 2023.
Notice of Acceptance/Notice of Ready for Environmental Analysis	November 2023.
Filing of recommendations, preliminary terms and conditions, and preliminary fishway prescriptions	January 2024.

p. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: June 5, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–12391 Filed 6–9–23; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2023–0068; FRL–11029–01–OCSPP]

Agile Decision Sciences; Transfer of Data May 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 Agile Decision Sciences in accordance with the CBI regulations. Agile Decision Sciences has been awarded multiple contracts to perform work for OPP, and access to this information will enable Agile Decision Sciences to fulfill the obligations of the contract.

DATES: Agile Decision Sciences will be given access to this information on or before June 20, 2023.

FOR FURTHER INFORMATION CONTACT: William Northern, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, 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 Agency 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–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 contract number No. 68HERD23R0003, the contractor will perform the following: The contractor will provide support for OPP Docket to support and officially document an agency's rulemaking or other related activities. Those activities typically follow a three-step sequence in which the government first issues a draft of its proposed action, then receives public feedback on its proposal, and finally publishes a finished product. Dockets contain the **Federal Register** documents, supporting documentation and materials, and public comments associated with each of those steps. Agencies are required to use dockets in the development of regulatory actions. Most agencies, including EPA, also use them in other instances where there is a need to officially distribute information and/or solicit public input on their activities. The OPP Docket primary responsibilities are to provide support to rule writers and other docket owners in creating and populating dockets in the Federal Docket Management System (FDMS) and then post them to *Regulations.gov* (a cross-government public portal for docketing). Both FDMS and *Regulations.gov* are operated by the eRulemaking Program Management Office (PMO) within the General Services Administration (GSA). At different stages in this process, EPA/DC staff engage in activities such as customer service, training, sorting, digitizing, metadata indexing, quality assurance (QA), and records management.

This contract will 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 Agile Decision Sciences, 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 Agency; 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, Agile Decision Sciences 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 Agile Decision Sciences until the requirements in this document have been fully satisfied. Records of information provided to Agile Decision Sciences will be maintained by EPA Project Officers for these contracts. All information supplied to Agile Decision Sciences by EPA for use in connection with these contracts will be returned to EPA when Agile Decision Sciences has completed its work.

Authority: 7 U.S.C. 136 *et seq.;* 21 U.S.C. 301 *et seq.*

Dated: June 6, 2023.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Program Support.

[FR Doc. 2023–12496 Filed 6–9–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2023–0070; FRL–10841–04–OCSPP]

Pesticide Product Registration; Receipt of Applications for New Active Ingredients April 2023

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before July 12, 2023.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2023–0070, through the *Federal eRulemaking Portal* at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Charles Smith, Biopesticides and Pollution Prevention Division (BPPD) (7511M), main telephone number: (202) 566–1400, email address: *BPPDFRNotices@epa.gov.* The mailing address for each contact person is Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

II. Registration Applications

EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications. For actions being evaluated under EPA's public participation process for registration actions, there will be an additional opportunity for public comment on the proposed decisions. Please see EPA's public participation website for additional information on this process (*https://www2.epa.gov/pesticide-registration/public-participation-process-registration-actions*).

Notice of Receipt—New Active Ingredients

1. *File Symbol:* 100361–R. *Docket ID number:* EPA–HQ–OPP–2023–0218. *Applicant:* Valto BV, Leehove 81, 2678 MB De Lier Zuid-Holland, 2678–MB, Netherlands (c/o SciReg., Inc., 12733 Director's Loop Woodbridge, VA 22192). *Product name:* V10. *Active ingredients:* Virucide—*Pepino mosaic* virus, strain LP, isolate VX11 *at* 0.0025% and *Pepino mosaic* virus, strain CH2, isolate VC1 *at* 0.0025%. *Proposed use:* For the protection of tomato plants grown in commercial production greenhouses from aggressive strains of *Pepino mosaic* virus. *Contact:* BPPD.

2. *File Symbol:* 101252–E. *Docket ID number:* EPA–HQ–OPP–2023–0241. *Applicant:* Lavie-Bio, Gad Feinstein 13, Rehovot 41732 Israel (c/o Delta Analytical Corporation, 12510 Prosperity Drive, Suite 160, Silver Spring, MD 20904). *Product name:* LAV.311 V. *Active ingredient:* Fungicide—*Pseudomonas coleopterorum* strain 49762 at 20%. *Proposed classification/Use:* Pre-harvest treatment. *Contact:* BPPD.

3. *File Symbol:* 101252–G. *Docket ID number:* EPA–HQ–OPP–2023–0241. *Applicant:* Lavie-Bio, Gad Feinstein 13, Rehovot 41732 Israel (c/o Delta Analytical Corporation, 12510 Prosperity Drive, Suite 160, Silver Spring, MD 20904). *Product name:* LAV.311 VC. *Active ingredient:* Fungicide—*Pseudomonas coleopterorum* strain 49762 at 20%. *Proposed classification/Use:* Pre-harvest treatment. *Contact:* BPPD.

4. *File Symbol:* 101252–R. *Docket ID number:* EPA–HQ–OPP–2023–0241. *Applicant:* Lavie-Bio, Gad Feinstein 13, Rehovot 41732 Israel (c/o Delta Analytical Corporation, 12510 Prosperity Drive, Suite 160, Silver Spring, MD 20904). *Product name:* LAV.311 C. *Active ingredient:* Fungicide—*Pseudomonas coleopterorum* strain 49762 at 20%. *Proposed classification/Use:* Pre-harvest treatment. *Contact:* BPPD.

5. *File Symbol:* 101252–U. *Docket ID number:* EPA–HQ–OPP–2023–0241. *Applicant:* Lavie-Bio, Gad Feinstein 13, Rehovot 41732 Israel (c/o Delta Analytical Corporation, 12510 Prosperity Drive, Suite 160, Silver Spring, MD 20904). *Product name:* LAV.311 WDG. *Active ingredient:* Fungicide—*Pseudomonas coleopterorum* strain 49762 at 28%. *Proposed classification/Use:* Pre-harvest treatment. *Contact:* BPPD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: June 6, 2023.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Program Support.

[FR Doc. 2023–12409 Filed 6–9–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2020–0392; FRL–8323.1–02–OW]

Final Guidance for Vessel Sewage No-Discharge Zone Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of the ''Guidance for Vessel Sewage No-Discharge Zone Applications (Clean Water Act Section 312(f)).'' State officials interested in developing vessel sewage no-discharge zone applications should consult the guidance to understand the information that must be submitted to EPA to meet the regulatory requirements and EPA's process for evaluating applications. The guidance reflects EPA's consideration of public comments received in response to the agency's June 27, 2022 **Federal Register** publication. The contents of this guidance document do not have the force and effect of law and are not meant to bind the public. This document is intended to provide information to State officials regarding existing requirements under the law or agency policies.

FOR FURTHER INFORMATION CONTACT: Kelsey Watts-FitzGerald, Oceans, Wetlands, and Communities Division, Office of Water (4504T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: 202–566–0232; email address: *watts-fitzgerald.kelsey@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Water Act (CWA) section 312 establishes the statutory framework through which EPA and the U.S. Coast Guard regulate the discharge of sewage from vessels with installed toilets operating in U.S. navigable waters. EPA is responsible for establishing national standards of performance for marine sanitation devices (MSDs) to prevent inadequately treated sewage from polluting U.S. waters, while the U.S. Coast Guard is responsible for issuing regulations governing the design, construction, certification, installation, and operation of MSDs, consistent with EPA's standards. MSDs are equipment installed onboard vessels that either treat sewage prior to discharge or store sewage onboard for later disposal. If a State determines that some or all of the State's waters require greater protection, the CWA allows the State to apply to EPA for the establishment of a vessel sewage no-discharge zone. A vessel sewage no-discharge zone is an area where the discharge of both treated and untreated sewage from vessels is prohibited. There are three different types of vessel sewage no-discharge zones that may be designated under CWA section 312(f). For each type, the State must submit an application to EPA pursuant to the regulatory requirements detailed in 40 CFR 140.4.

In 1994, EPA published guidance, ''Protecting Coastal Waters from Vessel and Marina Discharges: A Guide for State and Local Officials, Volume 1. Establishing No-Discharge Areas under § 312 of the Clean Water Act'' (EPA 842–B–94–004, August 1994), to assist States in preparing applications based on the regulatory requirements. The ''Guidance for Vessel Sewage No-Discharge Zone Applications (Clean Water Act Section 312(f))'' supersedes the 1994 guidance.

II. Overview of the Guidance

The guidance provides background information on the environmental impacts of vessel sewage and the regulations in place to protect U.S. waters from this type of discharge. The guidance also explains and clarifies the information that EPA requires in an application and provides examples of the information that the State may choose to include to assist EPA in making an informed decision. The appendices contain sample applications, information on related programs, a walkthrough of the tool that supports EPA's analysis of costs for one of the three designation types, and strategies States may consider to encourage compliance with a no-discharge zone designation.

Key updates made to the guidance since the 1994 version include the addition of new guidance and sample applications for the two CWA section 312(f)(4) designations, as well as updated introductory sections on the impact of sewage discharges and the regulatory framework in place to mitigate these impacts. The guidance also clarifies how to account for mobile pumpout facilities, such as boats and trucks, and provides additional information on how to demonstrate that sewage removed from vessels is being treated in conformance with Federal law. Finally, in the sections pertaining to CWA section 312(f)(3) applications, the guidance distinguishes between recreational and commercial vessels in acknowledgement of differing vessel profiles and pumpout facility needs.

Other updates were made to explain EPA's process for evaluating State applications. The most substantial update to EPA's review process is the inclusion of a new cost analysis for applications submitted under CWA section 312(f)(3). In addition to describing how EPA may conduct cost analyses for CWA section 312(f)(3) applications, the guidance is also accompanied by a spreadsheet-based tool, the ''No-Discharge Zone Cost Analysis Tool,'' to help standardize the agency's approach to evaluating costs.

III. Public Comments Received

On June 27, 2022, EPA published a **Federal Register** notice (87 FR 38151) to solicit public comments on the draft guidance. EPA received 10 comments during the 60-day comment period. Commenters provided recommendations regarding the types of information identified as required

versus optional for State applications and the inputs to the ''No-Discharge Zone Cost Analysis Tool.'' Commenters also provided general feedback on the application process, including the timing and nature of communication between EPA, States, and stakeholders. A complete comment response document is available in EPA's docket.

IV. Conclusion

The ''Guidance for Vessel Sewage No-Discharge Zone Applications (Clean Water Act Section 312(f))'' and accompanying ''No-Discharge Zone Cost Analysis Tool'' are now available for use by State officials in the development of vessel sewage no-discharge zone applications. They are available in the docket and on EPA's website at *https://www.epa.gov/vessels-marinas-and-ports/guidance-vessel-sewage-no-discharge-zone-applications.*

Benita Best-Wong,

Deputy Assistant Administrator, Office of Water.

[FR Doc. 2023–12480 Filed 6–9–23; 8:45 am]

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities: Renewal Without Change of Existing Collection; Comment Request

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Equal Employment Opportunity Commission (EEOC or Commission) announces that it intends to submit to the Office of Management and Budget (OMB) a request for a three-year extension without change of the existing information collection described below. The Commission is seeking comment on the proposed renewal.

DATES: Written comments on this notice must be submitted on or before August 11, 2023.

ADDRESSES: You may submit comments by any of the following methods—please use only one method:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions on the website for submitting comments.

Mail: Comments may be submitted by mail to Raymond Windmiller, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 131 M Street NE, Washington, DC 20507.

Fax: Comments totaling six or fewer pages can be sent by facsimile (''fax'') machine to (202) 663–4114 (this is not a toll-free number). Receipt of fax transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 921–2815 (voice) (this is not a toll-free number) or 800–669–6820 (TTY).

Instructions: All comments received must include the agency name and docket number. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. However, the EEOC reserves the right to refrain from posting libelous or otherwise inappropriate comments, including those that contain obscene, indecent, or profane language; that contain threats or defamatory statements; that contain hate speech directed at race, color, sex, national origin, age, religion, disability, or genetic information; or that promote or endorse services or products.

Copies of comments received are also available for review at the Commission's library. Copies of comments received in response to this notice will be made available for viewing by appointment only at 131 M Street NE, Suite 4NW08R, Washington, DC 20507. Members of the public may schedule an appointment by sending an email to the following address: *OEDA@eeoc.gov.*

FOR FURTHER INFORMATION CONTACT: Kathleen Oram, Assistant Legal Counsel, (202) 921–2665 and *kathleen.oram@eeoc.gov,* or Ashley T. Adams, General Attorney, (202) 921–2697 and *ashley.adams@eeoc.gov,* Office of Legal Counsel, 131 M Street NE, Washington, DC 20507. Requests for this notice in an alternative format should be made to the Office of Communications and Legislative Affairs at (202) 663–4191 (voice) or (202) 663–4494 (TTY).

SUPPLEMENTARY INFORMATION: The Age Discrimination in Employment Act (ADEA) allows for individuals to waive rights and claims protected under the Act, provided certain circumstances are met; particularly that the waiver is knowing and voluntary. In order for an individual's waiver in connection with a program to be considered knowing and voluntary, the employer must inform the individual in writing in a manner calculated to be understood by the average individual eligible to participate, as to (i) any class, unit, or group of individuals covered by such program, any eligibility factors for such program, and any time limits applicable to such program; and (ii) the job titles and ages of all individuals eligible or selected for the program, and the ages of all individuals in the same job classification or organizational unit who are not eligible or selected for the program. The EEOC's regulations clarify that the relevant section of the ADEA addresses two principal issues: to whom information must be provided, and what information must be disclosed to such individuals. The purpose of the informational requirements is to provide an employee with enough information regarding the program to allow an employee to make an informed choice whether or not to sign a waiver agreement. The employer does not provide this information to the EEOC; the ADEA and the EEOC's regulation solely require that the employer provide this information to any employee it would apply to, and not to the Federal government.

The EEOC, in accordance with the PRA and OMB regulation 5 CFR 1320.8(d)(1), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the EEOC to assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public to understand the EEOC's information collection requirements and provide the requested data in the desired format. The EEOC is soliciting comments on the information collection that is described below. The EEOC is especially interested in public comment that will assist the EEOC in the following: (1) Evaluating whether the collection of information is necessary for the proper performance of the Commission's functions, including whether the collection has practical utility; (2) Evaluating the accuracy of the Commission's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) Enhancing the quality, utility, and clarity of the information to be collected; and (4) Minimizing 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. Please note that written comments received in response to this notice will be considered public records.

Overview of This Information Collection

Collection title: Waivers of Rights and Claims Under the ADEA; Informational Requirements.

OMB number: 3046–0042.

Type of Respondent: Business, state or local governments, not for profit institutions.

Description of affected public: Any employer with 20 or more employees that seeks waiver agreements in connection with exit incentive or other employment termination program.

Number of respondents: 1,489.

Burden Hours per Respondent: 16.19.

Total Annual Burden Hours: 24,1067.

Number of forms: 0.

Abstract: The EEOC enforces the Age Discrimination in Employment Act (ADEA), which prohibits discrimination against employees and applicants for employment who are age 40 or older. The OWBPA, enacted in 1990, amended the ADEA to require employers to disclose certain information to employees (but not to EEOC) in writing when they ask employees to waive their rights under the ADEA in connection with an exit incentive program or other employment termination program. The regulation at 29 CFR 1625.22 reiterates those disclosure requirements. The EEOC seeks an extension without change for the third-party disclosure requirements contained in this regulation.

Burden statement: In 2016, the EEOC conducted a limited survey as the foundation for estimating the burden hours per Respondent. The estimated burden hours per Respondent are a combination of the estimated hours to create an ADEA waiver and the estimated hours to distribute an ADEA waiver to employees as part of an exit incentive program or other employment termination program. The goal of the 2016 survey was to identify the actual costs of creating and distributing ADEA waivers and to better understand what type of employees were involved in this process. The EEOC learned that the human resource managers (both senior and junior) and legal counsel and staff (both internal and external counsel) carry most of the paperwork and human capital burden for drafting and distributing the waivers to employees.

In sum, the burden hours for the *creation* of the ADEA waiver are estimated to be 8.25 per Respondent (*i.e.,* employer), while burden hours for the *distribution* of the ADEA waiver are estimated to be 7.94 per Respondent (*i.e.,* employer). Thus, the total burden hours per Respondent (*i.e.,* employer) is 16.19.

The total annual burden hours for this information collection is calculated by multiplying the number of Respondents (*i.e.,* employers) by the total burden hours per Respondent. Thus, the total burden hours for this information collection is 24,107 hours [1,489 Respondents × 16.19 hours per Respondent].

Per Table 1 and 2 below, EEOC found that the approximate cost of *preparing* the ADEA waiver notice is $384.36 per Respondent (*i.e.,* employer), and the approximate cost of *distributing* the ADEA waiver notice is $390.88 per Respondent (*i.e.,* employer). Thus, the total cost per Respondent is $775.24. For all 1,489 Respondents (*i.e.,* employers) who are projected to have reductions in force and request waiver notices, the total *preparation* cost is $572,312.78, and the total *distribution* cost is $582,022.70. Thus, the total cost for all 1,489 Respondents (*i.e.,* employers) is $1,154,334.70 [$572,312.78 + $582,022.70]. Table 1 reflects the calculation of the costs of creating the ADEA waiver and Table 2 reflects the calculation of the costs of distribution of the ADEA waiver.

TABLE 1—COMPUTATIONS RELATED TO PREPARING AND DRAFTING ADEA WAIVER BURDEN ESTIMATE *

	Median wage rate (hour) [1]	Projected hours per employer	Cost per firm	Total cost
Number of Respondents: 1489.				
CLERICAL STAFF	$19.08	0.11	$2.10	$3,125.11
SENIOR HUMAN RESOURCE MANAGERS	60.69	0.26	15.78	23,495.53
INTERNALCORPORATE LEGAL COUNSEL	61.54	2.23	137.23	204,341.72
EXTERNAL CORPORATE LEGAL COUNSEL	61.54	2.00	123.08	183,266.12
CHIEF EXECUTIVE OFFICERS	47.59	0.12	5.71	8,503.38
COMPUTER SPECIALIST (IT PROFESSIONAL)	27.84	0.42	11.69	17,410.58
HUMAN RESOURCE SPECIALIST	29.95	1.61	48.22	71,798.84
PARALEGAL	27.03	1.50	40.55	60,371.51
SUB TOTAL	335.26	8.25	384.36	572,312.78

* Totals may not sum due to rounding.

[1] Wage hour rates are based on 2021 Median Pay, the most recent year available, for the occupation indicated. They were obtained online from the U.S. Dept. of Labor, Bureau of Labor Statistics, Occupational Outlook Handbook, *http://www.bls.gov/ooh/.* Accessed April 4, 2023.

TABLE 2—COMPUTATIONS RELATED TO DISTRIBUTING ADEA WAIVER BURDEN ESTIMATE *

	Median wage rate (hour) [1]	Projected hours per employer	Cost per firm	Total cost
Number of Respondents: 1489.				
HUMAN RESOURCE SPECIALIST	$29.95	0.27	$8.09	$12,040.80
CLERICAL STAFF	19.08	0.50	9.54	14,205.06
SENIOR HUMAN RESOURCE MANAGERS	60.69	0.85	51.59	76,812.30
INTERNALCORPORATE LEGAL COUNSEL	61.54	2.08	128.00	190,596.76
EXT CORPORATE LEGAL COUNSEL	61.54	2.00	123.08	183,266.12
PARALEGAL	27.03	1.50	40.55	60,371.51
PAYROLL SPECIALIST	21.52	0.20	4.30	6,408.66
ADMINISTRATIVE SERVICES MANAGER	47.73	0.27	12.89	19,188.89
DEPARTMENT EXECUTIVE	47.59	0.27	12.85	19,132.61

TABLE 2—COMPUTATIONS RELATED TO DISTRIBUTING ADEA WAIVER BURDEN ESTIMATE *—Continued

	Median wage rate (hour) [1]	Projected hours per employer	Cost per firm	Total cost
SUB TOTAL	376.67	7.94	390.88	582,022.70

* Totals may not sum due to rounding.
[1] Wage hour rates are based on 2021 Median Pay, the most recent year available, for the occupation indicated. They were obtained online from the U.S. Dept. of Labor, Bureau of Labor Statistics, Occupational Outlook Handbook, *http://www.bls.gov/ooh/*. Accessed April 4, 2023.

For the Commission.

Dated: June 5, 2023.

Charlotte A. Burrows,

Chair, U.S. Equal Employment Opportunity Commission.

[FR Doc. 2023–12412 Filed 6–9–23; 8:45 am]

BILLING CODE 6570–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0208; FR ID 146647]

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 11, 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: 3060–0208.

Title: Section 73.1870, Chief Operators.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit; Not-for-profit institutions.

Number of Respondents and Responses: 18,498 respondents; 36,996 responses.

Estimated Time per Response: 0.166–26 hours.

Frequency of Response: Recordkeeping requirement; Third party disclosure requirement; Weekly reporting requirement.

Total Annual Burden: 484,019 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) of the Communications Act of 1934, as amended.

Needs and Uses: The information collection requirements contained in 47 CFR 73.1870 require that the licensee of an AM, FM, or TV broadcast station designate a chief operator of the station. Section 73.1870(b)(3) requires that this designation must be in writing and posted with the station license. Section 73.1870(c)(3) requires that the chief operator, or personnel delegated and supervised by the chief operator, review the station records at least once each week to determine if required entries are being made correctly, and verify that the station has been operated in accordance with FCC rules and the station authorization. Upon completion of the review, the chief operator must date and sign the log, initiate corrective action which may be necessary and advise the station licensee of any condition which is repetitive. The posting of the designation of the chief operator is used by interested parties to readily identify the chief operator. The review of the station records is used by the chief operator, and FCC staff in investigations, to ensure that the station is operating in accordance with its station authorization and the FCC rules and regulations.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–12485 Filed 6–9–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1205; FR ID 146648]

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 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 11, 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 No.: 3060–1205.

Title: Section 74.802, Low Power Auxiliary Stations Co-channel Coordination with TV Broadcast Stations.

Form No.: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals and households; business or other for-profit entities; not-for-profit institutions; Federal Government; and State, local or Tribal government.

Number of Respondents and Responses: 200 respondents and 200 responses.

Estimated Time per Response: 1.0 hour.

Frequency of Response: On occasion reporting requirement and third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 151, 154, 301, 303, 307, 308, 309, 310, 316, 319, 325(b), 332, 336(f), 338, 339, 340, 399b, 403, 534, 535, 1404, 1452, and 1454.

Total Annual Burden: 200 hours.

Total Annual Cost: $25,000.

Needs and Uses: On June 2, 2014, the Commission released a Report and Order, FCC 14–50, GN Docket No. 12–268, ''Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions.'' This order adopted a revision to a Commission rule, 47 CFR 74.802(b), to permit low power auxiliary stations (LPAS), including wireless microphones, to operate in the bands allocated for TV broadcasting at revised distances from a co-channel television's contour, and provided LPAS operators to operate even closer to television stations proved that any such operations are coordinated with TV broadcast stations that could be affected by the LPAS operations.

The Commission seeks Office of Management and Budget (OMB) approval for an extension of the currently approved information collection for the coordination process adopted in the Commission's Report and Order, FCC 14–50 for such co-channel operations, in 47 CFR 74.802d(b)(2).

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–12486 Filed 6–9–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1275; FR ID 146432]

Information Collections 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 can further reduce the information collection burden for small business concerns with fewer than 25 employees.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before July 12, 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 Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@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 Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page *http://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: 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.

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 No.: 3060–1275.

Title: 3.7 GHz Band Relocation Payment Clearinghouse; 3.7 GHz Band Relocation Coordinator; 3.7 GHz Band Space Station Operators.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions; State, local or Tribal government.

Number of Respondents and Responses: 3,007 respondents and 9,362 responses.

Estimated Time per Response: 0.5 hours–600 hours.

Frequency of Response: Recordkeeping requirement; on occasion, weekly, monthly, quarterly, semi-annual, and annual reporting requirements; third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in sections 1, 2, 4(i), 4(j), 5(c), 201, 302, 303, 304, 307(e), 309, and 316 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 155(c), 201, 302, 303, 304, 307(e), 309, and 316.

Total Annual Burden: 77,754 hours.

Annual Cost Burden: $10,705,353.

Needs and Uses: On February 28, 2020, in furtherance of the goal of releasing more mid-band spectrum into the market to support and enabling next-generation wireless networks, the Commission adopted a Report and Order, FCC 20–22, (3.7 GHz Report and Order), in which it reformed the use of the 3.7–4.2 GHz band, also known as the C-band. Currently, the 3.7–4.2 GHz band is allocated in the United States exclusively for non-Federal use on a primary basis for Fixed Satellite Service (FSS) and Fixed Service (FS). Domestically, space station operators use the 3.7–4.2 GHz band to provide downlink signals of various bandwidths to licensed transmit-receive, registered receive-only, and unregistered receive-only earth stations throughout the United States.

The 3.7 GHz Report and Order calls for the relocation of existing FSS operations in the band into the upper 200 megahertz of the band (4.0–4.2 GHz) and relocation of existing FS operations into other bands, making the lower 280 megahertz (3.7–3.98 GHz) available for flexible use throughout the contiguous United States through a Commission-administered public auction of overlay licenses that is scheduled to occur later this year. The Commission adopted a robust transition schedule to achieve a prompt relocation of FSS and FS operations so that a significant amount of spectrum could be made available quickly for next-generation wireless deployments. At the same time, the Commission sought to ensure the effective accommodation of relocated incumbent users. To facilitate an efficient transition, the Commission adopted a process for fully reimbursing existing operators for the costs of this relocation and for offering accelerated relocation payments to encourage a timely transition. Flexible-use licensees will be required to pay any accelerated relocation payments, if elected by eligible space station operators, and reimburse incumbent operators for their actual relocation costs associated with clearing the lower 300 megahertz of the band while ensuring continued operations for their customers. The 3.7 GHZ Report and Order establishes a Relocation Payment Clearinghouse to oversee the cost-related aspects of the transition and establishes a Relocation Coordinator to establish a timeline and take actions necessary to migrate and filter incumbent earth stations to ensure continued, uninterrupted service during and following the transition.

FCC staff will use this data to ensure that 3.7–4.2 GHz band stakeholders adopt practices and standards in their operations to ensure an effective, efficient, and streamlined transition. Status reports and other information required in this collection will be used to ensure that the process of clearing the lower portion of the band is efficient and timely, so that the spectrum can be auctioned for flexible-use service licenses and deployed for next-generation wireless services, including 5G, as quickly as possible. The collection is also necessary for the Commission to satisfy its oversight responsibilities and/or agency specific/Government-wide reporting obligations.

The Commission concluded in the 3.7 GHz Report and Order that a Relocation Payment Clearinghouse and Relocation Coordinator are critical to ensuring that the reconfiguration is administered in a fair, transparent manner and that the transition occurs as expeditiously as possible. To accomplish these goals most effectively, the Commission is seeking approval for a new information collection to collect information from the Relocation Payment Clearinghouse, the Relocation Coordinator, and incumbent space station operators and allow the Relocation Payment Clearinghouse and Relocation Coordinator to collection information to ensure that the band is transitioned effectively.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–12484 Filed 6–9–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2023–N–8]

Proposed Collection; Comment Request

AGENCY: Federal Housing Finance Agency.

ACTION: 60-Day notice of submission of information collection for approval from Office of Management and Budget.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Federal Housing Finance Agency (FHFA) is seeking public comments concerning an information collection known as ''Members of the Banks,'' which has been assigned control number 2590–0003 by the Office of Management and Budget (OMB). FHFA intends to submit the information collection to OMB for review and approval of a three-year extension of the control number, which is due to expire on September 30, 2023.

DATES: Interested persons may submit comments on or before August 11, 2023.

ADDRESSES: Submit comments to FHFA, identified by ''Proposed Collection; Comment Request: 'Members of the Banks, (No. 2023–N–8)' '' by any of the following methods:

- *Agency Website: www.fhfa.gov/open-for-comment-or-input.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the *Federal eRulemaking Portal,* please also send it by *email* to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by the agency.
- *Mail/Hand Delivery:* Federal Housing Finance Agency, Office of General Counsel, 400 Seventh Street SW, Washington, DC 20219, ATTENTION: Proposed Collection; Comment Request: ''Members of the Banks, (No. 2023–N–8).''

We will post all public comments we receive without change, including any

personal information you provide, such as your name and address, email address, and telephone number, on the FHFA website at *http://www.fhfa.gov.*

Copies of all comments received will be available for examination by the public through the electronic comment docket for this PRA Notice also located on the FHFA website.

FOR FURTHER INFORMATION CONTACT: Lindsay Spadoni, Assistant General Counsel, *Lindsay.Spadoni@fhfa.gov,* (202) 649–3634 or Angela Supervielle, Senior Counsel, *Angela.Supervielle@fhfa.gov,* (202) 649–3973 (these are not toll-free numbers). 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:

A. Paperwork Reduction Act

Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that ten or more persons submit information to a third party. Section 3506(c)(2)(A) of title 44 requires Federal agencies to provide a 60-day notice [1] in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection of information to OMB for approval. FHFA's collection of information set forth in this document is titled ''Members of the Banks'' (assigned control number 2590–0003 by OMB). To comply with the PRA requirement, FHFA is publishing notice of a proposed three-year extension of this collection of information and reinstatement of the control number, which is due to expire on September 30, 2023.

B. Background

The Federal Home Loan Bank System consists of eleven regional Federal Home Loan Banks (Banks) and the Office of Finance (a joint office that issues and services the Banks' debt securities). The Banks are wholesale financial institutions, organized under the authority of the Federal Home Loan Bank Act (Bank Act) to serve the public interest by enhancing the availability of residential housing finance and community lending credit through their member institutions and, to a limited extent, through certain eligible nonmembers. Each Bank is structured as a regional cooperative that is owned and controlled by member institutions located within its district, which are also its primary customers. The Banks carry out their public policy functions primarily by providing low-cost loans, known as advances, to their members. With limited exceptions, an institution may obtain advances and access other products and services provided by a Bank only if it is a member of that Bank.

The Bank Act limits membership in any Bank to specific types of financial institutions located within the Bank's district that meet specific eligibility requirements. Section 4 of the Bank Act specifies the types of institutions that may be eligible for membership and establishes eligibility requirements that each type of applicant must meet in order to become a Bank member.[2] That provision also specifies that (with limited exceptions) an eligible institution may become a member only of the Bank of the district in which the institution's ''principal place of business'' is located.[3] With respect to the termination of Bank membership, section 6(d) of the Bank Act sets forth requirements pursuant to which an institution may voluntarily withdraw from membership or a Bank may terminate an institution's membership for cause.[4]

C. Need for and Use of the Information Collection

FHFA's ''Members of the Banks'' regulation, set forth at 12 CFR part 1263, implements those statutory provisions and otherwise establishes substantive and procedural requirements relating to the initiation and termination of Bank membership. Many of the provisions in the membership regulation require that an institution submit information to a Bank or to FHFA, in most cases to demonstrate compliance with statutory or regulatory requirements or to request action by the Bank or FHFA.

There are four types of information collections that may occur under part 1263. First, the regulation provides that (with limited exceptions) no institution may become a member of a Bank unless it has submitted to that Bank an application that documents the applicant's compliance with the statutory and regulatory membership eligibility requirements and that otherwise includes all required information and materials.[5] Second, the regulation provides applicants that have been denied membership by a Bank the option of appealing the decision to FHFA. To file such an appeal, an applicant must submit to FHFA a copy of the Bank's decision resolution denying its membership application and a statement of the basis for the appeal containing sufficient facts, information, and analysis to support the applicant's position.[6] Third, the regulation provides that, in order to initiate a voluntary withdrawal from Bank membership, a member must submit to its Bank a written notice of intent to withdraw.[7] Fourth, under certain circumstances, the regulation permits a member of one Bank to transfer its membership to a second Bank ''automatically'' without either initiating a voluntary withdrawal from the first Bank or submitting a membership application to the second Bank. Despite the regulatory reference to such a transfer as being ''automatic,'' a member meeting the criteria for an automatic transfer must initiate the transfer process by filing a request with its current Bank, which will then arrange the details of the transfer with the second Bank.[8]

The Banks use most of the information collected under part 1263 to determine whether an applicant satisfies the statutory and regulatory requirements for Bank membership and should be approved as a Bank member. The Banks may use some of the information collected under part 1263 as a means of learning that a member wishes to withdraw or to transfer its membership to a different Bank so that the Bank can begin to process those requests. FHFA may also use the collected information to determine whether an institution that has been denied membership by a Bank should be permitted to become a member of that Bank.

The OMB control number for this information collection is 2590–0003, which is due to expire on September 30, 2023. The likely respondents are financial institutions that are, or are applying to become, Bank members.

D. Burden Estimate

FHFA has analyzed the time burden imposed on respondents by the four collections under this control number and estimates that the average annual burden imposed on all respondents by those collections over the next three

[1] Following the close of this notice's 60-day comment period, FHFA will publish a second notice with a 30-day comment period as required by 44 U.S.C. 3507(b) and 5 CFR 1320.10(a).

[2] *See* 12 U.S.C. 1424(a).

[3] *See* 12 U.S.C. 1424(b).

[4] *See* 12 U.S.C. 1426(d).

[5] *See* 12 CFR 1263.2(a), 1263.6–1263.9, 1263.11–1263.18.

[6] *See* 12 CFR 1263.5.

[7] *See* 12 CFR 1263.26.

[8] *See* 12 CFR 1263.4(b), 1263.18(d), (e).

years will be 2,181 hours. This estimate is derived from the following calculations:

1. Membership Applications

FHFA estimates that the average number of applications for Bank membership submitted annually will be 141 and that the average time to prepare and submit an application and supporting materials will be 15 hours. Accordingly, the estimate for the annual hour burden associated with preparation and submission of applications for Bank membership is (141 applications × 15 hours per application) = 2,115 hours.

2. Appeals of Membership Denials

FHFA estimates that the average number of applicants that have been denied membership by a Bank that will appeal such a denial to FHFA will be 1 and that the average time to prepare and submit an application for appeal will be 50 hours. Accordingly, the estimate for the annual hour burden associated with the preparation and submission of membership appeals is (1 appellants × 50 hours per application) = 50 hours.

3. Notices of Intent To Withdraw From Membership

FHFA estimates that the average number of Bank members submitting a notice of intent to withdraw from membership annually will be 4 and that the average time to prepare and submit a notice will be 1.5 hours. Accordingly, the estimate for the annual hour burden associated with preparation and submission of notices of intent to withdraw is (4 withdrawing members × 1.5 hours per application) = 6 hours.

4. Requests for Transfer of Membership to Another Bank District

FHFA estimates that the average number of Bank members submitting a request for transfer to another Bank will be 5 and that the average time to prepare and submit a request will be 2 hours. Accordingly, the estimate for the annual hour burden associated with preparation and submission of requests for automatic transfer is (5 transferring members × 2 hours per request) = 10 hours.

D. Comment Request

FHFA requests written comments on the following: (1) Whether the collection of information is necessary for the proper performance of FHFA functions, including whether the information has practical utility; (2) the accuracy of FHFA's estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Shawn Bucholtz,

Chief Data Officer, Federal Housing Finance Agency.

[FR Doc. 2023–12445 Filed 6–9–23; 8:45 am]

BILLING CODE 8070–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage de novo, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than June 26, 2023.

A. Federal Reserve Bank of Richmond (Brent B. Hassell, Assistant Vice President), P.O. Box 27622, Richmond, Virginia 23261. Comments can also be sent electronically to or *Comments.applications@rich.frb.org:*

1. *Capital Funding Bancorp, Inc., Baltimore, Maryland;* to engage de novo in extending credit and servicing loans, pursuant to section 225.28(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023–12384 Filed 6–9–23; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than June 26, 2023.

A. Federal Reserve Bank of Boston (Prabal Chakrabarti, Senior Vice President), 600 Atlantic Avenue, Boston, Massachusetts 02210–2204. Comments can also be sent electronically to *BOS.SRC.Applications.Comments@bos.frb.org:*

1. *Stilwell Activist Investments, L.P., Stilwell Activist Fund, L.P., and Stilwell Partners L.P., together known as The Stilwell Group, Stilwell Value LLC, as general partner of each of the limited partnerships, all of New York, New York; and Joseph D. Stilwell, San Juan, Puerto Rico, as managing member of*

Stillwell Value LLC; a group acting in concert, to acquire additional voting shares of Provident Bancorp, Inc., and thereby indirectly acquire voting shares of BankProv, both of Amesbury, Massachusetts.

B. Federal Reserve Bank of St. Louis (Holly A. Rieser, Senior Manager), P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *Austin F. Clark, Imperial, Missouri; Dillon C. Clark, Greta J. Fleming, Ellen C. Fleming, and Olivia G. Fleming, all of Litchfield, Illinois;* to join the Fleming Family Control Group, a group acting in concert, to retain voting shares of Litchfield Bancshares Company and thereby indirectly retain voting shares of The Litchfield National Bank, both of Litchfield, Illinois.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023–12385 Filed 6–9–23; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

[Docket No. OP–1808]

Announcement of Financial Sector Liabilities

The Board's Regulation XX prohibits a merger or acquisition that would result in a financial company that controls more than 10 percent of the aggregate consolidated liabilities of all financial companies (''aggregate financial sector liabilities'').[1] Specifically, an insured depository institution, a bank holding company, a savings and loan holding company, a foreign banking organization, any other company that controls an insured depository institution, and a nonbank financial company designated by the Financial Stability Oversight Council (each, a ''financial company'') is prohibited from merging or consolidating with, acquiring all or substantially all of the assets of, or acquiring control of, another company if the resulting company's consolidated liabilities would exceed 10 percent of the aggregate financial sector liabilities.[2]

Under Regulation XX, the Federal Reserve will publish the aggregate financial sector liabilities by July 1 of each year. Aggregate financial sector liabilities are equal to the average of the year-end financial sector liabilities figure (as of December 31) of each of the preceding two calendar years.

FOR FURTHER INFORMATION CONTACT: Lesley Chao, Lead Financial Institution Policy Analyst, (202) 974–7063; Shooka Saket, Financial Institution Policy Analyst, (202) 452–3869; Matthew Suntag, Senior Counsel, (202) 452–3694; Laura Bain, Senior Counsel, (202) 736–5546; for users of telephone systems via text telephone (TTY) or any TTY-based Telecommunications Relay Services (TRS), please call 711 from any telephone, anywhere in the United States; Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

Aggregate Financial Sector Liabilities

''Aggregate financial sector liabilities'' is equal to $23,694,977,610,000.[3] This measure is in effect from July 1, 2023 through June 30, 2024.

Calculation Methodology

The aggregate financial sector liabilities measure equals the average of the year-end financial sector liabilities figure (as of December 31) of each of the preceding two calendar years. The year-end financial sector liabilities figure equals the sum of the total consolidated liabilities of all top-tier U.S. financial companies and the U.S. liabilities of all top-tier foreign financial companies, calculated using the applicable methodology for each financial company, as set forth in Regulation XX and summarized below.

Consolidated liabilities of a U.S. financial company that was subject to consolidated risk-based capital rules as of December 31 of the year being measured, equal the difference between the U.S. financial company's risk-weighted assets (as adjusted upward to reflect amounts that are deducted from regulatory capital elements pursuant to the Federal banking agencies' risk-based capital rules) and total regulatory capital, as calculated under the applicable risk-based capital rules. Companies in this category include (with certain exceptions listed below) bank holding companies, savings and loan holding companies, and insured depository institutions. The Federal Reserve used information collected on the Consolidated Financial Statements for Holding Companies (''FR Y–9C'') and the Bank Consolidated Reports of Condition and Income (''Call Report'') to calculate liabilities of these institutions.

Consolidated liabilities of a U.S. financial company not subject to consolidated risk-based capital rules as of December 31 of the year being measured, equal liabilities calculated in accordance with applicable accounting standards. Companies in this category include nonbank financial companies supervised by the Board, bank holding companies and savings and loan holding companies subject to the Federal Reserve's Small Bank Holding Company Policy Statement, savings and loan holding companies substantially engaged in insurance underwriting or commercial activities, and U.S. companies that control insured depository institutions but are not bank holding companies or savings and loan holding companies. ''Applicable accounting standards'' is defined as Generally Accepted Accounting Principles (''GAAP''), or such other accounting standard or method of estimation that the Board determines is appropriate.[4] The Federal Reserve used information collected on the FR Y–9C, the Parent Company Only Financial Statements for Small Holding Companies (''FR Y–9SP''), and the Financial Company Report of Consolidated Liabilities (''FR XX–1'') to calculate liabilities of these institutions.

Under Regulation XX, liabilities of a foreign banking organization's U.S. operations are calculated using the risk-weighted asset methodology for subsidiaries subject to the risk-based capital rule, plus the assets of all branches, agencies, and nonbank subsidiaries, calculated in accordance with applicable accounting standards.

[1] Regulation XX implements section 622 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. *See* 12 U.S.C. 1852.

[2] 12 U.S.C. 1852(a)(2), (b); 12 CFR 251.3.

[3] This number reflects the average of the financial sector liabilities figure for the years ending December 31, 2021 ($23,469,486,089,000) and December 31, 2022 ($23,920,469,131,000).

[4] A financial company may request to use an accounting standard or method of estimation other than GAAP if it does not calculate its total consolidated assets or liabilities under GAAP for any regulatory purpose (including compliance with applicable securities laws). 12 CFR 251.3(e). In previous years, the Board received and approved requests from eleven financial companies to use an accounting standard or method of estimation other than GAAP to calculate liabilities. Ten of the companies were insurance companies that reported financial information under Statutory Accounting Principles (''SAP''), and one was a foreign company that controlled a U.S. industrial loan company that reported financial information under International Financial Reporting Standards (''IFRS''). For the insurance companies, the Board approved a method of estimation that was based on line items from SAP-based reports, with adjustments to reflect certain differences in accounting treatment between GAAP and SAP. For the foreign company, the Board approved the use of IFRS. Such companies that continue to be subject to Regulation XX continue to use the previously approved methods. The Board did not receive any new requests this year.

Liabilities attributable to the U.S. operations of a foreign financial company that is not a foreign banking organization are calculated in a similar manner to the method described for foreign banking organizations, and liabilities of a U.S. subsidiary not subject to the risk-based capital rule are calculated based on the U.S. subsidiary's liabilities under applicable accounting standards. The Federal Reserve used information collected on the Capital and Asset Report for Foreign Banking Organizations (''FR Y–7Q''), the FR Y–9C, and the FR XX–1 to calculate liabilities of these institutions.

By order of the Board of Governors of the Federal Reserve System, acting through the Director of Supervision and Regulation under delegated authority.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2023–12389 Filed 6–9–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Opportunity To Collaborate in the Evaluation of Serologic and Nucleic Acid Tests for Detecting HIV and Nucleic Acid Tests for Quantifying HIV

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: General notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), within the Department of Health and Human Services (HHS), announces an opportunity for industry and the public to collaborate on a project to evaluate nucleic acid and serologic tests. CDC is interested in evaluating serologic and nucleic acid tests that can be used to aid in the diagnosis of HIV–1 infection, including serologic tests that can secondarily differentiate recent infection, and nucleic acid tests for the quantitation or semi-quantitation of HIV RNA. Tests of interest include those that use whole blood, serum, plasma, or dried blood spots. Performance will be evaluated relative to Food and Drug Administration (FDA)-approved qualitative and quantitative nucleic acid tests as well as serologic immunoassays. More than one collaborator may be selected.

DATES: Letters of interest must be received on or before Friday, September 15, 2023. Formal proposals must be received on or before Friday, November 10, 2023.

ADDRESSES: Send Letters of Interest and Formal Proposals to Division of HIV Prevention, National Center for HIV, Viral Hepatitis, STD, and TB Prevention, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop H18–2, Atlanta, Georgia 30329. Attn: HIV Serologic and Nucleic Acid Tests Evaluation Project.

FOR FURTHER INFORMATION CONTACT: Jeffrey Johnson, National Center for HIV, Viral Hepatitis, STD, and TB Prevention, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop 18–2, Atlanta, GA 30329; Telephone 404–639–4976; Email: *jlj6@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Background

Priority for technical evaluations are rapid tests or mail-in sample collection methods that can be self-administered outside of clinic settings. Secondarily, tests or collection methods that have the potential for both HIV–1 diagnostic and prognostic use for monitoring responses to therapy are preferred.

The objective of the collaboration is timely collection of data to evaluate the performance characteristics of simplified nucleic acid and serologic tests or protocols when used in their intended applications. Only tests that are under or near production (*i.e.,* not first-generation prototypes) will be eligible for the collaboration. Companies that are interested in collaborating must be planning to market a test protocol for distribution in the United States and to seek FDA approval for diagnostic or prognostic use.

Currently, nucleic acid testing conducted as part of CDC's laboratory algorithm has a delay in returning results because testing is often conducted in referral laboratories. Likewise, pooled nucleic acid testing causes delays due to the time required to create and break down pools in the event of a positive pool. Moreover, there are significant financial stability, geographic isolation, and stigma barriers to accessing testing in clinical settings that prevent sustained continuum of care for many populations, including the most vulnerable. Methods to support rapid identification of HIV–1 infection or viral suppression using a simplified nucleic acid or serologic test, or use of self-collection methods, may have a significant impact on individuals by allowing them to obtain care and services more quickly.

Tests should be simple to use on unprocessed specimens (*e.g.,* whole blood) or include specimen processing in the design of the test. For nucleic acid tests, preference may also be given to tests that are capable of both qualitative and quantitative applications. Key benchmarks are the ability to demonstrate improved sensitivity of diagnostic tests over current FDA-approved laboratory-based tests and nucleic acid monitoring test protocols that are suitable for lower complexity settings.

CDC and Collaborator Roles and Responsibilities

CDC's role may include, but will not be limited to, the following:

(1) Providing scientific and technical expertise needed for the research project;

(2) Providing assistance with project management and data analysis;

(3) Providing testing support as determined by CDC as needed; and

(4) Publishing research results.

CDC anticipates that the role of the successful collaborator(s) will include the following:

(1) Providing tests and finalized protocols that can be used in the evaluation; and

(2) Providing the CDC Division of HIV Prevention access to necessary data about the diagnostic tests in support of the evaluation activities.

Selection Criteria

Proposals submitted for consideration should address, as fully as possible and to the extent relevant to the proposal, each of the following:

(1) Data available on the performance of the test in persons with acute and established HIV–1 infection.

(2) Information on the technology used for the test and its basic operating principals for detecting HIV RNA, DNA, antibody, or antigen.

(3) Information on:

a. the time required to perform the test or sample collection method;

b. whether the test is performed on whole blood, serum, plasma, or dried blood spots; and

c. the steps involved in performing the test on each specimen type or sample collection method;

(4) Information on the storage requirements and stability of the test.

(5) Plans, capability, and clinical trial designs of the company to seek HHS/FDA approval and whether the company intends to seek a diagnostic claim, a prognostic claim (for patient monitoring), or both.

(6) Plans the company has for seeking CLIA waiver status, for appropriate tests, if FDA approved.

Letters of Interest

The letter of interest is not considered a formal proposal and is not required; however, it is highly recommended as it will assist CDC in planning for the review process. The formal proposal will still need to be submitted according to the instructions in this notice.

Formal Proposals

Confidential proposals, preferably six pages or less (excluding appendices), are solicited from companies which have a product that is suitable for regulatory approval and commercialization. This collaboration will have an expected duration of 1 to 4 years.

Dated: June 7, 2023.

Tiffany Brown,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2023–12435 Filed 6–9–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–4040 and CMS–R–297]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by July 12, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing*.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Request for Enrollment in Supplementary Medical Insurance (SMI); *Use:* CMS regulations 42 CFR 407.11 lists the CMS–4040 as the application to be used by individuals who are not eligible for monthly Social Security/Railroad Retirement Board benefits or free Part A. The CMS–4040 solicits the information that is used to determine entitlement for individuals who meet the requirements in section 1836 as well as the entitlement of the applicant or their spouses to an annuity paid by OPM for premium deduction purposes. The application follows the application questions and requirements used by SSA. This is done not only for consistency purposes but to comply with other Title II and Title XVIII requirements because eligibility to Title II benefits and free Part A under Title XVIII must be ruled out in order to qualify for enrollment in Part B only. *Form Number:* CMS–4040 (OMB control number: 0938–0245); *Frequency:* Once; *Affected Public:* Individuals or households; *Number of Respondents:* 42,011; *Total Annual Responses:* 42,011; *Total Annual Hours:* 10,503. (For policy questions regarding this collection contact Carla Patterson at 410–786–8911.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Request for Employment Information; *Use:* The form CMS–L564, also referred to as CMS–R–297, is used, in conjunction with form CMS–40–B, Application for Supplementary Medical Insurance, during an individual's special enrollment period (SEP). Completed by an employer, the CMS–L564 provides proof of an applicant's employer group health coverage. The Social Security Administration (SSA) uses it to obtain information from employers regarding whether a Medicare beneficiary's coverage under a group health plan is based on current employment status. The form is available online via *Medicare.gov* and *CMS.gov* for individuals who are requesting the SEP to obtain and submit to their employer for completion. The employer must complete and sign the form, and submit it to the individual to accompany their enrollment or late enrollment penalty reduction request. The information on the completed form is reviewed manually by SSA. *Form Number:* CMS–R–297 (OMB control number: 0938–0787); *Frequency:* Once; *Affected Public:* Individuals or households, Business or other for-profits, Not-for-profit institutions; *Number of Respondents:* 676,526; *Total Annual Responses:* 676,526; *Total Annual Hours:* 56,355. (For policy questions regarding this collection contact Carla Patterson at 410–786–8911.)

Dated: June 6, 2023.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2023–12396 Filed 6–9–23; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–0134]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Administrative Practices and Procedures

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by July 12, 2023.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0191. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

FDA Administrative Practices and Procedures

OMB Control No. 0910–0191—Revision

This information collection helps support implementation of FDA regulations found in part 10 (21 CFR part 10), parts 12 through 16 (21 CFR parts 12 through 16), and part 19 (21 CFR part 19). These regulations are established in accordance with the Administrative Procedures Act (5 U.S.C. subchapter II) and implement administrative practice and procedures to give instructions to those conducting business with FDA. Regulations in part 10 describe general administrative practices and include content and format instruction on submitting information to the Agency, petitions for Agency action, and other topics such as the public calendar. Regulations in parts 12 through 16 cover formal evidentiary, public, and regulatory hearings. The information collection also includes burden associated with waiver requests under § 10.19 (21 CFR 10.19). Unless a waiver, suspension, or modification submitted under § 10.19 is granted by the Commissioner of Food and Drugs, the regulations in part 10 apply to all petitions, hearings, and other administrative proceedings and activities conducted by FDA. Because information associated with regulations in parts 12 through 16 is obtained during the conduct of an official administrative action as described under 5 CFR 1320.4, we account only for burden we attribute to initiating the respective actions.

The information collection also includes burden associated with general meeting requests and correspondence submitted to FDA under § 10.65 (21 CFR 10.65), as well as general submissions associated with § 10.115 (21 CFR 10.115) which provides for public participation in the development of Agency guidance documents through requests to our Dockets Management Staff. Most burden attributable to recommendations found in FDA guidance documents is accounted for within information collection request approvals respective to the topic-specific guidance document; however here we are accounting for burden associated with general public submissions as described in § 10.115(f)(3).

The information collection also includes burden that may be associated with the procedural guidance document, ''Citizen Petitions and Petitions for Stay of Action Subject to Section 505(q) of the Federal Food, Drug, and Cosmetic Act'' (September 2019), available for download from our website at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/citizen-petitions-and-petitions-stay-action-subject-section-505q-federal-food-drug-and-cosmetic-act.* The guidance document provides information regarding our current thinking on interpreting section 505(q) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(q)) and includes procedural instruction on submitting certain citizen petitions and petitions for stay of FDA action. The guidance document also describes how FDA interprets the provisions of section 505(q) requiring that (1) a petition include a certification and (2) supplemental information or comments on a petition include a verification. It also addresses the relationship between the review of petitions and pending abbreviated new drug applications (ANDAs), 505(b)(2) applications, and 351(k) applications for which a decision on approvability has not yet been made.

In the **Federal Register** of February 7, 2023 (88 FR 7981), we published a 60-day notice requesting public comment on the proposed collection of information. No comments were received. On our own initiative, however we are revising the information collection to include requests for FDA speakers. As communicated on our website at *https://www.fda.gov/training-and-continuing-education/contacts-requesting-fda-speaker,* FDA receives thousands of requests each year from trade associations and industry-based groups for speakers to participate in external meetings, conferences, and workshops. To facilitate the processing of these requests and direct them appropriately to determine participation, we have developed web-based templates and questionnaires, and have established dedicated points of contact throughout the Agency. We have therefore revised the estimated burden for the information collection as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
10.19—request for waiver, suspension, or modification of requirements.	7	1	7	1	7
10.30 and 10.31—citizen petitions and petitions related to ANDAs certain NDAs,[2] or certain BLAs[3].	200	1	200	24	4,800
10.33—administrative reconsideration of action	9	1	9	10	90
10.35—administrative stay of action	12	1	12	10	120
10.65—meetings and correspondence	37	1	37	5	185
10.85—requests for Advisory opinions	1	1	1	16	16
10.115(f)(3)—submitting draft guidance proposals	26	1	26	4	104
12.22—Filing objections and requests for a hearing on a regulation or order.	18	1	18	20	360
12.45—Notice of participation	5	1	5	3	15
External requests for FDA speakers	3,900	1	3,900	0.17 (10 minutes)	663
Total			4,215		6,360

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] New drug applications.
[3] Biologics license applications.

Based on submissions to FDA's Division of Dockets Management since our last evaluation of the information collection, we have made adjustments to burden estimates associated with the individual activities that correspond to the applicable provisions.

We have also added 3,900 responses and 663 hours, annually, to reflect burden we believe is associated with requests to FDA for speaker participation at an external Agency event, assuming an average burden of 10 minutes for each request. As a result of these adjustments, the information collection reflects an annual increase in responses of 3,119 and an annual decrease in hours of 3,360.

Dated: June 7, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–12523 Filed 6–9–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0598]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Current Good Manufacturing Practice Regulations for Type A Medicated Articles

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by July 12, 2023.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0154. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Rachel Showalter, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 240–994–7399, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Current Good Manufacturing Practice Regulations for Type A Medicated Articles—21 CFR Part 226

OMB Control Number 0910–0154—Extension

This information collection supports the implementation of FDA statutory and regulatory requirements that govern current good manufacturing practice (cGMP) for Type A medicated articles. A Type A medicated article is an animal feed product containing a concentrated drug diluted with a feed carrier substance. A Type A medicated article is intended solely for use in the manufacture of another Type A medicated article or a Type B or Type C medicated feed. Medicated feeds are administered to animals for the prevention, cure, mitigation, or treatment of disease or for growth promotion and feed efficiency. Section 501 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 351), governs current cGMP for drugs, including Type A medicated articles, and these statutory requirements are codified in part 226 (21 CFR part 226).

Manufacturers are required to establish, maintain, and retain records for Type A medicated articles including records to document procedures required under the manufacturing process to assure that proper quality control is maintained under part 226. Type A medicated articles, which are not manufactured in accordance with these regulations, are considered adulterated under section 501(a)(2)(B) of the FD&C Act (21 U.S.C. 351(a)(2)(B)).

Description of Respondents: The respondents to this information collection are manufacturers of Type A medicated articles.

In the **Federal Register** of January 31, 2023 (88 FR 6281), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR part; activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response [2]	Total hours
226.42, 226.58, 226.80, 226.102, 226.110, and 226.115; Recordkeeping and maintenance of records for components used in the manufacture of the medicated premixes, laboratory controls, packaging and labeling, master formula and batch-production, distribution records and complaint files.	65	1,370	89,050	~1 hour	89,050

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Decimals rounded.

The burden we attribute to recordkeeping activities associated with the provisions in 21 CFR part 226 are assumed to be distributed among the individual elements and averaged among respondents. Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Dated: June 7, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–12512 Filed 6–9–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–N–3011]

Luis Anarbol Moran: Final Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is issuing an order under the Federal Food, Drug, and Cosmetic Act (FD&C Act) debarring Luis Anarbol Moran for a period of 5 years from importing or offering for import any drug into the United States. FDA bases this order on a finding that Mr. Moran was convicted of one felony count under Federal law for smuggling goods into the United States. The factual basis supporting Mr. Moran's conviction, as described below, is conduct relating to the importation into the United States of a drug or controlled substance. Mr. Moran was given notice of the proposed debarment and was given an opportunity to request a hearing to show why he should not be debarred. As of March 30, 2023 (30 days after receipt of the notice), Mr. Moran had not responded. Mr. Moran's failure to respond and request a hearing constitutes a waiver of his right to a hearing concerning this matter.

DATES: This order is applicable June 12, 2023.

ADDRESSES: Any application by Mr. Moran for termination of debarment under section 306(d)(1) of the FD&C Act (21 U.S.C. 335a(d)(1)) may be submitted as follows:

Electronic Submissions

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. An application submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your application will be made public, you are solely responsible for ensuring that your application 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 application, that information will be posted on *https://www.regulations.gov.*
- If you want to submit an application with confidential information that you do not wish to be made available to the public, submit the application as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

- *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 a written/paper application submitted to the Dockets Management Staff, FDA will post your application, as well as any attachments, except for information submitted, marked, and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All applications must include the Docket No. FDA–2022–N–3011. Received applications 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 an application with confidential information that you do not wish to be made publicly available, submit your application 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 your application. 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 application 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, 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 between 9 a.m.

and 4 p.m., Monday through Friday. Publicly available submissions may be seen in the docket.

FOR FURTHER INFORMATION CONTACT: Jaime Espinosa, Division of Compliance and Enforcement, Office of Policy, Compliance, and Enforcement, Office of Regulatory Affairs, Food and Drug Administration, 240–402–8743, or *debarments@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(b)(1)(D) of the FD&C Act (21 U.S.C. 335a(b)(1)(D)) permits debarment of an individual from importing or offering for import any drug into the United States if FDA finds, as required by section 306(b)(3)(C) of the FD&C Act, that the individual has been convicted of a felony for conduct relating to the importation into the United States of any drug or controlled substance.

On July 22, 2022, Mr. Moran was convicted, as defined in section 306(l)(1) of FD&C Act, in the U.S. District Court for the Southern District of Florida-West Palm Beach Division, when the court accepted his plea of guilty and entered judgment against him for the offense of smuggling goods into the United States, in violation of 18 U.S.C. 545. FDA's finding that debarment is appropriate is based on the felony conviction referenced herein.

The factual basis for this conviction is as follows: as contained in the indictment, filed on October 6, 2021, and the plea agreement, filed on April 14, 2022, in Mr. Moran's case, Jhanna Novikov agreed to treat the facial wrinkles of an individual who was an undercover investigator with the Florida Department of Health with ''fillers'' for $600 and ''Botox'' for $300. BOTOX, or botulinum neurotoxin Type A, is the most well-known neurotoxin approved by FDA to treat facial wrinkles. On August 10, 2018, the investigator returned to Ms. Novikov's residence for her ''Botox'' treatment, and as Ms. Novikov made preparations and drew a liquid into a syringe, agents from FDA's Office of Criminal Investigations (OCI) entered and took control of her residence. After obtaining a warrant, OCI agents searched Ms. Novikov's home. Agents seized various vials of white powder from Ms. Novikov's residence, including two labeled ''NEUROXIN Botulinum Toxin Type A,'' 14 labeled ''CASPIS,'' and 1 with no label. Analysis by the FDA Forensic Chemistry Center determined that the two NEUROXIN vials, a sample of four of the CASPIS vials, and the unlabeled vial all contained botulinum toxin, the active ingredient in BOTOX; however, a search of FDA records revealed that these drugs had not been approved by FDA and were unapproved new drugs as well as misbranded drugs. Agents did not find any BOTOX or other FDA-approved drugs containing botulinum toxin in Ms. Novikov's home.

During the search of Ms. Novikov's residence, agents seized her cell phone and subsequently conducted a computer forensic examination of the phone. The examination revealed that, from August 10, 2016 through June 26, 2018, Mr. Moran exchanged messages with Ms. Novikov about the products he sold her, referring to them as ''botox,'' ''bx,'' and ''tox.'' In some cases, Mr. Moran's messages discussed sending packages to Ms. Novikov from outside the United States. For example, in response to Ms. Novikov's October 3, 2016, inquiry about a package, Mr. Moran replied that ''[i]t was in customs.'' In another instance on April 18, 2017, Ms. Novikov wrote to Mr. Moran that a package had been ''opened at customs'' but ''all fine[.]'' In response, Mr. Moran stated he had ''put it as anti dandruff.'' In another exchange, on June 22, 2018, Ms. Novikov messaged Mr. Moran, ''I need bx'' and agreed to pay $1,200, plus $100 shipping. Ms. Novikov sent Mr. Moran a photograph of a deposit slip on June 25, 2018, indicating that $1,300 had been deposited into a bank account. That same day, Mr. Moran sent Ms. Novikov a photograph of a shipping confirmation for a package he shipped to her from Mexico. On June 26, 2018, Ms. Novikov sent Mr. Moran a message asking, ''Why Caspis? They like Neuroxin better.'' Mr. Moran replied, ''is for customs . . . issues'' and offered to send Ms. Novikov ''Neuroxin labels'' and ''boxes and stickers[,]'' but she declined.

As a result of this conviction, FDA sent Mr. Moran, by certified mail, on February 9, 2023, a notice proposing to debar him for a 5-year period from importing or offering for import any drug into the United States. The proposal was based on a finding under section 306(b)(3)(C) of the FD&C Act that Mr. Moran's felony conviction under Federal law for smuggling goods into the United States, in violation of 18 U.S.C. 545, was for conduct relating to the importation into the United States of any drug or controlled substance because he illegally imported unapproved new drugs containing botulinum toxin for use in treatments conducted by others for money. In proposing a debarment period, FDA weighed the considerations set forth in section 306(c)(3) of the FD&C Act that it considered applicable to Mr. Moran's offense and concluded that the offense warranted the imposition of a 5-year period of debarment.

The proposal informed Mr. Moran of the proposed debarment and offered him an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised him that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Mr. Moran received the proposal and notice of opportunity for a hearing at his residence on February 28, 2023. Mr. Moran failed to request a hearing within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and waived any contentions concerning his debarment. (21 CFR part 12).

II. Findings and Order

Therefore, the Assistant Commissioner, Office of Human and Animal Food Operations, under section 306(b)(3)(C) of the FD&C Act, under authority delegated to the Assistant Commissioner, finds that Mr. Luis Anarbol Moran has been convicted of a felony under Federal law for conduct relating to the importation into the United States of any drug or controlled substance. FDA finds that the offense should be accorded a debarment period of 5 years as provided by section 306(c)(2)(A)(iii) of the FD&C Act.

As a result of the foregoing finding, Mr. Moran is debarred for a period of 5 years from importing or offering for import any drug into the United States, effective (see **DATES**). Pursuant to section 301(cc) of the FD&C Act (21 U.S.C. 331(cc)), the importing or offering for import into the United States of any drug by, with the assistance of, or at the direction of Mr. Moran is a prohibited act.

Dated: June 7, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–12487 Filed 6–9–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–2030]

Agency Information Collection Activities; Proposed Collection; Comment Request; Allegations of Regulatory Misconduct Voluntarily Submitted to the Center for Devices and Radiological Health

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection associated with allegations of regulatory misconduct voluntarily submitted to FDA's Center for Devices and Radiological Health (CDRH).

DATES: Either electronic or written comments on the collection of information must be submitted by August 11, 2023.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of August 11, 2023. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2023–N–2030 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Allegations of Regulatory Misconduct Voluntarily Submitted to the Center for Devices and Radiological Health.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and

assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Allegations of Regulatory Misconduct Voluntarily Submitted to the Center for Devices and Radiological Health

OMB Control Number 0910–0769—Extension

This information collection supports the voluntary submission of allegations of regulatory misconduct to CDRH. An allegation of regulatory misconduct is a claim that a medical device manufacturer or individuals marketing medical devices or electronic products regulated by CDRH may be doing so in a manner that violates the law. Reporting these allegations can help make FDA aware of regulatory concerns it may not learn of otherwise. This information can help FDA identify the potential risks to patients and determine whether further investigation is warranted, as well as any steps needed to address or correct a potential violation. Anyone may file a complaint reporting an allegation of regulatory misconduct. FDA encourages people submitting allegations to include supporting information and contact information in case additional information is needed for FDA to understand the allegation and act on the report; however, you can choose to submit a report anonymously. FDA will not share your identity or contact information with anyone outside FDA unless required to do so by law, regulation, or court order.

Allegations of regulatory misconduct may include failure to register and list a medical device, marketing uncleared or unapproved products, failure to follow quality system requirements, or misleading promotion.

You can submit an allegation through the Allegations of Regulatory Misconduct Form (*https://www.fda.gov/medical-devices/reporting-allegations-regulatory-misconduct/allegations-regulatory-misconduct-form*), by email, or by regular mail.

Allegations of regulatory misconduct related to medical devices and electronic products are reviewed by CDRH. CDRH prioritizes the review of allegations based on the level of potential risks, within the context of an overall benefit-risk profile, to patients. There are different processes based on the type of allegation and the completeness of the information submitted. The general steps CDRH takes after receiving an allegation of regulatory misconduct and some examples of the kind of allegations FDA has received are provided on our website (*https://www.fda.gov/medical-devices/medical-device-safety/reporting-allegations-regulatory-misconduct*).

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Electronic submission of voluntary allegations to CDRH	2,500	1	2,500	0.25 (15 minutes)	625

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We recently consolidated the intake of allegations across CDRH Offices. This has improved our estimate and we have adjusted the number of responses accordingly. The number of responses is based on the voluntary allegations received by CDRH in 2022. The adjusted estimated burden for the information collection reflects an increase of 900 responses and a corresponding increase of 225 hours.

Dated: June 7, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–12488 Filed 6–9–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–0084]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Adverse Event Program for Medical Devices (Medical Product Safety Network)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by July 12, 2023.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0471. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Adverse Event Program for Medical Devices (Medical Product Safety Network (MedSun))

OMB Control Number 0910–0471—Extension

Section 519 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360i) authorizes FDA to require: (1) manufacturers to report medical device-related deaths, serious injuries, and malfunctions and (2) user facilities to report device-related deaths directly to manufacturers and FDA and serious injuries to the manufacturer. Section 213 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115) amended section 519(b) of the FD&C Act relating to mandatory reporting by user facilities of deaths, serious injuries, and serious illnesses associated with the use of medical devices. This amendment legislated the replacement of universal user facility reporting by a system that is limited to a ''. . . subset of user facilities that constitutes a representative profile of user reports'' for device-related deaths and serious injuries. This amendment is reflected in section 519(b)(5)(A) of the FD&C Act (21 U.S.C. 360i(b)(5)(A)). This legislation provides FDA with the opportunity to design and implement a national surveillance network, composed of well-trained clinical facilities, to provide high-quality data on medical devices in clinical use. This system is called MedSun. FDA is seeking OMB clearance to continue to use electronic data collection to obtain information related to medical devices and tissue products from the user facilities participating in MedSun, to obtain a demographic profile of the facilities, and for additional questions, which will permit FDA to better understand the cause of reported adverse events. Participation in the program is voluntary and includes approximately 300 facilities. In addition to collecting data on the electronic adverse event report form, MedSun collects additional information from participating sites about reported problems emerging from the MedSun hospitals. This data collection is also voluntary and is collected on the same website as the report information. The burden estimate is based on the number of facilities participating in MedSun (300). FDA estimates an average of 18 reports per site annually. This estimate is based on MedSun working to promote reporting in general from the sites, as well as promoting reporting from specific parts of the hospitals, such as the pediatric intensive care units, the electrophysiology laboratories, and the hospital laboratories.

In the **Federal Register** of January 19, 2023 (88 FR 3417), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Adverse event reporting	300	18	5,400	0.5 (30 minutes)	2,700

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Dated: June 7, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–12483 Filed 6–9–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–1889]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Premarket Notification of Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (PRA).

DATES: Submit written comments (including recommendations) on the collection of information by July 12, 2023.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0120. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Premarket Notification of Devices

OMB Control Number 0910–0120—Revision

This information collection helps support implementation of statutory provisions that govern premarket clearance of devices. Section 510(k) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360(k)) and implementing regulations in part 807, subpart E (21 CFR part 807, subpart E), establish premarket notification procedures. Persons who intend to market a medical device, for which a premarket approval application (PMA) is not required, must submit a premarket notification to FDA, unless the device is exempt from 510(k) requirements and does not exceed the limitations of exemptions of the device classification regulations, at least 90 days before proposing to begin the introduction, or delivery for introduction into interstate commerce, for commercial distribution of a device intended for human use. Based on the information provided in the notification, FDA must determine whether the new device is substantially

equivalent to a legally marketed device. If a device is determined to be not substantially equivalent to a legally marketed device, it must have an approved PMA, product development protocol, humanitarian device exemption (HDE), request for an evaluation of automatic class III designation (De Novo request), or be reclassified into class I or class II before being marketed. The information collection also helps support section 510(l) of the FD&C Act, which provides for exemption from premarket notification.

The following instruments are included in the information collection:

- Form FDA 3514, ''CDRH Premarket Review Submission Cover Sheet''
- Form FDA 3881, ''Indications for Use''
- Voluntary eSTAR Program Interactive PDF Form and instructional web page
- Form FDA 4062, ''Electronic Submission Template and Resource (eSTAR)'' (for non-In Vitro Diagnostic (IVD) 510(k) submissions)
- Form FDA 4078, ''Electronic Submission Template and Resource (eSTAR)'' (for In Vitro Diagnostic (IVD) 510(k) submissions)

We are revising the information collection to include Form FDA 3674, ''Certification of Compliance, Under 42 U.S.C., 282(j)(5)(B), with Requirements of *ClinicalTrials.gov*.'' Under applicable authorities, applications under sections 505, 515, or 520(m) of the FD&C Act (21 U.S.C. 355, 360e, or 360j(m)), or under section 351 of the Public Health Service Act (42 U.S.C. 262), or submission of a report under section 510(k) of the FD&C Act, must be accompanied by a certification. Where available, such certification must include the appropriate National Clinical Trial numbers.

The information collection also includes an ''Acceptance Checklist.'' As discussed in the guidance document ''Refuse to Accept Policy for 510(k)s'' (April 2022), available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/refuse-accept-policy-510ks,* we believe the checklist can be a helpful resource for 510(k) submitters and may simplify preparation of the 510(k). Similarly, the guidance document ''Recognition and Withdrawal of Voluntary Consensus Standards'' (September 2020), available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/recognition-and-withdrawal-voluntary-consensus-standards,* communicates procedures followed by the Center for Devices and Radiological Health (CDRH) when requests for recognition of a voluntary consensus standard for medical products are received. The guidance document outlines principles for recognizing a standard wholly, partly, or not at all, as well as reasons and rationales for withdrawing a standard. Section 514 of the FD&C Act (21 U.S.C. 360d) allows FDA to recognize consensus standards developed by international and national organizations for use in satisfying portions of device premarket review submissions, including premarket notifications or other requirements. We publish and update the list of recognized standards regularly at *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/Standards/ucm123792.htm.* As instructed in the guidance document, any interested party may submit a request for recognition of a standard by mail directed to the CDRH Standards Program (*i.e.,* paper copy) or electronically via email.

For efficiency of Agency operations, we are also revising the information to include activities associated with section 520(b) of the FD&C Act, governing custom devices. Regulations in 21 CFR 812.3 define a custom device and implementing regulations in 21 CFR 807.85 provide for exemption from premarket notification. Section 520(b) of the FD&C Act also provides for the issuance of guidance. The guidance document entitled, ''Custom Device Exemption'' (September 2014), and available for download at *https://www.fda.gov/media/89897/download,* explains how FDA interprets provisions in section 520(b)(2)(B) of the FD&C Act, describes what information should be submitted in a Custom Device Annual Report (''annual report''), and provides recommendations on how to submit an annual report for devices distributed under the custom device exemption.

Finally, we discuss the guidance document entitled, ''Transition Plan for Medical Devices That Fall Within Enforcement Policies Issued During the Coronavirus Disease 2019 (COVID–19) Public Health Emergency,'' announced in the **Federal Register** of March 27, 2023 (88 FR 18153), which describes a phased approach intended to help avoid disruption in device supply and help facilitate compliance with applicable legal requirements. The recommendations discussed in the guidance document result in the one-time collection of information intended to ensure an orderly and transparent transition from temporary policies established during the COVID–19 public health emergency to normal operations. Because the information collection recommendations apply to specific medical devices already in distribution, we believe the information discussed is appropriately characterized as nonstandardized followup designed to clarify responses to approved collections of information (*i.e.,* plans for compliance with applicable requirements unique to that distributed device). We therefore believe the activity constitutes the collection of non-identical and/or followup information, as defined under 5 CFR 1320.3. At the same time, we expect some degree of fluctuation in future submissions under part 807, subpart E, as a result of implementation of the medical device transition plan.

In the **Federal Register** of February 21, 2023 (88 FR 10517), we published a 60-day notice requesting public comment on the proposed collection of information. No comments were received. However, since publication of our 60-day notice, we have adjusted our previous estimate to include burden associated with Form FDA 3674 (submission certification), as well as custom device reporting currently included in OMB control number 0910–0767 and discussed in the **Federal Register** of March 13, 2023 (88 FR 15410).

We estimate the burden of the information collection as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity and 21 CFR part/section	Form FDA No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
21 CFR Part 807, Subpart E, Premarket Notification Procedures						
510(k) submission (807 subpart E) ...	3881	3,800	1	3,800	79.25	301,150
Summary cover sheet (807.87)	3514	1,906	1	1,906	0.5 (30 minutes) ...	953
Status request (807.90(a)(3))	.....	1	1	1	0.25 (15 minutes)	1

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]—Continued

Activity and 21 CFR part/section	Form FDA No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
510(k) summary (807.92)		2,725	1	2,725	4	10,900
510(k) statement (807.93)		215	1	215	10	2,150
510(k) submission (807 subpart E)—using eSTAR format.	4062, 4078	100	1	100	40	4,000
Guidance Document Recommendations						
Submitting information associated with requests for recognition of a voluntary consensus standard.		9	1	9	1	9
Annual reporting for custom devices under 520(b) of the FD&C Act.		34	1	34	40	1,360
"**Form FDA 3674—Certifications To Accompany Drug, Biological Product, and Device Applications/Submissions**"						
Certification to accompany 510(k) submissions.	3674	3,800	1	3,800	0.75 (45 minutes)	2,850
Electronic Submission Template and Resource (eSTAR)						
eSTAR setup—one-time burden		80	1	80	0.08 (5 minutes)	6
Total				12,670		323,379

[1] There are no capital costs, or operating and maintenance costs, associated with the information collection.

Both the regulations in part 807, subpart E and the associated guidance documents prescribe specific format and content elements necessary for FDA action on submissions. Based on recent trends, an estimated 3,800 submissions are expected each year. Our administrative and technical staff, who are familiar with the requirements for submission of premarket notifications, estimate that it takes an average of 79.25 hours to prepare a submission. Because the PRA defines a recordkeeping requirement to include a requirement to report those records to the Federal government, we account for burden associated with preparing, transmitting, and responding to followup requests from FDA for supplemental information in our estimate. We expect to receive approximately 100 510(k) submissions via eSTAR per year and estimate that eSTAR submissions will each require 40 hours to complete. In addition, based on a recent review of submissions, we estimate 1,906 summary cover sheets will be received annually. We assume 30 minutes are needed to complete the summary cover sheet. We further estimate that 9 respondents will submit information pertaining to a request for recognition of a voluntary standard and that the activity requires an average of 1 hour. We also account for a one-time setup burden of 5 minutes for an estimated 80 new eSTAR users annually.

As a result of adding burden previously included under OMB control numbers 0910–0616 (submission certification element) and 0910–0767 (custom device exemptions), we have adjusted our burden upward. We have also made nominal adjustments on individual provisions to reflect expected fluctuations in submissions. Cumulatively, these actions result in an overall increase of 3,671 hours and a corresponding increase of 4,210 responses annually.

Dated: June 7, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–12489 Filed 6–9–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Centers of Biomedical Research Excellence (COBRE Phase 1).

Date: July 20, 2023.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute of General Medical Sciences, Natcher Building, 45 Center Drive, Bethesda, Maryland 20892 (Virtual Meeting).

Contact Person: Jason M. Chan, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of General Medical Sciences, 45 Center Drive, MSC 6200, Bethesda, Maryland 20892, 301–594–3663, *jason.chan2@nih.gov*.

Information is also available on the Institute's/Center's home page: *www.nigms.nih.gov/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program No. 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: June 7, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–12457 Filed 6–9–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Library of Medicine Special Emphasis Panel; Review Applications of the NLM Scholarly Works (G13) Program.

Date: July 19, 2023.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, 6705 Rockledge Drive, Suite 500, Bethesda, MD 20892 (Video Assisted Meeting).

Contact Person: Zoe E. Huang, MD, Chief Scientific Review Officer, Scientific Review Office, Extramural Programs, National Library of Medicine, National Institutes of Health (NIH), 6705 Rockledge Drive, Suite 500, Bethesda, MD 20892–7968, 301–594–4937, *huangz@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: June 7, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–12455 Filed 6–9–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Program Project: Pathobiology.

Date: July 10, 2023.

Time: 9:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Dario Dieguez, Ph.D., Scientific Review Officer, National Institute on Aging, Scientific Review Branch, Gateway Building, 7201 Wisconsin Avenue (2W218), Bethesda, MD 20892, (301) 827–3101, *dario.dieguez@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–12449 Filed 6–9–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Sexual Differences and Molecular Determinants of AD Risk and Responsiveness to Treatment.

Date: July 14, 2023.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Carmen Moten, Ph.D., M.P.H., Scientific Review Officer, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue (2C212), Bethesda, MD 20814, 301–402–7703 *cmoten@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: June 7, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–12459 Filed 6–9–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Biological Chemistry, Biophysics, and Assay Development.

Date: July 6–7, 2023.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: John Harold Laity, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–8254, *laityjh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Advancing Integrated Models (AIM) of Care to Improve Maternal Health Outcomes among Women Who Experience Persistent Disparities.

Date: July 7, 2023.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jessica Campbell Chambers, Ph.D., Scientific Review Officer, Center for Scientific Review, National

Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–5693, *jcampbel@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topics: Neuroimaging Technologies.

Date: July 7, 2023.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Raj K. Krishnaraju, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6190, MSC 7804, Bethesda, MD 20892, (301) 435–1047, *kkrishna@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurodegenerative Disorders.

Date: July 7, 2023.

Time: 1:00 p.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Roger Alan Bannister, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1010–D, Bethesda, MD 20892, (301) 435–1042, *bannisterra@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Clinical Care and Health Interventions.

Date: July 10–11, 2023.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel Conference Center, Montgomery County Conference Center Facility, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Hoa Thi Vo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1002B2, Bethesda, MD 20892, (301) 594–0776, *voht@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Oncology.

Date: July 10–11, 2023.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Nywana Sizemore, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6189, MSC 7804, Bethesda, MD 20892, 301–408–9916, *sizemoren@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; HIV/AIDS Intra- and Inter-personal Determinants and Behavioral Interventions Study Section.

Date: July 10–11, 2023.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mark P. Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–806–6596, *rubertm@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 7, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–12517 Filed 6–9–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, National Cancer Institute.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Cancer Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Cancer Institute.

Date: July 10–11, 2023.

Time: 11:00 a.m. to 1:30 p.m.

Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, 9609 Medical Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Brian E. Wojcik, Ph.D., Senior Review Administrator, Institute Review Office, Office of the Director, National Cancer Institute, 9609 Medical Center Drive, Room 3W414, Bethesda, MD 20892, 240–276–5665, *wojcikb@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *https://deainfo.nci.nih.gov/advisory/bsc/index.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: June 7, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–12520 Filed 6–9–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; NIGMS Review of Centers of Biomedical Research Excellence (COBRE) Phase 1 Applications.

Date: July 14, 2023.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute of General Medical Sciences, Natcher Building, 45 Center Drive, Bethesda, Maryland 20892 (Virtual Meeting).

Contact Person: Saraswathy Seetharam, Ph.D., Scientific Review Officer, Office Scientific Review, National Institute of General Medical Sciences, National Institutes Health, 45 Center Drive, Room 3AN12C, Bethesda, Maryland 20892, 301–594–2763, *seetharams@nigms.nih.gov.*

Information is also available on the Institute's/Center's home page: *www.nigms.nih.gov/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program No. 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: June 7, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–12456 Filed 6–9–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Chronic Dysfunction and Integrative Neurodegeneration Study Section, June 22, 2023, 9:30 a.m. to June 23, 8:30 p.m., at the National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892, which was published in the **Federal Register** on June 01, 2023, 88 FR 35895, Doc 2023–11647.

This meeting is being amended to change the format from Virtual Meeting to Video Assisted Meeting. The meeting is closed to the public.

Dated: June 7, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–12515 Filed 6–9–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Diet and Aging.

Date: July 19, 2023.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Bita Nakhai, Ph.D., Chief, Basic and Translational Sciences Section (BTSS), National Institute on Aging, Scientific Review Branch, Gateway Building, 7201 Wisconsin Avenue (2C212), Bethesda, MD 20814, 301–402–7701, *nakhaib@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: June 7, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–12448 Filed 6–9–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Mechanism for Time-Sensitive Drug Abuse Research.

Date: July 7, 2023.

Time: 3:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sudhirkumar U. Yanpallewar, M.D., Scientific Review Officer, Scientific Review Branch, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892, (301) 443–4577, *sudhirkumar.yanpallewar@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: June 7, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–12516 Filed 6–9–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; HIV Vaccine Research and Design (HIVRAD) Program (P01 Clinical Trial Not Allowed).

Date: July 6, 2023.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G34, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Vishakha Sharma, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G34, Rockville, MD 20852, 301–761–7036, *vishakha.sharma@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 7, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–12519 Filed 6–9–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Allergy, Immunology, and Transplantation Research Committee (AITC) Special Emphasis Panel.

Date: July 5, 2023.

Time: 2:00 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G45, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Vanitha S. Raman, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G45, Rockville, MD 20852, 301–761–7949, *vanitha.raman@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 7, 2023.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–12518 Filed 6–9–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Basic Mechanisms of Cancer Health Disparities Study Section, June 21, 2023, 9:00 a.m. to June 22, 2023, 8:00 p.m. at the National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting), which was published in the **Federal Register** on May 22, 2023, 88 FR 32778, Doc 2023–10842.

This meeting is being amended to make this a single day meeting on 6/21/2023. The meeting is closed to the public.

Dated: June 7, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–12450 Filed 6–9–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Review of Voice, Speech, and Language Research Opportunities for New Investigators to Promote Workforce Diversity.

Date: June 28, 2023.

Time: 2:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting),

Contact Person: Andrea B. Kelly, Ph.D., Scientific Review Officer, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, 6001 Executive Boulevard, Room 8351, Bethesda, MD 20892, (301) 451–6339, *kellya2@nih.gov,*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel Review of Hearing and Balance Research Opportunities for New Investigators to Promote Workforce Diversity.

Date: June 28, 2023.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Andrea B. Kelly, Ph.D., Scientific Review Officer, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, 6001 Executive Boulevard, Room 8351, Bethesda, MD 20892, (301) 451–6339, *kellya2@nih.gov*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel NIDCD R25 Education Grant Review.

Date: July 12, 2023.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting)

Contact Person: Katherine Shim, Ph.D., Scientific Review Officer, Division of Extramural Activities, NIH/NIDCD, 6001 Executive Blvd., Room 8351, Bethesda, MD 20892, 301–496–8683, *katherine.shim@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: June 6, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–12390 Filed 6–9–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; RFA–DK21–030:

New Investigator Gateway Awards for Collaborative T1D Research Special Emphasis Panel.

Date: July 11, 2023.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute of Diabetes and Digestive and Kidney Diseases, Democracy II, 6707 Democracy Blvd., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Najma S. Begum, Ph.D., Scientific Review Officer, NIDDK/Scientific Review Branch, National Institutes of Health, 6707 Democracy Blvd., Room 7349, Bethesda, MD 20892, (301) 594–8894, *begumn@niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS).

Dated: June 7, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–12458 Filed 6–9–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Promote Goal-Concordant Care Among Elders and those with ADRD.

Date: July 18, 2013.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Carmen Moten, Ph.D., M.P.H., Scientific Review Officer, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue (2C212), Bethesda, MD 20814, 301–402–7703, *cmoten@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: June 7, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–12447 Filed 6–9–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, SAMHSA will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–0361.

Comments are invited on: (a) whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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 leveraging automated data collection techniques or other forms of information technology.

Proposed Project: Protection and Advocacy for Individuals With Mental Illness (PAIMI)—Revised Annual Program Performance Report (PPR)—Office of Management and Budget (OMB) No. 0930–0169—Revision

SAMHSA is requesting approval from the OMB for changes to the Annual PPR, PPR Instructions, and the ACR for the PAIMI program. The OMB clearance for the current 2022–2023 PPR, PPR Instructions, and ACR (0930–0169) will expire on June 30, 2023.

Additionally, SAMHSA is requesting Terms of Clearance from OMB to use the current 2022–2023 PPR, PPR Instructions, and ACR (0930–0169) for the fiscal year (FY) 2023–2024 reporting period due on January 1, 2024. The reasons for this special request are the PAIMI grantees (1) have been serving and tracking PAIMI client statistics for six months of the 2023–2024 reporting period and to require them to adjust the counting, tracking, and documenting of the PAIMI work at this time would create an administrative and excessive burden; (2) need adequate time to update their statistical tracking systems that are used to gather the correct information and obtain training and technical assistance to ensure proper data collection is occurring; and (3) asked SAMHSA to consider not implementing the proposed changes and revisions to the current 2022–2023 PPR, PPR Instructions, and ACR (0930–0169) until the 2023–2024 reporting period due on January 1, 2025.

The protection and advocacy (P&A) systems were established under the Developmental Disabilities Act of 1975 [42 U.S.C. 15001 *et seq.,* as amended in 2000]. The amendments of 2000 require the Secretary of Health and Human Services submit a biennial report on disabilities to the President, Congress, and the National Council on Disability. The Secretary's report is prepared by the Administration on Intellectual and Developmental Disabilities (AIDD), within the Administration on Community Living. The PPR, which includes an ACR, contains information from the PAIMI grantees on the types of activities and services they provided on behalf of PAIMI-eligible individuals. SAMHSA aggregates this information into a biennial summary report that AIDD includes in an appendix to the Secretary's biennial report on disabilities.

The PAIMI Act at 42 U.S.C. 10805(7) requires that each P&A system prepare and transmit a report to the Secretary HHS and to the head of its State mental health agency on January 1. This report describes the activities, accomplishments, and expenditures of the system during the most recently completed fiscal year, including a section prepared by the advisory council (the PAIMI Advisory Council or PAC), that describes the activities of the council and its independent assessment of the operations of the system.

The Protection and Advocacy for Individuals with Mental Illness (PAIMI) Act at 42 U.S.C. 10801 *et seq.,* authorized funds to the same protection and advocacy (P&A) systems created under the Developmental Disabilities Assistance and Bill of Rights Act of 1975, known as the DD Act (as amended in 2000, 42 U.S.C. 15001 *et seq.*]. The DD Act supports the Protection and

Advocacy for Developmental Disabilities (PADD) Program administered by the Administration on Intellectual and Developmental Disabilities (AIDD) within the Administration on Community Living. AIDD is the lead Federal P&A agency. The PAIMI Program supports the same governor-designated P&A systems established under the DD Act by providing legal-based individual and systemic advocacy services to individuals with significant (severe) mental illness (adults) and significant (severe) emotional impairment (children/youth) who are at risk for abuse, neglect and other rights violations while residing in a care or treatment facility.

In 2000, the PAIMI Act amendments created a 57th P&A system—the American Indian Consortium (the Navajo and Hopi Tribes in the Four Corners region of the Southwest). The Act, at 42 U.S.C. 10804(d), states that a P&A system may use its allotment to provide representation to individuals with mental illness, as defined by section 42 U.S.C. 10802 (4)(B)(iii), residing in the community, including their own home, *only* if the total allotment under this title for any fiscal year is $30 million or more, *and* in such cases, an eligible P&A system *must* give priority to representing PAIMI-eligible individuals, as defined by 42 U.S.C. 10802(4)(A) and (B)(i).

The Children's Health Act of 2000 (CHA) also referenced the Ftate P&A system authority to obtain information on incidents of seclusion, restraint, and related deaths [see, CHA, part H at 42 U.S.C. 290ii–1]. PAIMI Program formula grants awarded by SAMHSA go directly to each of the 57 governor-designated P&A systems. These systems are located in each of the 50 States, the District of Columbia, the American Indian Consortium, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

The Substance Abuse Mental Health Services Administration (SAMHSA) proposes the following revisions to its annual PAIMI Program Performance Report (PPR), PPR Instructions, and ACR:

1. All questions related to Race; added the following choices of Some other race and Race unknown;

2. All questions related to Gender; added the following choices of Transgender (Trans Woman and Trans Man), Two-Spirit for American Indian/Alaska Native (AIAN), Gender Non-Conforming, Other, and Prefer not to say;

3. All questions related Sexual Orientation; added the following choices of Lesbian or gay, Straight (not lesbian or gay), Bisexual, Other, and Prefer not to say;

4. Demographic Composition of PAIMI Governing Board, Advisory Council and Program Staff; the following was added for clarification, ''Transgender is someone whose gender identity is incongruent with their sex assigned at birth. A trans woman or a transgender woman is a woman who was assigned male at birth. A trans man or a transgender man is a man who was assigned female at birth. Two-Spirit is a term by and for Indigenous peoples and is culturally anchored with a particular meaning and, potentially, social status, it is not appropriate for use by non-Indigenous populations. Gender Non-Conforming refers to people who do not follow other people's ideas or stereotypes about how they should look, or act based on the female or male sex they were assigned at birth. Lesbian is a woman who has a romantic and/or sexual orientation toward women. Gay is a man who has a romantic and/or sexual orientation toward men. Straight (not lesbian or gay) is a heterosexual person; someone having a romantic and/or sexual orientation to persons of the opposite sex. Bisexual is an individual who has the capacity to form enduring physical, romantic, and/or emotional attractions to those of the same gender or to those of another gender. Other is someone who does not identified exclusively in one of the categories for gender or sexual orientation and is identified with a different term.'';

5. Number of Mental Health Professionals on the Advisory Council; the following was added for clarification, Other (Identify the professional in the Footnotes);

6. All questions related to Age; added the clarification ''would not disclose'' to ''Prefer not to say'';

7. Gender and Sexual Orientation of PAIMI-eligible Individuals Served; the following was added for clarification, ''Enter the number of individuals served by the indicated categories of gender and sexual orientation. Individuals should not be included in more than one of the categories. The total for both tables should be an unduplicated total of persons served based on gender and sexual orientation.'';

8. In the Living Arrangements Section, the following definitions were added in the PPR Instructions for clarification:

Community residential home for children/youth up to 18 yrs.: Group and residential live-in care placement in which staff are trained to work with children and youth whose specific needs are best addressed in a highly structured environment. These placements offer a higher level of structure and supervision than what can be provided in the youth's or child's home. For examples, this includes group homes where youth or children live with each other in a community-based setting, attend local schools and participate in community, cultural and social opportunities; and community-based residential homes that meet the Home and Community Based Services settings rule.

Community residential home for adults: A broad category of community based residential options for adults with serious mental illness, including group homes, supported or supportive housing, and other non-inpatient or institutional settings. For example, this includes community-based supported or supportive homes where staff are trained to work with adults with significant (serious) mental illness.

Non-medical community-based residential facility for children/youth: Facilities where 5 or more unrelated children/youth reside and care, treatment, services are above the level of room and board but less than skilled nursing care. Such care, treatment or services is provided as a primary function of such facility.

Foster care: This arrangement (also known as out-of-home care) is a temporary service provided by States for children who cannot live with their families. Children in foster care may live with relatives or with unrelated foster parents.

Nursing homes, including skilled nursing facilities: Facilities for the residential care of elderly or disabled people. They may also be referred to as care homes or long-term care facilities. Often, the terms have slightly different meanings to indicate whether the institutions are public or private, and whether they provide mostly assisted living, or nursing care and emergency medical care. Nursing homes are used by people who do not need to be in a hospital but cannot be cared for at home.

Intermediate care facilities (ICF): Long term care facilities that provide nursing and supportive care to residents on a non-continuous skilled nursing care basis, under a physician's direction. ICFs are designed to provide custodial care for those who are unable to care for themselves because of mental disability or declining health. ICFs are typically regarded as a lower-level nursing care facility when compared to a skilled nursing facility, but its residents require more care and attention than those in a

residential care facility for elderly or an adult residential care facility.

Public and Private general hospital involving emergency rooms: A public hospital is owned and funded by the government. Whereas a private hospital is owned by an individual or group of people.

Public institutional living arrangement: This is a broad category to cover all public institutional living that do not fit into other living arrangement categories. For examples, this includes assisted living facilities, adult homes, residential schools, juvenile justice facilities, and residential care facilities that are owned and funded by the government.

Private institutional living arrangement: This is a broad category to cover all private institutional living that do not fit into other living arrangement categories. For example, this includes assisted living facilities, adult homes, residential schools, juvenile justice facilities, and residential care facilities that are owned by an individual or group of people.

Psychiatric hospitals (public/private): The term ''psychiatric hospital'' means an institution, which is primarily engaged in providing, by or under the supervisor of a Doctor of Medicine or Osteopathy, psychiatric services for the diagnosis and treatment of individuals with mental illness. Some psychiatric hospitals are designated as ''forensic hospitals'' to serve individuals who are in the custody of penal authorities.

Jails: Correctional institutions used to detain persons who are in the lawful custody of the government as either accuse person awaiting trial or convicted person serving a sentence. Jails typically refers to smaller, local facilities, in which people are incarcerated for a short period of time.

State prisons: Institutions under State jurisdiction for confinement of persons convicted or serious crimes.

Federal detention centers: Facilities that hold individuals prior to or during court proceedings, as well as those serving brief sentences or ICE immigration detention facilities that house noncitizens to secure their presence for immigration proceedings or removal from the U.S. Another name for the centers is Federal Bureau Prisons.

Federal prisons: Institutions under Federal jurisdiction for confinement of persons convicted or serious crimes.

Veterans' Administration hospital/clinic: Provides primary care, specialized care, and related medical and social support services to American veterans.

Other Federal facility: This includes the Department of Homeland Security (DHS) and Health and Human Services (HHS) facilities used temporarily to house child migrants.

Homeless: An individual with no permanent living arrangement or no fixed place of residence.

Independent (in the community & PAIMI-eligible): This implies the person is living in his or her own home.

Parental or other family home & PAIMI-eligible: Parental home is a home that a child or young adult shares with a parent, guardian; a person acting in the capacity of a parent or guardian; or the home of one's parents or guardians. Other family home is a home maintained by persons biologically related by biology, adoption, marriage, or common law, to a person.

Unknown: Living arrangement was not provided.

9. In the Complaints/Problems of PAIMI-eligible Individuals of Abuse, Neglect, and Rights Violations Section, the following dispositions were added;

e. Other indicators of success or outcomes that resulted from P&A involvement.

h. P&A withdrew due to conflict of interest or other reasons.

10. In Areas of Alleged Rights Violations Section, the following choices were added for clarification;

w. The denial of access to personal possessions

x. Failure to comply with commitment regulations

y. Failure to comply with commitment time frames

11. The choice A/N I—Abuse/Neglect Investigation was added to the Intervention Strategies for clarification;

12. In the Reasons for Closing Individual Advocacy Case File Section, the following choices were either reorganized or added for clarification;

Client's objective was partially or fully met.

Case or investigation lacked merit.

Case withdrawn or terminated by the client.

Issue favorably resolved.

Issue not favorably resolved.

Other success or outcomes due to P&A involvement (*i.e.,* provided self-advocacy assistance)

Other representation found.

Services not needed due to client's death or relocation.

P&A withdrew due to conflict of interest or other reasons (*i.e.,* client would not cooperate).

13. In the Death Investigation Activities Section, the following was added for clarification, ''if zero means the P&A did not receive any death reports from CMS for investigation, please note this in the Footnotes'';

14. In the Interventions on behalf of groups of PAIMI-eligible Individuals Section, Group Advocacy the term ''*non-litigation*'' was corrected;

15. Changed the Section ''End Outcomes of P&A Activities'' to ''Performance Measures of P&A Activities''; changed the word ''Outcome'' to ''Specific Measures''; either revised or add the following measures for clarification;

(a) PAIMI-eligible individuals who access community-based mental health or health care services that resulted in community integration and independence or are better able to advocate to do so;

(b) PAIMI-eligible individuals who access benefits or services or are better able to advocate to do so;

(c) PAIMI-eligible individuals who live in a healthier, safer, improved, or more integrated settings or are better able to advocate to do so;

(d) PAIMI-eligible individuals are able to stay in their own home or better able to advocate to do so;

(e) PAIMI-eligible individuals who can secure or maintain employment and/or are not subject to workplace discrimination or are better able to advocate for to do so;

(f) PAIMI-eligible individuals who receive appropriate educational services and supports and/or are not subject to discrimination in educational settings or are better able to advocate for those outcomes;

(g) PAIMI-eligible individuals who go to school in safe and more humane conditions;

(h) PAIMI-eligible children (individuals) who receive appropriate services in the most integrated settings;

(i) PAIMI-eligible individuals who were not subject to discrimination in government benefits/services, housing, public accommodations, etc. or are better able to advocate for such outcomes;

(j) PAIMI-eligible individuals who were not subject to abuse, neglect, or rights violations or are better able to advocate for to do so;

(k) PAIMI-eligible individuals who can make their own decisions to the maximum extent feasible or are better able to advocate to do so;

(l) PAIMI-eligible individuals who had their rights enforced, retained, restored and/or expanded or are better able to advocate for to do so; and

(m) PAIMI-eligible individuals who were more able to participate in the voting process or are better able to advocate for to do so.

16. Tables and instructions were added the Budget Section for clarification; and

17. In the Statement of Priorities (Goals) Section, removed the words ''Expected Target'' and revised the following information for clarification:

Report on Previous FY Statement of Priorities and Objectives (SPO)

The Priority and Objectives target population and expected outcome fields will be pre-populated by the information submitted with the PAIMI application. The number of pre-populated items will reflect the number submitted in the application. A. Please indicate an actual outcome for each expected outcome. B. Please indicate strategies to implement goals and priorities. C. Provide a narrative (500-word limit) of P&A activities for each of the accomplishments related to each priority. D. Other Qualitative Narrative related to each priority: Provide a narrative (500 words limit) of significant activity for which there were no quantifiable results.

The current report formats will be effective for the FY 2023 PPR reports due on January 1, 2024.

Estimates of Annualized Hour Burden

The estimated annual burden for the PAIMI Annual PPR is summarized below:

	Number of respondents	Number of responses per respondent	Hours per response	Total hour burden
Program Performance Report	57	1	20	1,140
Advisory Council Report	57	1	10	570
Total	114	.....	.....	1,710

* Based on past estimates and the fact that changes being made do not measurably impact response burden.

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.

Alicia Broadus,

Public Health Advisor.

[FR Doc. 2023–12460 Filed 6–9–23; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2023–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *https://msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65. The currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Nicholas A. Shufro,

Deputy Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Alabama:					
Montgomery (FEMA Docket No.: B–2321).	Town of Pike Road (22–04–4846P).	The Honorable Gordon Stone, Mayor, Town of Pike Road, P.O. Box 640339, Pike Road, AL 36064.	Town Hall, 9575 Vaughn Road, Pike Road, AL 36064.	Jun. 2, 2023	010433
Montgomery (FEMA Docket No.: B–2321).	Unincorporated areas of Montgomery County (22–04–4846P).	The Honorable Doug Singleton, Commissioner, Montgomery County Commission, P.O. Box 1667, Montgomery, AL 36102.	Montgomery County Engineering Department, 100 South Lawrence Street, 2nd Floor, Montgomery, AL, 36104.	Jun. 2, 2023	010278
Colorado:					
Douglas (FEMA Docket No.: B–2321).	Town of Castle Rock (22–08–0258P).	The Honorable Jason Gray, Mayor, Town of Castle Rock, 100 North Wilcox Street, Castle Rock, CO 80104.	Water Department, 175 Kellogg Court, Castle Rock, CO 80109.	Apr. 28, 2023	080050
Douglas (FEMA Docket No.: B–2321).	Unincorporated areas of Douglas County (22–08–0258P).	The Honorable Abe Laydon, Chair, Douglas County Board of Commissioners, 100 3rd Street, Castle Rock, CO 80104.	Douglas County Department of Public Works, 100 3rd Street, Castle Rock, CO 80104.	Apr. 28, 2023	080049
Florida:					
Broward (FEMA Docket No.: B–2321).	Town of Hillsboro Beach (22–04–4947P).	Mac Serda, Manager, Town of Hillsboro Beach, 1210 Hillsboro Mile, Hillsboro Beach, FL 33062.	Building Department, 1210 Hillsboro Mile, Hillsboro Beach, FL 33062.	May 1, 2023	120040
Manatee (FEMA Docket No.: B–2304).	Unincorporated areas of Manatee County (22–04–4852P).	Scott Hopes, Manatee County Administrator, 1112 Manatee Avenue, West Bradenton, FL 34205.	Manatee County Building and Development Services Department, 1112 Manatee Avenue, West Bradenton, FL 34205.	Apr. 28, 2023	120153
Monroe (FEMA Docket No.: B–2321).	Unincorporated areas of Monroe County (23–04–0047P).	The Honorable Craig Cates, Mayor, Monroe County Board of Commissioners, 500 Whitehead Street, Suite 102, Key West, FL 33040.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	May 4, 2023	125129
Polk (FEMA Docket No.: B–2314).	Unincorporated areas of Polk, County (22–04–2127P).	Bill Beasley, Manager, Polk County, 330 West Church Street, Bartow, FL 33831.	Polk County Administration Building, 330 West Church Street, Bartow, FL 33831.	Apr. 27, 2023	120261
Georgia: Columbia (FEMA Docket No.: B–2321).	Unincorporated areas of Columbia County (21–04–3381P).	The Honorable Douglas R. Duncan, Jr., Chair, Columbia County Board of Commissioners, 630 Ronald Reagan Drive, Building B, Evans, GA 30809.	Columbia County Engineering Services Division, Stormwater Compliance Department, 630 Ronald Reagan Drive, Evans, GA 30809.	May 4, 2023	130059
Maryland:					
Baltimore (FEMA Docket No.: B–2321).	Unincorporated areas of Baltimore County (22–03–0752P).	The Honorable John A. Olszewski, Jr., Baltimore County Executive, 400 Washington Avenue, Towson, MD 21204.	Baltimore County Department of Public Works and Transportation, 111 West Chesapeake Avenue, Room 205, Towson, MD 21204.	May 19, 2023	240010
Frederick (FEMA Docket No.: B–2304).	City of Frederick (22–03–0336P).	The Honorable Michael O'Connor, Mayor, City of Frederick, 101 North Court Street, Frederick, MD 21701.	City Hall, 101 North Court Street, Frederick, MD 21701.	Apr. 26, 2023	240030
Frederick (FEMA Docket No.: B–2304).	Unincorporated areas of Frederick County (22–03–0336P).	The Honorable Jessica Fitzwater, Frederick County Executive, 12 East Church Street, Frederick, MD 21701.	Frederick County Division of Planning and Permitting, 30 North Market Street, Frederick, MD 21701.	Apr. 26, 2023	240027
Montana:					
Missoula (FEMA Docket No.: B–2321).	City of Missoula (22–08–0126P).	Jordan Hess, Mayor, City of Missoula, 435 Ryman Street, Missoula, MT59802.	City Hall, 435 Ryman Street, Missoula, MT 59802.	May 22, 2023	300049
Missoula (FEMA Docket No.: B–2321).	Unincorporated areas of Missoula County (22–08–0126P).	Chris Lounsbury, Chief Administrative Officer, Missoula County, 200 West Broadway Street, Missoula, MT 59802.	Missoula County Department of Planning, Development and Sustainability, 127 East Main Street, Suite 2, Missoula, MT 59802.	May 22, 2023	300048
New Mexico:					
Dona Ana (FEMA Docket No.: B–2321).	City of Las Cruces (22–06–1258P).	The Honorable Ken Miyagishima, Mayor, City of Las Cruces, 700 North Main Street, Las Cruces, NM 88001.	Community Development Department, 700 North Main Street, Las Cruces, NM 88001.	May 22, 2023	355332
Dona Ana (FEMA Docket No.: B–2321).	Unincorporated areas of Dona Ana County (22–06–1258P).	The Honorable Manuel Sanchez, Chair, Dona Ana County Board of Commissioners, 845 North Motel Boulevard, Las Cruces, NM 88007.	Dona Ana County Flood Commission, 845 North Motel Boulevard, Las Cruces, NM 88007.	May 22, 2023	350012
North Carolina: Buncombe (FEMA Docket No.: B–2321).	Unincorporated areas of Buncombe County (22–04–4158P)	The Honorable Brownie Newman, Chair, Buncombe County Board of Commissioners, 200 College Street, Suite 300, Asheville, NC 28801.	Buncombe County Planning and Development Department, 46 Valley Street, Asheville, NC 28801.	May 26, 2023	370031
Oklahoma: Oklahoma (FEMA Docket No.: B–2321).	City of Edmond (22–06–0815P).	The Honorable Darrell A. Davis, Mayor, City of Edmond, P.O. Box 2970, Edmond, OK 73083.	Engineering Department, Stormwater Management, 10 South Littler Avenue, Edmond, OK 73034.	May 19, 2023	400252

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Rhode Island:					
Kent (FEMA Docket No.: B–2321).	City of Warwick (22–01–0564P).	The Honorable Frank J. Picozzi, Mayor, City of Warwick, 3275 Post Road, Warwick, RI 02886.	Building Department, 65 Centerville Road, Warwick, RI 02886.	Apr. 28, 2023	445409
Providence (FEMA Docket No.: B–2321).	City of Cranston (22–01–0564P).	The Honorable Kenneth J. Hopkins, Mayor, City of Cranston, 869 Park Avenue, Cranston, RI 02910.	Planning Department, 869 Park Avenue, Cranston, RI 02910.	Apr. 28, 2023	445396
South Carolina:					
Dorchester (FEMA Docket No.: B–2321).	Town of Summerville (22–04–2209P).	The Honorable Ricky Waring, Mayor, Town of Summerville, 200 South Main Street, Summerville, SC 29483.	Engineering Department, 200 South Main Street, Summerville, SC 29483.	May 18, 2023	450073
Dorchester (FEMA Docket No.: B–2321).	Town of Summerville (22–04–2210P).	The Honorable Ricky Waring, Mayor, Town of Summerville, 200 South Main Street, Summerville, SC 29483.	Engineering Department, 200 South Main Street, Summerville, SC 29483.	May 18, 2023	450073
Dorchester (FEMA Docket No.: B–2321).	Unincorporated areas of Dorchester County (22–04–2209P).	Jason L. Ward, Dorchester County Administrator, 201 Johnston Street, St. George, SC 29477.	Dorchester County Building Services Department, 500 North Main Street, Summerville, SC 29483.	May 18, 2023	450068
Dorchester (FEMA Docket No.: B–2321).	Unincorporated areas of Dorchester County (22–04–2210P).	Jason L. Ward, Dorchester County Administrator, 201 Johnston Street, St. George, SC 29477.	Dorchester County Building Services Department, 500 North Main Street, Summerville, SC 29483.	May 18, 2023	450068
South Dakota: Beadle (FEMA Docket No.: B–2324).	City of Huron (22–08–0556P).	The Honorable Gary Harrington, Mayor, City of Huron, P.O. Box 1369, Huron, SD 57350.	Engineering Department, 239 Wisconsin Avenue Southwest, Huron, SD 57350.	May 11, 2023	460003
Tennessee: Sumner (FEMA Docket No.: B–2324).	City of Hendersonville (22–04–4036P).	The Honorable Jamie Clary, Mayor, City of Hendersonville, 101 Maple Drive North, Hendersonville, TN 37075.	City Hall, 101 Maple Drive North, Hendersonville, TN 37075.	May 19, 2023	470186
Texas:					
Bexar (FEMA Docket No.: B–2321).	City of San Antonio (22–06–1472P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Public Works Department, Storm Water Division, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	May 1, 2023	480045
Collin (FEMA Docket No.: B–2324).	City of Celina (22–06–1545P).	The Honorable Sean Terry, Mayor, City of Celina, 142 North Ohio Street, Celina, TX 75009.	Engineering Department, 142 North Ohio Street, Celina, TX 75009.	May 22, 2023	480133
Collin (FEMA Docket No.: B–2321).	City of Celina (22–06–1716P).	The Honorable Sean Terry, Mayor, City of Celina, 142 North Ohio Street, Celina, TX 75009.	Engineering Department, 142 North Ohio Street, Celina, TX 75009.	May 16, 2023	480133
Collin (FEMA Docket No.: B–2324).	City of Celina (22–06–2884P).	The Honorable Sean Terry, Mayor, City of Celina, 142 North Ohio Street, Celina, TX 75009.	Engineering Department, 142 North Ohio Street, Celina, TX 75009.	May 22, 2023	480133
Collin (FEMA Docket No.: B–2324).	Town of Prosper (22–06–1545P).	The Honorable David F. Bristol, Mayor, Town of Prosper, 250 West 1st Street, Prosper, TX 75078.	Town Hall, 250 West 1st Street, Prosper, TX 75078.	May 22, 2023	480141
Collin and Denton (FEMA Docket No.: B–2304).	Town of Prosper (22–06–0470P).	The Honorable David Bristol, Mayor, Town of Prosper, 250 West 1st Street, Prosper, TX 75078.	Town Hall, 250 West 1st Street, Prosper, TX 75078.	Apr. 27, 2023	480141
Collin (FEMA Docket No.: B–2324).	Unincorporated areas of Collin County (22–06–2884P).	The Honorable Chris Hill, Collin County Judge, 2300 Bloomdale Road, Suite 4192, McKinney, TX 75071.	Collin County Engineering Department, 4690 Community Avenue, Suite 22, McKinney, TX 75071.	May 22, 2023	480130
Denton (FEMA Docket No.: B–2324).	City of Denton (22–06–2457P).	The Honorable Gerard Hudspeth, Mayor, City of Denton, 215 East McKinney Street, Suite 100, Denton, TX 76201.	Capital Projects/Engineering Department, 401 North Elm Street, Denton, TX 76201.	May 15, 2023	480194
Hidalgo (FEMA Docket No.: B–2321).	City of McAllen (22–06–2442P).	Roel Roy Rodriguez, Manager, City of McAllen, P.O. Box 220, McAllen, TX 78505.	Engineering Department, 311 North 15th Street, McAllen, TX 78501.	May 1, 2023	480343
Hidalgo (FEMA Docket No.: B–2321).	Unincorporated areas of Hidalgo County (22–06–2442P).	The Honorable Richard F. Cortez, Hidalgo County Judge, 100 East Cano Street, 2nd Floor, Edinburg, TX 78539.	Hidalgo County Drainage District No. 1, 902 North Doolittle Road, Edinburg, TX 78542.	May 1, 2023	480334
Kendall (FEMA Docket No.: B–2324).	Unincorporated areas of Kendall County (22–06–0783P).	The Honorable Darrel L. Lux, Kendall County Judge, 201 East San Antonio Avenue, Suite 122, Boerne, TX 78006.	Kendall County Engineering and Development Management Department, 201 East San Antonio Avenue, Boerne, TX 78006.	May 15, 2023	480417
Rockwall (FEMA Docket No.: B–2321).	City of Rockwall (22–06–2295P).	The Honorable Kevin Fowler, Mayor, City of Rockwall, 385 South Goliad Street, Rockwall, TX 75087.	Engineering Department, 385 South Goliad Street, Rockwall, TX 75087.	Apr. 28, 2023	480547
Rockwall (FEMA Docket No.: B–2321).	Unincorporated areas of Rockwall County (22–06–2295P).	The Honorable David Sweet, Rockwall County Judge, 101 East Rusk Street, Suite 202, Rockwall, TX 75087.	Rockwall County Environmental Health Coordinator's Office/Floodplain Management, 915 Whitmore Drive, Suite D, Rockwall, TX 75087.	Apr. 28, 2023	480543

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Tarrant (FEMA Docket No.: B–2321).	City of Fort Worth (22–06–1537P).	The Honorable Mattie Parker, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Department of Transportation and Public Works, Engineering Vault & Map Repository, 200 Texas Street, Fort Worth, TX 76102.	May 8, 2023	480596
Tarrant (FEMA Docket No.: B–2321).	Unincorporated areas of Tarrant County (22–06–1537P).	The Honorable B. Glen Whitley, Tarrant County Judge, 100 East Weatherford Street, Suite 501, Fort Worth, TX 76196.	Tarrant County Administration Building, 100 East Weatherford Street, Suite 401, Fort Worth, TX 76196.	May 8, 2023	480582
Webb (FEMA Docket No.: B–2324).	City of Laredo (22–06–2664P).	The Honorable Victor Treviño, Mayor, City of Laredo, P.O. Box 579, Laredo, TX 78042.	Planning and Zoning Department, 1413 Houston Street, Laredo, TX 7804.	May 15, 2023	480651
Virginia: Buchanan (FEMA Docket No.: B–2321).	Unincorporated areas of Buchanan County (23–03–0007P).	Robert Craig Horn, Buchanan County Administrator, P.O. Box 950, Grundy, VA 24614.	Buchanan County Government Center, 4447 Slate Creek Road, 2nd Floor, Grundy, VA 24614.	May 5, 2023	510024

[FR Doc. 2023–12474 Filed 6–9–23; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2023–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below. The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP).

DATES: The date of November 2, 2023 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *https://msc.fema.gov* by the date indicated above.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Nicholas A. Shufro,

Deputy Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Colquitt County, Georgia and Incorporated Areas Docket No.: FEMA–B–2238	
City of Moultrie	Municipal Annex, 200 1st Street Northeast, Moultrie, GA 31768.
City of Norman Park	City Hall, 154 East Broad Street, Norman Park, GA 31771.
Town of Ellenton	Town Hall, 103 North Baker Street, Ellenton, GA 31747.
Unincorporated Areas of Colquitt County	Colquitt County Courthouse Annex, 101 East Central Avenue, 1st Floor, Room 109, Moultrie, GA 31768.
Cook County, Georgia and Incorporated Areas Docket No.: FEMA–B–2238	
City of Adel	City Hall, 112 North Parrish Avenue, Adel, GA 31620.
City of Cecil	City Hall, 134 Roundtree Street, Cecil, GA 31627.
City of Lenox	City Hall, 15 East Colquitt Avenue, Lenox, GA 31637.
Town of Sparks	City Hall, 115 East Colquitt Street, Sparks, GA 31647.

Community	Community map repository address
Unincorporated Areas of Cook County	Cook County Administration Building, 1200 South Hutchinson Avenue, Adel, GA 31620.
Baltimore County, Maryland (Unincorporated Areas) Docket No.: FEMA–B–2131	
Unincorporated Areas of Baltimore County	Baltimore County Office Building, 111 West Chesapeake Avenue, Room 205, Towson, MD 21204.
Christian County, Missouri and Incorporated Areas Docket No.: FEMA–B–2031 and FEMA–B–2200	
City of Billings	City Hall, 202 Northeast US Highway 60, Billings, MO 65610.
City of Clever	City Hall, 304 South Clarke Avenue, Clever, MO 65631.
City of Fremont Hills	City Hall, 1953 Fremont Hills Drive, Fremont Hills, MO 65714.
City of Highlandville	City Office, 216 Kentling Avenue, Highlandville, MO 65669.
City of Nixa	City Hall, 715 West Mount Vernon Street, Nixa, MO 65714.
City of Ozark	City Hall, 205 North 1st Street, Ozark, MO 65721.
City of Sparta	City Hall, 200 North Avenue, Sparta, MO 65753.
Unincorporated Areas of Christian County	Christian County Resource Management Building, 1106 West Jackson Street, Ozark, MO 65721.
Village of Saddlebrooke	Village Hall, 776 Saddlebrooke Drive, Suite A–1, Saddlebrooke, MO 65630.
Wright County, Missouri and Incorporated Areas Docket No.: FEMA–B–2233	
City of Hartville	City Hall, 200 South Main Avenue, Hartville, MO 65667.
City of Mansfield	City Hall, 122 North Business 60, Mansfield, MO 65704.
City of Mountain Grove	City Hall, 100 East State Street, Mountain Grove, MO 65711.
Unincorporated Areas of Wright County	Wright County Courthouse, 125 Court Square, Hartville, MO 65667.
Clark County, Washington and Incorporated Areas Docket No.: FEMA–B–2173	
City of La Center	Public Works Department, 305 Northwest Pacific Highway, La Center, WA 98629.
City of Vancouver	City Hall, 415 West 6th Street, 2nd Floor, Vancouver, WA 98660.
Town of Yacolt	Town Hall, 202 West Cushman Street, Yacolt, WA 98675.
Unincorporated Areas of Clark County	Clark County Public Service Center, 1300 Franklin Street, Vancouver, WA 98660.

[FR Doc. 2023–12475 Filed 6–9–23; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2023–0002; Internal Agency Docket No. FEMA–B–2346]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before September 11, 2023.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2346, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard

determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Nicholas A. Shufro,

Deputy Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Grant County, Kentucky and Incorporated Areas Project: 18–04–0022S Preliminary Date: October 13, 2022	
City of Williamstown	Grant County Courthouse, 101 North Main Street, Williamstown, KY 41097.
Grant County Unincorporated Areas	Grant County Courthouse, 101 North Main Street, Williamstown, KY 41097.

[FR Doc. 2023–12477 Filed 6–9–23; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2023–0002; Internal Agency Docket No. FEMA–B–2345]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before September 11, 2023.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2345, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that

are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Nicholas A. Shufro,

Deputy Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Madison County, Illinois and Incorporated Areas Project: 15–05–1840S Preliminary Date: August 10, 2022	
City of Alton	City Hall, 101 East 3rd Street, Alton, IL 62002.
City of Collinsville	City Hall, 125 South Center Street, Collinsville, IL 62234.
City of Edwardsville	City Hall, 118 Hillsboro Avenue, Edwardsville, IL 62025.
City of Granite City	City Hall, 2000 Edison Avenue, Granite City, IL 62040.
City of Highland	City Hall, 1115 Broadway, Highland, IL 62249.
City of Madison	City Hall, 615 Madison Avenue, Madison, IL 62060.
City of Troy	Municipal Building, 116 East Market Street, Troy, IL 62294.
City of Venice	City Hall, 329 Broadway, Venice, IL 62090.
City of Wood River	City Hall, 111 North Wood River Avenue, Wood River, IL 62095.
Unincorporated Areas of Madison County	Madison County Administration Building, 157 North Main Street, Suite 254, Edwardsville, IL 62025.
Village of Alhambra	Village Hall, 602 West Main Street, Alhambra, IL 62001.
Village of Bethalto	Village Hall, 213 North Prairie Street, Bethalto, IL 62010.
Village of East Alton	East Alton Municipal Building, 119 West Main Street, East Alton, IL 62024.
Village of Fairmont City	City Hall Annex, 2568 North 41st Street, Suite C, Fairmont City, IL 62201.
Village of Glen Carbon	Village Hall, 151 North Main Street, Glen Carbon, IL 62034.
Village of Godfrey	Building and Zoning Administration, 6810 Godfrey Road, Godfrey, IL 62035.
Village of Grantfork	Grantfork Village Hall, 205 Rock Street, Highland, IL 62249.
Village of Hamel	Village Hall, 111 South Old U.S. Route 66, Hamel, IL 62046.
Village of Hartford	Village Hall, 140 West Hawthorne Street, Hartford, IL 62048.
Village of Livingston	Village Hall, 601 Livingston Avenue, Livingston, IL 62058.
Village of Marine	Village Hall, 320 North Vernon Street, Marine, IL 62061.
Village of Maryville	Village Hall, 2520 North Center Street, Maryville, IL 62062.
Village of Pierron	Village Hall, 203 Illinois Route 143, Pierron, IL 62273.
Village of Pontoon Beach	Administration Office, #1 Regency Parkway, Pontoon Beach, IL 62040.
Village of Roxana	Village Hall, 310 North Central Avenue, Roxana, IL 62084.
Village of South Roxana	Village Hall, 211 Sinclair Avenue, South Roxana, IL 62087.
Village of Williamson	Williamson Village Hall, 1201 Williamson Avenue, Staunton, IL 62088.
Monroe County, Illinois and Incorporated Areas Project: 15–05–1852S Preliminary Date: July 15, 2022	
City of Columbia	City Hall, 208 South Rapp Avenue, Columbia, IL 62236.
City of Waterloo	City Hall, 100 West Fourth Street, Waterloo, IL 62298.
Unincorporated Areas of Monroe County	Monroe County Courthouse, 100 South Main Street, Waterloo, IL 62298.
Village of Fults	Village Hall, 180 Church Street, Fults, IL 62244.
Village of Maeystown	Village Hall, 1030 Mill Street, Maeystown, IL 62256.
Village of Valmeyer	Village Hall, 260 Knobloch Boulevard, Valmeyer, IL 62295.

Community	Community map repository address
St. Clair County, Illinois and Incorporated Areas Project: 15–05–1815S Preliminary Date: August 12, 2022	
City of Belleville	City Hall, 101 South Illinois Street, Belleville, IL 62220.
City of Cahokia Heights	City of Cahokia Heights Code Enforcement Department, 4821 Bond Avenue, East St. Louis, IL 62207.
City of Collinsville	City Hall, 125 South Center Street, Collinsville, IL 62234.
City of East St. Louis	Municipal Building, 301 River Park Drive, East St. Louis, IL 62201.
City of Fairview Heights	Municipal Complex, 10025 Bunkum Road, Fairview Heights, IL 62208.
City of Lebanon	City Hall, 312 West St. Louis Street, Lebanon, IL 62254.
City of Madison	City Hall, 615 Madison Avenue, Madison, IL 62060.
City of Mascoutah	Municipal Building, 3 West Main Street, Mascoutah, IL 62258.
City of O'Fallon	City Hall, 255 South Lincoln Avenue, O'Fallon, IL 62269.
Unincorporated Areas of St. Clair County	St. Clair County Courthouse, #10 Public Square, Belleville, IL 62220.
Village of Brooklyn	City Hall, 312 South 5th Street, Brooklyn, IL 62059.
Village of Caseyville	Village Hall, 909 South Main Street, Caseyville, IL 62232.
Village of Dupo	Village Hall, 107 North 2nd Street, Dupo, IL 62239.
Village of East Carondelet	Village Hall, 950 State Street, East Carondelet, IL 62240.
Village of Fairmont City	City Hall Annex, 2568 North 41st Street, Suite C, Fairmont City, IL 62201.
Village of Fayetteville	Fayetteville Village Hall, 2212 Main Avenue, Mascoutah, IL 62258.
Village of Freeburg	Municipal Center, 14 Southgate Center, Freeburg, IL 62243.
Village of Lenzburg	Village Hall, 215 North Charles Street, Lenzburg, IL 62255.
Village of Marissa	Village Hall, 111 North Main Street, Marissa, IL 62257.
Village of Millstadt	Village Hall, 111 West Laurel Street, Millstadt, IL 62260.
Village of New Athens	Village Hall, 905 Spotsylvania Street, New Athens, IL 62264.
Village of New Baden	Village Hall, 1 East Hanover Street, New Baden, IL 62265.
Village of Sauget	Village Hall, 2897 Falling Springs Road, Sauget, IL 62206.
Village of Shiloh	Municipal Building, #1 Park Drive, Shiloh, IL 62269.
Village of Smithton	Village Hall, 101 South Main Street, Smithton, IL 62285.
Village of St. Libory	Village Hall, 743 Rutter Street, St. Libory, IL 62282.
Village of Summerfield	Village Office, 304 West Wakefield Street, Summerfield, IL 62289.
Village of Swansea	Government Center, 1444 Boul Avenue, Swansea, IL 62226.
Village of Washington Park	Washington Park Village Hall, 5218 North Park Drive, East St. Louis, IL 62204.
St. Mary's County, Maryland and Incorporated Areas Project: 19–03–0027S Preliminary Date: November 29, 2022	
Town of Leonardtown	Town Hall, 22670 Washington Street, Leonardtown, MD 20650.
Unincorporated Areas of St. Mary's County	St. Mary's County Department of Land Use and Growth Management, 23150 Leonard Hall Drive, Leonardtown, MD 20650.
Dodge County, Minnesota and Incorporated Areas Project: 12–05–2135S Preliminary Date: February 15, 2023	
City of Dodge Center	City Hall, 35 East Main Street, Dodge Center, MN 55927.
City of Hayfield	City Hall, 18 West Main Street, Hayfield, MN 55940.
City of Kasson	City Hall, 401 5th Street Southeast, Kasson, MN 55944.
City of Mantorville	City Hall, 21 5th Street East, Mantorville, MN 55955.
Unincorporated Areas of Dodge County	Dodge County Environmental Services Department, 721 Main Street North, Department 123, Mantorville, MN 55955.
Monroe County, West Virginia and Incorporated Areas Project: 21–03–0007S Preliminary Date: October 31, 2022	
Town of Alderson	City Hall, 311 South Monroe Street, Alderson, WV 24910.
Town of Peterstown	Town Hall, 229 Thomas Street, Peterstown, WV 24963.
Unincorporated Areas of Monroe County	Monroe County 911 Center, 39 Nota Street, Union, WV 24983.

[FR Doc. 2023–12476 Filed 6–9–23; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Notice Regarding the Uyghur Forced Labor Prevention Act Entity List

AGENCY: Department of Homeland Security.

ACTION: Notice.

SUMMARY: The U.S. Department of Homeland Security (DHS), as the Chair of the Forced Labor Enforcement Task Force (FLETF), announces the publication and availability of the updated Uyghur Forced Labor Prevention Act (UFLPA) Entity List, a consolidated register of the four lists required to be developed and maintained pursuant to the UFLPA, on the DHS UFLPA website. The updated UFLPA Entity List is also published as an appendix to this notice. This update adds two entities and eight subsidiaries to the UFLPA Entity List for working with the government of Xinjiang to recruit, transport, transfer, harbor or receive forced labor or Uyghurs, Kazakhs, Kyrgyz, or members of other persecuted groups out of Xinjiang.

Details related to the process for revising the UFLPA Entity List are included in this **Federal Register** notice.

DATES: This notice announces the publication and availability of the UFLPA Entity List updated as of June 12, 2023, included as an appendix to this notice.

ADDRESSES: Persons seeking additional information on the UFLPA Entity List should email the FLETF at *FLETF.UFLPA.EntityList@hq.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Cynthia Echeverria, Director of Trade Policy, Trade and Economic Security, Office of Strategy, Policy, and Plans, DHS. Phone: (202) 938–6365, Email: *FLETF.UFLPA.EntityList@hq.dhs.gov.*

SUPPLEMENTARY INFORMATION:

The U.S. Department of Homeland Security (DHS), on behalf of the Forced Labor Enforcement Task Force (FLETF), is announcing the publication of the updated UFLPA Entity List, a consolidated register of the four lists required to be developed and maintained pursuant to Section 2(d)(2)(B) of the Uyghur Forced Labor Prevention Act (Pub. L. 117–78) (UFLPA), to *https://www.dhs.gov/uflpa-entity-list.* The UFLPA Entity List is available as an appendix to this notice. This update adds two entities and eight subsidiaries to the Section 2(d)(2)(B)(ii) list of the UFLPA for working with the government of Xinjiang to recruit, transport, transfer, harbor or receive forced labor or Uyghurs, Kazakhs, Kyrgyz, or members of other persecuted groups out of Xinjiang. Future revisions to the UFLPA Entity List, which may include additions, removals or technical corrections, will be published to *https://www.dhs.gov/uflpa-entitylist* and in the appendices of future **Federal Register** notices. *See* appendix 1.

Beginning on June 21, 2022, the UFLPA requires the Commissioner of U.S. Customs and Border Protection to apply a rebuttable presumption that goods mined, produced, or manufactured by entities on the UFLPA Entity List are made with forced labor, and therefore, prohibited from importation into the United States under 19 U.S.C. 1307. *See* section 3(a) of the UFLPA. As the FLETF revises the UFLPA Entity List, including by making additions, removals, or technical corrections, DHS, on its behalf, will post such revisions to the DHS UFLPA website (*https://www.dhs.gov/uflpa-entity-list*) and also publish the revised UFLPA Entity List as an appendix to a **Federal Register** notice.

Background

A. The Forced Labor Enforcement Task Force

Section 741 of the United States-Mexico-Canada Agreement Implementation Act established the FLETF to monitor United States enforcement of the prohibition under section 307 of the Tariff Act of 1930, as amended (19 U.S.C. 1307). *See* 19 U.S.C. 4681. Pursuant to DHS Delegation Order No. 23034, the DHS Under Secretary for Strategy, Policy, and Plans serves as Chair of the FLETF, an interagency task force that includes the Department of Homeland Security, the Office of the U.S. Trade Representative, and the Departments of Labor, State, Justice, the Treasury, and Commerce (member agencies).[1] *See* 19 U.S.C. 4681; Executive Order 13923 (May 15, 2020). In addition, the FLETF includes six observer agencies: the Departments of Energy and Agriculture, the U.S. Agency for International Development, the National Security Council, U.S. Customs and Border Protection, and U.S. Immigration and Customs Enforcement Homeland Security Investigations.

B. The Uyghur Forced Labor Prevention Act: Preventing Goods Made With Forced Labor in the People's Republic of China From Being Imported Into the United States

The UFLPA requires, among other things, that the FLETF, in consultation with the Secretary of Commerce and the Director of National Intelligence, develop a strategy (UFLPA section 2(c)) for supporting enforcement of section 307 of the Tariff Act of 1930, to prevent the importation into the United States of goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part with forced labor in the People's Republic of China. As required by the UFLPA, the *Strategy to Prevent the Importation of Goods Mined, Produced, or Manufactured with Forced Labor in the People's Republic of China,* which was published on the DHS website on June 17, 2022 (*see https://www.dhs.gov/uflpa-strategy*), includes the initial UFLPA Entity List, a consolidated register of the four lists required to be developed and maintained pursuant to the UFLPA. *See* UFLPA section 2(d)(2)(B).

[1] The U.S. Department of Homeland Security, as the FLETF Chair, has the authority to invite representatives from other executive departments and agencies, as appropriate. *See* Executive Order 13923 (May 15, 2020). The U.S. Department of Commerce is a member of the FLETF as invited by the Chair.

C. UFLPA Entity List

The UFLPA Entity List addresses distinct requirements set forth in clauses (i), (ii), (iv), and (v) of section 2(d)(2)(B) of the UFLPA that the FLETF identify and publish the following four lists:

(1) a list of entities in Xinjiang that mine, produce, or manufacture wholly or in part any goods, wares, articles, and merchandise with forced labor;

(2) a list of entities working with the government of Xinjiang to recruit, transport, transfer, harbor or receive forced labor or Uyghurs, Kazakhs, Kyrgyz, or members of other persecuted groups out of Xinjiang;

(3) a list of entities that exported products made by entities in lists 1 and 2 from the PRC into the United States; and

(4) a list of facilities and entities, including the Xinjiang Production and Construction Corps, that source material from Xinjiang or from persons working with the government of Xinjiang or the Xinjiang Production and Construction Corps for purposes of the ''poverty alleviation'' program or the ''pairing-assistance'' program or any other government-labor scheme that uses forced labor.

The UFLPA Entity List is a consolidated register of the above four lists. In accordance with section 3(e) of the UFLPA, effective June 21, 2022, entities on the UFLPA Entity List (listed entities) are subject to the UFLPA's rebuttable presumption, and products they produce, wholly or in part, are prohibited from entry into the United States under 19 U.S.C. 1307. The UFLPA Entity List is described in appendix 1 to this notice. The UFLPA Entity List should not be interpreted as an exhaustive list of entities engaged in the practices described in clauses (i), (ii), (iv), or (v) of section 2(d)(2)(B) of the UFLPA.

Revisions to the UFLPA Entity List, including all additions, removals, and technical corrections, will be published on the DHS UFLPA website (*https://www.dhs.gov/uflpa-entity-list*) and as an appendix to a notice that will be published in the **Federal Register**. *See* appendix 1. The FLETF will consider future additions to, or removals from, the UFLPA Entity List based on criteria described in clauses (i), (ii), (iv), or (v) of section 2(d)(2)(B) of the UFLPA. Any FLETF member agency may submit a recommendation(s) to add, remove or make technical corrections to an entry on the UFLPA Entity List. FLETF member agencies will review and vote on revisions to the UFLPA Entity List accordingly.

Additions to the Entity List

The FLETF will consider future additions to the UFLPA Entity List based on the criteria described in clauses (i), (ii), (iv), or (v) of section 2(d)(2)(B) of the UFLPA. Any FLETF member agency may submit a recommendation to the FLETF Chair to add an entity to the UFLPA Entity List. Following review of the recommendation by the FLETF member agencies, the decision to add an entity to the UFLPA Entity List will be made by majority vote of the FLETF member agencies.

Requests for Removal From the Entity List

Any listed entity may submit a request for removal (removal request) from the UFLPA Entity List along with supporting information to the FLETF Chair at *FLETF.UFLPA.EntityList@hq.dhs.gov.* In the removal request, the entity (or its designated representative) should provide information that demonstrates that the entity no longer meets or does not meet the criteria described in the applicable clause ((i), (ii), (iv), or (v)) of section 2(d)(B) of the UFLPA. The FLETF Chair will refer all such removal requests and supporting information to FLETF member agencies. Upon receipt of the removal request, the FLETF Chair or the Chair's designated representative may contact the entity on behalf of the FLETF regarding questions on the removal request and may request additional information. Following review of the removal request by the FLETF member agencies, the decision to remove an entity from the UFLPA Entity List will be made by majority vote of the FLETF member agencies.

Listed entities may request a meeting with the FLETF after submitting a removal request in writing to the FLETF Chair at *FLETF.UFLPA.EntityList@hq.dhs.gov.* Following its review of a removal request, the FLETF may accept the meeting request at the conclusion of the review period and, if accepted, will hold the meeting prior to voting on the entity's removal request. The FLETF Chair will advise the entity in writing of the FLETF's decision on its removal request. While the FLETF's decision on a removal request is not appealable, the FLETF will consider new removal requests if accompanied by new information.

Robert Silvers,

Under Secretary, Office of Strategy, Policy, and Plans, U.S. Department of Homeland Security.

Appendix 1

This notice supersedes the UFLPA Entity List initially posted to the **Federal Register** on August 4, 2022 (87 FR 47777). The UFLPA Entity List as of June 12, 2023 is available in this appendix and is published on *https://www.dhs.gov/uflpa-entity-list.* This update adds two entities and eight subsidiaries to the section 2(d)(2)(B)(ii) list of the UFLPA for working with the government of Xinjiang to recruit, transport, transfer, harbor or receive forced labor or Uyghurs, Kazakhs, Kyrgyz, or members of other persecuted groups out of Xinjiang:

- Xinjiang Zhongtai Chemical Co. Ltd.; and
- Ninestar Corporation and its eight Zhuhai-based subsidiaries, which include Zhuhai Ninestar Information Technology Co. Ltd., Zhuhai Pantum Electronics Co. Ltd., Zhuhai Apex Microelectronics Co., Ltd., Geehy Semiconductor Co., Ltd., Zhuhai Pu-Tech Industrial Co., Ltd., Zhuhai G&G Digital Technology Co., Ltd., Zhuhai Seine Printing Technology Co., Ltd., and Zhuhai Ninestar Management Co., Ltd.

No technical corrections or removals are being made to the UFLPA Entity List at this time.

The UFPLA Entity List is a consolidated register of the four lists that are required to be developed and maintained pursuant to section 2(d)(2)(B) of the UFLPA. Twenty-two entities that meet the criteria set forth in the four required lists (*see* sections 2(d)(2)(B)(i), (ii), (iv), and (v) of the UFLPA) are specified on the UFLPA Entity List.

UFLPA Entity List June 12, 2023

UFLPA Section 2(d)(2)(B)(i) A List of Entities in Xinjiang That Mine, Produce, or Manufacture Wholly or in Part Any Goods, Wares, Articles, and Merchandise With Forced Labor

Baoding LYSZD Trade and Business Co., Ltd.
Changji Esquel Textile Co. Ltd. (and one alias: Changji Yida Textile)
Hetian Haolin Hair Accessories Co. Ltd. (and two aliases: Hotan Haolin Hair Accessories; and Hollin Hair Accessories)
Hetian Taida Apparel Co., Ltd (and one alias: Hetian TEDA Garment)
Hoshine Silicon Industry (Shanshan) Co., Ltd (including one alias: Hesheng Silicon Industry (Shanshan) Co.) and subsidiaries
Xinjiang Daqo New Energy, Co. Ltd (including three aliases: Xinjiang Great New Energy Co., Ltd.; Xinjiang Daxin Energy Co., Ltd.; and Xinjiang Daqin Energy Co., Ltd.)
Xinjiang East Hope Nonferrous Metals Co. Ltd. (including one alias: Xinjiang Nonferrous)
Xinjiang GCL New Energy Material Technology, Co. Ltd (including one alias: Xinjiang GCL New Energy Materials Technology Co.)
Xinjiang Junggar Cotton and Linen Co., Ltd.
Xinjiang Production and Construction Corps (including three aliases: XPCC; Xinjiang Corps; and Bingtuan) and its subordinate and affiliated entities

UFLPA Section 2(d)(2)(B)(i) A List of Entities Working With the Government of Xinjiang To Recruit, Transport, Transfer, Harbor or Receive Forced Labor or Uyghurs, Kazakhs, Kyrgyz, or Members of Other Persecuted Groups out of Xinjiang

Aksu Huafu Textiles Co.—(including two aliases: Akesu Huafu and Aksu Huafu Dyed Melange Yarn)
Hefei Bitland Information Technology Co., Ltd. (including three aliases: Anhui Hefei Baolongda Information Technology; Hefei Baolongda Information Technology Co., Ltd.; and Hefei Bitland Optoelectronic Technology Co., Ltd.)
Hefei Meiling Co. Ltd. (including one alias: Hefei Meiling Group Holdings Limited).
KTK Group (including three aliases: Jiangsu Jinchuang Group; Jiangsu Jinchuang Holding Group; and KTK Holding).
Lop County Hair Product Industrial Park
Lop County Meixin Hair Products Co., Ltd.
Nanjing Synergy Textiles Co., Ltd. (including two aliases: Nanjing Xinyi Cotton Textile Printing and Dyeing; and Nanjing Xinyi Cotton Textile).
Ninestar Corporation and its eight Zhuhai-based subsidiaries, which include Zhuhai Ninestar Information Technology Co. Ltd., Zhuhai Pantum Electronics Co. Ltd., Zhuhai Apex Microelectronics Co., Ltd., Geehy Semiconductor Co., Ltd., Zhuhai Pu-Tech Industrial Co., Ltd., Zhuhai G&G Digital Technology Co., Ltd., Zhuhai Seine Printing Technology Co., Ltd., and Zhuhai Ninestar Management Co., Ltd.
No. 4 Vocation Skills Education Training Center (VSETC)
Tanyuan Technology Co. Ltd. (including five aliases: Carbon Yuan Technology; Changzhou Carbon Yuan Technology Development; Carbon Element Technology; Jiangsu Carbon Element Technology; and Tanyuan Technology Development).
Xinjiang Production and Construction Corps (XPCC) and its subordinate and affiliated entities
Xinjiang Zhongtai Chemical Co. Ltd.

UFLPA Section 2(d)(2)(B)(iv) A List of Entities That Exported Products Described in Clause (iii) From the PRC Into the United States

Entities identified in sections (i) and (ii) above may serve as both manufacturers and exporters. The FLETF has not identified additional exporters at this time but will continue to investigate and gather information about additional entities that meet the specified criteria.

UFLPA Section 2(d)(2)(B)(v) A List of Facilities and Entities, Including the Xinjiang Production and Construction Corps, That Source Material From Xinjiang or From Persons Working With the Government of Xinjiang or the Xinjiang Production and Construction Corps for Purposes of the ''Poverty Alleviation'' Program or the ''Pairing-Assistance'' Program or Any Other Government Labor Scheme That Uses Forced Labor

Baoding LYSZD Trade and Business Co., Ltd.
Hefei Bitland Information Technology Co. Ltd.
Hetian Haolin Hair Accessories Co. Ltd.
Hetian Taida Apparel Co., Ltd.
Hoshine Silicon Industry (Shanshan) Co., Ltd., and Subsidiaries
Xinjiang Junggar Cotton and Linen Co., Ltd.
Lop County Hair Product Industrial Park
Lop County Meixin Hair Products Co., Ltd.
No. 4 Vocation Skills Education Training Center (VSETC)
Xinjiang Production and Construction Corps (XPCC) and its subordinate and affiliated entities
Yili Zhuowan Garment Manufacturing Co., Ltd.

[FR Doc. 2023–12481 Filed 6–9–23; 8:45 am]

BILLING CODE 9110–9M–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0005]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Application for Family Unity Benefits

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until August 11, 2023.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0005 in the body of the letter, the agency name and Docket ID USCIS–2009–0021. Submit comments via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2009–0021.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2009–0021 in the search box. 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 consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Family Unity Benefits.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–817; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The information collected will be used to determine whether the applicant meets the eligibility requirements for benefits under 8 CFR 236.14 and 245a.33.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–817 is approximately 1,000 and the estimated hour burden per response is 2 hours per response; the estimated number of respondents providing biometrics is 1,000 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 3,170 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $122,500.

Dated: June 6, 2023.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2023–12438 Filed 6–9–23; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0001]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Petition for Alien Fiancé(e)

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until August 11, 2023.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0001 in the body of the letter, the agency name and Docket ID USCIS–2006–0028. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2006–0028.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and entering USCIS–2006–0028 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *https://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Petition for Alien Fiancé(e).

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–129F; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form I–129F must be filed with U.S. Citizenship and Immigration Services (USCIS) by a citizen of the United States to petition for an alien spouse, fiancé(e), or child.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–129F is 47,700 and the estimated hour burden per response is 3.12 hours; The estimated total number of respondents for the information collection of Biometrics is 47,700 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 203,697 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $8,850,635.

Dated: June 6, 2023.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2023–12440 Filed 6–9–23; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0117]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: myE-Verify Program

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until August 11, 2023.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0117 in the body of the letter, the agency name and Docket ID USCIS–2010–0014. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2010–0014.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and entering USCIS–2010–0014 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *https://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* myE-Verify Program.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* G–1499; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals and Households. The myE-Verify (previously E-Verify Self Check) collection allows workers in the United States to enter data into the E-Verify system to ensure that the information relating to their eligibility to work is correct and accurate. This is necessary so that workers in the United States can correct their records before a hiring decision is made. This will lead to a more reliable and accurate E-Verify system that works better for both employers and employees.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection G–1499 is 250,000 and the estimated hour burden per response is 0.0833 hours. Of this 250,000, an estimated 75,000 respondents will need to correct information that may have been entered incorrectly to continue using myE-Verify; this estimated burden per response is 0.0833 hours. Of this 250,000, an estimated 10,000 respondents may be required to pursue further action to correct their records at the appropriate agency; this estimated burden per response is 1.183 hours. Of this 250,000, an estimated 25,000 respondents will be required to provide additional information for a second Authentication Check; this estimated burden per response is 0.25 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 45,153 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $0. There are no mailing or other costs associated with this collection of information.

Dated: June 6, 2023.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2023–12430 Filed 6–9–23; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0156]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Request for a Certificate of Non-Existence

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until August 11, 2023.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0156 in the body of the letter, the agency name and Docket ID USCIS–2021–0021. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2021–0021.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and entering USCIS–2021–0021 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *https://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Request for a Certificate of Non-Existence.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* G–1566; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. USCIS uses the information collected on Form G–1566 to determine whether any immigration records about the subject of record listed on the form exist. If no records about the subject of record exist, USCIS will provide a Certificate of Nonexistence. If USCIS finds records related to the subject of record, a Certificate of Non-Existence will not be issued, but the requestor will be notified that records were found.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection G–1566 is 2,000 and the estimated hour burden per response is .5 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 1,000 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $122,000.

Dated: June 6, 2023.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2023–12429 Filed 6–9–23; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0010]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Nonimmigrant Petition Based on Blanket L Petition

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting 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. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until July 12, 2023.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be submitted via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2006–0050. All submissions received must include the OMB Control Number 1615–0010 in the body of the letter, the agency name and Docket ID USCIS–2006–0050.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on February 21, 2023, at 88 FR 10530, allowing for a 60-day public comment period. USCIS did not receive

any comments in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2006–0050 in the search box. The comments submitted to USCIS via this method are visible to the Office of Management and Budget and comply with the requirements of 5 CFR 1320.12(c). 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 consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Nonimmigrant Petition Based on Blanket L Petition.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–129S; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. Employers seeking to classify employees outside the United States as executives, managers, or specialized knowledge professionals, as nonimmigrant intra-company transferees pursuant to a previously approved blanket petition under sections 214(c)(2) and 101(a)(15)(L) of the Act, may file this form. USCIS uses the information provided through this form to assess whether the employee meets the requirements for L–1 classification under blanket L petition approval. Submitting this information to USCIS is voluntary. USCIS may provide the information provided through this form to other Federal, State, local, and foreign government agencies and authorized organizations, and may also be made available, as appropriate, for law enforcement purposes or in the interest of national security.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–129S is 42,700 and the estimated hour burden per response is 2.87 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 122,549 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $20,923,000.

Dated: June 6, 2023.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2023–12439 Filed 6–9–23; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0037]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Refugee/Asylee Relative Petition

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until August 11, 2023.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0037 in the body of the letter, the agency name and Docket ID USCIS–2007–0030. Submit comments via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2007–0030.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions,

or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2007–0030 in the search box. 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 consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Refugee/Asylee Relative Petition.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–730; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form I–730 is used by a refugee or asylee to file on behalf of his or her spouse and/or children for follow-to-join benefits provided that the relationship to the refugee/asylee existed prior to their admission to the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–730 is 13,000 and the estimated hour burden per response is .667 hours

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 8,671 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $1,592,500.

Dated: June 6, 2023.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2023–12437 Filed 6–9–23; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0072]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Application for Suspension of Deportation or Special Rule Cancellation of Removal (NACARA)

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting 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. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until July 12, 2023.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be submitted via the Federal eRulemaking Portal website at *http://www.regulations.gov* under e-Docket ID number USCIS–2008–0077. All submissions received must include the OMB Control Number 1615–0072 in the body of the letter, the agency name and Docket ID USCIS–2008–0077.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on March 23, 2023, at 88 FR 17589, allowing for a 60-day public comment period. USCIS did not receive any comments in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2008–0077 in the search box. The comments submitted to USCIS via this method are visible to the Office of Management and Budget and comply with the requirements of 5 CFR 1320.12(c). 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 consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Suspension of Deportation or Special Rule Cancellation of Removal (Pursuant to Section 203 of Pub. L. 105–100, NACARA).

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–881; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The data collected on the Form I–881 is used by Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) asylum officers, EOIR immigration judges, and Board of Immigration Appeals board members. The Form I–881 is used to determine eligibility for suspension of deportation or special rule cancellation of removal under Section 203 of NACARA. The form serves the purpose of standardizing requests for the benefits and ensuring that basic information required for assessing eligibility is provided by the applicants.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–881 is 202 and the estimated hour burden per response is 11 hours and 52 minutes; the estimated total number of respondents for the information collection of Biometrics is 333 and the estimated hour burden per response is 1 hour and 10 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 2,787 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $100,419.

Dated: June 6, 2023.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2023–12436 Filed 6–9–23; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2023–0090; FXIA16710900000–234–FF09A30000]

Foreign Endangered Species; Receipt of Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on applications to conduct certain activities with foreign species that are listed as endangered under the Endangered Species Act (ESA). With some exceptions, the ESA prohibits activities with listed species unless Federal authorization is issued that allows such activities. The ESA also requires that we invite public comment before issuing permits for any activity otherwise prohibited by the ESA with respect to any endangered species.

DATES: We must receive comments by July 12, 2023.

ADDRESSES:

Obtaining Documents: The applications, application supporting materials, and any comments and other materials that we receive will be available for public inspection at *https://www.regulations.gov* in Docket No. FWS–HQ–IA–2023–0090.

Submitting Comments: When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. You may submit comments by one of the following methods:

- *Internet: https://www.regulations.gov.* Search for and submit comments on Docket No. FWS–HQ–IA–2023–0090.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2023–0090; U.S. Fish and Wildlife Service Headquarters, MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

For more information, see Public Comment Procedures under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, by phone at 703–358–2185 or via email at *DMAFR@fws.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:

I. Public Comment Procedures

A. How do I comment on submitted applications?

We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

You may submit your comments and materials by one of the methods in **ADDRESSES**. We will not consider comments sent by email or to an address not in **ADDRESSES**. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**).

When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. Provide sufficient information to allow us to authenticate any scientific or commercial data you include. The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) those that include citations to, and analyses of, the applicable laws and regulations.

B. May I review comments submitted by others?

You may view and comment on others' public comments at *https://www.regulations.gov* unless our allowing so would violate the Privacy Act (5 U.S.C. 552a) or Freedom of Information Act (5 U.S.C. 552).

C. Who will see my comments?

If you submit a comment at *https://www.regulations.gov,* your entire comment, including any personal

identifying information, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, such as your address, phone number, or email address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(c) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), we invite public comments on permit applications before final action is taken. With some exceptions, the ESA prohibits certain activities with listed species unless Federal authorization is issued that allows such activities. Permits issued under section 10(a)(1)(A) of the ESA allow otherwise prohibited activities for scientific purposes or to enhance the propagation or survival of the affected species. Service regulations regarding prohibited activities with endangered species, captive-bred wildlife registrations, and permits for any activity otherwise prohibited by the ESA with respect to any endangered species are available in title 50 of the Code of Federal Regulations in part 17.

III. Permit Applications

We invite comments on the following applications.

Endangered Species

Applicant: Sedgewick County Zoo, Wichita, KS; Permit No. PER2475594

The applicant requests a permit to export to Zoologischer Garten Frankfurt, Germany, three female Jamaican iguanas (*Cyclura collei*), for the purpose of enhancing the propagation or survival of the species. This notification is for a single export.

Applicant: Oregon Zoo, Portland, OR; Permit No. PER2525954

The applicant requests a permit to export to Zoológico de Cali, Cali, Columbia, four captive-born African painted dogs (*Lycaon pictus*) for the purpose of enhancing the propagation or survival of the species. This notification is for a single export.

Applicant: University of Georgia, College of Veterinary Medicine, Athens, GA; Permit No. PER2484762

The applicant requests a permit to export blood samples of felids (*Acinonyx jubatus, Felis nigripes, Leopardus pardalis, Leptailurus serval, Lynx rufus rufus, Neofelis nebulosa, Panthera leo, Panthera onca, Panthera tigris, Panthera tigris altaica, Panthera tigris sumatrae, Uncia uncia,* and *Puma concolor*) for the purpose of scientific research to Laboklin GMBH & Co.Kg, Labor Für Klinisc, Germany. This notification is for a single export.

Applicant: Virginia Institute of Marine Science, Gloucester Point, VA; Permit No. PER2358970

The applicant requests the renewal of the permit to export/re-export and reimport nonliving museum specimens of endangered and threatened species previously accessioned into the applicant's collection for scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Smithsonian National Zoo and Conservation Biology Institute, Washington, DC; Permit No. PER2499014

The applicant requests a permit to export one male and one female captive-bred hooded crane (*Grus monacha*), as well as one male captive-bred red-crowned crane (*Grus japonensis*), to the Assiniboine Park Zoo, Winnepeg, Manitoba, Canada, for the purpose of enhancing the propagation or survival of the species. This notification is for a single export.

Applicant: Virginia Safari Park & Preservation Center, Inc, Natural Bridge, VA; Permit No. PER0052428

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species, to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Common name	Scientific name
African penguin	*Spheniscus demersus.*
Cheetah	*Acinonyx jubatus.*
Golden-rumped tamarin.	*Leontopithecus* spp.

Multiple Trophy Applicants

The following applicants request permits to import sport-hunted trophies of male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancing the propagation or survival of the species.

- James Salter, Weatherford, TX; Permit No. PER2392261
- James Stacy, Natchitoches, LA; Permit No. PER2440535
- Donald Brown, Cleveland, MT; Permit No. PER2464642
- Davis Jones, Colleyville, TX; Permit No. 61538D
- George Clark, San Antonio, TX; Permit No. 54418C

IV. Next Steps

After the comment period closes, we will make decisions regarding permit issuance. If we issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**. You may locate the notice announcing the permit issuance by searching *https://www.regulations.gov* for the permit number listed above in this document. For example, to find information about the potential issuance of Permit No. 12345A, you would go to *regulations.gov* and search for ''12345A''.

V. Authority

We issue this notice under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and its implementing regulations.

Brenda Tapia,

Supervisory Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2023–12383 Filed 6–9–23; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–FAC–2023–N044; FXFR13360900000–FF09F14000–201]

Aquatic Nuisance Species Task Force; Teleconference/Web Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of teleconference/web meeting.

SUMMARY: The U.S. Fish and Wildlife Service gives notice of a teleconference/web meeting of the Aquatic Nuisance Species (ANS) Task Force, in accordance with the Federal Advisory Committee Act.

DATES:

Teleconference/web meeting: The ANS Task Force will meet Tuesday and Wednesday, July 18–19, 2023, from 12 p.m. to 4 p.m. each day (Eastern Time).

Registration: Registration is required. The deadline for registration is July 13, 2023.

Accessibility: The deadline for accessibility accommodation requests is July 13, 2023. Please see *Accessibility Information,* below.

ADDRESSES: The meeting will be held via teleconference and broadcast over the internet. To register and receive the web address and telephone number for participation, contact the Executive Secretary (see **FOR FURTHER INFORMATION CONTACT**) or visit the ANS Task Force website at *https://www.fws.gov/program/aquatic-nuisance-species-task-force.*

FOR FURTHER INFORMATION CONTACT: Susan Pasko, Executive Secretary, ANS Task Force, by telephone at (703) 358–2466, or by email at *Susan_Pasko@fws.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 ANS Task Force was established by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, and is composed of Federal and ex-officio members. The ANS Task Force's purpose is to develop and implement a program for U.S. waters to prevent introduction and dispersal of aquatic invasive species; to monitor, control, and study such species; and to disseminate related information.

This meeting is open to the public. The meeting agenda will include reports from ANS Task Force members, regional panels, and subcommittees; discussion on priority outputs to advance the goals identified in the ANS Task Force Strategic Plan for 2020–2025; a presentation by the U.S Geological Survey on new species occurrences in the United States; recommendations by the ANS Task Force regional panels; and public comment. The final agenda and other related meeting information will be posted on the ANS Task Force website, *https://www.fws.gov/program/aquatic-nuisance-species-task-force.*

Public Input

If you wish to provide oral public comment or provide a written comment for the ANS Task Force to consider, contact the ANS Task Force Executive Secretary (see **FOR FURTHER INFORMATION CONTACT**) no later than July 13, 2023.

Depending on the number of people who want to comment and the time available, the amount of time for individual oral comments may be limited. Interested parties should contact the ANS Task Force Executive Secretary, in writing (see **FOR FURTHER INFORMATION CONTACT**), for placement on the public speaker list for this meeting. Requests to address the ANS Task Force during the meeting will be accommodated in the order the requests are received. Registered speakers who wish to expand upon their oral statements, or those who had wished to speak but could not be accommodated on the agenda, may submit written statements to the Executive Secretary up to 30 days following the meeting.

Accessibility Information

Please make requests in advance for sign language interpreter services, assistive listening devices, or other reasonable accommodations. Please contact the ANS Task Force Executive Secretary (see **FOR FURTHER INFORMATION CONTACT**) no later than July 13, 2023, to give the U.S. Fish and Wildlife Service sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis.

Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 5 U.S.C. ch. 10.

David A. Miko,

Co-Chair, Aquatic Nuisance Species Task Force.

[FR Doc. 2023–12392 Filed 6–9–23; 8:45 am]

BILLING CODE 4333–15–P

NATIONAL INDIAN GAMING COMMISION

Notice of Approved Class III Tribal Gaming Ordinance

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public of the approval of Absentee Shawnee Tribe of Indians of Oklahoma Class III gaming ordinance by the Chairman of the National Indian Gaming Commission.

DATES: This notice is applicable June 12, 2023.

FOR FURTHER INFORMATION CONTACT: Dena Wynn, Office of General Counsel at the National Indian Gaming Commission, 202–632–7003, or by facsimile at 202–632–7066 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act (IGRA) 25 U.S.C. 2701 *et seq.,* established the National Indian Gaming Commission (Commission). Section 2710 of IGRA authorizes the Chairman of the Commission to approve Class II and Class III tribal gaming ordinances. Section 2710(d)(2)(B) of IGRA, as implemented by NIGC regulations, 25 CFR 522.8, requires the Chairman to publish, in the **Federal Register**, approved Class III tribal gaming ordinances and the approvals thereof.

IGRA requires all tribal gaming ordinances to contain the same requirements concerning tribes' sole proprietary interest and responsibility for the gaming activity, use of net revenues, annual audits, health and safety, background investigations and licensing of key employees and primary management officials. The Commission, therefore, believes that publication of each ordinance in the **Federal Register** would be redundant and result in unnecessary cost to the Commission.

Thus, the Commission believes that publishing a notice of approved Class III tribal gaming ordinances in the **Federal Register**, is sufficient to meet the requirements of 25 U.S.C. 2710(d)(2)(B). Every ordinance and approval thereof is posted on the Commission's website (*www.nigc.gov*) under General Counsel, Gaming Ordinances within five (5) business days of approval.

On May 15, 2023, the Chairman of the National Indian Gaming Commission approved the Absentee Shawnee Tribe of Indians of Oklahoma Class III Gaming Ordinance. A copy of the approval letter is posted with this notice and can be found with the approved ordinance on the NIGC's website (*www.nigc.gov*) under General Counsel, Gaming Ordinances. A copy of the approved Class III ordinance will also be made available upon request. Requests can be made in writing to the Office of General Counsel, National Indian Gaming Commission, Attn: Dena Wynn, 1849 C Street NW, MS #1621, Washington, DC 20240 or at *info@nigc.gov.*

National Indian Gaming Commission.

Dated: June 1, 2023.

Rea Cisneros,

Acting General Counsel.

May 15, 2023
VIA EMAIL
Rebecca Avitia, Executive Director
Absentee Shawnee Tribe Gaming Commission
2025 S Gordon Cooper Dr.
Shawnee, OK 74801

Re: Absentee Shawnee Tribe of Indians of Oklahoma Amended Gaming Ordinance

Dear Executive Director Avitia:

This letter responds to your request for the National Indian Gaming Commission (''NIGC'') Chairman to review and approve the Absentee Shawnee Tribe's amended Gaming Ordinance (''Ordinance''). The Absentee Shawnee Tribe's Executive Committee adopted the amended Ordinance by Resolution L–AS–2023–13 on March 15, 2023. Thank you for bringing the Ordinance to our attention and for providing us with a copy. The Ordinance is approved as it is consistent with the Indian Gaming Regulatory Act and NIGC regulations. If you have any questions or require anything further, please contact Staff Attorney Adam L. Candler at 202–580–5718 or by email at *adam.candler@nigc.gov.*

Sincerely,
E. Sequoyah Simermeyer
Chairman
cc: John R. Johnson, Governor, Absentee Shawnee Tribe of Indians of Oklahoma

[FR Doc. 2023–12493 Filed 6–9–23; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–BSD–CONC–NPS0035666; PPWOBSADC0, PPMVSCS1Y.Y00000 (222); OMB Control Number 1024–0029]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; National Park Service Concessions

AGENCY: National Park Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the National Park Service are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before July 12, 2023.

ADDRESSES: Written comments and suggestions on the information collection requirements should be submitted by the date specified above in **DATES** to *http://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments to the NPS Information Collection Clearance Officer (ADIR–ICCO), 12201 Sunrise Valley Drive, (MS–242) Reston, VA 20191 (mail); or *phadrea_ponds@nps.gov* (email). Please include ''1024–0029'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Kurt Rausch, Contract Management Team Lead, National Park Service, 1849 C Street NW, Washington, DC 20240 (mail); or 202–513–7202 (telephone); or *kurt_rausch@nps.gov* (email). Please reference OMB Control Number 1024–0229 in the subject line of your comments. 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. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on May 9, 2022 (87 FR 27661) and ended on July 8, 2022. No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility.

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used.

(3) Ways to enhance the quality, utility, and clarity of the information to be collected.

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. 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.

Abstract: There are private businesses in more than 100 national parks under contract to the NPS that manage food, lodging, tours, whitewater rafting, boating, and many other recreational activities and amenities. These services gross more than $1 billion every year and provide jobs for more than 25,000 people during peak seasons.

The regulations codified in 36 CFR part 51 primarily implement title IV of the National Parks Omnibus Management Act of 1998 (54 U.S.C. 101911 *et seq.* also referred to as Pub. L. 105–391), which provides legislative authority, policies, and requirements for the solicitation, award, and administration of NPS concession contracts. Furthermore, 54 U.S.C. 101911 *et seq.* provides that all proposed concession contracts shall be awarded by the Secretary to the person, corporation or other entity submitting the best proposal, as determined by the Secretary through a competitive selection process. Such competitive process shall include simplified procedures for small, individually owned, concessions contracts. We use the information collected to objectively evaluate offers to assure that the park resources will be adequately protected and determine which offeror will provide the best service to visitors. For the purpose of this submission, we are requesting an extension of the currently approved information collections associated with the administration of NPS concessions contracts.

- Concessioner Annual Financial Reports:
- *Form 10–356, Concessioner Annual Financial Report*
- *Form 10–356A, Concessioner Annual Financial Report (For Concessioners with Gross Receipts Less than $500,000)*
- *Form 10–356B, Concessioner Annual Financial Report (For Concessioners with Special Accounts and Utility Add-ons)*

Forms and documents used to submit Proposals for Concession Opportunities:

- *Form 10–357A, Business Organization Information Form for Corporation, Limited Liability Company, Partnership or Joint Venture*
- *Form 10–357B, Business Organization Information Form for Individual or Sole Proprietorship*
- *Form 10–358, Business History Information Form*
- *Form 10–359, Large Concessions*
- *Form 10–359B, Small Concessions*
- Credit Report, Offeror's Transmittal Letter, Certificate of Business Entity Offeror, and Offeror's Financial Projection

In addition to the forms, the following information is collected in narrative format: (1) Amendments, (2) Appeals, (3) Request to Construct a Capital Improvement, (4) Construction Report, (5) Application to Sell or Transfer Concession Operation, and (6) Recordkeeping.

Title of Collection: National Park Service Concessions, 36 CFR 51.

OMB Control Number: 1024–0029.

Form Number: NPS Forms 10–356, 10–356A, 10–356B, 10–357A, 10–357B, 10–358, 10–359A, and 10–359B.

Type of Review: Extension of a currently approved collection.

Respondents/Affected: Public individuals, businesses, and nonprofit organizations.

Total Estimated Number of Annual Responses: 1,382.

Estimated Completion Time per Response: 30 minutes to 800 hours depending on respondent and/or activity.

Total Estimated Number of Annual Burden Hours: 159,892.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion for proposals, amendments, and appeals; annually for financial reports; and ongoing for recordkeeping.

Total Estimated Annual Nonhour Burden Cost: $425,000 ($420,000 for proposals associated with expenses for printing, travel for onsite visits, and professional fees; and, $5,000 for application to sell or transfer concession operation associated with preparing and submitting an application, other than expenses for printing, estimated to be approximately $250 per application (× 20 applications).

An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Phadrea Ponds,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2023–12473 Filed 6–9–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[OMB Control Number 1010–0081; Docket ID: BOEM–2023–0004]

Agency Information Collection Activities; Operations in the Outer Continental Shelf for Minerals Other Than Oil, Gas, and Sulfur

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Ocean Energy Management (BOEM) proposes this information collection request (ICR) to renew Office of Management and Budget (OMB) Control Number 1010–0081.

DATES: Comments must be received by OMB no later than July 12, 2023.

ADDRESSES: Submit your written comments on this ICR to the OMB's desk officer for the Department of the Interior at *www.reginfo.gov/public/do/PRAMain.* From the *www.reginfo.gov/public/do/PRAMain* landing page, find this information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments by parcel delivery to the BOEM Information Collection Clearance Officer, Anna Atkinson, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, Virginia 20166; or by email to *anna.atkinson@boem.gov.* Please reference OMB Control Number 1010–0081 in the subject line of your comments. You may also comment by searching the docket number ''BOEM–2023–0004'' at *www.regulations.gov.* Comments submitted in response to this notice are a matter of public record and will be available for public review on *www.reginfo.gov.*

FOR FURTHER INFORMATION CONTACT: Anna Atkinson by email at *anna.atkinson@boem.gov* or by telephone at 703–787–1025. 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 Paperwork Reduction Act of 1995, BOEM provides the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps BOEM assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand BOEM's information collection requirements and provide the requested data in the desired format.

Title of Collection: ''30 CFR part 582, Operations in the Outer Continental Shelf for Minerals Other than Oil, Gas, and Sulfur.''

Abstract: The Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1334 and 1337(k)(1)) authorizes the Secretary of the Interior to issue leases on available areas of the U.S. OCS to the highest qualified bidder to develop any mineral resources other than oil, gas, and sulfur. The Secretary may prescribe the royalty, rental, and other terms and conditions at the time the lease is offered. The act also authorizes the Secretary to issue regulations governing such leasing.

The Secretary delegated authority to implement these provisions governing leasing and development of minerals other than oil, gas, and sulfur to BOEM. The Department's regulations at 30 CFR part 582 implement the statutory requirements governing such OCS leasing and development.

Competitive leasing has not occurred for OCS minerals other than oil, gas, and sulfur in many years. Accordingly, BOEM has not generally collected information under the part 582 regulations. However, given the regulatory requirements and heightened interest in critical minerals, the potential exists that BOEM may require information under this part. Therefore, BOEM seeks OMB renewal of this information collection.

BOEM will use the information required by 30 CFR part 582 to determine if lessees are complying with the regulations for mining minerals other than oil, gas, and sulfur. BOEM will also use the information to ensure orderly resource development; to protect the human, marine, and coastal environments; and to conduct the requisite technical and environmental evaluations that inform BOEM's decision to approve, disapprove, or require modification of the proposed activities.

OMB Control Number: 1010–0081.

Form Number: None.

Type of Review: Extension of a currently approved information collection.

Respondents/Affected Public: Potential respondents are OCS lessees.

Total Estimated Number of Annual Responses: 20 responses.

Total Estimated Number of Annual Burden Hours: 212 hours.

Respondent's Obligation: Mandatory.

Frequency of Collection: Monthly, quarterly, or on occasion.

Total Estimated Annual Non-Hour Burden Cost: None.

We expect the burden estimate for the renewal will be 212 hours. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

A **Federal Register** notice with a 60-day public comment period on this proposed ICR was published on March 3, 2023 (88 FR 13464). BOEM received one public comment that opposed oil drilling on the OCS. Oil drilling is outside the scope of this ICR. No change in the burden was required.

BOEM is again soliciting comments on the proposed ICR. BOEM is especially interested in public comments addressing the following issues: (1) is the collection necessary to the proper functions of BOEM; (2) what can BOEM do to ensure that this information is processed and used in a timely manner; (3) is the burden estimate accurate; (4) how might BOEM enhance the quality, utility, and clarity of the information to be collected; and (5) how might BOEM minimize the burden of this collection on the respondents, including minimizing the burden through the use of information technology?

Comments submitted in response to this notice are a matter of public record and will be available for public review on *www.reginfo.gov.* You should be aware that your entire comment—including your address, phone number, email address, or other personally identifiable information included in your comment—may be made publicly available. Even if BOEM withholds your information in the context of this ICR, your comment is subject to the Freedom of Information Act (FOIA). If your comment is requested under FOIA, your information will only be withheld if BOEM determines that a FOIA exemption to disclosure applies. BOEM will make such a determination in accordance with the Department of the Interior's (DOI's) FOIA regulations and applicable law.

In order for BOEM to consider withholding from disclosure your personally identifiable information, you must identify, in a cover letter, any information contained in your comments that, if released, would constitute a clearly unwarranted invasion of your personal privacy. You must also briefly describe any possible harmful consequence of the disclosure of information, such as embarrassment, injury, or other harm.

BOEM protects proprietary information in accordance with FOIA (5 U.S.C. 552) and DOI's implementing regulations (43 CFR part 2).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Karen Thundiyil,

Chief, Office of Regulations, Bureau of Ocean Energy Management.

[FR Doc. 2023–12465 Filed 6–9–23; 8:45 am]

BILLING CODE 4340–98–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000 231S180110; S2D2S SS08011000 SX064A000 23XS501520; OMB Control Number 1029–0118]

Submission to the Office of Management and Budget for Review and Approval; Federal Inspections and Monitoring

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before August 11, 2023.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to Mark Gehlhar, Office of Surface Mining Reclamation and Enforcement, 1849 C Street NW, Room 4556–MIB, Washington, DC 20240, or by email to *mgehlhar@osmre.gov.* Please reference OMB Control Number 1029–0118 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Mark Gehlhar by email at *mgehlhar@osmre.gov,* or by telephone at 202–208–2716. 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. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) is the collection necessary to the proper functions of the agency; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the agency enhance the quality, utility, and clarity of the information to be collected; and (5) how might the agency minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before

including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you 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.

Abstract: This part establishes the procedures for any person to notify the Office of Surface Mining Reclamation and Enforcement in writing of any violation that may exist at a surface coal mining operation and to request a Federal inspection. The information will be used to investigate potential violations of the Act or applicable State regulations.

Title of Collection: Federal Inspections and Monitoring.

OMB Control Number: 1029–0118.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Respondents: 15.

Total Estimated Number of Annual Responses: 15.

Estimated Completion Time per Response: 1 hour.

Total Estimated Number of Annual Burden Hours: 15.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Once.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Mark J. Gehlhar,

Information Collection Clearance Officer, Division of Regulatory Support.

[FR Doc. 2023–12453 Filed 6–9–23; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Undersea Technology Innovation Consortium

Notice is hereby given that, on April 6, 2023, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Undersea Technology Innovation Consortium (''UTIC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Customer First Corporation, Middletown, RI; Edge Case Research, Inc., Pittsburgh, PA; Image Acoustics, Inc., Quincy, MA; MagiQ Technologies, Inc., Somerville, MA; and SyQwest, Inc., Cranston, RI, have been added as parties to this venture.

Also, Michigan Tech. University, Houghton, MI; Navmar Applied Sciences Corp., Warminster, PA; The Nomad Group LLC, Morristown, NJ; Thornton Tomasetti, Inc., New York, NY; Sirius Federal LLC, Crofton, MD; Sonatech LLC, Santa Barbara, CA; and Submergence Group LLC, Cedar Park, TX, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and UTIC intends to file additional written notifications disclosing all changes in membership.

On October 9, 2018, UTIC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 2, 2018 (83 FR 55203).

The last notification was filed with the Department on January 5, 2023. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 25, 2023 (88 FR 4847).

Suzanne Morris,

Deputy Director, Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2023–12524 Filed 6–9–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Medical Technology Enterprise Consortium

Notice is hereby given that, on April 5, 2023, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Medical Technology Enterprise Consortium (''MTEC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Advanced Regenerative Manufacturing Institute, Manchester, NH; Airion Health LLC, Los Angeles, CA; Amend Surgical, Inc., Alachua, FL; Arcascope, Inc., Arlington, VA; Biobeat Technologies Ltd., Petach Tikva, ISR; BioCircuit Technologies, Atlanta, GA; Bionet Sonar, Inc., Burlington, MA; Bionet Sonar, Inc., Burlington, MA; California Service Dog Academy, Visalia, CA; Capital Factory Properties LLC, Austin, TX; Circadian Positioning Systems, Inc., Newport, RI; Cohesys, Inc., Toronto Ontario, CAN; Coruna Medical LLC, Longmont, CO; CRO LLC, Missoula, MT; D'Angelo Technologies LLC, Beavercreek, OH; Dephy, Inc., Maynard, MA; DermiSense, Inc., Richmond, VA; DHR Health Institute for Research and Development, Edinburg, TX; Dog Tag Buddies, Billings, MT; Float Lab Technologies, Inc., Venice, CA; Florida State University, Tallahassee, FL; Foothold Labs, Inc., Olathe, KS; Ginkgo Bioworks, Inc., Boston, MA; Innovation Development Institute, Inc., Chicago, IL; IOTAI, Inc., Fremont, CA; Jana Care, Inc., Watertown, MA; Joint Research and Development, Inc., Stafford, VA; Luna Labs USA, Charlottesville, VA; Manzanita Pharmaceuticals, Inc., Woodside, CA; MCPC, Cleveland, OH; Medmarc Insurance Company, Chantilly, VA; Microbiotix, Inc., Worcester, MA; Milestone Scientific, Inc., Roseland, NJ; New Jersey Institute of Technology, Newark, NJ; NightHawk Biosciences, Inc., Morrisville, NC; North American Rescue LLC, Greer, SC; Northstar Emergency Management LLC, Pittsburgh, PA; Omnicure, Inc., Ladue, MO; Orbis Diagnostics Ltd., Auckland, New Zealand; Phiex Technologies, Inc., Boston, MA; Population Sleep LLC, Dallas, TX; PortaVision Medical LLC, Jefferson, LA; Purdue University, West Lafayette, IN; Reed Integration, Inc., Suffolk, VA; Regenerative Processing Plant LLC, Tampa, FL; Rivanna Medical, Inc., Charlottesville, VA; Ronawk, Inc., Olathe, KS; Scanogen, Inc., Windsor Mill, MD; Sonera Magnetics, Inc., Berkeley, CA; Sparta Software Corp., San Francisco, CA; Steadman Philippon Research Institute, Vail, CO; Stellarray, Inc., Austin, TX; SteriO3 LLC, Broomfield, CO; Stop Soldier Suicide,

Durham, NC; The University of Queensland, St Lucia, QLD, AUSTRALIA; Theradaptive, Frederick, MD; UCHU Biosensors, Inc., Newark, NJ; University of Kansas Center for Research, Inc., Lawrence, KS; University of Kansas Medical Center Research Institute, Inc., Kansas City, KS; and University of North Carolina at Wilmington, Wilmington, NC, have been added as parties to this venture.

Also, 1Focus LLC, Clearwater, FL; Aeris LLC, Louisville, CO; AivoCode, Inc., La Jolla, CA, Altimmune, Inc., Gaithersburg, MD; Apogee Solutions, Inc., Chesapeake, VA; Appili Therapeutics, Inc., Halifax, CAN; Aptahem AB, Malmö, SWEEDEN; Armed Forces Services Corp. dba Magellan Federal, Arlington, VA; Avocado Labs, Inc., Dallas, TX; Azture, Inc., La Jolla, CA; BioGenerator, Saint Louis, MO; Charted Course LLC, Washington, DC; Clarkson University, Potsdam, NY; Cognitive Medical Systems, Inc., San Diego, CA; Domenix, Chantilly, VA; EchoNous, Inc., Redmond, WA; EdgeImpulse, Inc., San Jose, CA; Elephant Ventures LLC, New York, NY; Fast BioMedical, Indianapolis, IN; Fitbit LLC, San Francisco, CA; Frater GmbH, Naters, SWITZERLAND; General Dynamics Information Technology, Inc., Fairfax, VA; Geometric Data Analytics, Durham, NC; GlobalMedia Group LLC, Scottsdale, AZ; GRI Technology Solutions LLC, Durham, NC; Guidehouse, Inc., Falls Church, VA; HAI Solutions, Inc., Santa Barbara, CA; Heat Biologics, Morrisville, NC; Humanetics Corp., Edina, MN; Ideal Medical Technologies, Inc., Asheville, NC; Imeka Solutions, Inc., Sherbrooke Quebec, CANADA; Informa Business Intelligence, Inc., New York, NY; InterSystems Corp., Cambridge, MA; KaloCyte, Inc., Baltimore, MD; Kinsa, Inc., San Francisco, CA; Kreative Technologies LLC, Fairfax, VA; LAINE Technologies, Goose Creek, SC; Mainstream Engineering Corp., Rockledge, FL; MBio Diagnostics, Inc. dba LightDeck Diagnostics, Boulder, CO; Medevac Foundation International, Alexandria, VA; Mendon Group LLC, Pittsford, NY; MicroGEM US, Inc., Charlottesville, VA; Nanobionic Technologies Limited, Nicosia, CYPRUS; Nanovatif Materials Technologies, Ankara, TURKEY; NeuroFlow, Inc., Philadelphia, PA; NowSecure, Inc., Vienna, VA; NuPeak Therapeutics, St Louis, MO; Obsidio, Inc., Columbia, SC; OneBreath, Inc., Palo Alto, CA; Optum Public Sector Solutions, Inc., Falls Church, VA; Paladin Defense Services LLC, Nicholasville, KY; Palanquinx Pty, Ltd., Hornsby Heights, AUS; PCCI, Inc., Alexandria, VA; Peraton, Inc., Herndon, VA; Pixel and Timber LLC, Cincinnati, OH; Scaled Microbiomics LLC, Hagerstown, MD; Scandinavian Biopharma Holding AB, Solna, SWE; SISCAPA Assay Technologies, Inc., Washington, DC; Sonosa Medical, Inc., Baltimore, MD; Spectrohm, Inc., Tysons Corner, VA; Tactical Medical Solutions LLC, Anderson, SC; Technatomy Corp., Fairfax,VA; The Mullings Group, Delray Beach, FL; Tiber Creek Partners, Vienna, VA; TMG360 Media, Delray Beach, FL; TrainXR LLC, Las Vegas, NV; Trifecta Solutions, Reston, VA; UNandUP LLC, Saint Louis, MO; UtopiaCompression Corp., Los Angeles, CA; Washington University, St. Louis, MO; and Wound Exam Corp., Grand Forks, ND, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and MTEC intends to file additional written notifications disclosing all changes in membership.

On May 9, 2014, MTEC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on June 9, 2014 (79 FR 32999).

The last notification was filed with the Department on January 12, 2023. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on March 27, 2023 (88 FR 18181).

Suzanne Morris,

Deputy Director, Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2023–12503 Filed 6–9–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Spectrum Consortium

Notice is hereby given that, on April 5, 2023, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Spectrum Consortium (''NSC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Beacon Industries, Inc., Newington, CT; Cogito Innovations, Charlotte Hall, MD; Cognicom, Inc., San Diego, CA; EWA Warrior Services LLC, Huntsville, AL; and NCTA—The internet & Television Association, Washington, DC, have been added as parties to this venture.

Also, Expedition Technology, Inc., Herndon, VA; Janus Communications, Irvine, CA; RAM Laboratories, Inc., San Diego, CA; SFL Scientific LLC, Quincy, MA; Siemens Industry Software, Inc., Wilsonville, OR; University of California San Diego, La Jolla, CA; University of South Carolina, Columbia, SC; and Vectrona LLC, Virginia Beach, VA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NSC intends to file additional written notifications disclosing all changes in membership.

On September 23, 2014, NSC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on November 4, 2014 (79 FR 65424).

The last notification was filed with the Department on January 13, 2023. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on March 17, 2023 (88 FR 16458).

Suzanne Morris,

Deputy Director, Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2023–12526 Filed 6–9–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Medical CBRN Defense Consortium

Notice is hereby given that, on April 6, 2023, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Medical CBRN Defense Consortium (''MCDC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under

specified circumstances. Specifically, Decryptor, Inc., Richardson, TX; Joint Research & Development, Inc., Stafford, VA; Northstar Emergency Management LLC, Pittsburgh, PA; Redwire Space Components LLC, Marlborough, MA; SaponiQx, Inc., Lexington, MA; UniVox Technical Solutions LLC dba UniVox LLC, Tijeras, NM; Vega Technology Group LLC, North Canton, OH; and Zalgen Labs LLC, Frederick, MD have been added as parties to this venture.

Also, Allegheny-Singer Research Institute dba AHN Institute, Pittsburgh, PA; BioCryst Phamaceuticals, Inc., Durham, NC; Encryptor, Inc., Richardson, TX; Healion Bio, Inc., Ijamsville, MD; ImmPORT Therapeutics, Inc. dba Antigen Discovery, Inc., Irvine, CA; Kuprion, Inc., San Jose, CA; MBio Diagnostics, Inc. dba LightDeck Diagnostics, Boulder, CO; Medicago USA, Inc., Durham, NC; Merck, Sharpe and Dohme Corp., Whitehouse Stations, NJ; and Tutela Pharmaceuticals, Inc., Vernon Hills, IL have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and MCDC intends to file additional written notifications disclosing all changes in membership.

On November 13, 2015, MCDC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on January 6, 2016 (81 FR 513).

The last notification was filed with the Department on January 4, 2023. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on January 25, 2023 (88 FR 4850).

Suzanne Morris,

Deputy Director, Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2023–12504 Filed 6–9–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Maritime Sustainment and Technology Innovation Consortium

Notice is hereby given that, on April 6, 2023, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Maritime Sustainment and Technology Innovation Consortium (''MSTIC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Aerotek Affiliated Services, Inc., Hanover, MD; American Lightweight Materials Manufacturing Innovation Institute, Detroit, MI; AMMCON Corp., Hillsboro, OR; Asystek Solutions Group LLC, Bethlehem, PA; Black Oak Security, Portland, OR; Bradken Inc., Tacoma, WA; Buffalo Pumps, Inc., North Tonawanda, NY; Calnetix Technologies, LLC, Cerritos, CA; Carahsoft Technology Corporation, Reston, VA; Charles River Analytics, Cambridge, MA; CMA Technologies, Inc., Orlando, FL; Cogitic Corporation, Colorado Springs, CO; Compendium Federal Technology (CFT), Lexington Park, MD; Continental Tide Defense Systems, Inc., Wyomissing, PA; Cumberland Additive, Inc., Pflugerville, TX; Defense Industry Advisors, LLC, Dayton, OH; Elinor Coatings, LLC, Fargo, ND; Ellwood Group, Inc., New Castle, PA; Foursyte LLC, Ashburn, VA; General Electric GE Additive, West Chester, OH; Globe Tech, LLC, Plymouth Township, MI; GS Engineering, Inc., Houghton, MI; Hawk Technologies LLC, Houghton, MI; Imperial Machine & Tool Company, Columbia, NJ; KAI Solutions Inc., Marlton, NJ; Kato Engineering, Inc., North Mankato, MN; Keselowski Advanced Manufacturing, LLC, Statesville, NC; L3Harris Maritime Systems, Inc., Herndon, VA; Lockheed Martin Corporation—Rotary and Mission Systems, Moorestown, NJ; MDSA Group, Inc dba MDSA Aerospace, Exton, PA; MetalTek International, Waukesha, WI; Milcots LLC, Mahwah, NJ; MRL Materials Resources LLC, Beavercreek, OH; Old Dominion University Research Foundation, Norfolk, VA; Pacific Star Communications Inc., Portland, OR; Phillips Corporation, Hanover, MD; Prime Technology LLC, North Branford, CT; PTC, Inc., Boston, MA; Quoherent, Inc., Huntsville, AL; Razorleaf Government Solutions LLC, Akron, OH; RCT Systems, Inc., Baltimore, MD; Relativity Space, Inc., Long Beach, CA; Scot Forge, Spring Grove, IL; Syntek Technologies Inc., Fairfax, VA; Tachyon Networks LLC, San Diego, CA; The Lincoln Electric Company, Euclid, OH; THOR Solutions, LLC, Arlington, VA; Titan Diversified Holdings, Inc., Charlotte, NC; and XSITE LLC, San Diego, CA, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and MSTIC intends to file additional written notifications disclosing all changes in membership.

On October 21, 2020, MSTIC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 19, 2020 (85 FR 73750).

The last notification was filed with the Department on January 5, 2023. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 25, 2023 (88 FR 4849).

Suzanne Morris,

Deputy Director, Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2023–12522 Filed 6–9–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Southwest Research Institute—Cooperative Research Group on Ros-Industrial Consortium-Americas

Notice is hereby given that, on March 31, 2023, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute—Cooperative Research Group on ROS-Industrial Consortium-Americas (''RIC-Americas'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Lockheed Martin Corporation, Fort Worth, TX; and Numurus LLC, Seattle, WA, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and RIC-Americas intends to file additional written

notifications disclosing all changes in membership.

On April 30, 2014, RIC-Americas filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 9, 2014 (79 FR 32999).

The last notification was filed with the Department on January 30, 2023. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 27, 2023 (88 FR 18183).

Suzanne Morris,

Deputy Director, Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2023–12510 Filed 6–9–23; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Armaments Consortium

Notice is hereby given that, on April 10, 2023, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the National Armaments Consortium (''NAC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ACMI Austin LLC, Austin, TX; American Automated Engineering, Inc., Huntington Beach, CA; B4C Technologies Inc., Palm City, FL; Central Metal Fabricators, Inc., Farmingdale, NJ; Cyberspace Solutions LLC dba Illuminate Mission Solutions, Herndon, VA; Defense Industry Advisors, LLC, Dayton, OH; EH Group, Inc., Tuscaloosa, AL; Fairbanks Morse LLC, Beloit, WI; FORBES4 LLC, Upper Marlboro, MD; Foursyte LLC dba Foursyte Technology, Ashburn, VA; G.W. Lisk Company Inc., Clifton Springs, NY; Global Tungsten and Powders LLC, ; Helicoid Industries, Inc., Indio, CA; Hexagon US Federal, Inc., Huntsville, AL; Innovative Signal Analysis, Inc., Richardson, TX; Kaman Aerospace Corporation, Air Vehicles Division, Bloomfield, CT; Lightspeed Technologies Inc. dba LP3, Fairfax, VA; Mission Driven Research, Inc, Huntsville, AL; MITHIX PRO LLC, Farmersville, TX; Olles Applied Research, LLC, Hilton, NY; Sarcos, Salt Lake City, UT; Stratus Systems, Belle Chasse, LA; The Mason & Hanger Group Inc, Lexington, KY; The University of Texas at Dallas, Richardson, TX; Tungsten Parts Wyoming, Laramie, WY; and Zero Point, Inc., Virginia Beach, VA, have been added as parties to this venture.

Also, Applied Sonics, Inc., Denver, CO; and Davis Strategic Innovations, Inc., Huntsville, AL, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NAC intends to file additional written notifications disclosing all changes in membership.

On May 2, 2000, NAC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 30, 2000 (65 FR 40693).

The last notification was filed with the Department on February 13, 2023. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 27, 2023 (88 FR 18181).

Suzanne Morris,

Deputy Director, Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2023–12511 Filed 6–9–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to The National Cooperative Research and Production Act of 1993—Countering Weapons of Mass Destruction

Notice is hereby given that, on April 3, 2023, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Countering Weapons of Mass Destruction (''CWMD'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Carnegie Mellon University, Pittsburgh, PA; Conafay Group LLC, Washington, DC; Decryptor, Inc., Richardson, TX; Electromagnetic Systems, Inc., El Segundo, CA; Fairbanks Morse LLC, Beloit, WI; GlyderTech, Inc., Bozeman, MT; and North American Rescue LLC, Greer, SC, have been added as parties to this venture.

Also, ALEX-Alternative Experts LLC, Dumfries, VA; Artis LLC, Herndon, VA; Deep Analytics LLC, Montpelier, VT; Encryptor, Inc., Richardson, TX; Fairlead Integrated LLC, Portsmouth, VA; Integrity Consulting Engineering and Security Solutions, Purcellville, VA; Kinsa, Inc., San Francisco, CA; Knowledge Based Systems, Inc., College Station, TX; Onyx Government Services, Centreville, VA; Rose Developments, Inc., Virginia Beach, VA; Selection Pressure LLC dba ION Channel, Alexandria, VA; SGSD Partners LLC, Washington, DC; SRI International, St. Petersburg, FL; Vertex Solutions LLC, Champaign, IL; and WGS Systems LLC, Frederick, MD, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CWMD intends to file additional written notifications disclosing all changes in membership.

On January 31, 2018, CWMD filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 12, 2018 (83 FR 10750).

The last notification was filed with the Department on January 4, 2023. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 25, 2023 (88 FR 4848).

Suzanne Morris,

Deputy Director, Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2023–12509 Filed 6–9–23; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Resilient Infrastructure + Secure Energy Consortium

Notice is hereby given that, on April 3, 2023, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Resilient Infrastructure + Secure Energy Consortium (''RISE'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were

filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Agri-Tech Producers LLC, Columbia, SC; Breakwave Energy, San Diego, CA; Excel Technologies, Herndon, VA; Jupiter Intelligence, Inc., San Mateo, CA; Maplewell, Inc., Broomfield, CO; Metatomic, Inc., Greenville, SC; Oxford Global Resources, Beverly, MA; Oxford Villages, Inc., Palm Springs, FL; Raytheon Technologies, Waltham, MA; State University of New York, Albany, NY; TMGCore, Plano, TX; Versar, Inc., Washington, DC; and Zyon Space, Washington, DC, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and RISE intends to file additional written notifications disclosing all changes in membership.

On July 2, 2021, RISE filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on August 23, 2021 (86 FR 47155).

The last notification was filed with the Department on January 11, 2023. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on March 17, 2023 (88 FR 16460).

Suzanne Morris,

Deputy Director, Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2023–12506 Filed 6–9–23; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Open Grid Alliance, Inc.

Notice is hereby given that, on March 28, 2023, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Open Grid Alliance, Inc. (''OGA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Communications Infrastructure Networks LTD (CIN), London, UNITED KINGDOM; Dragonfruit AI, Menlo Park, CA; PLAN B Developpement Inc., Outremont, CANADA; and SLEdge Consulting, LTD., London, UNITED KINGDOM, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and OGA intends to file additional written notifications disclosing all changes in membership.

On March 31, 2022, OGA filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on May 12, 2022 (87 FR 29180).

The last notification was filed with the Department on January 10, 2023. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on March 17, 2023 (88 FR 16461).

Suzanne Morris,

Deputy Director, Civil Enforcement Operations, Antitrust Division.

[FR Doc. 2023–12505 Filed 6–9–23; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1216]

Bulk Manufacturer of Controlled Substances Application: Veranova, L.P.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Veranova, L.P. 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 11, 2023. Such persons may also file a written request for a hearing on the application on or before August 11, 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 5, 2023, Veranova, L.P., 25 Patton Road, Pharmaceutical Service, Devens, Maine 01434–3803, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Methamphetamine	1100	II
Methylphenidate	1724	II
Nabilone	7379	II
Hydrocodone	9193	II
Levorphanol	9220	II
Thebaine	9333	II
Alfentanil	9737	II
Remifentanil	9739	II
Sufentanil	9740	II

The company plans to bulk manufacture the listed controlled substances in order to support the manufacturing and analytical testing activities at its other Drug Enforcement Administration-registered manufacturing facility. No other activities for these drug codes are authorized for this registration.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2023–12433 Filed 6–9–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1217]

Importer of Controlled Substances Application: Wedgewood Village Pharmacy, LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Wedgewood Village Pharmacy, LLC has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before July 12, 2023. Such persons may also file a written request for a hearing on the application on or before July 12, 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 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on May 3, 2023, Wedgewood Village Pharmacy, LLC, 7631 East Indian School Road, Suite 201, Scottsdale, Arizona, 85251–3607 applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Etorphine HCl	9059	II
Thiafentanil	9729	II

The company plans to import the listed controlled substances for distribution to their customers. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2023–12434 Filed 6–9–23; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0099]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Previously Approved Collection; ATF Adjunct Instructor Data Form

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice (DOJ), 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 11, 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: Elaine Wilson Harrison (ATF), Training and Accreditation Branch, either by mail at Building 681, 1131 Chapel Crossing Rd., Brunswick, GA 31520, email at *elaine.wilson@atf.gov,* or telephone at 912–258–6445.

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: ATF uses the adjunct instructor data form to collect information from prospective non-ATF instructors. Prospects may be from other Federal, State, and Local agencies as well as educational institutions—colleges, universities and privately owned businesses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a previously approved collection.

2. *The Title of the Form/Collection:* ATF Adjunct Instructor Data Form.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF Form 6140.3.

Component: Training and Accreditation Branch.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond: Affected Public:* Individuals or households, Business or other for-profit, Not-for-profit institutions, and State, Local or Tribal Government. The obligation to respond is required to obtain/retain a benefit.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 20 respondents will utilize the form annually, and it will take each respondent approximately 30 minutes to complete their responses.

6. *An estimate of the total annual burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 10 hours, which is equal to 20 (total respondents) * 1 (# of response per respondent) * .5 (30 minutes).

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* $0.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency	Total annual responses	Time per response (minutes)	Total annual burden (hours)
ATF Form 6140.3	20	1	20	30	10

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: June 6, 2023.

John Carlson,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2023–12399 Filed 6–9–23; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0028]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Previously Approved Collection; Inventories: Licensed Explosives Importers, Manufacturers, Dealers and Permittees

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), 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 11, 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: Michael O'Lena, Chief, Explosives Industry Programs Branch, by mail at 99 New York Avenue NE, Room 6.N. 518, Washington, DC 20226, email at *eipb-informationcollection@atf.gov,* or telephone at 202–648–7120.

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 of information is authorized by 18 U.S.C. 40, Importation of Manufacture Distribution and Storage of Explosives. These records show the explosive material inventories of those persons engaged in various activities within the explosives industry and are used by the government as initial figures from which an audit trail can be developed during the course of a compliance inspection or criminal investigation.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a previously approved collection.

2. *The Title of the Form/Collection:* Inventories: Licensed Explosives Importers, Manufacturers, Dealers and Permittees.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* There is no form number associated with this collection. The sponsoring business component is the Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* The affected public is Private Sector—businesses or other for-profit institutions. The obligation to respond is mandatory per 27 CFR 555.122.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 9,219 respondents will respond to this collection annually, and it will take each respondent approximately 2 hours to complete their responses.

6. *An estimate of the total annual burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 18,438 hours.

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* $0.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency	Total annual responses	Time per response (hours)	Total annual burden (hours)
Inventories	9.219	1/annually	9,219	2	18,438
Unduplicated Totals	*9,219*		*9,219*		*18,438*

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: June 5, 2023.

John Carlson,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2023–12400 Filed 6–9–23; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB 1140–0018]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Previously Approved Collection; Application for Federal Firearms License and Part B—Responsible Person Questionnaire—ATF Form 7 (5310.12)/7CR (5310.16)

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), 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 11, 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, contact: Leslie Anderson, ATF–FFLC, either by mail at 244 Needy Road, Martinsburg, WV 25405, by email at *Leslie.anderson@atf.gov,* or telephone at 304–616–4634.

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: Section 922 of chapter 44 of title 18 requires persons wishing to be licensed to complete ATF Form 7 (5310.12A)/7CR (5310.16) and for persons wishing to be added as a responsible person to complete Part B of ATF Form 7 (5310.12A)/7CR (5310.16) to certify compliance with provisions of the law for the FFL business. The information collection (IC) OMB #1140–0018 is being revised to include material and non-material changes to the form, such as formatting changes to include an added header (added ''Part B—Responsible Person Questionnaire'' to the top of the page), spelling corrections, added verbiage, added references, grammatical changes (sentence rephrasing/statement modification), and updated definitions. There is also an increase in the average total respondents and responses from 13,000 per year to 25,000 per year, since the last renewal in 2020. Consequentially, the total annual burden hours have increased by 12,000 hours.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a previously approved collection.

2. *The Title of the Form/Collection:* Application for Federal Firearms License and Part B—Responsible Person Questionnaire.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF Form 7 (5310.12)/7CR (5310.16).

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond: Affected Public:* Individuals or households, Private Sector—business or other for-profit. The obligation to respond is mandatory. The statutory requirements are implemented in section 922 of chapter 44 of title 18.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 25,000 respondents will respond to this collection annually, and it will take each respondent approximately 1 hour to complete their responses.

6. *An estimate of the total annual burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 25,000 hours, which is equal to 25,000 (total respondents) * 1 (# of response per respondent) * 1 (60 minutes).

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* The annual cost burden associated with this collection has increased due to a change in the postal rate from $0.55 during the last renewal in 2020, to $0.63 in 2023. Consequently, the new public cost burden reported has also increased by $2,000 from $13,750 to $15,750.00, which is equal to .63 (mailing cost per respondent) * 25,000 (# of respondents).

Activity	Number of respondents	Frequency	Total annual responses	Time per response (hours)	Total annual burden (hours)
ATF Form 7 (5310.12)/7CR (5310.16)	25,000	1/annually	25,000	1	25,000

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: June 6, 2023.

John Carlson,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2023–12398 Filed 6–9–23; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB 1140–0049]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Previously Approved Collection; Application for National Firearms Examiner Academy—ATF Form 6330.1

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice (DOJ), 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 11, 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, contact: Jodi Marsanopoli, OST–Laboratory Services, either by mail at 6000 Ammendale Road, Ammendale, MD 20705, by email at *Jodi.Marsanopoli@atf.gov,* or telephone at 202–527–5078.

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: The information requested on this form is necessary to process requests for prospective students to attend the ATF National Firearms Examiner Academy and to acquire firearms and toolmark examiner training. The information collection is used to determine the eligibility of the applicant.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a previously approved collection.

2. *The Title of the Form/Collection:* Application for National Firearms Examiner Academy.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF Form 6330.1.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond: Affected Public:* Federal Government, State, local and tribal governments. The obligation to respond is required to obtain or retain benefits.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 75 respondents will utilize the form annually, and it will take each respondent approximately 12 minutes to complete their responses.

6. *An estimate of the total annual burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 15 hours, which is equal to 75 (total respondents) * 1 (# of response per respondent) * .20 (12 minutes or the time taken to prepare each response).

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* $0.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency	Total annual responses	Time per response (minutes)	Total annual burden (hours)
ATF Form 6330.1	75	1	75	12	15

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: June 6, 2023.

John Carlson,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2023–12406 Filed 6–9–23; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0043]

Access to Employee Exposure and Medical Records Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Access to Employee Exposure and Medical Records.

DATES: Comments must be submitted (postmarked, sent, or received) by August 11, 2023.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov.* Documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA–2009–0043) for the Information Collection Request (ICR). OSHA will place all comments, including any personal information, in the public docket, which may be made available online. Therefore, OSHA cautions interested parties about submitting personal information such as social security numbers and birthdates.

For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Seleda Perryman or Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of the continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, the collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of effort in obtaining information (29 U.S.C. 657).

The following sections describe who uses the information collected under each requirement, as well as how they use it.

Under the authority granted by the OSH Act, OSHA published a health regulation governing access to employee exposure monitoring data and medical records. This regulation does not require employers to collect any information or to establish any new systems of records. Rather, it requires that employers provide workers, their designated representatives, and OSHA with access to employee exposure monitoring and medical records, and any analyses resulting from these records that employers must maintain under OSHA's toxic chemical and harmful physical agent standards. In this regard, the regulation specifies requirements for record access, record retention, worker information, trade secret management, and record transfer. Accordingly, the agency attributes the burden hours and costs associated with exposure monitoring and measurement, medical surveillance, and the other activities required to generate the data governed by the regulation to the standards that specify these activities; therefore, OSHA did not include these burden hours and costs in this ICR.

Access to exposure and medical information enables employees and their designated representatives to become directly involved in identifying and controlling occupational health hazards, as well as managing and preventing occupationally-related health impairment and disease. Providing the agency with access to the records permits the agency to ascertain whether or not employers are complying with the regulation, as well as with the recordkeeping requirements of OSHA's other health standards; therefore, OSHA access provides additional assurance that workers and their designated representatives are able to obtain the data they need to conduct their analyses.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions to protect workers, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection, and transmission techniques.

III. Proposed Actions

The agency is requesting a burden hour adjustment increase of 60,537 burden hours from 755,475 to 816,012 hours. This is the result of an adjustment of the number of

establishments used in this analysis based on updated data.

OSHA will summarize the comments submitted in response to this notice and will include this summary in the request to OMB to extend the approval of the information collection requirements.

Type of Review: Extension of a currently approved collection.

Title: Access to Employee Exposure and Medical Records.

OMB Control Number: 1218–0065.

Affected Public: Business or other for-profits.

Number of Respondents: 790,164.

Number of Responses: 7,342,641.

Frequency of Responses: On occasion.

Average Time per Response: Varies.

Estimated Total Burden Hours: 816,012.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax), if your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at 202–693–1648; or (3) by hard copy. All comments, attachments, and other material must identify the agency name and the OSHA docket number for the ICR OSHA–2009–0043. You may supplement electronic submissions by uploading document files electronically.

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627) for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 8–2020 (85 FR 58393).

Signed at Washington, DC.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2023–12393 Filed 6–9–23; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (23–061)]

NASA Astrophysics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Astrophysics Advisory Committee. This Committee reports to the Director, Astrophysics Division, Science Mission Directorate, NASA Headquarters. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Tuesday, June 27, 2023, 9:00 a.m.–5:00 p.m.; and Wednesday, June 28, 2023, 9:00 a.m.–4:00 p.m., Eastern Time.

ADDRESSES: Public attendance will be virtual only. See dial-in and Webex information below under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Ms. KarShelia Kinard, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355 or *karshelia.kinard@nasa.gov.*

SUPPLEMENTARY INFORMATION: As noted above, this meeting is virtual and will take place telephonically and via Webex. Any interested person must use a touch-tone phone to participate in this meeting. The Webex connectivity information for each day is provided below. For audio, when you join the Webex event, you may use your computer or provide your phone number to receive a call back, otherwise, call the U.S. toll conference number listed for each day.

For Tuesday, June 27, 2023, the Webex information for attendees is: *https://nasaenterprise.webex.com/nasaenterprise/j.php?MTID=mb4eacdf8d0f56486c3820df59ee404d8.* The meeting number is: 2760 200 7429 and the meeting password is: Apac0627#. To join by telephone, the toll numbers are 1–929–251–9612 or 1–415–527–5035. (Access Code: 2760 200 7429).

For Wednesday, June 28, 2023, the Webex information for attendees is: *https://nasaenterprise.webex.com/nasaenterprise/j.php?MTID=m52b6f2aee09de4b09e2fbe95d0f67908.* The meeting number is: 2762 839 1662 and the meeting password is: Apac0628#. To join by telephone, the toll numbers are 1–929–251–9612 or 1–415–527–5035. (Access Code: 2762 839 1662).

The agenda for the meeting includes the following topics:

—Astrophysics Division Update
—Updates on Specific Astrophysics Missions
—Discussion of Reports from the Program Analysis Groups

The agenda and Program Analysis Group presentations will be posted on the Astrophysics Advisory Committee web page: *https://science.nasa.gov/researchers/nac/science-advisory-committees/apac.*

The public may submit and upvote comments/questions ahead of the meeting through the website: APAC Summer Meeting—NASA (cnf.io), that will be opened for input on June 12, 2023. It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Carol Hamilton,

Acting Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2023–12413 Filed 6–9–23; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Information Collection; Improving Customer Experience (OMB Circular A–11, Section 280 Implementation)

AGENCY: National Science Foundation.

ACTION: Notice; request for comment.

SUMMARY: The National Science Foundation (NSF), as part of its continuing effort to reduce paperwork and respondent burden, is announcing an opportunity for public comment on

a collection of information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on renewing an existing collection by the Agency.

DATES: Submit comments on or before: August 11, 2023.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Suite E7400, Alexandria, Virginia 22314; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

SUPPLEMENTARY INFORMATION:

A. Purpose

Under the PRA, (44 U.S.C. 3501–3520) Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, GSA is publishing notice of the proposed collection of information set forth in this document.

Whether seeking a loan, Social Security benefits, veterans benefits, or other services provided by the Federal Government, individuals and businesses expect Government customer services to be efficient and intuitive, just like services from leading private-sector organizations. Yet the 2016 American Consumer Satisfaction Index and the 2017 Forrester Federal Customer Experience Index show that, on average, Government services lag nine percentage points behind the private sector.

A modern, streamlined and responsive customer experience means: raising government-wide customer experience to the average of the private sector service industry; developing indicators for high-impact Federal programs to monitor progress towards excellent customer experience and mature digital services; and providing the structure (including increasing transparency) and resources to ensure customer experience is a focal point for agency leadership. To support this, OMB Circular A–11 Section 280 established Government-wide standards for mature customer experience organizations in Government and measurement. To enable Federal programs to deliver the experience taxpayers deserve, they must undertake three general categories of activities: conduct ongoing customer research, gather and share customer feedback, and test services and digital products.

These data collection efforts may be either qualitative or quantitative in nature or may consist of mixed methods. Additionally, data may be collected via a variety of means, including but not limited to electronic or social media, direct or indirect observation (*i.e.,* in person, video and audio collections), interviews, questionnaires, surveys, and focus groups. DHS will limit its inquiries to data collections that solicit strictly voluntary opinions or responses. Steps will be taken to ensure anonymity of respondents in each activity covered by this request.

The results of the data collected will be used to improve the delivery of Federal services and programs. It will include the creation of personas, customer journey maps, and reports and summaries of customer feedback data and user insights. It will also provide government-wide data on customer experience that can be displayed on *performance.gov* to help build transparency and accountability of Federal programs to the customers they serve.

Method of Collection:

NSF will collect this information by electronic means when possible, as well as by mail, fax, telephone, technical discussions, and in-person interviews. NSF also may utilize observational techniques to collect this information.

Data:

OMB Clearance Number: 3145–0254.

Form Number(s): None.

Type of Review: Renewal.

B. Annual Reporting Burden

Affected Public: Collections will be targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future. For the purposes of this request, ''customers'' are individuals, businesses, and organizations that interact with a Federal Government agency or program, either directly or via a Federal contractor. This could include individuals or households; businesses or other for-profit organizations; not-for-profit institutions; State, local or Tribal governments; Federal Government; and universities.

Estimated Number of Respondents: 2,001,550.

Estimated Time per Response: Varied, dependent upon the data collection method used. The possible response time to complete a questionnaire or survey may be 3 minutes or up to 2 hours to participate in an interview.

Estimated Total Annual Burden Hours: 101,125.

Estimated Total Annual Cost to Public: $0.

C. Public Comments

NSF invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 7, 2023.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2023–12501 Filed 6–9–23; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2023–0033]

Information Collection: Notices of Enforcement Discretion (NOEDs) for Operating Power Reactors and Gaseous Diffusion Plants (NRC Enforcement Policy)

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Notices of Enforcement Discretion (NOEDs) for Operating Power Reactors and Gaseous Diffusion Plants (NRC Enforcement Policy).''

DATES: Submit comments by August 11, 2023. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2023–0033. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* David C. Cullison, Office of the Chief Information Officer, Mail Stop: T–6 A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David C. Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2023–0033 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2023–0033. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2023–0033 on this website.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov*. A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession ML22056A177 and ML19193A023. The supporting statement is available in ADAMS under Accession No. ML23027A030.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David C. Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov*.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2023–0033, in your comment submission.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* Notices of Enforcement Discretion (NOEDs) for Operating Power Reactors and Gaseous Diffusion Plants (NRC Enforcement Policy).
2. *OMB approval number:* 3150–0136.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* Not applicable.
5. *How often the collection is required or requested:* On occasion.
6. *Who will be required or asked to respond:* Those licensees that voluntarily request enforcement discretion through the NOED process.
7. *The estimated number of annual responses:* 8 (4 reporting responses + 4 recordkeepers).
8. *The estimated number of annual respondents:* 4.
9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 680 (600 reporting + 80 recordkeeping).
10. *Abstract:* The NRC's Enforcement Policy includes the circumstances in which the NRC may grant a NOED. On occasion, circumstances arise when a power plant licensee's compliance with a Technical Specification (TS) Limiting Condition for Operation or any other license condition would involve an unnecessary plant shutdown or transient. Similarly, for a gaseous diffusion plant, circumstances may arise where compliance with a Technical Safety Requirement (TSR) or other condition would unnecessarily call for a total plant shutdown, or compliance would unnecessarily place the plant in a condition where safety, safeguards, or security features were degraded or inoperable. In these circumstances, a licensee or certificate holder may request that the NRC exercise enforcement discretion, and the NRC staff may choose not to enforce the applicable TS, TSR, or other license or certificate condition. This enforcement discretion is designated as a NOED. A licensee or certificate holder seeking the issuance of a NOED must justify, in accordance with NRC Enforcement

Manual (ADAMS Accession No. ML22056A177), the safety basis for the request, including an evaluation of the safety significance and potential consequences of the proposed request, a description of proposed compensatory measures, a justification for the duration of the request, the basis for the licensee's or certificate holder's conclusion that the request does not have a potential adverse impact on the public health and safety, and does not involve adverse consequences to the environment, and any other information the NRC staff deems necessary before making a decision to exercise discretion.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility? Please explain your answer.
2. Is the estimate of the burden of the information collection accurate? Please explain your answer.
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated: June 6, 2023.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2023–12403 Filed 6–9–23; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0145]

Information Collection: Reporting of Defects and Noncompliance

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''Reporting of Defects and Noncompliance.''

DATES: Submit comments by July 12, 2023. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2022–0145 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0145.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov*. The supporting statement and burden spreadsheet are available in ADAMS under Accession Nos. ML23045A049 and ML22206A217.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David C. Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov*.

B. Submitting Comments

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''Reporting of Defects and Noncompliance.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on February 2, 2023, 88 FR 7110.

1. *The title of the information collection:* 10 CFR part 21, Reporting of Defects and Noncompliance.
2. *OMB approval number:* 3150–0035.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* Not applicable.
5. *How often the collection is required or requested:* On occasion. Defects and noncompliances are reportable as they occur.

6. *Who will be required or asked to respond:* Individual directors and responsible officers of firms constructing, owning, operating, or supplying the basic components of any facility or activity licensed under the Atomic Energy Act of 1954, as amended, or the Energy Reorganization Act of 1974, as amended, to report immediately to the NRC the discovery of defects in basic components or failures to comply that could create a substantial safety hazard.

7. *The estimated number of annual responses:* 755 responses (43 reporting responses + 357 third party disclosure response + 355 recordkeepers).

8. *The estimated number of annual respondents:* 355.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 28,975 (3,407 reporting hours + 25,200 hours recordkeeping + 368 hours third party disclosure).

10. *Abstract:* Part 21 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Reporting of Defects and Noncompliance,'' requires each individual, corporation, partnership, commercial grade dedicating entity, or other entity subject to the regulations in this part to adopt appropriate procedures to evaluate deviations and failures to comply to determine whether a defect exists that could result in a substantial safety hazard. Depending upon the outcome of the evaluation, a report of the defect must be submitted to the NRC. Reports submitted under 10 CFR part 21 are reviewed by the NRC staff to determine whether the reported defects or failures to comply in basic components at the NRC licensed facilities or activities are potentially generic safety problems. These reports have been the basis for the issuance of numerous NRC Generic Communications that have contributed to the improved safety of the nuclear industry. The records required to be maintained in accordance with 10 CFR part 21 are subject to inspection by the NRC to determine compliance with the subject regulation.

Dated: June 6, 2023.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2023–12404 Filed 6–9–23; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

[Docket ID: OPM–2023–0007]

Submission for Review: New Information Collection, Retirement Services Help Request Form, OMB Control No. 3206–NEW

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a new information collection request (ICR)–3206–NEW, Retirement Services Help Request Form.

DATES: Comments are encouraged and will be accepted until August 11, 2023.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection by one of the following means:

- *Federal Rulemaking Portal: http://www.regulations.gov.* All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.
- *Email: Joanne.Herold@opm.gov.* Please put ''New Help Request Form'' in the subject line of the email.

FOR FURTHER INFORMATION CONTACT: A copy of this information collection request, with applicable supporting documentation, may be obtained by contacting the Retirement Services, Office of Personnel Management, P.O. Box 45, Boyers, PA 16017, Attention: Joanne Herold or via electronic mail to *Joanne.Herold@opm.gov* or via phone at (202) 936–1467.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35), as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The Retirement Services Help Request Form is the Federal Government's centralized source for the Retirement Services Call Center and reflects the minimal critical elements collected across the Federal Government to begin an application for retirement under the authority of sections 83 and 84 of title 5, United States Code. This revision proposes to renew a currently approved collection. OPM is proposing to add additional fields of information to its ''Submit a Help Request'' form on *OPM.gov* to enable OPM to streamline its process for answering inquiries sent to OPM in this manner. Specifically, OPM will add fields that request the inquirer's full name, CSA/CSF retirement claim number (if applicable), date of birth, and mailing address on file to help quickly identify, track, and manage support requests. Therefore, we invite comments that:

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: Office of Personnel Management.

Title: Retirement Services Help Request Form.

OMB Number: 3206–NEW.

Frequency: Annually.

Affected Public: Individuals.

Number of Respondents: 218,405.

Estimated Time per Respondent: 5 Minutes.

Total Burden Hours: 18,200.

U.S. Office of Personnel Management.

Kayyonne Marston,

Federal Register Liaison.

[FR Doc. 2023–12498 Filed 6–9–23; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97653; File No. SR–NYSEARCA–2023–37]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To List and Trade Shares of the COtwo Advisors Physical European Carbon Allowance Trust Under NYSE Arca Rule 8.201–E (Commodity-Based Trust Shares)

June 6, 2023.

Pursuant to section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on May 23, 2023, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the COtwo Advisors Physical European Carbon Allowance Trust under NYSE Arca Rule 8.201–E (Commodity-Based Trust Shares). The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares (''Shares'') of the COtwo Advisors Physical European Carbon Allowance Trust (the ''Trust''), under NYSE Arca Rule 8.201–E, which governs the listing and trading of Commodity-Based Trust Shares.[4] Under NYSE Arca Rule 8.201–E, the Exchange may propose to list and/or trade Commodity-Based Trust Shares pursuant to unlisted trading privileges.

The Trust was formed as a Delaware statutory trust on January 12, 2023.[5] The Trust has no fixed termination date. The Trust will not be registered as an investment company under the Investment Company Act of 1940, as amended,[6] and is not required to register under such act. The Trust is not a commodity pool for purposes of the Commodity Exchange Act, as amended.[7]

The sponsor of the Trust is COtwo Advisors LLC, a Delaware limited liability company (''Sponsor''). State Street Bank and Trust Company serves as the Trust's administrator (the ''Administrator'') to perform various administrative, accounting and recordkeeping functions on behalf of the Trust. Wilmington Trust serves as trustee of the Trust (the ''Trustee''). State Street Bank and Trust Company serves as the Trust's transfer agent (the ''Transfer Agent'') and as custodian of the Trust's cash, if any (''Cash Custodian'').[8]

The Exchange represents that the Shares will satisfy the requirements of NYSE Arca Rule 8.201–E and thereby will qualify for listing on the Exchange.

Operation of the Trust [9]

The investment objective of the Trust will be for the Shares to reflect the performance of the price of EU Carbon Emission Allowances for stationary installations (''EUAs''), less the Trust's expenses. The Trust intends to achieve its objective by investing all of its assets in EUAs on a non-discretionary basis (*i.e.,* without regard to whether the value of EUAs is rising or falling over any particular period). Shares of the Trust will represent units of fractional undivided beneficial interest in and ownership of the Trust. The Trust's only ordinary recurring expense will be the Sponsor's annual fee. The Trust will not hold any assets other than EUAs or, possibly, cash. The Trust may hold a very limited amount of cash to pay Trust expenses. The Trust may also cause the Sponsor to receive EUAs from the Trust in such a quantity as may be necessary to pay the Sponsor's annual fee.

The Trust will not invest in futures, options, or swap contracts on any futures exchange or in the over-the-counter market. The Trust will not hold or trade in commodity futures contracts, ''commodity interests,'' or any other instruments regulated by the Commodity Exchange Act. As stated above, the Trust's Cash Custodian may hold cash proceeds from EUA sales to pay Trust expenses. All EUAs will be held in the Union Registry (defined below).

The Trust is not a proxy for investing in physical carbon credits. Rather, the Shares are intended to provide a cost-effective means of obtaining investment exposure to the price of EUAs through the securities markets that is similar to an investment in futures contracts or other derivatives.

EUAs and the EUA Industry

Description of EU Emissions Trading Scheme

According to the Registration Statement, the European Union Emissions Trading System (''EU ETS'') is a ''cap and trade'' system that caps the total volume of greenhouse gas (''GHG'') emissions from installations and aircraft operators responsible for around 40% of European Union (''EU'') GHG emissions.[10] The EU ETS is the largest cap and trade system in the world and covers more than 11,000 power stations and industrial plants in 31 countries, and flights between airports of participating countries. The EU ETS is administered by the EU

[4] Commodity-Based Trust Shares are securities issued by a trust that represent investors' discrete identifiable and undivided beneficial ownership interest in the commodities deposited into the trust.

[5] On May 12, 2023, the Trust filed with the Commission a registration statement on Form S–1 (File No. 333–271910) (the ''Registration Statement'') under the Securities Act of 1933 (15 U.S.C. 77a) (the ''Securities Act''). The description of the operation of the Trust herein is based, in part, on the Registration Statement. The Registration Statement in not yet effective and the Shares will not trade on the Exchange until such time that the Registration Statement is effective.

[6] 15 U.S.C. 80a–1.

[7] 17 U.S.C. 1.

[8] The Cash Custodian is responsible for holding the Trust's cash as well as receiving and dispensing cash on behalf of the Trust in connection with the payment of Trust expenses.

[9] The description of the operation of the Trust, the Shares, and the carbon credit industry contained herein are based, in part, on the Registration Statement. *See* note 5, *supra.*

[10] There are two types of EU emissions allowance: (i) general allowances for stationary installations, or EUA; and (ii) allowances for the aviation sector (''EUAA''). The Trust will hold EUAs only.

Commission, which issues a predefined amount of EUAs through auctions or free allocation. An EUA represents the right to emit one metric ton of carbon dioxide equivalent into the atmosphere by operators of stationary installations (''Covered Entities''). By the end of April each year, all Covered Entities are required to surrender EUAs equal to the total volume of actual emissions from their installation for the last calendar year. EU ETS operators can buy or sell EUAs to achieve EU ETS compliance.

In 2012, EU ETS operations were centralized into a single EU registry operated by the EU Commission (the ''Union Registry''), which covers all countries participating in the EU ETS. The Union Registry is an online database that holds accounts for all entities covered by the EU ETS as well as for participants (such as the Trust) not covered under the EU ETS. An account must be opened in the Union Registry in order to transact in EUAs and the Union Registry is at all times responsible for holding the EUAs. All EUAs are held in the Union Registry.

Major Holders and Allowance Use Cases

According to the Registration Statement, while there is limited publicly available data on individuals or individual organizations' holdings in physical carbon allowances, carbon allowances are primarily held for three different use cases:

(a) Complying with the EU ETS: Companies that need to surrender allowances under the EU ETS hold allowances to surrender them annually. These positions are typically built over time and ultimately surrendered at time of compliance. Therefore, the largest emitters in the EU ETS hold a significant amount of allowances, which include entities such as large utilities with a substantial share of fossil fuel fired power plants, cement companies, steel producers, chemical producers, oil and gas majors and airlines.

(b) Providing financial services for hedging purposes or speculation, such as clearing houses for the European Energy Exchange or the Intercontinental Exchange, or banks holding allowances for their clients.

(c) Trading on and speculating around price moves, using physical emission allowances. This can take many forms, including ''yield trades'', which includes holding a physical allowance and selling an EUA future at a premium to gain the yield in the forward curve; or outright positions for short term or long term speculation.

In addition to holding physical allowances, there is a liquid secondary futures and options market that is primarily used for hedging future emissions or speculating.

Trading Location

According to the Registration Statement, the EU ETS is linked to small emissions trading systems in Europe (Norway, Switzerland, Iceland and Liechtenstein), but not to any other major cap and trade markets. Therefore, allowances handed out in the EU ETS are not transferable to any registry outside of the EU ETS and cannot be used for compliance in any other cap and trade market.

There are a number of other trading systems globally, and like the EU ETS, no allowances of any of these systems can be used in any other system:

(a) Western Climate Initiative (WCI): The State of California and the Canadian province Quebec created a linked cap and trade market, that covers >80% of emissions.

(b) Regional Greenhouse Gas Initiative (RGGI): a group of US east coast states created a linked market that covers power generators only.

(c) The China National ETS: Technically not a cap and trade scheme (as the amount of allowances is not fixed but calculated according to historic production of units).

(d) South Korea ETS: A comprehensive market covering the majority of Korean emissions.

Pricing of Allowances and Trading Volume

According to the Registration Statement, there are two primary avenues for trading EUAs: a primary market and a secondary market. The primary market involves participation in a regularly scheduled auction. The secondary market involves transactions between buyers and sellers on regulated markets via trading in spot, options, and futures contracts. There are also over-the-counter transactions, but they comprise a negligible percentage of transactions.

The EUA markets are generally liquid. EUA auctions are held on a near-daily basis throughout the year, other than between mid-December to mid-January, when auctions are paused. Prices achieved in these auctions are published on various publicly-accessible websites, including the European Commission's primary website.

The secondary market trading takes place predominantly on the European Energy Exchange AG (''EEX'') and ICE Endex. As of January 2023, the secondary market had average daily trading volume of €2 billion, with the majority of the liquidity in the futures market. Prices for secondary market transactions are published on various publicly-accessible websites, including those of EEX and ICE Endex. Both EEX and ICE Endex are affiliates of Exchange groups that are members of the Intermarket Surveillance Group (''ISG'').

Most liquidity in the secondary market is achieved by trading futures contracts. These contracts have expiration going out as far as 2030. The most liquid contract is the single day futures contract on EUAs (the ''Daily EUA Future''), which settles each day at the close of trading. Generally, Daily EUA Futures trade from approximately 2:00 a.m. Eastern Time (''E.T.'') to approximately 12:00 p.m. E.T. The settlement price is fixed each business day and is published by the exchange at approximately 12:15 E.T. Final cash settlement occurs the first business day following the expiry day.

In 2021, the secondary spot market for EUAs (including the Daily EUA Future) averaged around 2.4 million EUAs daily and the primary auctions accounted for almost 2.5 million EUAs being auctioned several times per week. The current value (spot price) for a EUA is greatly influenced by a number of factors, including regulatory changes, world events and general level of economic activity.

Creation and Redemption of Shares

According to the Registration Statement, the Trust will create and redeem Shares on a continuous basis in one or more Creation Units. A Creation Unit equals a block of 50,000 Shares, which amount may be revised from time-to-time. The Trust will issue Shares in Creation Units to certain authorized participants (''Authorized Participants'') on an ongoing basis. Each Authorized Participant must be a registered broker-dealer or other securities market participant such as a bank or other financial institution which is not required to register as a broker-dealer to engage in securities transactions, a participant in The Depository Trust Company (''DTC'') and have entered into an agreement with the Sponsor and the Transfer Agent (the ''Participant Agreement'').

Creation Units may be created or redeemed only by Authorized Participants. The creation and redemption of Creation Units is only made in exchange for the delivery to the Trust or the distribution by the Trust of the amount of EUAs represented by the Creation Units being created or redeemed. The amount of EUAs required to be delivered to the Trust in connection with any creation, or paid out upon redemption, is based on the

combined net asset value of the number of Shares included in the Creation Units being created or redeemed as determined on the day the order to create or redeem Creation Units is properly received and accepted. Orders must be placed by 11:00 a.m. New York time. The day on which the Administrator receives a valid purchase or redemption order is the order date. Creation Units may only be issued or redeemed on a day that the Exchange is open for regular trading.

An Authorized Participant who places a purchase order is responsible for crediting the Trust's Union Registry account with the required EUA deposit by 2:00 p.m. New York time on the second business day following the order date. Upon receipt of the EUA deposit amount in the Trust's Union Registry account, the Union Registry will notify the Sponsor that the EUAs have been deposited. Upon receipt of confirmation from the Union Registry that the EUA deposit amount has been received, the Administrator will direct DTC to credit the number of Shares created to the Authorized Participant's DTC account.

According to the Registration Statement, the redemption distribution due from the Trust will be delivered once the Administrator notifies the Sponsor that the Authorized Participant has delivered the Shares to be redeemed to the Trust's DTC account. The redemption distribution will be delivered to the Authorized Participant on the second business day following the order date. Once the Administrator notifies the Sponsor that the Shares have been received in the Trust's DTC account, the Sponsor instructs the Union Registry to transfer the redemption EUA amount from the Trust's Union Registry account to the Authorized Participant's Union Registry account.

The Sponsor is the only entity that may initiate a withdrawal of EUAs from the Trust's Union Registry account, and the only accounts that may receive EUAs from the Trust's Union Registry account are Authorized Participants' or the Sponsor's Union Registry accounts.

Net Asset Value (''NAV'')

The Trust's NAV is calculated by taking the current market value of its total assets, less any liabilities of the Trust, and dividing that total by the total number of outstanding Shares.

The Administrator will calculate the NAV of the Trust once each Exchange trading day. The NAV for a normal trading day will be released after the end of the Core Trading Session, which is typically 4 p.m. New York time. The NAV for the Trust's Shares will be disseminated daily to all market participants at the same time. The Administrator will use the settlement price for the Daily EUA Futures established by ICE Endex to calculate the NAV. The Administrator also converts the value of Euro denominated assets into US Dollar equivalent using published foreign currency exchange prices by an independent pricing vendor. Third parties supplying quotations or market data may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors, brokers and other sources of market information.

Indicative Fund Value (''IFV'')

In order to provide updated information relating to the Trust for use by investors and market professionals, an updated IFV will be made available through on-line information services throughout the Exchange Core Trading Session (normally 9:30 a.m. to 4:00 p.m. E.T.) on each trading day. The IFV will be calculated by using the prior day's closing NAV per Share of the Trust as a base and updating that value throughout the trading day to reflect changes in the most recently reported mid-point of the bid-ask spread of the Daily EUA Future. The IFV disseminated during NYSE Arca Core Trading Session hours should not be viewed as an actual real time update of the NAV, because the NAV will be calculated only once at the end of each trading day based upon the relevant end of day values of the Trust's investments. Although the IFV will be disseminated throughout the Core Trading Session, the customary trading hours for EUAs are 2 a.m. to 12 p.m. Eastern Time. During the gap in time at the end of each trading day during which the Shares are traded on the Exchange, but real-time trading prices for EUAs are not available, the IFV will be calculated based on the end of day price of EUAs immediately preceding the trading session.

The IFV will be disseminated on a per Share basis every 15 seconds during regular NYSE Arca Core Trading Session.

Availability of Information

The NAV for the Trust's Shares will be disseminated daily to all market participants at the same time. The intraday, closing prices, and settlement prices for EUAs will be readily available from the applicable futures exchange websites, automated quotation systems, published or other public sources, or major market data vendors. The IFV per Share for the Shares will be disseminated by one or more major market data vendors on at least a 15 second delayed basis as required by NYSE Arca Rule 8.201–E(e)(2)(v).

Complete real-time data for EUAs and Daily EUA Futures is available by subscription through on-line information services. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the Consolidated Tape Association. The IFV will be available through on-line information services. The trading prices for EUAs and Daily EUA Futures will be disseminated by on-line subscription services or by one or more major market data vendors during the NYSE Arca Core Trading Session of 9:30 a.m. to 4:00 p.m. E.T. Additionally, the NAV may be influenced by non-concurrent trading hours between the Exchange and the EUA markets. While the Trust's Shares trade on the Exchange from 9:30 a.m. to 4:00 p.m. E.T., the trading hours for EUA markets do not coincide during all of this time. EEX provides on its website, on a daily basis, transaction volumes and transaction prices for the EUA spot market. ICE Endex provides on its website, on a daily basis, transaction volumes, transaction prices, daily settlement prices and historical settlement prices for Daily EUA Futures that were traded outside of block trades by EUA futures brokers. In addition, transaction volumes, transaction prices, daily settlement prices and historical settlement prices for Daily EUA Futures traded in block trades by futures brokers are available on a daily basis through a subscription service to ICE Endex. However, ICE Endex provides the daily settlement price change of the Daily EUA Future on its website.

In addition, the Trust's website (*www.cotwoadvisors.com*) will contain the following information, on a per Share basis, for the Trust: (a) the prior business day's end of day closing NAV; (b) the Official Closing Price [11] or the midpoint of the national best bid and the national best offer (''NBBO'') as of the time the NAV is calculated (''Bid-Ask Price''); (c) calculation of the premium or discount of the Official Closing Price against the NAV expressed as a percentage of such NAV; (d) the prospectus; and (e) other applicable quantitative information. The Trust will also provide website disclosure of its

[11] The term ''Official Closing Price'' is defined in NYSE Arca Rule 1.1(ll) as the reference price to determine the closing price in a security for purposes of Rule 7–E Equities Trading, and the procedures for determining the Official Closing Price are set forth in that rule.

EUA holdings before 9:30 a.m. E.T. on each trading day.

The Trust's website will be publicly available prior to the public offering of Shares and accessible at no charge. The website disclosure of the Trust's daily holdings will occur at the same time as the disclosure by the Trust of the daily holdings to Authorized Participants so that all market participants are provided daily holdings information at the same time. Therefore, the same holdings information will be provided on the public website as well as in electronic files provided to Authorized Participants. Accordingly, each investor will have access to the current daily holdings of the Trust through the Trust's website. In addition, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Trading in the Shares on the Exchange will occur in accordance with NYSE Arca Rule 7.34–E (Early, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Rule 7.6–E, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00, for which the MPV for order entry is $0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Rule 8.201–E. The trading of the Shares will be subject to NYSE Arca Rule 8.201–E(g), which sets forth certain restrictions on Equity Trading Permit (''ETP'') Holders acting as registered Market Makers in Commodity-Based Trust Shares to facilitate surveillance. The Exchange represents that, for initial and continued listing, the Trust will be in compliance with Rule 10A–3 [12] under the Act, as provided by NYSE Arca Rule 5.3–E. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.

As a general matter, the Exchange has regulatory jurisdiction over its ETP Holders and their associated persons, which include any person or entity controlling an ETP Holder. To the extent the Exchange may be found to lack jurisdiction over a subsidiary or affiliate of an ETP Holder that does business only in commodities or futures contracts, the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading on the Exchange in the Shares may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) the extent to which conditions in the underlying carbon credit market have caused disruptions and/or lack of trading, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's ''circuit breaker'' rule.[13]

The Exchange may halt trading during the day in which an interruption occurs to the dissemination of the IFV, as described above. If the interruption to the dissemination of the IFV persists past the trading day in which it occurs, the Exchange will halt trading no later than the beginning of the trading day following the interruption. In addition, if the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by the Financial Industry Regulatory Authority Inc. (''FINRA''), on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[14] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[15]

Also, pursuant to NYSE Arca Rule 8.201–E(g), the Exchange is able to obtain information regarding trading in the Shares in connection with ETP Holders' proprietary or customer trades which they effect through ETP Holders on any relevant market.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

All statements and representations made in this filing regarding (a) the description of the portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares on the Exchange.

The Trust has represented to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its

[12] With respect to the application of Rule 10A–3 (17 CFR 240.10A–3) under the Act, the Trust relies on the exemption contained in Rule 10A–3(c)(7).

[13] *See* NYSE Arca Rule 7.12–E.

[14] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[15] For a list of the current members of ISG, *see www.isgportal.org.*

obligations under section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) the procedures for purchases and redemptions of Shares in Creation Units (including noting that Shares are not individually redeemable); (2) NYSE Arca Rule 9.2–E(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) how information regarding the IFV is disseminated; (4) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (5) the possibility that trading spreads and the premium or discount on the Shares may widen as a result of reduced liquidity of EUAs during the Core and Late Trading Sessions; and (6) trading information. For example, the Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Trust. The Exchange notes that investors purchasing Shares directly from the Trust will receive a prospectus. ETP Holders purchasing Shares from the Trust for resale to investors will deliver a prospectus to such investors.

In addition, the Information Bulletin will reference that the Trust is subject to various fees and expenses as will be described in the Registration Statement. The Information Bulletin will also reference the fact that while last sale information regarding EUAs would be subject to regulation by EEX and ICE Endex, the Commission and the CFTC do not have jurisdiction over the trading of EUAs as a commodity. The Information Bulletin will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act.

The Information Bulletin will also disclose the trading hours of the Shares and that the NAV for the Shares will be calculated after 4:00 p.m. E.T. each trading day. The Information Bulletin will disclose that information about the Shares will be publicly available on the Trust's website.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under section 6(b)(5) [16] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.201–E. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that there is a considerable amount of information on EUAs available on public websites and through professional and subscription services. In addition, the Trust's website will provide pricing information for EUAs and the Shares. Market prices for the Shares will be available from a variety of sources including brokerage firms, information websites and other information service providers. The NAV of the Trust will be published on each day that the NYSE Arca is open for regular trading and will be posted on the Trust's website. The IFV relating to the Shares will be widely disseminated by one or more major market data vendors at least once every 15 seconds as required by NYSE Arca Rule 8.201–E(e)(2)(v). The Trust's website will also provide its prospectus and other relevant quantitative information regarding the Shares. In addition, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.

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 the proposed rule change will enhance competition by accommodating Exchange trading of an additional exchange-traded product relating to physical carbon credits.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[16] 15 U.S.C. 78f(b)(5).

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2023–37 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2023–37. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. 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–NYSEARCA–2023–37, and should be submitted on or before July 3, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–12414 Filed 6–9–23; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97654; File No. SR–CBOE–2023–029]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Automated Price Improvement Auction Rules

June 6, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 25, 2023, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] 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 Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend its automated price improvement auction rules. 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://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[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).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 5.37 (Automated Price Improvement Mechanism (''AIM'' or ''AIM Auction'')) and Rule 5.38 (Complex Automated Improvement Mechanism (''C–AIM'' or ''C–AIM Auction'')) to modify the stop price requirements for auto-match orders submitted to AIM and C–AIM, respectively.

By way of background, Rules 5.37 and 5.38 contain the requirements applicable to the execution of orders using AIM and C–AIM, respectively. The AIM and C–AIM auctions are electronic auctions intended to provide an Agency Order with the opportunity to receive price improvement (over the National Best Bid or Offer (''NBBO'') in AIM, or the synthetic best bid or offer (''SBBO'') on the Exchange in C–AIM. Upon submitting an Agency Order into an AIM or C–AIM auction, the initiating Trading Permit Holder (''Initiating TPH'') must also submit a contra-side second order (''Initiating Order'') for the same size as the Agency Order. The Initiating Order guarantees that the Agency Order will receive an execution at no worse than the auction price (*i.e.,* acts as a stop). During an AIM or C–AIM Auction, market participants submit responses to trade against the Agency Order. At the end of an auction, depending on the contra-side interest available, the contra order may be allocated a certain percentage of the Agency Order.[5]

An Initiating TPH may initiate an AIM or C–AIM auction provided that the Agency Order is in a class and of sufficient size as determined by the Exchange. Further, there are requirements regarding the price at which the Initiating Order must stop the entire Agency Order, set forth in Rule 5.37(b) for AIM Auctions and Rule 5.38(b) for C–AIM Auctions. Requirements for the stop price depend on the order submitted, but in general, the stop price must be either better than the then-current NBBO (SBBO) or, in some cases, at or better than the NBBO (SBBO).[6]

Further, under Rules 5.37(b)(5) and 5.38(b)(4), an Initiating TPH, in entering the contra-side order, must either (1) specify a single price at which it seeks to execute the Agency Order against the Initiating Order, or (2) specify an initial

[5] *See generally* Rules 5.37(e) and 5.38(e).

[6] *See generally* Rules 5.37(b) and 5.38(b).

stop price and instruction to automatically match the price and size of all AIM or C–AIM responses and other contra-side trading interest (''auto-match'') at each price up to a designated limit price, or at all prices, better than the price at which the balance of the Agency Order can be fully executed (the ''final auction price''). Currently, the System will reject or cancel both an Agency Order and Initiating Order submitted to an AIM or C–AIM Auction that does meet the eligibility requirements set forth in Rules 5.37(a) and 5.38(a), and the stop price requirements set forth in Rules 5.37(b) and 5.38(b).

The Exchange now proposes to amend Rule 5.37(b)(5) to state that, notwithstanding Rule 5.37(b)(1) through (4), if the initial stop price is worse than the then-current NBO (NBB) and auto-match was selected, the System changes the initial stop price for the Agency Order to be the then-current NBO (NBB) (or one minimum increment better than the then-current NBO (NBB) if the Agency Order is subject to the requirements set forth in Rules 5.34(b)(1)(A), (b)(2), or (b)(3). Similarly, the Exchange proposes to amend Rule 5.38(b)(4) to state that, notwithstanding Rule 5.37(b)(1) through (3), if the initial stop price is worse than the then-current SBO (SBB) and auto-match was selected, the System changes the initial stop price for the Agency Order to be the then-current SBO (SBB) (or one minimum increment better than the then-current SBO (SBB) if the Agency Order is subject to the requirements set forth in Rules 5.34(b)(1)(A), (b)(2), or (b)(3)(A). Under the proposed changes, the starting price (*i.e.,* stop price) of the auction would match the NBBO (for AIM Auctions) or SBBO (for C–AIM Auctions) at the time of auction commencement. The proposed changes would apply to all AIM and C–AIM users that select auto-match.

This change is designed to address situations where the NBBO or SBBO changes within the time that the User sends the order to the Exchange and the Exchange receives it, which may cause AIM and C–AIM orders to be cancelled. For example, assume a TPH submits to AIM Auction an Agency Order to buy and an Initiating Order with a starting price of 1.25 and an auto-match limit of 1.10, and the then-current NBBO is 1.00–1.25. While in transit, the NBBO changes to 0.90–1.10. Under the current rules, the orders would be rejected, as the starting price (initial stop price) of 1.25 is now outside the current NBBO (even though the firm has designated an auto-match limit of 1.10, which is equal to the NBBO at the time the Exchange receives the order). Under the proposed rule, the orders would be accepted, and the auction starting price will be 1.10 (due to the NBBO change), and the auction would proceed pursuant to the remainder of the Rule.

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.[7] Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[8] 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)[9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed rule change will promote just and equitable principles of trade and protect investors. In particular, the Exchange believes that its proposal to allow an order with an initial stop price inferior to the then-current NBBO or SBBO to be submitted to AIM or C–AIM Auction if auto-match is selected will provide Agency Orders with additional opportunities for price improvement and execution. Specifically, the changes are designed to stop orders from being rejected from AIM and C–AIM Auctions in situations where an order may have an initial stop price that is inferior to the then-current NBBO or SBBO, despite the fact that the Initiating TPH has, through its auto-match selection, demonstrated a willingness to execute against the Agency Order at a price that matches or improves upon the then-current NBBO or SBBO, as applicable. The Exchange believes the changes are consistent with the intended result of the stop price requirement, as the Initiating TPH is effectively guaranteeing that the Agency Order will receive an execution at no worse than the auction price, which is at or better than the NBBO at the time the auction begins, via the auto-match mechanism.[10] As such, the Exchange believes the changes will preserve the quality of the auctions, while providing increased execution and price improvement opportunities for Agency Orders, which helps to perfect the mechanism of a free and open market and, in general, helps to protect investors and the public interest.[11]

The Exchange notes that the AIM and C–AIM Auctions generally deliver meaningful opportunities for price improvement to orders and provide an efficient manner of access to liquidity for customers. The Exchange believes that the proposed changes to these auctions will permit more Agency Orders to receive such meaningful opportunities, as intended, and ensure they are not inadvertently penalized by being rejected rather than auctioned if markets move during the order submission process, which ultimately benefits investors.

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 does not believe the proposed rule change will impose any burden on intramarket competition because it will apply uniformly to all Agency Orders submitted into AIM and C–AIM Auctions and to all TPHs. Additionally, the Exchange notes that participation in the AIM and C–AIM auctions is completely voluntary. The Exchange believes all market participants may benefit from any additional liquidity, execution opportunities, and price improvement in the AIM and C–AIM Auctions that may result from the proposed rule change.

The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, as the proposed rule change relates to price requirements for an Exchange-specific auction mechanism and will continue to require auctions to start at

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

[10] Note, the proposed rule change continues to provide price improvement assurances for those for buy (sell) Agency Orders submitted for AIM Auction processing with less than 50 standard option contracts (or 500 mini-option contracts or 5,000 micro-option contracts) and NBBO width of $0.01, pursuant to Rule 5.37(b)(1)(A), which remains unchanged.

[11] *See* supra note 10.

prices at or better than the NBBO at the start of the auction.[12]

Finally, the Exchange notes that it operates in a highly competitive market, and members have numerous alternative venues they may participate on and direct their order flow, including other options exchanges that have implemented similar electronic price improvement mechanisms with auto-match pricing. Participants can readily choose to send their orders to other exchanges if they deem those other venues to be more favorable.

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 from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A)(iii) of the Act [13] and subparagraph (f)(6) of Rule 19b–4 thereunder.[14]

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–CBOE–2023–029 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2023–029. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. 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–CBOE–2023–029 and should be submitted on or before July 3, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–12415 Filed 6–9–23; 8:45 am]

BILLING CODE 8011–01–P

[12] *See* supra note 10.

[13] 15 U.S.C. 78s(b)(3)(A)(iii).

[14] 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 at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, June 15, 2023.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Authority: 5 U.S.C. 552b.

Dated: June 8, 2023.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2023–12638 Filed 6–8–23; 4:15 pm]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17842 and #17843; California Disaster Number CA–00376]

Presidential Declaration Amendment of a Major Disaster for the State of California

AGENCY: Small Business Administration.

ACTION: Amendment 5.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of California (FEMA–4699–DR), dated 04/03/2023.

Incident: Severe Winter Storms, Straight-line Winds, Flooding, Landslides, and Mudslides.

Incident Period: 02/21/2023 and continuing.

DATES: Issued on 06/05/2023.

Physical Loan Application Deadline Date: 07/20/2023.

Economic Injury (EIDL) Loan Application Deadline Date: 01/03/2024.

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: The notice of the President's major disaster declaration for the State of California, dated 04/03/2023, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 07/20/2023.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Francisco Sánchez, Jr.,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2023–12443 Filed 6–9–23; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF STATE

[Public Notice: 12098]

Designation of Maxamed Siidow, Cali Yare, Maxamed Dauud Gaabane, Suleiman Cabdi Daoud, Mohamed Omar Mohamed as Specially Designated Global Terrorists

Acting under the authority of and in accordance with section 1(a)(ii)(B) of E.O. 13224, I hereby determine that the persons known as: Maxamed Siidow (also known as Maxamed Siidow Sheikh Ibrahim), Cali Yare (also known as Ali Yare), Maxamed Dauud Gabaane (also known as Maxamed Daud Qaawane, Maxamed Daud, Mahamud Daud), Suleiman Cabdi Daoud (also known as Suleiman Daoud Goobe, Saleban Goobe, Saleeban Goobe), Mohamed Omar Mohamed (also known as Mohamed Omar Ma'alin, Maxamed Cumar Maxamed, Ma'd Umurow, Mohamed Omar Haji, Mohamed Haji Omar Mo'alin, Mohamed Omarow, Ibnu-Omar) are leaders of al-Shabaab, a group whose property and interests in property are currently blocked pursuant to a determination by the Secretary of State pursuant to E.O. 13224.

Consistent with the determination in section 10 of E.O. 13224 that prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously, I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: May 5, 2023.

Antony J. Blinken,

Secretary of State.

[FR Doc. 2023–12419 Filed 6–9–23; 8:45 am]

BILLING CODE 4710–AD–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR–2023–0004]

Request for Comments on Advancing Inclusive, Worker-Centered Trade Policy

AGENCY: Office of the U.S. Trade Representative (USTR).

ACTION: Notice; request for comments.

SUMMARY: The Office of the U.S. Trade Representative is exploring how trade and investment policy may be designed to expand the benefits of trade to include underserved and marginalized communities here in the United States and with trading partners who share concerns about rising inequality. In order to develop inclusive objectives and positions in all trade and investment policy areas for both enhanced engagement and subsequent negotiations, the Office of the U.S. Trade Representative invites public comments.

DATES: The deadline for submission of written comments is August 11, 2023. Comments received after this date will be considered for future advisory, communication, and outreach efforts to the extent practicable.

ADDRESSES: USTR strongly prefers electronic submissions made through the Federal eRulemaking Portal: *https://www.regulations.gov.* For alternatives to on-line submissions, please contact Megan Paster, in advance of the deadline at *InclusiveTrade@USTR.EOP.GOV.*

FOR FURTHER INFORMATION CONTACT: Issues regarding submissions or questions about this request for comments should be sent to Megan Paster at (202) 395–6116 or *InclusiveTrade@USTR.EOP.GOV.*

SUPPLEMENTARY INFORMATION:

I. Background

The President's Trade Agenda now includes the ambition for all U.S. trade policy tools, engagements, and new trade initiatives to incorporate and reflect the core principles outlined in the President's Executive Order (E.O.) 13985 on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government and E.O. 14025 on Worker Organizing and Empowerment; the United States inaugural National Strategies on Gender Equity and Equality and to Advance Equity, Justice, and Opportunity for Asian American, Native Hawaiian, and Pacific Islander Communities; and the Presidential Memoranda on Tribal Consultation and Strengthening the Nation-to-Nation Relationships and Advancing the Human Rights of Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Persons Around the World.

Additionally, the U.S. Trade Representative co-chairs the White House Initiative and President's Advisory Commission on Asian Americans, Native Hawaiians, and Pacific Islanders and serves on the White House Council on Native American Affairs and the Gender Policy Council.

To inform the development of inclusive, worker-centered trade policy and investment, USTR seeks comments and recommendations on trade and investment policy actions, including responsible business conduct, to advance racial and gender equity and support for historically underserved communities.

Definitions. Consistent with E.O. 13985 and previously referenced

National Strategies and Presidential Memoranda, this request for public comment supports the effort to ''pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality'' and uses the following definitions:

(a) The term ''equity'' means the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as women and girls; Black, Latino, and Indigenous and Native American persons, Asian Americans, Native Hawaiians, and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.

(b) The term ''underserved communities'' refers to populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life, as exemplified by the list in the preceding definition of ''equity.''

(c) In addition, the term ''interested parties'' involves any individual or organization that believes it has interest in international trade, including but not limited to: labor, environmental, business (including micro, small, and medium-sized enterprises), consumer organizations, think tanks, civil society, and academia (including Historically Black Colleges and Universities, Tribal Colleges and Universities, Hispanic Serving Institutions, Asian American & Native American, Pacific Islander-Serving Institutions, and other minority serving institutions); local, State, Tribal, and Territorial authorities; civil, human rights, and faith-based organizations, and community-based organizations that represent the interests of women, Indigenous Peoples, persons with disabilities, rural and remote populations, members of racial, ethnic, or religious minorities, and LGBTQI+ persons; individuals and members of and organizations representing the interests of underserved communities.

II. Public Comment

USTR invites interested parties to submit comments to inform the development of inclusive objectives and positions on all trade and investment policy areas. Interested parties may provide inclusive trade and investment policy comments regarding a specific group or a combination of members of underserved communities.

Responses should:

- Be written in clear, concise, and plain language;
- Not include any information that cannot be made publicly available;
- Not exceed 10 pages;
- Include the name of the individual and organization responding and a brief description of the responding individual or organization; and
- If applicable, identify the specific question(s) addressed in the submission.

In submitting comments, parties are invited to consider any or all of the following questions.

- What meaningful and substantive trade policies, actions, or provisions should policy and decision makers consider that would advance racial and gender equity, equality, and empowerment in U.S. trade and investment policy? If applicable, what existing tools can be better utilized for these goals?
- What new and innovative tools, structures, and capacity should the U.S. Government adopt to advance inclusive trade and investment policy? Please identify data gaps that, if addressed, would be most helpful in undertaking meaningful impact analysis.
- How can trade and investment policy address multiple, intersecting barriers to advancing equity for underserved persons (*e.g.,* rural communities, race/ethnicity, gender, and persons with disabilities)?
- What best practices should USTR consider to ensure that advancing equity, equality, and economic empowerment is standardized in community and stakeholder engagement regarding the development and implementation of U.S. trade and investment policy?
- Are there specific engagement and consultation considerations and/or processes that policy makers should consider in incorporating equity into U.S. trade and investment policy?
- What key actions should the U.S. Government pursue with trade partners and allies to ensure that the benefits from trade and investment policy reach underserved communities?
- Are there trade policies, provisions, or actions which are detrimental to advancing racial and gender equity, equality, and economic empowerment? If so, please specify the relevant policy, program, and/or provision, and if available, provide data or analysis that would be useful evidence of this detrimental effect. Do you have a recommendation for how this should be corrected?
- How can trade policymaking better respond to the specific interests of different U.S. regions and local communities?

III. Requirements for Submissions

You must submit comments by the August 11, 2023 deadline. You must make all submissions in English via *Regulations.gov,* using Docket Number USTR–2023–0004. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the 'type comment' field. USTR will not accept hand-delivered submissions.

To make a submission using *Regulations.gov,* enter Docket Number USTR–2023–0004 in the 'search for' field on the home page and click 'search.' The site will provide a search results page listing all documents associated with this docket. Find a reference to this notice by selecting 'notice' under 'document type' in the 'refine documents results' section on the left side of the screen and click on the link entitled 'comment.' The *Regulations.gov* website offers the option of providing comments by filling in a 'comment' field or by attaching a document using the 'attach files' field.

USTR prefers that you provide submissions in an attached document and note 'see attached' in the 'comment' field on the online submission form. At the beginning of the submission, or on the first page (if an attachment) include the following: 'Advancing Inclusive, Worker-Centered Trade Policy.' Include any cover letters, exhibits, annexes, or other attachments to the submission in the same file as the submission itself, and not as separate files.

You will receive a tracking number upon completion of the submission procedure at *Regulations.gov.* The tracking number is confirmation that *Regulations.gov* received the submission. Keep the confirmation for your records. USTR is not able to provide technical assistance for *Regulations.gov.* USTR may not consider documents that you do not submit in accordance with these instructions.

If you are unable to provide submissions as requested, please contact Megan Paster in advance of the deadline at (202) 395–6116 or *InclusiveTrade@USTR.EOP.GOV* to arrange for an alternative method of transmission.

USTR will place comments in the docket for public inspection. General information concerning USTR is available at *www.ustr.gov.*

Jamila Thompson,

Senior Advisor to the U.S. Trade Representative, Office of the U.S. Trade Representative.

[FR Doc. 2023–12446 Filed 6–9–23; 8:45 am]

BILLING CODE 3390–F3–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Conforming Amendments to Product Exclusion Extensions: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Notice of amendments to recently extended COVID product exclusions.

SUMMARY: On May 17, 2023, USTR announced the extension of 77 COVID exclusions through September 30, 2023. To conform with the tariff classifications set out by Customs and Border Protection (CBP) effective November 30, 2020, and changes to statistical reporting categories set out by the U.S. International Trade Commission (USITC) effective January 27, 2022, USTR is making conforming amendments to four exclusions in the May 17, 2023 notice.

DATES: The conforming amendments in the Annex to this notice are effective June 1, 2023. CBP will issue instructions on entry guidance and implementation.

FOR FURTHER INFORMATION CONTACT: For general questions about this notice, contact Associate General Counsel Philip Butler or Assistant General Counsel Rachel Hasandras at (202) 395–5725. For specific questions on customs classification or implementation of the product exclusion identified in the Annex to this notice, contact *traderemedy@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

On September 30, 2020, CBP issued a notice on the tariff classification of nonwoven wipes. *Revocation of Eleven Ruling Letters, Modification of One Ruling Letter and Proposed Revocation of Treatment Relating to the Tariff Classification of Nonwoven Wipes, Customs Bulletin and Decisions,* Vol 54, No. 38, at 58 (September 30, 2020) (September 30 notice).

Additionally, effective January 27, 2022, the USITC implemented certain changes to the Harmonized Tariff Schedule of the United States (HTSUS) to reflect Harmonized System modifications adopted by the World Customs Organization and changes to statistical reporting categories.

Subsequently, on May 17, 2023, USTR announced the extension of 77 COVID product exclusions through September 30, 2023 (May 17 notice). *See* 88 FR 31580 (May 17, 2023). However, four of the published exclusions did not reflect the recent changes by CBP and USITC.

B. Conforming Amendments to Exclusion Extensions

The Annex to this notice conforms one of the extended COVID exclusions announced by USTR on May 17, 2023 with CBP's September 30, 2020 notice relating to the tariff classification of nonwoven wipes, and conforms three of the extended COVID exclusions announced by USTR on May 17, 2023 with the January 27, 2022 changes to ten-digit statistical reporting categories in the HTSUS. In particular, the Annex makes conforming amendments to U.S. notes 20(uuu)(i)(1), 20(uuu)(iii)(11), 20(uuu)(iii)(12), and 20(uuu)(iii)(13) to subchapter III of chapter 99 of the HTSUS, as set out in the Annex to the notice published at 88 FR 31580 (May 17, 2023).

Annex

A. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on June 1, 2023 and before 11:59 p.m. eastern daylight time on September 30, 2023, note 20(uuu)(i)(1) to subchapter III of chapter 99 of the HTSUS is amended by deleting ''8421.39.8090'' and by inserting ''8421.39.0190'' in lieu thereof.

B. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on June 1, 2023 and before 11:59 p.m. eastern daylight time on September 30, 2023, note 20(uuu)(iii)(11) to subchapter III of chapter 99 of the HTSUS is amended by deleting ''3401.30.5000'' and by inserting ''3401.11.5000'' in lieu thereof.

C. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on June 1, 2023 and before 11:59 p.m. eastern daylight time on September 30, 2023, note 20(uuu)(iii)(12) to subchapter III of chapter 99 of the HTSUS is amended by deleting ''3824.99.9297'' and by inserting ''3824.99.9397'' in lieu thereof.

D. Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on June 1, 2023 and before 11:59 p.m. eastern daylight time on September 30, 2023, note 20(uuu)(iii)(13) to subchapter III of chapter 99 of the HTSUS is amended by deleting ''3824.99.9297'' and by inserting ''3824.99.9397'' in lieu thereof.

Greta Peisch,

General Counsel, Office of the United States Trade Representative.

[FR Doc. 2023–12492 Filed 6–9–23; 8:45 am]

BILLING CODE 3390–F3–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Membership in the National Parks Overflights Advisory Group

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Solicitation of applications.

SUMMARY: The Federal Aviation Administration (FAA) and the National Park Service (NPS) invite interested persons to apply to fill one current and five upcoming vacancies on the National Parks Overflights Advisory Group (NPOAG). This notice invites interested persons to apply for the openings. The current opening is for a representative of Native American tribes. The upcoming openings are for another representative of Native American tribes, two representatives of the commercial air tour operators, and three representatives of environmental concerns.

DATES: Persons interested in these membership openings will need to apply by July 27, 2023.

FOR FURTHER INFORMATION CONTACT: Sandi Fox, Environmental Protection Specialist, FAA Office of Environment and Energy, 800 Independence Ave. SW, Suite 900W, Washington, DC 20591, telephone: (202) 267–0928, email: *Sandra.Y.Fox@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Parks Air Tour Management Act of 2000 (the Act) was enacted on April 5, 2000, as Public Law 106–181, and subsequently amended in the FAA Modernization and Reform Act of 2012. The Act required the establishment of the advisory group within one year after its enactment. The NPOAG was established in March 2001. The advisory group is comprised of representatives of general aviation, commercial air tour operators, environmental concerns, and Native American tribes. The Administrator of the FAA and the Director of NPS (or their designees) serve as ex officio members of the group. Representatives of the Administrator and Director serve alternating 1-year terms as chairman of the advisory group.

In accordance with the Act, the advisory group provides ''advice, information, and recommendations to the Administrator and the Director—

(1) On the implementation of this title [the Act] and the amendments made by this title;

(2) On commonly accepted quiet aircraft technology for use in commercial air tour operations over a national park or tribal lands, which will receive preferential treatment in a given air tour management plan;

(3) On other measures that might be taken to accommodate the interests of visitors to national parks; and

(4) At the request of the Administrator and the Director, safety, environmental, and other issues related to commercial air tour operations over a national park or tribal lands.''

Membership

The current NPOAG is made up of one member representing general aviation, three members representing commercial air tour operators, four members representing environmental concerns, and two members representing Native American tribes. Members serve three-year terms. Current members of the NPOAG are as follows: Murray Huling representing general aviation; Eric Lincoln, James Viola, and John Becker representing commercial air tour operators; Robert Randall, Dick Hingson, Les Blomberg, and John Eastman representing environmental interests; and Carl Slater representing Native American tribes, with one current opening for a Native American tribe representative. The three-year terms of Mr. Becker, Mr. Blomberg, Mr. Eastman, Mr. Hingson, and Mr. Viola expire on August 30, 2023.

Selections

To retain balance within the NPOAG, the FAA and NPS are seeking candidates interested in filling the one current vacant seat representing Native American tribes, two upcoming vacancies representing the commercial air tour industry, and three upcoming vacancies representing environmental concerns. The FAA and NPS invite persons interested in these openings on the NPOAG to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Requests to serve on the NPOAG must be made in writing and postmarked or emailed on or before July 27, 2023. Any request to fill one of these seats must describe the requestor's affiliation with commercial air tour operators, environmental concerns, or federally recognized Native American tribes, as appropriate. The request should also explain what expertise the requestor would bring to the NPOAG as related to issues and concerns with aircraft flights over national parks or tribal lands. The term of service for NPOAG members is 3 years. Members may re-apply for another term.

On August 13, 2014, the Office of Management and Budget issued revised guidance regarding the prohibition against appointing or not reappointing federally registered lobbyists to serve on advisory committees (79 FR 47482). Therefore, before appointing an applicant to serve on the NPOAG, the FAA and NPS will require the prospective candidate to certify that they are not a federally registered lobbyist.

Issued in Washington, DC, on June 7, 2023.

Sandra Fox,

Environmental Protection Specialist, FAA Office of Environment and Energy.

[FR Doc. 2023–12472 Filed 6–9–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2023–1282]

Agency Information Collection Activities: Requests for Comments; Clearance of New Approval of Information Collection: Certificates of Waivers Under 14 CFR 91.903 Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval for a new information collection. The purpose of this notice is to allow 60 days for public comment. The FAA proposes collecting information related to requests for certificate of waivers to operate Unmanned Aircraft Systems (UAS) in deviation from the normal operating rules. The FAA will use the collected information to make determinations whether to authorize or deny the requested operation of UAS. The proposed information collection is necessary to issue such authorizations or denials consistent with the FAA's mandate to ensure safe and efficient use of national airspace. This notice was already published and the dates for comments submission has been updated.

DATES: Written comments should be submitted by August 11, 2023.

ADDRESSES: Please send written comments:

By Electronic Docket:
www.regulations.gov (Enter docket number into search field)

By mail: FAA HQ, Bldg. 10B, 5th floor, Desk 5E4TS, 600 Independence Ave. SW, Washington, DC 20597

FOR FURTHER INFORMATION CONTACT: Rahat Ali by email at: *Rahat.Ali@faa.gov;* phone: 202–267–8780.

SUPPLEMENTARY INFORMATION: The list of rules subject to waiver requests is found in 14 CFR 91.905.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–XXXX.

Title: Certificates of Waivers under 14 CFR 91.903.

Form Numbers: Not applicable.

Type of Review: Approval of new Information Collection.

Background: Title 14, Part 91 of the Code of Federal Regulations prescribes the rules governing the operation of aircraft within the United States. Included in this is the operation of unmanned aircraft systems (UAS), commonly known as drones, by both civil and public aircraft operators. 14 CFR 91.903 allows for operators of aircraft to apply for a certificate of waiver authorizing the operator to deviate from the rules listed in § 91.905 if the proposed operation can be conducted safely.

To process certificate of waiver requests, the FAA requires the name of the person or organization sponsoring the request, mailing address, information related to any pending or to prior waiver requests that were denied or rescinded, the regulation sought to deviate from, time and location of the proposed operation, the make and model of the aircraft, and the pilot's name, address, and certificate number and rating. This information is necessary for the FAA to meet its statutory mandate of maintaining a safe and efficient national airspace. See 49 U.S.C. 40103, 44701, and 44807. The FAA will use the requested information to determine if the proposed UAS operation can be conducted safely.

The FAA proposes to use a web portal accessible from the FAA website to

process certificate of waiver requests from the public. To initially access the web portal, the FAA requires respondents to complete an Access Request Form. This form requires the respondent to provide the date, the respondent's name, telephone number, and email address, to identify if the respondent is a civil or public operator, and to provide a general reason why operating a UAS.

Respondents: UAS operators seeking to a certificate of waiver under 14 CFR 91.903. Between 2023–2026, the FAA estimates that it will receive a total of 5,105 certificate of waiver requests with 4,925 coming from public users and 180 coming from civil users. The FAA also estimates that it will receive a total 2,572 requests to initially access the web portal.

Frequency: The requested information will need to be provided each time a respondent requests a certificate of waiver under Part 91 and the first time that a respondent requests to access the web portal.

Estimated Average Burden per Response: The FAA estimates the respondents will take an average of 15 minutes to complete the Access Request Form and 120 minutes to request a certificate of waiver.

Estimated Total Annual Burden: 3,283 hours for those completing certificate of waiver requests. 214 hours for those completing the Access Request Form.

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

Rahat Ali,

General Engineer, AJV–P22.

[FR Doc. 2023–12482 Filed 6–9–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2022–0209]

Women of Trucking Advisory Board (WOTAB); Notice of Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: This notice announces a meeting of the WOTAB.

DATES: The meeting will be held on Thursday, June 29, 2023, from 10 a.m. to 4:30 p.m. ET. Requests for accommodations for a disability must be received by Friday, June 23. Requests to submit written materials for consideration during the meeting must be received no later than Friday, June 23.

ADDRESSES: The meeting will be held virtually for its entirety. Please register in advance of the meeting at *www.fmcsa.dot.gov/wotab.* Copies of WOTAB task statements and an agenda for the entire meeting will be made available at *www.fmcsa.dot.gov/wotab* at least 1 week in advance of the meeting. Once approved, copies of the meeting minutes will be available at the website following the meeting. You may visit the WOTAB website at *www.fmcsa.dot.gov/wotab* for further information on the committee and its activities.

FOR FURTHER INFORMATION CONTACT: Ms. Shannon L. Watson, Designated Federal Officer, WOTAB, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 360–2925, *wotab@dot.gov.* Any committee-related request should be sent to the person listed in this section.

SUPPLEMENTARY INFORMATION:

I. Background

WOTAB was created under the Federal Advisory Committee Act (FACA) in accordance with section 23007(d)(1) of the Bipartisan Infrastructure Law (BIL) (Pub. L. 117–58), which requires the Federal Motor Carrier Safety Administration (FMCSA) to establish WOTAB. WOTAB will review and report on policies that provide education, training, mentorship, and outreach to women in the trucking industry and identify barriers and industry trends that directly or indirectly discourage women from pursuing and retaining careers in trucking.

WOTAB operates in accordance with FACA under the terms of the WOTAB charter, filed February 11, 2022.

II. Agenda

WOTAB will begin consideration of Task 23–2, Ways to Expand Existing Opportunities for Women in the Trucking Industry. For this and all topics considered by the committee, FMCSA will include presentations by Agency experts and those in the field under discussion.

III. Public Participation

The meeting will be open to the public via virtual platform. Advance registration via the website is required.

DOT is committed to providing equal access to this meeting for all participants. If you need alternative formats or services due to a disability, such as sign language interpretation or other ancillary aids, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section by Friday, June 23.

Oral comments from the public will be heard during designated comment periods at the discretion of the WOTAB chair and Designated Federal Officer. To accommodate as many speakers as possible, the time for each commenter may be limited. Speakers are requested to submit a written copy of their remarks for inclusion in the meeting records and for circulation to WOTAB members. All prepared remarks submitted on time will be accepted and considered as part of the record. Any member of the public may present a written statement to the committee at any time.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2023–12470 Filed 6–9–23; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2022–0033]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Request for Comment; Information Collection Request: Criminal Penalty Safe Harbor Provision

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments on a request for reinstatement of a previously approved information collection.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) summarized below will be submitted to the Office of Management and Budget (OMB) for review and approval. The ICR describes the nature of the information collection and its expected burden. This collection of information for which NHTSA intends to seek OMB approval concerns NHTSA's Criminal Penalty Safe Harbor Provision. It is a reinstatement of a previously approved information collection. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on June 29, 2022. No comments were received.

DATES: Comments must be submitted on or before July 12, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection, including suggestions for reducing burden, should be submitted to the Office of Management and Budget at *www.reginfo.gov/public/do/PRAMain.* To find this particular information collection, select ''Currently under Review—Open for Public Comment'' or use the search function.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Daniel Rabinovitz, Office of the Chief Counsel, National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, or via email at *Daniel.Rabinovitz@dot.gov.* Please identify the relevant collection of information by referring to its OMB Control Number (2127–0609).

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), a Federal agency must receive approval from OMB before it collects certain information from the public and a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. In compliance with these requirements, this notice announces that the following information collection request will be submitted to OMB.

Title: Criminal Penalty Safe Harbor Provision.

OMB Control Number: 2127–0609.

Form Number(s): N/A.

Type of Request: Request for reinstatement of a previously approved information collection.

Type of Review Requested: Regular.

Length of Approval Requested: 3 years from date of approval.

Summary of the Collection of Information: Section 5 of the Transportation Recall Enhancement, Accountability, and Documentation (''TREAD'') Act (Pub. L. 106–414), codified at 49 U.S.C. 30170, notes that 18 U.S.C. 1001 provides for criminal liability in circumstances where a person had the intention of misleading the Secretary of Transportation (Secretary) regarding safety-related defects in motor vehicles or motor vehicle equipment that caused death or serious bodily injury. Section 30170 also contains a ''safe harbor'' provision that allows a person to avoid criminal penalties if that person lacked knowledge at the time of the violation that the violation would result in an accident causing death or serious bodily injury and if that person corrects any improper reports or failure to report to the Secretary (NHTSA by delegation) within a reasonable time. As required by Section 5 of the TREAD Act, NHTSA published a final rule to implement the ''safe harbor'' provision and establish what constitutes a ''reasonable time'' and a sufficient manner of ''correction,'' as they apply to the ''safe harbor'' from criminal penalties. 66 FR 38380 (July 24, 2001). The rule is codified at 49 CFR 578.7.

A respondent that seeks ''safe harbor'' under § 30170 and 49 CFR 578.7 must sign and submit to NHTSA a dated document identifying: (1) each previous improper report, and each failure to report as required under 49 U.S.C. 30166, including a regulation, requirement, request or order issued thereunder, for which protection is sought; and (2) the specific predicate under which the improper or omitted report should have been provided. Respondents must submit the complete and correct information that was required to be submitted but was improperly submitted or was not previously submitted, including relevant documents that were not previously submitted, or, if the person cannot do so, provide a detailed description of that information and/or the content of those documents and the reason why the individual cannot provide them to NHTSA (*e.g.,* the information or documents are not in the individual's possession or control).

Description of the Need for the Information and Proposed Use of the Information: Not only is this information collection required by statute, it also helps NHTSA further its mission. Without this information collection, NHTSA would not have a way to accept submissions from persons seeking ''safe harbor.'' This process serves to encourage persons to correct violations and submit corrections of any improper reports or failures to report, thereby increasing the likelihood of NHTSA receiving information about safety related defects.

NHTSA anticipates using the information collection to evaluate a person's request for protection from criminal prosecution and to aid in the identification of potential safety defects in motor vehicles and motor vehicle equipment. However, no information has been collected since NHTSA issued the implementing regulation at 49 CFR 578.7 in an interim final rule on December 26, 2000 (65 FR 81419).

60-Day Notice: A **Federal Register** notice with a 60-day comment period soliciting public comments on the following information collection was published on June 29, 2022 (87 FR 38822). No comments were received.

Affected Public: Those affected are motor vehicle and motor vehicle equipment manufacturers, including officers or employees thereof, and other persons who respond to or have a duty to respond to an information collection pursuant to 49 U.S.C. 30166 or a regulation, requirement, request, or order issued thereunder. The information collection applies to persons who seek ''safe harbor'' under § 30170. In order to qualify, a respondent must: (1) at the time of the violation, not know that the violation would result in an accident causing death or serious bodily injury; and (2) correct any improper reports or failure to report within a reasonable time.

Estimated Number of Respondents: One.

Frequency: As needed basis.

Number of Responses: None.

Estimated Total Annual Burden Hours: Two hours annually.

The agency has received no reports from entities since this information collection was first put into place. However, to account for the possibility of receiving submissions in the future, NHTSA estimates that one person per year will submit a report under this collection of information. NHTSA also estimates that a maximum of two hours would be needed to gather and provide the information. Thus, NHTSA estimates that two burden hours a year would be spent on this collection of information.

To calculate the labor cost associated with submitting the collection of information, NHTSA looked at wage estimates for the type of personnel involved with compiling and submitting the documents. NHTSA estimates the total labor costs associated with these burden hours by looking at the average wage for Management Occupations. The Bureau of Labor Statistics (BLS) estimates that the average hourly wage for Management Occupations (BLS Occupation code 11–0000) in the Management of Companies and Enterprises Industry is $76.47.[1] The Bureau of Labor Statistics estimates that private industry workers' wages represent 70.5% of total labor compensation costs.[2] Therefore, NHTSA estimates the hourly labor costs to be

[1] *See* National Industry-Specific Occupational Employment and Wage Estimates, NAICS 336100—Motor Vehicle Manufacturing, available at *https://www.bls.gov/oes/current/oes_nat.htm* (accessed Jan. 27, 2023).

[2] *See* Table 1. Employer Costs for Employee Compensation by ownership (Sept. 2022), available at *https://www.bls.gov/news.release/ecec.t01.htm* (accessed Jan. 27, 2023).

$109.24 for BLS Occupation code 11–0000. NHTSA likewise estimates the total labor cost associated with the two burden hours to be $218.48. Table 1 provides a summary of the estimated burden hours and labor costs associated with those submissions.

TABLE 1—BURDEN ESTIMATES

Annual responses	Estimated burden per response (hours)	Average hourly labor cost	Labor cost per submission	Total burden hours	Total labor costs
1	2	$74.96	$109.24	2	$218.48

Estimated Total Annual Burden Cost: $9.65.

Assuming the respondent uses the U.S. Postal Service, NHTSA estimates that each mailed response is estimated to cost $9.65 (priority flat rate envelope from USPS). Accordingly, NHTSA estimates the total annual costs for this information collection to be $9.65 (1 submission × $9.65). If the respondent emails the report to NHTSA, the cost may be less than $9.65.

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 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) 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 appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29A.

K. John Donaldson,

Deputy Chief Counsel.

[FR Doc. 2023–12478 Filed 6–9–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2023–0024]

Agency Information Collection Activities; Notice and Request for Comment; First Responder Incident Advanced Reporting Program

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments on 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 the First Responder Incident Advanced Reporting Program (FRIAR) in which first responders (*e.g.,* law enforcement, fire department, and emergency medical services) may submit information about fatalities, injuries, or crashes that may have been caused due to a motor vehicle or equipment defect.

DATES: Comments must be submitted on or before August 11, 2023.

ADDRESSES: You may submit comments identified by the Docket No. NHTSA–2023–0024 through any of the following methods:

- *Electronic submissions:* Go to the Federal eRulemaking Portal at *http://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 *http://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 Tanya Topka, Office of Defects Investigation (NEF–100), (202) 366–9590, National Highway Traffic Safety Administration, W48–336, U.S. Department of Transportation, 1200 New Jersey Avenue SE, 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: First Responder Incident Advanced Reporting (FRIAR) Information Collection.

OMB Control Number: New.

Form Number(s): N/A.

Type of Request: Approval of a new collection of information.

Type of Review Requested: Regular.

Requested Expiration Date of Approval: 3 years from date of approval.

Summary of the Collection of Information: The purpose of this collection is to provide first responders with a distinct mechanism to report to NHTSA's Office of Defects Investigation (ODI) regarding fatalities, injuries, or crashes that may have been caused due to an alleged defect. Currently, ODI collects Vehicle Owner Questionnaires (VOQ) to gather information from the public about alleged or suspected safety defects. The FRIAR collection is a separate method to collect safety and defect related information from the first responder community that will expedite and prioritize ODI's review of such reports.

The FRIAR program will differ from the agency VOQ review process because first responders, based on their experience, may identify an incident(s) or crash that involves a potential safety-related problem that warrants swift review by ODI. An ODI safety defect analyst or investigator will follow-up with the first responder within 24 business hours (or 3 business days) upon receipt of a report. Reports submitted to ODI, in combination with other information obtained by ODI, are analyzed to determine if a potential defect exists that may require further investigation or the initiation of a recall. FRIAR was designed and created in the wake and review of the General Motors (GM) ignition switch recall and the 2015 Workforce Assessment document,[1] and the program will provide first responders a direct reporting mechanism to NHTSA for alleged safety defects that they may see in the field.

A first responder may submit a report(s) through NHTSA's Vehicle Safety Hotline, or NHTSA's *www.nhtsa.gov* website, which will have a section specified for first responders. The reports may contain an allegation of a safety defect that the first responder encountered that may be related to a vehicle, equipment, tire(s), child restraints, injuries, a crash, property damage, or fatality. This information collection is not expected to be burdensome to first responders since submitting the FRIAR form is voluntary and will require less than 5 minutes to complete.

Description of the Need for the Information and Proposed Use of the Information: First responders have not had a direct or public method of reporting alleged safety defects to ODI, and the FRIAR program will address this reporting disparity.

Affected Public: State and Local First Responders (*e.g.,* law enforcement, fire department, and emergency medical services).

Estimated Number of Respondents: approximately 100 respondents a year.

Respondents include a combination of State or local agencies that respond to car crashes, investigate crashes, and complete crash reports. NHTSA estimates that FRIAR will receive approximately 100 reports each year. Currently, even without a mechanism or prompt for collecting this information, NHTSA receives unsolicited tips and information from first responders regarding suspected vehicle defects (approximately 1 report a month) via telephone or email correspondence with NHTSA staff that work with first responders in other official capacities and duties. We anticipate that FRIAR will collect about 10 reports a month. NHTSA will conduct outreach to first responder communities to raise awareness about the FRIAR program that may increase the number of reports received over time. Therefore, it is estimated that the FRIAR project will generate, on average, 100 reports a year in the first year and the number of reports will increase over time.

Frequency: Ongoing.

The data will be collected on an ongoing basis (*e.g.,* whenever a first responder decides to voluntarily submit information about a crash, fatality, or injury occurs that they suspect could be related to a safety-related motor vehicle or equipment defect, which is expected to be infrequent) and is voluntary. It is anticipated that each response will be unique and will not be from the same agency, station, jurisdiction, etc., and there is no limit to how many reports a single agency or entity can submit to the FRIAR program during a given year.

Estimated Total Annual Burden Hours: 25 hours.

NHTSA estimates that the total burden hours for this information collection will be 25 hours per year. This is based on NHTSA's estimates that there will be 100 FRIAR reports submitted each year and that each report will take first responders approximately 15 minutes to complete (completion of the form will take 5 minutes and the follow-up phone call will take 10 minutes).

NHTSA estimates the cost associated with the burden hours by looking at average wages for different categories of first responders. The Bureau of Labor Statistics (BLS) estimates that the mean hourly wage is $34.02 an hour for police and sheriff's patrol officers (BLS Code 33–3051),[2] $26.58 an hour for firefighters (BLS Code 33–2011),[3] $17.64 per hour for emergency medical technicians (EMT) (BLS Code 29–2042).[4] First responders may have to utilize overtime to submit reports to FRIAR, and the standard overtime calculation is: 1 hour overtime = 1.5 × hourly rate (*e.g.,* time + 1 half). Therefore, NHTSA estimates the hourly labor costs for FRIAR respondents for 15 minutes using the overtime rate to be: $12.76 for police and sheriff's patrol officers, $9.97 for firefighters, and $6.62 for emergency medical technicians (EMT). NHTSA estimates that between all categories of respondents, we will receive approximately 100 reports each year with each report taking 15 minutes

[1] Workforce Assessment: The Future of NHTSA's Defect Investigations, *https://www.nhtsa.gov/staticfiles/communications/pdf/workforce-assessment-june2015.pdf,* last accessed July 13, 2022.

[2] Occupational Employment and Wages, May 2021, 33–5051Police and Sheriff's Patrol Officers, *https://www.bls.gov/oes/current/oes333051.htm,* last accessed June 28, 2022.

[3] Occupational Employment and Wages, May 2021, 33–2011 Firefighters, *https://www.bls.gov/oes/current/oes332011.htm,* last accessed June 28, 2022.

[4] Occupational Employment and Wages, May 2021, Emergency Medical Technicians, *https://www.bls.gov/oes/current/oes292042.htm,* last accessed June 28, 2022.

to complete. NHTSA estimates that the total of 25 burden hours will be distributed equally among the respondent categories and the average total labor costs associated with these burden hours will be $244.58 a year ([sum of all three 15 min average overtime rates hourly wage rates/3] × 25 hours).

Estimated Total Annual Burden Cost: This collection is not expected to result in any costs to respondents other than the cost associated with the burden hours.

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.

Jeffrey Lee Quandt,

Deputy Director, Office of Defect Investigation.

[FR Doc. 2023–12420 Filed 6–9–23; 8:45 am]

BILLING CODE 4910–59–P

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 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://ofac.treasury.gov*).

Notice of OFAC Actions

On May 30, 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.

Individuals

1. GUO, Chunyan (Chinese Simplified: 郭春艳), 30 Baiyunshan Chenjiang Village Committee, Chenjiang, Zhongkai District, Huizhou City, Guangdong Province, China (Chinese Simplified: 陈江村委会白云山30号, 仲恺区陈江, 惠州市, 广东省, China); 75 Baiyun Boulevard, (Taihuang Dengshi), 3F Rm 315, Chenjiang Town, Huizhou City, Guangdong Province 516229, China (Chinese Simplified: 白云大道75号(泰煌灯饰), 3楼315室, 陈江镇, 惠州市, 广东省 516229, China); DOB 15 Apr 1983; nationality China; Website www.yolimachine.com; Email Address guoruiguang2016@126.com; Gender Female; Phone Number 8615815351839; alt. Phone Number 867523323959; National ID No. 4413811983041524 2X (China) issued 18 Mar 2016 expires 18 Mar 2036 (individual) [ILLICIT-DRUGS-EO14059].

   Designated pursuant to section 1(a)(i) of Executive Order 14059 of December 15, 2021, "Imposing Sanctions on Foreign Persons Involved in the Global Illicit Drug Trade," 86 FR 71549 (December 17, 2021) (E.O. 14059) for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

2. GUO, Yunnian (Chinese Simplified: 郭运年), d26 Weiyuan Small District, Chenjiang Town, Huizhou City, Guangdong Province 516229, China (Chinese Simplified: 威源小区D26, 陈江镇, 惠州市, 广东省 516229, China); DOB 05 Dec 1961; nationality China; Email Address iscan2009@live.cn; Gender Female; Phone Number 8615815351839; alt. Phone Number 867523323959; alt. Phone Number 867623218162; National ID No. 442521196112052420 (China) (individual) [ILLICIT-DRUGS-EO14059].

   Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

3. GUO, Ruiguang (Chinese Simplified: 郭瑞光), 30 Baiyunshan Chenjiang Village Committee, Chenjiang Office, Huicheng District, Huizhou City, Guangdong Province, China (Chinese Simplified: 陈江村委会白云山30号, 惠城区陈江办事处, 惠州市, 广东省, China); 75 Baiyun Boulevard, Chenjiang Town, Huizhou City, Guangdong Province 516229, China (Chinese Simplified: 白云大道75号, 陈江镇, 惠州市, 广东省 516229, China); DOB 20 Mar 1954; nationality China; Email Address guoruiguang2016@126.com; Gender Male; Phone Number 8615815351839; National ID No. 442521195403202412 (China) issued 14 Dec 2006 (individual) [ILLICIT-DRUGS-EO14059].

   Designated pursuant to section 1(b)(iii) of E.O. 14059 for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Youli Technology Development Co., Ltd., a person sanctioned pursuant to E.O. 14059.

4. FEI, Yiren (Chinese Simplified: 费亿人), No. 122, Renmin North Road, Pencheng Sub-district, Ruichang, Jiangxi, China; DOB 09 Sep 1984; nationality China; Email Address yasonne@hotmail.com; Gender Male; National ID No. 360481198409093811 (China) (individual) [ILLICIT-DRUGS-EO14059].

   Designated pursuant to section 1(b)(ii) of E.O. 14059 for being or having been a leader or official of Yason General Machinery Co., Ltd. and of Yason Electronics Technology Co., Limited, persons sanctioned pursuant to E.O. 14059.

5. ZHAO, Dongdong (Chinese Simplified: 赵冬冬) (a.k.a. ZHAO, Dong Dong; a.k.a. "MANX, Logan"), Yantai, Shandong, China; DOB 04 Feb 1990; POB Shandong, China; nationality China; Website www.tdpmolds.com; alt. Website www.tdpsell.com; Email Address loganmanx@hotmail.com; Gender Male; Phone Number 8613188782935; National ID No. 371327199002044616 (China) (individual) [ILLICIT-DRUGS-EO14059].

   Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

6. PAN, Hao (Chinese Simplified: 潘昊), Yantai, Shandong 264000, China; DOB 14 Aug 1995; POB Shandong, China; nationality China; Email Address panhao1995@hotmail.com; Gender Male; National ID No. 371327199508144614 (China) (individual) [ILLICIT-DRUGS-EO14059].

   Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

7. MARTINEZ TREVIZO, Mario Ernesto, Mexico; DOB 16 Mar 1982; POB Chihuahua, Mexico; nationality Mexico; Gender Male; C.U.R.P. MATM820316HCHRRR01 (Mexico) (individual) [ILLICIT-DRUGS-EO14059].

   Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

8. RODRIGUEZ ALMEIDA, Cinthia Adriana, Mexico; DOB 31 Mar 1992; POB Chihuahua, Mexico; nationality Mexico; Gender Female; C.U.R.P. ROAC920331MCHDLN07 (Mexico) (individual) [ILLICIT-DRUGS-EO14059].

   Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

9. MACIAS TREVIZO, Ernesto Alonso, Mexico; DOB 07 Feb 1996; POB Chihuahua, Mexico; nationality Mexico; Gender Male; C.U.R.P. MATE960207HCHCRR07 (Mexico) (individual) [ILLICIT-DRUGS-EO14059].

   Designated pursuant to section 1(b)(iii) of E.O. 14059 for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Mexpacking Solutions, a person sanctioned pursuant to E.O. 14059.</EXTRACT>

Entities:

1. YOULI TECHNOLOGY DEVELOPMENT CO., LTD. (Chinese Simplified: 尤里科技发展有限公司) (a.k.a. "YOLI GROUP LTD."; a.k.a. "YOLI MACHINE"), Rm No. 13, 16/F, Unit 2 Huatingge, No. 11 Dongpo Rd, Huizhou City, Guangdong Province 516001, China (Chinese Simplified: 华庭阁2单元16层13号房, 东坡路11号, 惠州市, 广东省 516001, China); #22 Huayu, Huizhou, Guangdong 516229, China; Website www.yolimachine.com; Email Address yk@yolimachine.com; Phone Number 8615815351839; Organization Established Date 23 Dec 2013; Unified Social Credit Code (USCC) 91441300086828609C (China) [ILLICIT-DRUGS-EO14059].

   Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

2. YASON GENERAL MACHINERY CO., LTD. (Chinese Simplified: 亚新通用机械有限公司) (a.k.a. SHENZHEN YASON GENERAL MACHINERY CO., LTD. (Chinese Simplified: 深圳市亚新通用机械有限公司); a.k.a. YASON GENERAL MACHINERY MANUFACTURING CO., LTD.), 301A, Fl. 3, No. 17 III of Xinxiang Industrial Park, Xinhe Street New and Emerging Industrial Area (A), Fuhai Street, Baoan District, Shenzhen, Guangdong Province 518000, China; Floor 3, Bldg 1, (Zone A) Zone 3, Xinhe Xinxing Ind. Zone, Fuyong Street, Baoan Dist., Shenzhen, Guangdong, China; No 188-23, Xiangming RD, Fengcheng Town, Anxi County, Quanzhou, Fujian, China; Website www.ytkmachine.com; alt. Website www.ytkpack.com; alt. Website www.medpacking.com; Email Address worldyason@live.com; alt. Email Address jelly-yason@outlook.com; Phone Number 8618170079734; alt. Phone Number 8675536528786; Organization Established Date 30 Nov 2011; Unified Social Credit Code (USCC) 91440300586742510R (China) [ILLICIT-DRUGS-EO14059].

   Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

3. YASON ELECTRONICS TECHNOLOGY CO., LIMITED (Chinese Traditional: 亞新電子科技有限公司), Hong Kong, China; Floor 2, Building 2, Laobing Industrial Park, Tiezai Road No. 44, Xixiang, Baoan District, Shenzhen, Guangdong 518100, China; Website www.med-obd.com; Email Address yasonne@hotmail.com; alt. Email Address med-obd@outlook.com; Phone Number 8675523442169; Organization Established Date 04 Mar 2009; Company Number 1311429 (Hong Kong) [ILLICIT-DRUGS-EO14059].

Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

4. SHENZHEN YASON GENERAL MACHINERY CO., LTD. NANCHANG BRANCH (Chinese Simplified: 深圳市业新通用机械有限公司南昌分公司) (a.k.a. SHENZHEN YAXIN GENERAL MACHINERY CO., LTD. NANCHANG BRANCH), Room 901, Building 2, Century Xinchen Building, No. 917, Fenglin West Street, Nanchang Economic and Technological Development Zone, Nanchang, Jiangxi 33000, China; Phone Number 8618720979173; Unified Social Credit Code (USCC) 91360122MA3844AE0Y (China) [ILLICIT-DRUGS-EO14059].

   Designated pursuant to section 1(a)(iii) of E.O. 14059 for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Yiren Fei, a person sanctioned pursuant to E.O. 14059.

5. TDPMOLDS, China; Website www.tdpmolds.com; Email Address sale@tdpmolds.com; Trademark number 38266997 (China) [ILLICIT-DRUGS-EO14059].

   Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

6. YANTAI YIXUN INTERNATIONAL TRADE CO., LTD. (Chinese Simplified: 烟台易迅国际贸易有限公司) (a.k.a. YANTAI YIXUN INTERNATIONAL TRADE AND COMMERCE CO., LTD.), No. 27-10, Fucheng Road, Zhifu District, Yantai, Shandong Province 264013, China; Phone Number 8613188782935; Unified Social Credit Code (USCC) 91370602MA3EXX8R79 (China) [ILLICIT-DRUGS-EO14059].

   Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

   Designated pursuant to section 1(b)(iii) of E.O. 14059 for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Dongdong Zhao, a person sanctioned pursuant to E.O. 14059.

7. YANTAI MEI XUN TRADE CO., LTD. (Chinese Simplified: 烟台美讯商贸有限公司), 10-9, Xingheli, Zhifu District, Yantai, Shandong 264000, China; Unified Social Credit Code (USCC) 91370602MA3PGY400W (China) [ILLICIT-DRUGS-EO14059].

   Designated pursuant to section 1(a)(iii) of E.O. 14059 for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, Hao Pan, a person sanctioned pursuant to E.O. 14059.

8. MEXPACKING SOLUTIONS (a.k.a. "MEXPACKING"), Calle 2DA, Numero Exterior 5211, Colonia Santa Rosa, Chihuahua 31050, Mexico; Calle Circuito Loreto, Numero

Exterior 3165, Hacienda Loreto, Chihuahua 31220, Mexico; Website https://mexpackingsolutions.com; alt. Website www.mexpacking.com; Organization Type: Wholesale of other machinery and equipment [ILLICIT-DRUGS-EO14059].

Designated pursuant to section 1(a)(i) of E.O. 14059 for having engaged in, or attempted to engage in, activities or transactions that have materially contributed to, or pose a significant risk of materially contributing to, the international proliferation of illicit drugs or their means of production.

Dated: May 30, 2023.

Andrea M. Gacki,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2023–12500 Filed 6–9–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs (VA), Veterans Health Administration (VHA).

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, notice is hereby given that the VA is modifying the system of records entitled ''Health Professional Scholarship Program, and Visual Impairment and Orientation and Mobility Professional Scholarship Program-VA'' (73VA10A2A) as set forth in the **Federal Register**. This system is used to determine and document individual applicant eligibility for scholarship awards, selecting applicants to receive awards, calculating service commitments for program participants, ensuring program financial accountability, monitoring educational progress of participants, monitoring the employment status of scholarship participants during periods of obligated service, terminating employees from the program (upon completion or breach), and evaluating and reporting program results and effectiveness.

DATES: Comments on this modified 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 modified system of records 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 ''Health Professional Scholarship Program, and Visual Impairment and Orientation and Mobility Professional Scholarship Program-VA'' (73VA10A2A). Comments received will be available at *regulations.gov* for public viewing, inspection or copies.

FOR FURTHER INFORMATION CONTACT: Stephania Griffin, VHA Chief Privacy Officer, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420; *Stephania.griffin@va.gov,* telephone number 704–245–2492 (Note: this is not a toll-free number).

SUPPLEMENTARY INFORMATION: VA is modifying the system by revising the System Number; System Location; System Manager; Routine Uses of Records Maintained in the System; Policies and Practices for Storage of Records; Policies and Practices for Retention and Disposal of Records; Administrative, Technical and Physical Safeguards; Notification Procedure; and Record Access Procedure. VA is republishing the system notice in its entirety.

The System Number will be changed from 73VA10A2A to 73VA10 to reflect the current VHA organizational routing symbol.

The System Location is being updated to remove, ''Active records will be maintained at Healthcare Talent Management (HTM), Scholarships and Nursing Education Office, Veterans Health Administration, Department of Veterans Affairs, 1250 Poydras Street, Suite #1000, New Orleans, LA 70113. Complete records will be maintained only at this address.'' This section will include, ''Active records are located in a Federal Risk and Authorization Management Program (FEDRAMP) approved Amazon Web Server (AWS) Cloud based system. There are no paper records for Health Professional Scholarship Program (HPSP) being maintained. The Uniform Resource Locator where records are maintained is *https://va-ams.intelliworxit.com/* (A login is required to retrieve any information.)''

The System Manager is being updated to remove ''Director, Healthcare Talent Management (10A2A8), 1250 Poydras Street, Suite #1000, New Orleans, Louisiana 70113''. This section will include, ''Executive Director, Workforce Solutions, Veterans Health Administration, Department of Veterans Affairs, 55 North Robinson Ave., Suite 110, Oklahoma City, OK 73102. Telephone number is 405–921–4226 (this is not a toll-free number).''

The following routine use is added and will be routine use #18, ''Data Breach Response and Remediation, For Another Agency: To another Federal agency or Federal entity, when VA 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.''

Policies and Practices for Storage of Records is being updated to remove ''secure local area network (LAN) located within HTM office spaces and safeguarded.'' This section will change to ''secure AWS cloud-based network.''

Policies and Practices for Retention and Disposal of Records is being updated to remove the following: ''Records will be maintained and disposed of in accordance with records disposition authority approved by the Archivist of the United States.'' This section is updated to state, ''Records in this system are retained and disposed of in accordance with the schedule approved by the Archivist of the United States, VHA Records Control Schedule 10–1, 3200.1.''

Administrative, Technical and Physical Safeguards are being updated to include, ''HPSP is hosted in AWS Government Cloud (GovCloud) infrastructure as a service cloud computing environment that has been authorized at the high-impact level under the FedRAMP. The secure site-to-site encrypted network connection is limited to access via the VA trusted internet connection.''

Notification Procedure and Record Access Procedure are being updated to remove the following: ''Talent Management (10A2A8), 1250 Poydras Street, Suite #1000, New Orleans, Louisiana 70113.'' In the new System of Reports Notice, no address will be included in these sections. Rather, the reader will be referred to the system manager.

The Report of Intent to Modify a System of Records Notice and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director of the Office of Management and Budget (OMB) as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

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 1, 2023 for publication.

Dated: June 6, 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:

''Health Professional Scholarship Program, and Visual Impairment and Orientation and Mobility Professional Scholarship Program-VA'' (73VA10)

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Active records are located in a Federal Risk and Authorization Management Program (FEDRAMP) approved Amazon Web Server (AWS) Cloud based system. There are no paper records for Health Professional Scholarship Program (HPSP) being maintained. The Uniform Resource Locator where records are maintained is *https://va-ams.intelliworxit.com/.* (A login is required to retrieve any information.)

SYSTEM MANAGER(S):

Official responsible for policies and procedures: Executive Director, Workforce Solutions, Veterans Health Administration, Department of Veterans Affairs, 55 North Robinson Ave., Suite 110, Oklahoma City, OK 73102. Telephone number is 405–921–4226 (this is not a toll-free number).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

38 U.S.C. 7611–7619, 7635–7636

PURPOSE(S) OF THE SYSTEM:

The purpose of these records is to support HPSP and Visual Impairment and Orientation and Mobility Professional Scholarship Program (VIOMPSP). The HPSP was established by Public Law 96–330 and awarded scholarships to 3,330 students between 1982 through 1995 earning baccalaureate and master's degrees in nursing and other health care professions. Public Law 111–163, signed on May 5, 2010, reauthorized the HPSP through December 31, 2014, and established the VIOMPSP. The records and information may be used for determining and documenting individual applicant eligibility for scholarship awards, selecting applicants to receive awards, calculating the service commitments for program participants, ensuring program financial accountability, monitoring educational progress of participants, monitoring the employment status of scholarship participants during their periods of obligated service, terminating the employee from the program (upon completion or breach) and evaluating and reporting program results and effectiveness. The information would also be used to determine the financial liability of participants who breach their HPSP or VIOMPSP agreement.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The records include information regarding individuals who apply for, and are awarded, scholarships under the provisions of the VHA HPSP in a field leading to an appointment under paragraph (1) or (3) 38 U.S.C. 7401, and individuals who apply for, and are awarded, scholarships under the provisions of the VHA VIOMPSP in a program of study leading to an appointment as a qualified blind rehabilitation specialist.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records (or information contained in records) may include personal identification information related to the application material, to award processes, to employment, to obligated service, and to requests for waivers or suspensions of obligated service or financial indebtedness to the VA. The application for an HPSP or VIOMPSP award includes the applicant's full name, mailing and email addresses, employing facility number (if applicable), home and work telephone numbers, Social Security number, an alternative person of contact, job title, current education level, degree sought, description of the academic program covered by the scholarship, name and address of the academic institution, the starting and completion dates of the employee's academic program, awards and activities. Records may include memoranda submitted by the employees, calculations for the service obligations, copies of letters and memoranda from employees making the requests and also correspondence to employees and appropriate local program officials delineating the decisions on such requests. Records for applicants selected will also include the award amount, the name of the participant's financial institution, account number and routing number, the obligated service incurred, and the location, start, and end dates of the service obligation period.

RECORD SOURCE CATEGORIES:

Record sources, include information contained in the records, is obtained from the individual, references given in application material, educational institutions, VA medical facilities, other Federal agencies, state agencies, and consumer reporting agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. *Congress:* To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

2. *Governmental Agencies, for VA Hiring, Security Clearance, Contract, License, Grant:* To a Federal, state, local, or other governmental agency maintaining civil or criminal violation records, or other pertinent information such as employment history, background investigations, or personal or educational background, to obtain information relevant to VA's hiring, transfer, or retention of an employee, issuance of a security clearance, letting

of a contract, or issuance of a license, grant, or other benefit. The disclosure of the names and addresses of veterans and their dependents from VA records under this routine use must also comply with the provisions of 38 U.S.C. 5701.

3. *State or Local Agencies, for Employment:* To a state, local, or other governmental agency, upon its official request, as relevant and necessary to that agency's decision on the hiring, transfer, 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 by that agency. The disclosure of the names and addresses of veterans and their dependents from VA records under this routine use must also comply with the provisions of 38 U.S.C. 5701.

4. *Federal Agencies, Verifying Obligations of Service:* To Federal agencies in order to determine if an applicant has an obligation for service under another Federal program, thus rendering the applicant ineligible for a VA scholarship.

5. *Educational Institutions, Scholarship Program Administration:* To educational institutions in order to assist in the administration of this program, provided that information disclosed is about individuals eligible for scholarships.

6. *Department of Treasury, for Award Payment Information:* To the Department of Treasury to permit delivery of scholarship-related checks to students and to educational institutions.

7. *Consumer Reporting Agencies:* To a consumer reporting agency for the purpose of locating the individual, obtaining a consumer report to determine the ability of the individual to repay an indebtedness to the United States, or assisting in the collection of such indebtedness, provided that the provisions of 38 U.S.C. 5701(g)(2) and (4) have been met, provided that the disclosure is limited to information that is reasonably necessary to identify such individual or concerning that individual's indebtedness to the United States by virtue of the person's participation in a benefits program administered by the Department.

8. *Department of Justice (DOJ), Litigation, Administrative Proceeding:* To DoJ, or in a proceeding before a court, adjudicative body, or other administrative body before which VA is authorized to appear, when:

(a) VA or any component thereof;

(b) Any VA employee in their official capacity;

(c) Any VA employee in their individual capacity where DoJ has agreed to represent the employee; or

(d) The United States, where VA determines that litigation is likely to affect the agency or any of its components, is a party to such proceedings or has an interest in such proceedings, and VA determines that use of such records is relevant and necessary to the proceedings.

9. *Application Authenticity, References:* To educational institutions, previous employers or individuals providing references to verify the authenticity of the application.

10. *State Licensing Boards (SLB), for Licensing:* To a Federal agency, a state or local government licensing board, the Federation of State Medical Boards, or a similar non-governmental entity that maintains records concerning individuals' employment histories or concerning the issuance, retention, or revocation of licenses, certifications, or registration necessary to practice an occupation, profession, or specialty, to inform such non-governmental entities about the health care practices of a terminated, resigned, or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients in the private sector or from another Federal agency. These records may also be disclosed as part of an ongoing computer matching program to accomplish these purposes.

11. *National Practitioner Data Bank (NPDB), for Hiring, Privileging:* To the NPDB at the time of hiring or clinical privileging/re-privileging of healthcare practitioners, and other times as deemed necessary by VA, in order for VA to obtain information relevant to a Department decision concerning the hiring, privileging/re-privileging, retention or termination of the applicant or employee.

12. *NPDB, SLB, for Medical Malpractice:* To the NPDB or a state licensing board in the state in which a practitioner is licensed, in which the VA facility is located, or in which an act or omission occurred upon which a medical malpractice claim was based when VA reports information concerning: (1) any payment for the benefit of a physician, dentist, or other licensed health care practitioner that was made as the result of a settlement or judgment of a claim of medical malpractice, if an appropriate determination is made in accordance with Department policy that payment was related to substandard care, professional incompetence, or professional misconduct on the part of the individual; (2) a final decision that relates to possible incompetence or improper professional conduct that adversely affects the clinical privileges of a physician or dentist for a period longer than 30 days, or; (3) the acceptance of the surrender of clinical privileges or any restriction of such privileges by a physician or dentist, either while under investigation by the health care entity relating to possible incompetence or improper professional conduct, or in return for not conducting such an investigation or proceeding. These records may also be disclosed as part of a computer matching program to accomplish these purposes.

13. *National Archives and Records Administration (NARA):* To NARA in records management inspections conducted under 44 U.S.C. 2904 and 2906, or other functions authorized by laws and policies governing NARA operations and VA records management responsibilities.

14. *Contractors:* To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for VA, when reasonably necessary to accomplish an agency function related to the records.

15. *Law Enforcement:* To a Federal, state, local, territorial, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law, provided that the disclosure is limited to information that, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature. The disclosure of the names and addresses of Veterans and their dependents from VA records under this routine use must also comply with the provisions of 38 U.S.C. 5701.

16. *Federal Agencies, Fraud and Abuse:* To other Federal agencies to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

17. *Data Breach Response and Remediation, for VA:* To appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that there has been a breach of the system of records; (2) VA has determined that as a result of the suspected or confirmed breach there is a risk to individuals, VA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, or persons reasonably

necessary to assist in connection with VA efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

18. *Data Breach Response and Remediation, for Another Federal Agency:* To another Federal agency or Federal entity, when VA 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.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained on paper, electronic media, and computer printouts by HPSP. Records stored on electronic media are maintained on a VA-approved and managed, password protected secure AWS cloud-based network.

POLICIES AND PRACTICES FOR RETRIEVABILITY OF RECORDS:

Records in this system are retrieved using the award number, or an equivalent participant account number assigned by HSPS, Social Security number, and the name of the individual.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records in this system are retained and disposed of in accordance with the schedule approved by the Archivist of the United States and VHA Records Control Schedule 10–1, 3200.1.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to the basic file in HPSP is restricted to authorized VA employees and vendors. Access to the office spaces where electronic media is maintained within HPSP is further restricted to specifically authorized employees and is protected by contracted building security services. Records (typically computer printouts) at HPSP will be kept in locked files and made available only to authorized personnel on a need-to-know basis. During non-working hours the file is locked and the building is protected by contracted building security services. Records stored on electronic media are maintained on a VA-approved and managed, password protected, secure LAN located within HPSP office spaces and safeguarded as described above.

HPSP is hosted in AWS Government Cloud (GovCloud) infrastructure as a service cloud computing environment that has been authorized at the high-impact level under the FedRAMP. The secure site-to-site encrypted network connection is limited to access via the VA trusted internet connection.

RECORD ACCESS PROCEDURE:

Individuals seeking information on the existence and content of records in this system pertaining to them should contact the system manager in writing as indicated above. A request for access to records must contain the requesters' full name, address, telephone number, be signed by the requester and describe the records sought in sufficient detail to enable VA personnel to locate them with a reasonable amount of effort.

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest or amend records in this system pertaining to them should contact the system manager in writing as indicated above. A request to contest or amend records must state clearly and concisely what record is being contested, the reasons for contesting it and the proposed amendment to the record.

NOTIFICATION PROCEDURE:

Generalized notice is provided by the publication of this notice. For specific notice, see Record Access Procedure, above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

74 FR 62390 (November 27, 2009); 78 FR 27481 (May 10, 2013).

[FR Doc. 2023–12402 Filed 6–9–23; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs (VA), Veterans Health Administration (VHA).

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, notice is hereby given that the VA is modifying the system of records titled ''Veterans Crisis Line Database—VA'' (158VA10NC5). This system of records is used to document contact interactions with the Veterans Crisis Line (VCL), and to assist with follow-up care based on those interactions. Statistical evaluation data from these records will be used for developing suicide prevention efforts, program and quality assurance improvement, and providing reports to VA officials, Congressional members and the public.

DATES: Comments on this modified 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 modified system of records 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 ''Veterans Crisis Line Database—VA'' (158VA10NC5). Comments received will be available at *regulations.gov* for public viewing, inspection or copies.

FOR FURTHER INFORMATION CONTACT: Stephania Griffin, VHA Chief Privacy Officer, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420; telephone 704–245–2492 (Note: This is not a toll-free number).

SUPPLEMENTARY INFORMATION: VA is modifying the system of records by revising the System Name, System Number, System Location, System Manager, Authority for Maintenance in the System, Purpose of the System, Categories of Individuals Covered by this System, Categories of Records in the System, Records Source Categories, Routine Uses of Records Maintained in the System, Policies and Practices for Storage of Records, Policies and Practices for Retrievability of Records, Policies and Practices for Retention and Disposal of Records, and Administrative, Technical and Physical Safeguards.

VA is modifying the system of records by revising the System Name, Number and System Location.

The System Name will be changed from ''Veterans Crisis Line Database—VA'' to ''Veterans Crisis Line Records—VA''.

The System Number will be changed from 158VA10NC5 to 158VA10 to reflect the current VHA organizational routing symbol.

The System Location is being updated to remove ''back-up copies of the

database are maintained in accordance with VA OIT enterprise management policies.'' This section will include verbiage indicating that records are maintained at the Health Resource Center (HRC) in Topeka, Kansas and ''Additional and supplemental data is stored within the Microsoft Government Community Cloud.''

The System Manager is being updated to replace ''Office of Mental Health Operations (10NC5)'' with ''Office of Mental Health and Suicide Prevention, 513–233–1748 (this is not a toll-free number)''.

The Authority for Maintenance in the System is being amended to include 38 U.S.C. 1720F, Public Law 110–110 (Joshua Omvig Veterans Suicide Prevention Act); and Public Law 114–247 (No Veterans Crisis Line Call Should Go Unanswered Act).

The Purpose has been amended to include ''The records and information may be used for documenting contact interactions with the VCL and follow-up care; including, but not limited to: services with the Peer Support Outreach Center; management for Customers with Complex Needs; collaboration with stakeholders with whom VCL has a documented partnership, arrangement or agreement; referrals to the VA Medical Center Suicide Prevention Coordinators; and follow-up verbal or written correspondence. The records may also be used for statistical evaluation, reporting, program improvement and quality assurance.''

The Categories of Individuals Covered by the System is being amended to remove friends and family of Veterans. This section will include ''Service members and anyone concerned about a Veteran or Service member who accessed the VCL. The VCL also receives contact from the general public within the Continental United States (CONUS) and Outside the Continental United States (OCONUS) and as such would have records from these contacts. In addition, records include the names and contact information of the Crisis Line response team and the name and contact information of the VHA Medical Center Suicide Prevention Coordinator.''

The Categories of Records in the System is removing ''The records may include information related to: 1. The Veterans Crisis Line call logs via the VCL Application include the following information: a. Identifies, by full name, the Veterans Crisis Line responder; b. Identifies, by full name, the Suicide Prevention Coordinator; c. Documents information regarding calls to the Veterans Crisis Line which may include: (1) Calls from an anonymous person with incomplete identification information; (2) Calls from a Veteran, including Veterans who are not registered in VA health care system (non-VA); (3) Calls from family and friends of the affected Veteran (In this case, the system shall indicate that the call was not made from the affected Veteran). d. Identifies the VA Medical Center closest to the caller's physical location; e. Records Crisis Line referrals in the Veteran's electronic medical record when the referral is made to a VA Medical Center for follow-up care; f. Provides a means for Suicide Prevention Coordinators to document their follow-up measures; g. Provides access to call log data for reporting purposes: Provides information related to the number of calls, callers demographic information, the types of calls, and follow-up care. 2. The suicide attempts and completions data is collected in the Austin Information Technology Center (AITC) standard query language (SQL) database. The information includes attempt or completion, military conflict, VA enrolled, gender, age, mental health diagnosis, medical diagnosis, previous attempts, month of event, method used, outcome, intent, seen at a VA within 7 days of attempt, seen at VA within 30 days of attempt, where seen, had suicide been addressed, and last recorded pain score.''

For clarification, this section will now state ''These records include VCL records regarding interactions with VCL staff, including call recordings and care coordination. These records may include names, home and mailing addresses, phone numbers, email addresses, internet Protocol addresses, dates of birth and Social Security Numbers, limited health information obtained from the customer and/or the VA medical record, and other personal information related to:

1. Full name of the VCL staff, local emergency personnel and VA Medical Center employees involved in VCL interactions and care coordination.

2. Electronic record documentation and audio recordings regarding contact to the VCL which may include:

(a) Contact with an anonymous person with incomplete identification information;

(b) Contact from a Veteran, including Veterans who are not registered in the VA Health Care System;

(c) Contact with the general public within the CONUS and OCONUS;

(d) Contact with family and friends of the affected Veteran;

(e) Contact with Service members and/or their family and friends;

(f) Electronic correspondence from sources such as White House, Congressional offices, contractors, Office of Inspector General, and other parties.

3. VA Medical Center closest to the customer's physical location;

4. VCL request to a VA Medical Center for follow-up care;

5. Documentation from VA Medical Center's Suicide Prevention Coordinators regarding their follow-up measures.

The Record Source Categories has been updated to replace ''Information in this system of records is provided by VHA employees,'' with ''Information in this system of records is provided by persons who contact VCL through phone, chat, text, email and digital media with resultant outreach contacts, VHA electronic health records (*i.e.,* Joint Legacy Viewer, Millennium, Compensation and Pension Record Interchange, Medora), VHA employees, public records, persons employed at public safety answering points, and first responder personnel.''

Routine Use number 3 is being updated to replace ''Disclosure may be made to other Government agencies in support of data exchanges of electronic medical record information approved by the individual'' with ''Data Breach Response and Remediation, for VA: To appropriate agencies, entities and persons when (1) VA suspects or has confirmed that there has been a breach of the system of records; (2) VA has determined that as a result of the suspected or confirmed breach, there is a risk to individuals, VA (including its information systems, programs and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities or persons is reasonably necessary to assist in connection with VA efforts to respond to the suspected or confirmed breach or to prevent, minimize or remedy such harm.''

The following Routine Uses will be added:

12. *Department of Defense (DoD), Defense Health Agency (DHA):* To the DoD for the purpose of VHA health care operations as defined in the Health Insurance Portability and Accountability Act Privacy Rule, 45 CFR parts 160 and 164 and to the DHA, as a health care provider, for the purpose of DHA health care operations. VHA, as a health care provider, must be able to share health care information with other entities and health care providers for VA to perform certain health care operations, such as quality assessment and improvement activities and medical reviews.

13. To an organization with whom VA has a documented partnership, arrangement or agreement for the

purpose of identifying and correlating patients.

14. To a Federal agency, Federal entity, or an organization with whom VA has a documented partnership, arrangement or agreement in response to its request or at the initiation of VA, in connection with research initiatives approved by VHA that may include, but is not limited to, patient outcomes or other health information required for program accountability.

15. To persons who may prevent a serious and imminent threat to the safety of an individual or the public as long as the disclosure is to a person(s) that is in a position reasonably able to prevent or lessen the threat, including the individual threatened. This Routine Use provides authority for the VCL to collaborate with law enforcement to initiate an emergency dispatch when a Veteran has shown an indication of harm towards self or others.

16. *Non-VA Health Care Providers, for Treatment:* To a non-VA health care provider, such as DoD and the Department of Health and Human Services, for the purpose of treating any VA patient, including Veterans. This Routine Use gives authority for the VCL to provide Veteran information to a non-VA health care provider when the VCL has encouraged the Veteran to seek medical care, and a VA Medical Center is not the best option.

17. *Law Enforcement, for Locating Fugitive:* In compliance with 38 U.S.C. 5313B(d), to any Federal, state, local, territorial, tribal or foreign law enforcement agency in order to identify, locate or report a known fugitive felon. If the disclosure is in response to a request from a law enforcement entity, the request must meet the requirements for a qualifying law enforcement request under the Privacy Act, 5 U.S.C. 552a(b)(7).

18. *The Joint Commission (TJC), for Accreditation:* To survey teams of TJC, College of American Pathologists, American Association of Blood Banks, and similar national accreditation agencies or boards with which VA has a contract or agreement to conduct such reviews, as relevant and necessary for the purpose of program review or the seeking of accreditation or certification.

19. *Phone Operators, for the Hearing-Impaired:* To telephone company operators acting in a capacity to facilitate phone calls to or for hearing-impaired individuals, such as Veterans, Veterans' family members, non-VA providers, using telephone devices for the hearing-impaired, including Telecommunications Devices for the Deaf or Text Telephones.

20. *Health/Welfare Agencies, etc., for Veteran's Basic/Emergency Needs:* To health and welfare agencies, housing resources and utility companies in situations where VA needs to act quickly in order to provide basic or emergency needs for the Veteran and Veteran's family where the family resides with the Veteran or serves as a caregiver.

21. *Former Employee or Contractor, Representative, for Litigation Involving Individual:* To a former VA employee or contractor, as well as the authorized representative of a current or former employee or contractor of VA, in pending or reasonably anticipated litigation against the individual regarding health care provided during the period of his or her employment or contract with VA.

The Policies and Practices for Storage of Records is being amended to remove verbiage indicating that records are maintained on an SQL server at AITC in Austin, Texas. This section will now state ''Electronic records are maintained and transmitted to Storage Area Networks at the AITC in Austin, Texas; Storage Area Network at the Health Resource Center in Topeka, Kansas; and the Microsoft Government Community Cloud.''

Policies and Practices for Retrievability of Records is being updated to include telephone numbers.

Policies and Practices for Retention and Disposal of Records is being updated to remove ''these records are maintained as a permanent record, pending approval of a new records schedule''. This section will now state, ''Records in this system are retained and disposed of in accordance with the schedule approved by the Archivist of the United States, VHA Records Control Schedule 10–1, Item Number 1930.1.''

The Administrative, Technical and Physical Safeguards is being amended to remove the following verbiage from number 1, ''Access to VA working and storage areas is restricted to VA employees on a ''need-to-know'' basis; strict control measures are enforced to ensure that disclosure to these individuals is also based on this same principle. They are required to take annual VA mandatory data privacy and security training. Generally, VA file areas are locked after normal duty hours and the facilities are protected from outside access by the Federal Protective Service or other security personnel.''

Number 2 will also be removed, ''Access to computer rooms at the VA AITC is limited in accordance with VA OIT national security policies. Peripheral devices are placed in secure areas (areas that are locked or have limited access) or are otherwise protected. Information stored on the Veterans Crisis Line Database-VA may be accessed by authorized VA employees. Access to file information is controlled at two levels; the systems recognize authorized employees by series of individually unique passwords/codes as a part of each data message, and the employees are limited to only that information in the file which is needed in the performance of their official duties. Information that is downloaded from the Veterans Crisis Line Database-VA and maintained on personal computers is afforded similar storage and access protections as the data that is maintained in the original files. Access to information stored on automated storage media at other VA locations is controlled by individually unique passwords/codes.''

Number 2 will now state, ''Access to and use of national administrative databases, warehouses and data marts are limited to those persons whose official duties require such access, and VA has established security procedures to ensure that access is appropriately limited. Information security officers and system data stewards review and authorize data access requests. VA regulates data access with security software that authenticates users and requires individually-unique codes and passwords. VA requires information security training for all staff and instructs staff on the responsibility each person has for safeguarding data confidentiality.''

The following Safeguards will be added:

3. Physical access to computer rooms housing national administrative databases, warehouses and data marts is restricted to authorized staff and protected by a variety of security devices. Unauthorized employees, contractors and other staff are not allowed in computer rooms.

4. Data transmissions between operational systems and national administrative databases, warehouses and data marts maintained by this system of record are protected by state-of-the-art telecommunication software and hardware. This may include firewalls, intrusion detection devices, encryption and other security measures necessary to safeguard data as it travels across the VA-Wide Area Network.

5. In most cases, copies of back-up computer files are maintained at off-site locations.

6. VA Enterprise Cloud data storage conforms to security protocols as stipulated in VA Directives 6500 and 6517. Access control standards are stipulated in specific agreements with

cloud vendors to restrict and monitor access.

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 2, 2023 for publication.

Dated: June 6, 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:

''Veterans Crisis Line Records—VA'' (158VA10)

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained at the Department of Veterans Affairs (VA) Austin Information Technology Center (AITC) in Austin, Texas and Health Resource Center (HRC) in Topeka, Kansas. In addition, information from these records or copies of records may be maintained at the Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC. Additional and supplemental data is stored within the Microsoft Government Community Cloud.

SYSTEM MANAGER(S):

Official responsible for policies, procedures and system of records; Acting Executive Director, Office of Mental Health and Suicide Prevention, 810 Vermont Avenue NW, Washington, DC 20420; (513)–233–1748 (this is not a toll-free number).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

38 U.S.C. 501 and 1720F, Public Law 110–110 (Joshua Omvig Veterans Suicide Prevention Act); and Public Law 114–247 (No Veterans Crisis Line Call Should Go Unanswered Act).

PURPOSE(S) OF THE SYSTEM:

The records and information may be used for documenting contact interactions with the Veterans Crisis Line (VCL) and follow-up care including, but not limited to: services with the Peer Support Outreach Center; management for Customers with Complex Needs; collaboration with stakeholders with whom VCL has a documented partnership, arrangement or agreement; referrals to the VA Medical Center Suicide Prevention Coordinators; and follow-up verbal or written correspondence. In addition, the information will be used for statistical reports for the purpose of evaluating the need for the development of further suicide prevention efforts to include education and research. The records may also be used for statistical evaluation, reporting, program improvement and quality assurance. Additionally, the statistical reports will be used to provide information related to suicide to the VA officials, congressional members and the public.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The records include information concerning Veterans, Service members and anyone concerned about a Veteran or Service member who contacted the VCL. The VCL also receives contact from the general public within the Continental United States (CONUS) and Outside the Continental United States (OCONUS) and as such would have records from these contacts. In addition, records include the names and contact information of the Crisis Line response team and the name and contact information of the Veterans Health Administration (VHA) Medical Center Suicide Prevention Coordinator.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include VCL records regarding interactions with VCL staff, including call recordings and care coordination. These records may include names, home and mailing addresses, phone numbers, email addresses, internet Protocol addresses, dates of birth and Social Security Numbers, limited health information obtained from the customer and/or the VA medical record, and other personal information related to:

1. Full name of the VCL staff, local emergency personnel and VA Medical Center employees involved in VCL interactions and care coordination.

2. Electronic record documentation and audio recordings regarding contact to the VCL which may include:

(g) Contact with an anonymous person with incomplete identification information;

(h) Contact from a Veteran, including Veterans who are not registered in the VA Health Care System;

(i) Contact with the general public within the CONUS and OCONUS;

(j) Contact with family and friends of the affected Veteran;

(k) Contact with Service members and/or their family and friends;

(l) Electronic correspondence from sources such as White House, Congressional offices, contractors, Office of Inspector General and other parties.

3. VA Medical Center closest to the customer's physical location;

4. VCL request to a VA Medical Center for follow-up care;

5. Documentation from VA Medical Center's Suicide Prevention Coordinators regarding their follow-up measures.

RECORD SOURCE CATEGORIES:

Information in this system of records may be provided by persons who contact VCL through phone, chat, text, email and digital media with resultant outreach contacts, VHA electronic health records (*e.g.,* Joint Legacy Viewer, Millennium, Compensation and Pension Record Interchange, Medora), VHA employees, public records, persons employed at public safety answering points, and first responder personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the extent that records contained in the system include information protected by 45 CFR parts 160 and 164, *i.e.,* individually identifiable health information of VHA or any of its business associates, and 38 U.S.C. 7332; *i.e.,* medical treatment information related to drug abuse, alcoholism or alcohol abuse, sickle cell anemia or infection with the human immunodeficiency virus, that information cannot be disclosed under a routine use unless there is also specific statutory authority in both 38 U.S.C. 7332 and 45 CFR parts 160, 161, and 164.

1. *Congress:* To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

2. *National Archives and Records Administration (NARA):* To NARA in records management inspections conducted under 44 U.S.C. 2904 and 2906, or other functions authorized by laws and policies governing NARA operations and VA records management responsibilities.

3. *Data Breach Response and Remediation, for VA:* To appropriate agencies, entities and persons when (1) VA suspects or has confirmed that there has been a breach of the system of records; (2) VA has determined that as a result of the suspected or confirmed breach there is a risk to individuals, VA

(including its information systems, programs and operations), the Federal Government or national security; and (3) the disclosure made to such agencies, entities or persons is reasonably necessary to assist in connection with VA efforts to respond to the suspected or confirmed breach or to prevent, minimize or remedy such harm.

4. *Law Enforcement:* To a Federal, state, local, territorial, tribal or foreign law enforcement authority or other appropriate entity charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law, provided that the disclosure is limited to information that, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature. The disclosure of the names and addresses of Veterans and their dependents from VA records under this Routine Use must also comply with the provisions of 38 U.S.C. 5701.

5. *Department of Justice (DoJ), Litigation and Administrative Proceeding:* To the DoJ, or in a proceeding before a court, adjudicative body or other administrative body before which VA is authorized to appear, when:

1. VA or any component thereof;

2. Any VA employee in their official capacity;

3. Any VA employee in their individual capacity where DoJ has agreed to represent the employee; or

4. The United States, where VA determines that litigation is likely to affect the agency or any of its components, is a party to such proceedings or has an interest in such proceedings, and VA determines that the use of such records is relevant and necessary to the proceedings.

6. *Contractors:* To contractors, grantees, experts, consultants, students and others performing or working on a contract, service, grant, cooperative agreement or other assignment for VA, when reasonably necessary to accomplish an agency function related to the records.

7. *Federal Agencies, Fraud and Abuse:* To other Federal agencies to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

8. *Equal Employment Opportunity Commission (EEOC):* To the EEOC in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs or other functions of the Commission as authorized by law.

9. *Federal Labor Relations Authority (FLRA):* To the FLRA in connection with the investigation and resolution of allegations of unfair labor practices, the resolution of exceptions to arbitration awards when a question of material fact is raised; matters before the Federal Service Impasses Panel; and the investigation of representation petitions and the conduct or supervision of representation elections.

10. *Merit Systems Protection Board (MSPB):* To the MSPB and the Office of the Special Counsel in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices and such other functions promulgated in 5 U.S.C. 1205 and 1206, or as authorized by law.

11. *Data Breach Response and Remediation, for Another Federal Agency:* To another Federal agency or Federal entity, when VA 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.

12. *Department of Defense (DoD), Defense Health Agency (DHA):* To the DoD for the purpose of VHA health care operations as defined in the Health Insurance Portability and Accountability Act Privacy Rule, 45 CFR parts 160 and 164 and to the DHA, as a health care provider, for the purpose of DHA heath care operations.

13. To an organization with whom VA has a documented partnership, arrangement or agreement for the purpose of identifying and correlating patients.

14. To a Federal agency, Federal entity or an organization with whom VA has a documented partnership, arrangement or agreement in response to its request or at the initiation of VA, in connection with research initiatives approved by VHA that may include, but is not limited to, patient outcomes or other health information required for program accountability.

15. *Law Enforcement, for Wellness Check:* To law enforcement to initiate a wellness check or an emergency dispatch when a Veteran has shown an indication of harm towards self or others during a VCL contact.

16. *Non-VA Health Care Providers, for Treatment:* To a non-VA health care provider, such as the DoD and the Department of Health and Human Services, for the purpose of treating any VA patient, including Veterans.

17. *Law Enforcement, for Locating Fugitive:* In compliance with 38 U.S.C. 5313B(d), to any Federal, state, local, territorial, tribal or foreign law enforcement agency in order to identify, locate or report a known fugitive felon. If the disclosure is in response to a request from a law enforcement entity, the request must meet the requirements for a qualifying law enforcement request under the Privacy Act, 5 U.S.C. 552a(b)(7).

18. *The Joint Commission (TJC), for Accreditation:* To survey teams of TJC, College of American Pathologists, American Association of Blood Banks and similar national accreditation agencies or boards with which VA has a contract or agreement to conduct such reviews, as relevant and necessary for the purpose of program review or the seeking of accreditation or certification.

19. *Phone Operators, for the Hearing-Impaired:* To telephone company operators acting in a capacity to facilitate phone calls to or for hearing-impaired individuals, such as Veterans, Veterans' family members, non-VA providers, using telephone devices for the hearing-impaired, including Telecommunications Devices for the Deaf or Text Telephones.

20. *Health/Welfare Agencies, etc., for Veteran's Basic/Emergency Needs:* To health and welfare agencies, housing resources and utility companies in situations where VA needs to act quickly in order to provide basic or emergency needs for the Veteran and the Veteran's family where the family resides with the Veteran or serves as a caregiver.

21. *Former Employee or Contractor, Representative, for Litigation Involving Individual:* To a former VA employee or contractor, as well as the authorized representative of a current or former employee or contractor of VA, in pending or reasonably anticipated litigation against the individual regarding health care provided during the period of his or her employment or contract with VA.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Electronic records are maintained and transmitted to Storage Area Networks at the AITC in Austin, Texas; Storage Area Network at the Health Resource Center in Topeka, Kansas; and the Microsoft Government Community Cloud.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by name, telephone number, Social Security Number or other assigned identifiers of the individuals on whom they are maintained.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records in this system are retained and disposed of in accordance with the schedule approved by the Archivist of the United States, VHA Records Control Schedule 10–1, Item Number 1930.1.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

1. VA will maintain the data in compliance with applicable VA security policy directives that specify the standards that will be applied to protect sensitive personal information. VA's security measures comply with applicable Federal Information Processing Standards issued by the National Institute of Standards and Technology.

2. Access to and use of national administrative databases, warehouses and data marts are limited to those persons whose official duties require such access, and VA has established security procedures to ensure that access is appropriately limited. Information security officers and system data stewards review and authorize data access requests. VA regulates data access with security software that authenticates users and requires individually-unique codes and passwords. VA requires information security training for all staff and instructs staff on the responsibility each person has for safeguarding data confidentiality.

3. Physical access to computer rooms housing national administrative databases, warehouses and data marts is restricted to authorized staff and protected by a variety of security devices. Unauthorized employees, contractors and other staff are not allowed in computer rooms.

4. Data transmissions between operational systems and national administrative databases, warehouses and data marts maintained by this system of record are protected by state-of-the-art telecommunication software and hardware. This may include firewalls, intrusion detection devices, encryption and other security measures necessary to safeguard data as it travels across the VA-Wide Area Network.

5. In most cases, copies of back-up computer files are maintained at off-site locations.

6. VA Enterprise Cloud data storage conforms to security protocols as stipulated in VA Directives 6500 and 6517. Access control standards are stipulated in specific agreements with cloud vendors to restrict and monitor access.

RECORD ACCESS PROCEDURE:

Individuals seeking information on the existence and content of records in this system pertaining to them should contact *vhavclprivacy@va.gov.* A request for access to records must contain the requester's full name, address, telephone number, be signed by the requester, and describe the records sought in sufficient detail to enable VA personnel to locate them with a reasonable amount of effort.

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest or amend records in this system pertaining to them should contact *VHAVCLRequestsforInformation@va.gov.* A request to contest or amend records must state clearly and concisely what record is being contested, the reasons for contesting it, and the proposed amendment to the record.

NOTIFICATION PROCEDURE:

Generalized notice is provided by the publication of this notice. For specific notice, see Record Access Procedure, above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 23073 (April 24, 2015).

[FR Doc. 2023–12401 Filed 6–9–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Financial Services Center (FSC), Department of Veterans Affairs (VA).

ACTION: Notice of a new system of records.

SUMMARY: The Privacy Act of 1974 requires that all agencies publish in the **Federal Register** a notice of the existence and character of their systems of records. Notice is hereby given that the Department of Veterans Affairs (VA) is establishing a new system of records titled ''Other Government Agencies-VA'' (OGA) (213VA0475A1).

DATES: Comments on this new 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 new system of records 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 ''Other Government Agencies-VA'' (213VA0475A1). Comments received will be available at *regulations.gov* for public viewing, inspection, or copies.

FOR FURTHER INFORMATION CONTACT: Carl G. Herrmann, OGA Program Manager, *carl.herrmann@va.gov,* 254–338–1758.

SUPPLEMENTARY INFORMATION: VA maintains Franchise Agreements with agencies such as Department of Health & Human Services (HHS) and Immigration Customs Enforcement (ICE) Healthcare Services Corps (IHSC) to provide medical and financial claims processing services. This system stores administrative and financial records that are generated during the medical and financial claim request and adjudication process. These records document VA FSC activities related to claims processing and are the means that other government agencies such HHS and ICE IHSC use to determine the status of their claims or historical requests.

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 April 26, 2023 for publication.

Dated: June 6, 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:

''Other Government Agencies-VA'' (213VA0475A1)

SECURITY CLASSIFICATION:

The information in this system is unclassified.

SYSTEM LOCATION:

VA Data Processing Center, 7600 Metropolis Dr., Austin, TX 78744 and fiscal offices of Central Office; field stations where fiscal transactions are processed.

SYSTEM MANAGER(S):

Angela Repka, System Owner, VA FSC, 7600 Metropolis Dr., Austin, TX 78744. Email: *Angela.Repka1@va.gov,* Telephone: 512–541–5868.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 44 U.S.C. 3101; 31 U.S.C. 3512; OMB Circular A–123, Management's Responsibility for Internal Control; and OMB Circular A–127, Financial Management Systems.

PURPOSE(S) OF THE SYSTEM:

This system of records stores administrative and financial records that are generated during the claim request and adjudication process. These records are the means that other government agencies such as HHS and IHSC Contracted Healthcare Providers use to determine the status of their claims or historical requests.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

These records include information on contractors, vendors, medical providers, salaried employees, physicians, dentists, and immigration detainees who require medical care.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records may include vendor identification listings; invoiced payment records; claimant information (including full name, claim number, patient control number, alien number, dates of service, diagnosis-procedure codes related to medical conditions, date of birth and referral number); and, medical procedures billed.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by vendors; individual or legal representative as part of an application for a benefit, contract, or reimbursement; Department of Treasury; Internal Revenue Service; and other Federal entities such as the IHSC.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. *Congress:* to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

2. *Data breach response and remediation, for VA:* to appropriate agencies, entities and persons when (1) VA suspects or has confirmed that there has been a breach of the system of records,· (2) VA has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, VA (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 VA's efforts to respond to the suspected or confirmed breach or to prevent, minimize or remedy such harm.

3. *Data breach response and remediation, for another Federal agency:* to another Federal agency or Federal entity, when VA 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.

4. *Law Enforcement:* to a Federal, state, local, territorial, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such law, provided that the disclosure is limited to information that, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature. The disclosure of the names and addresses of Veterans and their dependents from VA records under this routine use must also comply with the provisions of 38 U.S.C. 5701.

5. *Department of Justice (DOJ) for Litigation or Administrative Proceeding:* to DOJ, or in a proceeding before a court, adjudicative body, or other administrative body before which VA is authorized to appear, when:

(a) VA or any component thereof;

(b) Any VA employee in his or her official capacity;

(c) Any VA employee in his or her individual capacity where DoJ has agreed to represent the employee; or

(d) The United States, where VA determines that litigation is likely to affect the agency or any of its components,

is a party to such proceedings or has an interest in such proceedings, and VA determines that use of such records is relevant and necessary to the proceedings.

6. To those federal agencies which VA FSC has entered into an agreement to provide financial services.

7. *Office of Personnel Management (OPM):* to OPM in connection with the application or effect of civil service laws, rules, regulations or OPM guidelines in particular situations.

8. *Equal Employment Opportunity Commission (EEOC):* to EEOC in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs or other functions of the Commission as authorized by law.

9. *Federal Labor Relations Authority (FLRA):* to FLRA in connection with the investigation and resolution of allegations of unfair labor practices, the resolution of exceptions to arbitration awards when a question of material fact is raised, matters before the Federal Service Impasses Panel and the investigation of representation petitions and the conduct or supervision of representation elections.

10. *Merit Systems Protection Board (MSPB):* to MSPB in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices and such other functions promulgated in 5 U.S.C. 1205 and 1206, or as authorized by law.

11. *National Archives and Records Administration (NARA):* to NARA in records management inspections conducted under 44 U.S.C. 2904 and 2906, or other functions authorized by laws and policies governing NARA operations and VA records management responsibilities.

12. *Federal Agencies, for Litigation:* To another federal agency, court, or party in litigation before a court or in an administrative proceeding conducted by a federal agency, when the government is a party to the judicial or administrative proceeding.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored electronically on a VA server or magnetic discs. Paper documents may be scanned/digitized and stored for viewing electronically.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

VA Directive 6300, Records, and Information Management; VA Directive

6502, VA Enterprise Privacy Program; and VA Handbook 6300.4, Procedures for Processing Requests for Records Subject to the Privacy Act.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records for this system are retained as defined by its NARA approved Records Control Schedule, MP–4, Part X and within rules of the General Records Schedule (GRS). Per NARA practice, documentation for permanent electronic records must be transferred with the related records using the disposition authority of the related electronic records rather than the GRS disposition authority. Agency policy and responsibility for media and electronic sanitization is explicated in VA Handbook 6500.1, Electronic Media Sanitization. This Handbook sets forth policies and responsibilities for the proper sanitization of electronic media prior to repair, disposal, reuse or recycling. These guidelines are in accordance with Federal Information Processing Standard (FIPS) 200, Minimum Security Requirements for Federal Information and Information Systems; and NIST Special Publication 800–88 Revision 1, Guidelines for Media Sanitization. VA Directive 6371, Destruction of Temporary Paper Records, is Agency policy for the destruction of temporary paper records.

ADMINISTRATIVE, TECHNICAL AND PHYSICAL SAFEGUARDS:

VA will store records produced within this system of records in an area that is always physically and technologically secure from access by unauthorized persons. Only authorized personnel will transport records within this system of records. VA will process records produced within this system of records under immediate supervision and control of authorized personnel in a manner that will protect the confidentiality of the records, so that unauthorized persons cannot retrieve any records by computer, remote terminal or other means. VA will store records using FIPS 140–2 compliant encryption. Systems personnel must enter personal identification numbers when accessing records on the agencies' systems. VA will strictly limit authorization to those electronic records areas necessary for the authorized analyst to perform his or her official duties.

RECORD ACCESS PROCEDURES:

An individual wanting notification or access, including contesting the record, should mail or deliver a request to the office identified in the SORN. If an individual does not know the ''office concerned,'' the request may be addressed to the following with below requirements: PO or FOIA/PO of any VA field station or the Department of Veterans Affairs Central Office, 810 Vermont Avenue NW, Washington, DC 20420. The receiving office must promptly forward the mail request received to the office of jurisdiction clearly identifying it as ''Privacy Act Request'' and notify the requester of the referral. Approved VA authorization forms may be provided to individuals for use.

CONTESTING RECORD PROCEDURES:

An individual may request amendment of a record pertaining to him or her contained in a specific VA system of records by mailing or delivering the request to the office concerned. The request must be in writing and must conform to the following requirements: It must state the nature of the information in the record the individual believes to be inaccurate, irrelevant, untimely, or incomplete; why the record should be changed; and the amendment desired. The requester must be advised of the title and address of the VA official who can assist in preparing the request to amend the record if assistance is desired. Not later than business 10 days after the date of a request to amend a record, the VA official concerned will acknowledge in writing such receipt. If a determination for correction or amendment has not been made, the acknowledgement will inform the individual of when to expect information regarding the action taken on the request. VA will complete a review of the request to amend or correct a record within 30 business days of the date of receipt. Where VA agrees with the individual's request to amend his or her record(s), the requirements of 5 U.S.C. 552a(d) will be followed. The record(s) will be corrected promptly, and the individual will be advised promptly of the correction. If the record has previously been disclosed to any person or agency, and an accounting of the disclosure was made, prior recipients of the record will be informed of the correction. An approved VA notification of amendment form letter may be used for this purpose. An individual wanting notification or access, including contesting the record, should mail or deliver a request to the Privacy Office or FOIA/Privacy Office of any VA field station or the Department of Veterans Affairs Central Office, 810 Vermont Avenue NW, Washington, DC 20420.

NOTIFICATION PROCEDURES:

Notification for correcting the information will be accomplished by informing the individual to whom the record pertains by mail. The individual making the amendment must be advised in writing that the record has been amended and provided with a copy of the amended record. System Manager for the concerned VA system of records, Privacy Officer, or their designee, will notify the relevant persons or organizations whom had previously received the record about the amendment. The review must be completed as soon as possible, in most cases within 30 workdays from receipt of the request. If the anticipated completion date indicated in the acknowledgment cannot be met, the individual must be advised, in writing, of the reasons for the delay and the date action is expected to be completed. The delay may not exceed 90 calendar days from receipt of the request.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

N/A.

HISTORY:

None.

[FR Doc. 2023–12395 Filed 6–9–23; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Minority Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. ch. 10, that the Advisory Committee on Minority Veterans will meet virtually via Microsoft Teams meet on July 12, 2023. The meeting sessions will begin, and end as follows:

Dates	Times
July 12, 2023	11 a.m.–2:30 p.m.—eastern standard time (EST).

This meeting is open to the public.

The purpose of the Committee is to advise the Secretary with respect to the administration of benefits by VA for Veterans who are minority group members, by reviewing reports and studies on compensation, health care, rehabilitation, outreach and other benefits and services administered by the Department. The Committee makes recommendations to the Secretary regarding such activities.

On July 12, the Committee will receive briefings and updates from the

Advisory Committee Management Office, Center for Minority Veterans, and Veterans Health Administration. The Committee will receive public comments from 2 p.m. to 2:15 p.m. EST. The Committee will conduct an after-action review.

Individuals who wish to provide public comments are invited to submit a 1–2-page summary of their comments no later than July 5, 2023 for inclusion in the official meeting record. Members of the public may also submit written statements for the Committee's review to Mr. Dwayne Campbell, at *Dwayne.Campbell3@va.gov.* Any member of the public seeking additional information should contact Mr. Dwayne Campbell or Mr. Ronald Sagudan at (202) 461–6191.

Individuals who wish to attend the virtual meeting, can do so by dialing into the Microsoft Teams conference information +1 872–701–0185, Phone Conference ID: 550 496 43#.

Dated: June 7, 2023.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2023–12499 Filed 6–9–23; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Women Veterans, Notice of Meeting, Amended

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. ch. 10, that the Advisory Committee on Women Veterans will conduct a site visit on June 13–16, 2023. The Committee meeting is held with the Veterans Integrated Service Network (VISN) 5: VA Capitol Health Care Network; and with the VA Maryland Health Care System (VAMHCS), 10 North Greene Street, Baltimore, MD 21201–1524 (Room #3a–300) Baltimore, Maryland. The meeting sessions will begin and ends as follows:

Date	Time	Location
June 13, 2023	8:30 a.m.–3:00 p.m. Eastern Standard Time (EST)	VAMHCS Facility/Microsoft TEAMS link and call-in information below.
June 14, 2023	8:30 a.m.–3:00 p.m. (EST)	VAMHCS Facility/Microsoft TEAMS link and call-in information below.
June 15, 2023	8:30 a.m.–2:30 p.m. (EST)	VAMHCS Facility/Microsoft TEAMS link and call-in information below.
June 16, 2023	8:30 a.m.–10:00 a.m. (EST)	VAMHCS Facility/Microsoft TEAMS link and call-in information below.

The meeting sessions are open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs regarding the needs of women Veterans with respect to health care, rehabilitation, compensation, outreach and other programs and activities administered by VA designed to meet such needs. The Committee makes recommendations to the Secretary regarding such programs and activities.

On Tuesday, June 13, the agenda includes overviews of VISN 5's facilities and program; an overview of VISN 5 services for women Veterans; and an overview of VAMHCS's facilities, programs and community partners.

On Wednesday, June 14, the agenda includes a continuation of briefings on VAMHCS's programs and services for women Veterans.

On Thursday, June 15, the agenda includes a continuation of briefings on VAMHCS's programs; an overview of Baltimore Regional Office's business lines and initiatives; and an overview of Baltimore National Cemetery Complex's services and programs.

On Friday, June 16, the Committee will conduct an out-briefing with leadership from VISN 5, VAMHCS, Baltimore Regional Office and Baltimore National Cemetery Complex. The Committee meeting will adjourn at 10:00 a.m.

No time will be allocated at this meeting for receiving oral presentations from the public. Interested parties should provide written comments for review by the Committee to Ms. Shannon L. Middleton at *00W@mail.va.gov* no later than June 7, 2023. Any member of the public who wishes to participate virtually, please click here: *https://teams.microsoft.com/l/meetup-join/19%3ameeting_NjU5NTZiZjEtYWZjMy00Zjg0LThkNzgtYTAyOTM3MWNhYTBm%40thread.v2/0?context=%7b%22Tid%22%3a%22e95f1b23-abaf-45ee-821d-b7ab251ab3bf%22%2c%22Oid%22%3a%22c7cdff2f-b6ed-46b3-b4c5-1e87baf3dc39%22%7d,* Meeting ID: 232 290 448 094, Passcode: RknRoB; or call in (audio only) +1 205–235–3524, 38312534#, phone conference ID: 383 125 34#.

Dated: June 7, 2023.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2023–12444 Filed 6–9–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. ch. 10, that a meeting of the Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board will be held July 11, 2023, via Webex. The meeting will be held between 3:00 p.m. and 5:00 p.m. EDT. The meeting will be closed to the public from 3:30–5:00 p.m. EDT for the discussion, examination and reference to the research applications and scientific review. Discussions will involve reference to staff and consultant critiques of research proposals. Discussions will deal with scientific merit of each proposal and qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Additionally, premature disclosure of research information could significantly obstruct implementation of proposed agency action regarding the research proposals. As provided by Public Law 92–463 subsection 10(d), as amended by Public Law 94–409, closing the committee meeting is in accordance with 5 U.S.C. 552b(c)(6) and (9)(B).

The objective of the Board is to provide for the fair and equitable selection of the most meritorious research projects for support by VA research funds and to offer advice for research program officials on program priorities and policies. The ultimate objective of the Board is to ensure the high quality and mission relevance of

VA's legislatively mandated Biomedical Laboratory and Clinical Science Research and Development programs.

Board members advise the Directors of the Biomedical Laboratory and Clinical Sciences Research Services and the Chief Research and Development Officer on the scientific and technical merit, the mission relevance, and the protection of human subjects of Biomedical Laboratory and Clinical Sciences Research and Development proposals. The Board does not consider grants, contracts, or other forms of extramural research.

Members of the public may attend the open portion of the meeting. The time limited agenda does not enable public comments or presentations. To attend the open portion of the meeting (3:00–3:30 p.m. EDT), the public may join by dialing the phone number 1–404–397–1596 and entering the meeting number (access code): 2762 410 8058.

Written public comments must be sent to Michael R. Burgio, Ph.D., Designated Federal Officer, Office of Research and Development, Department of Veterans Affairs (14RD), 810 Vermont Avenue NW, Washington, DC 20420, or to *Michael.Burgio@va.gov* at least five days before the meeting via the email listed above. The written public comments will be shared with the board members. The public may not attend the closed portion of the meeting as disclosure of research information could significantly obstruct implementation of proposed agency action regarding the research proposals (Pub. L. 92–463 subsection 10(d), as amended by Pub. L. 94–409, closing the committee meeting is in accordance with title 5 U.S.C. 552b(c)(6) and (9)(B).

Dated: June 7, 2023.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2023–12469 Filed 6–9–23; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 88 Monday,
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Part II

Securities and Exchange Commission

17 CFR Parts 275 and 279
Form PF; Event Reporting for Large Hedge Fund Advisers and Private Equity Fund Advisers; Requirements for Large Private Equity Fund Adviser Reporting; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 275 and 279

[Release No. IA–6297; File No. S7–01–22]

RIN 3235–AM75

Form PF; Event Reporting for Large Hedge Fund Advisers and Private Equity Fund Advisers; Requirements for Large Private Equity Fund Adviser Reporting

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (''SEC'' or ''Commission'') is adopting amendments to Form PF, the confidential reporting form for certain SEC-registered investment advisers to private funds to require event reporting upon the occurrence of key events. The amendments also require large private equity fund advisers to provide additional information to the SEC about the private equity funds they advise. The reporting requirements are designed to enhance the Financial Stability Oversight Council's (''FSOC'') ability to monitor systemic risk as well as bolster the SEC's regulatory oversight of private fund advisers and investor protection efforts.

DATES:

Effective dates: This rule is effective June 11, 2024, except for the amendments to Form PF sections 5 and 6 (referenced in 17 CFR 279.9) which are effective December 11, 2023.

Compliance dates: For the amended, existing Form PF sections and amendments to 17 CFR 275.204(b)–1, June 11, 2024. For new Form PF sections 5 and 6, December 11, 2023.

FOR FURTHER INFORMATION CONTACT: Robert Holowka, Jill Pritzker, and Samuel Thomas, Senior Counsels; Sirimal R. Mukerjee, Senior Special Counsel; or Melissa Roverts Harke, Assistant Director, at (202) 551–6787 or *IArules@sec.gov,* Investment Adviser Regulation Office, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–8549.

SUPPLEMENTARY INFORMATION: The Commission is adopting amendments to Form PF [17 CFR 279.9] and Rule 204(b)–1 under the Investment Advisers Act of 1940 [15 U.S.C. 80b] (''Advisers Act'').[1]

Commission reference	CFR citation
Form PF	17 CFR 279.9.
Rule 204(b)–1	17 CFR 275.204(b)–1.

Table of Contents

I. Introduction

The Commission is adopting amendments to Form PF, the form that certain investment advisers registered with the Commission use to report confidential information about the private funds that they advise. Form PF provides the Commission and FSOC with important information about the basic operations and strategies of private funds and has helped establish a baseline picture of the private fund industry for use in assessing systemic risk.[2] We now have almost a decade of experience analyzing the information

[1] 15 U.S.C. 80b. Unless otherwise noted, when we refer to the Advisers Act, or any section of the Advisers Act, we are referring to 15 U.S.C. 80b, at which the Advisers Act is codified, and when we refer to rules under the Advisers Act, or any section of these rules, we are referring to title 17, part 275 of the Code of Federal Regulations [17 CFR 275], in which these rules are published.

[2] Advisers Act section 202(a)(29) defines the term ''private fund'' as an issuer that would be an investment company, as defined in section 3 of the Investment Company Act of 1940 (''Investment Company Act''), but for sections 3(c)(1) or 3(c)(7) of that Act. Section 3(c)(1) of the Investment Company Act provides an exclusion from the definition of ''investment company'' for any issuer whose outstanding securities (other than short-term paper) are beneficially owned by not more than one hundred persons (or, in the case of a qualifying venture capital fund, 250 persons) and which is not making and does not presently propose to make a public offering of its securities. Section 3(c)(7) of the Investment Company Act provides an exclusion from the definition of ''investment company'' for any issuer, the outstanding securities of which are owned exclusively by persons who, at the time of acquisition of such securities, are qualified purchasers, and which is not making and does not at that time propose to make a public offering of such securities. The term ''qualified purchaser'' is defined in section 2(a)(51) of the Investment Company Act. Since Form PF's adoption Commission staff have used Form PF statistics to inform our regulatory programs and establish census type information regarding the private fund industry. *See* SEC 2022 Annual Staff Report Relating to the Use of Form PF Data (Dec. 2022), *available at https://www.sec.gov/files/2022-pf-report-congress.pdf.* Staff reports, statistics, and other staff documents (including those cited herein) represent the views of Commission staff and are not a rule, regulation, or statement of the Commission. The Commission has neither approved nor disapproved the content of these documents and, like all staff statements, they have no legal force or effect, do not alter or amend applicable law, and create no new or additional obligations for any person. The Commission has expressed no view regarding the analysis, findings, or conclusions contained therein.

collected on Form PF.[3] In that time, the private fund industry has grown in size and evolved in terms of business practices, complexity of fund structures, and investment strategies and exposures.[4] Based on this experience and in light of these changes, the Commission and FSOC identified significant information gaps and situations where more granular and timely information would improve our understanding of the private fund industry and the potential systemic risk within it, and improve our ability to protect investors.[5] Accordingly, to enhance the FSOC's monitoring and assessment of systemic risk and to collect additional data for the Commission's use in its regulatory programs, in January 2022 the Commission proposed amendments to enhance the information advisers file on Form PF.[6]

The Commission received a number of comment letters on the 2022 Form PF Proposing Release.[7] Some commenters generally supported the policy goals of the proposal, stating that the proposal would help the Commission and FSOC assess and respond to systemic risk as well as consider appropriate policy responses.[8] Other commenters generally asserted that the proposal was not the appropriate way of achieving FSOC and the Commission's policy goals of assessing systemic risk and investor protection, respectively, due to the reporting and monitoring burdens they would impose.[9] Certain commenters stated that the reporting requirements are not indicative of systemic risk.[10] Some commenters argued that, instead, the proposed reporting requirements were more focused on supporting the Commission's regulatory examination and enforcement functions, and that these requirements would overburden advisers (especially smaller advisers) with compliance costs that investors would likely bear and obscure data that is related to systemic risk.[11] Lastly, other commenters stated that the SEC should consider the proposed amendments in tandem with the 2022 Form PF Joint Proposing Release as the amendments to both may impact each other and create a collective compliance burden that potentially should be implemented at one time if adopted.[12]

We are adopting the amendments largely as proposed, but with certain modifications in response to comments received:

- First, we are adopting new current reporting requirements for large hedge fund advisers regarding their qualifying hedge funds.[13] We are modifying the proposal and eliminating the proposed current report for changes in unencumbered cash. Also, instead of reporting in one business day, as proposed, the amendments will require large hedge fund advisers to qualifying hedge funds to report as soon as practicable upon, but no later than 72 hours after, the occurrence of certain events that we believe may indicate significant stress or otherwise serve as signals of potential systemic risk implications or as potential areas for inquiry so as to mitigate investor harm.
- Second, in a modification from the proposal, we are also adopting event

[3] Form PF was adopted in 2011 as required by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. Public Law 111–203, 124 Stat. 1376 (2010). *See* Reporting by Investment Advisers to Private Funds and Certain Commodity Pool Operators and Commodity Trading Advisors on Form PF, Advisers Act Release No. 3308 (Oct. 31, 2011) [76 FR 71128 (Nov. 16, 2011)], at section I (''2011 Form PF Adopting Release''). In 2014, the Commission amended Form PF section 3 in connection with certain money market fund reforms. *See* Money Market Fund Reform; Amendments to Form PF, Advisers Act Release No. 3879 (July 23, 2014) [79 FR 47736 (Aug. 14, 2014)] (''2014 Form PF Amending Release''). Form PF is a joint form between the Commission and the Commodity Futures Trading Commission (''CFTC'') only with respect to sections 1 and 2 of the Form; sections 3 and 4, were adopted only by the Commission. Current Form PF section 5, request for temporary hardship exemption, which will become new section 7, is adopted only by the Commission. We are adopting new sections 5 and section 6 and amending section 4, all of which are adopted only by the Commission.

[4] The value of private fund net assets reported on Form PF has almost tripled, growing from $5 trillion in 2013 to nearly $14 trillion through the second quarter of 2022, while the number of private funds reported on the form has increased by 110% in that time period. Unless otherwise noted, the private funds statistics used in this Release are from the Private Funds Statistics second quarter of 2022. Any comparisons to earlier periods are from the private funds statistics from that period, all of which are *available at https://www.sec.gov/divisions/investment/private-funds-statistics.shtml.* SEC staff began publishing the private fund statistics in 2015, including data from 2013. Therefore, many comparisons in this Release discuss the nine year span from the beginning of 2013 through the second quarter of 2022. Some discussion in this Release compares data from a seven year span, from the beginning of 2015 through the second quarter of 2022, because the SEC staff began publishing that particular data in 2016.

[5] We are adopting these amendments, in part, pursuant to our authority under section 204(b) of the Advisers Act, which gives the Commission the authority to establish certain reporting and recordkeeping requirements for advisers to private funds and provides that the records and reports of any private fund to which an investment adviser registered with the Commission provides investment advice are deemed to be the records and reports of the investment adviser.

[6] Amendments to Form PF to Require Current Reporting and Amend Reporting Requirements for Large Private Equity Advisers and Large Liquidity Fund Advisers, Advisers Act Release No. 5950 (Jan. 26, 2022) [87 FR 9106 (Feb. 17, 2022)] (''2022 Form PF Proposing Release''). The Commission voted to issue the 2022 Form PF Proposing Release on Jan. 26, 2022. The release was posted on the Commission website that day, and comment letters were received beginning that same date. The comment period closed on Mar. 21, 2022. We have considered all comments received since Jan. 26, 2022. In Aug. 2022, the Commission and the CFTC proposed amendments to Form PF regarding certain reporting requirements for all filers and large hedge fund advisers. Form PF; Reporting Requirements for All Filers and Large Hedge Fund Advisers, Advisers Act Release No. 6083 (Aug. 10, 2022) [87 FR 35938 (Sept. 1, 2022)] (''2022 Form PF Joint Proposing Release'').

[7] The comment letters on the 2022 Form PF Proposing Release (File No. S7–01–22) are available at *https://www.sec.gov/comments/s7-01-22/s70122.htm.*

[8] *See, e.g.,* Comment Letter of The Predistribution Initiative (Mar. 21, 2022) (''PDI Comment Letter''); Comment Letter of Mark C. (Feb. 21, 2022) (''Mark C. Comment Letter''); Comment Letter of Public Citizen (Mar. 21, 2022) (''Public Citizen Comment Letter''); Comment Letter of Anonymous Retail Investor (Mar. 24, 2022) (''Anonymous Retail Investor Comment Letter''); Comment Letter of Better Markets (Mar. 21, 2022) (''Better Markets Comment Letter''); Comment Letter of Americans for Financial Reform Education Fund (Mar. 21, 2022) (''AFREF Comment Letter'').

[9] *See, e.g.,* Comment Letter of Alternative Investment Management Association Limited and the Alternative Credit Council (Mar. 21, 2022) (''AIMA/ACC Comment Letter''); Comment Letter of Real Estate Roundtable (Mar. 21, 2022) (''RER Comment Letter''); Comment Letter of Managed Funds Association (Mar. 21, 2022) (''MFA Comment Letter''); Comment Letter of Center for Capital Markets Competitiveness, U.S. Chamber of Commerce (Mar. 21, 2022) (''USCC Comment Letter'').

[10] *See, e.g.,* AIMA/ACC Comment Letter; RER Comment Letter; Comment Letter of the American Investment Council (Mar. 21, 2022) (''AIC Comment Letter''); Comment Letter of the Real Estate Board of New York (Mar. 21, 2022) (''REBNY Comment Letter'').

[11] *See, e.g.,* AIMA/ACC Comment Letter; AIC Comment Letter.

[12] *See, e.g.,* AIC Comment Letter (Oct. 11, 2022); MFA Comment Letter (Mar. 16, 2023). *See* discussion *infra* at section II.E.

[13] Currently, most private fund advisers report general information on Form PF, such as the types of private funds advised (*e.g.,* hedge funds, private equity funds, or liquidity funds), fund size, use of borrowings and derivatives, strategy, and types of investors. Depending on their size, certain larger private fund advisers report more detailed information on the qualifying hedge funds, the liquidity funds and the private equity funds that they advise on a quarterly or annual basis. In particular, three types of ''Large Private Fund Advisers'' must complete certain additional sections of the current Form PF: (1) any adviser having at least $1.5 billion in regulatory assets under management attributable to hedge funds as of the end of any month in the prior fiscal quarter (''large hedge fund advisers''); (2) any adviser managing a liquidity fund and having at least $1 billion in combined regulatory assets under management attributable to liquidity funds and money market funds as of the end of any month in the prior fiscal quarter (''large liquidity fund advisers''); and (3) any adviser having at least $2 billion in regulatory assets under management attributable to private equity funds as of the last day of the adviser's most recently completed fiscal year (''large private equity fund adviser''). A qualifying hedge fund is defined in Form PF as ''any hedge fund that has a net asset value (individually or in combination with any feeder funds, parallel funds and/or dependent parallel managed accounts) of at least $500 million as of the last day of any month in the fiscal quarter immediately preceding your most recently completed fiscal quarter.''

reporting for all private equity fund advisers, which would include quarterly reporting within 60 days after quarter ends for two of the proposed current reporting items: (1) adviser-led secondary transactions, and (2) general partner removals and investor elections to terminate a fund or its investment period. We are requiring annual large private equity fund adviser reporting, however, with respect to general partner or limited partner clawbacks,[14] which we had proposed to be reported on a current basis by all private equity fund advisers.[15]

- Third, with modifications from the proposal, we are adopting several additional reporting items as well as amendments to require large private equity fund advisers to report more detailed information regarding certain activities of private equity funds that are important to the assessment of systemic risk and for the protection of investors. We are also adopting tailored amendments to gather more information from large private equity fund advisers regarding fund strategies and use of leverage as well as other amendments. In a change from the proposal, we are not adopting a lower $1.5 billion reporting threshold for large private equity fund advisers for purposes of reporting in section 4 and are instead retaining the existing $2 billion threshold.

The Commission proposed amendments that would have required large liquidity fund advisers to report substantially the same information that money market funds would be required to report on Form N–MFP under the Commission's proposal to amend that form.[16] However, we are continuing to consider comments relating to the proposed large liquidity fund adviser amendments—and the proposed amendments to Form N–MFP on which they are based—and are not adopting amendments to Form PF concerning large liquidity fund advisers at this time.

The amendments we are adopting are important enhancements to the ability to monitor and assess systemic risk and to determine whether and how to deploy the Commission's or FSOC's regulatory tools.[17] The amendments will also strengthen the effectiveness of the Commission's regulatory programs, including examinations, investigations, and investor protection efforts relating to private fund advisers. We consulted with FSOC to gain input on these amendments to help ensure that Form PF continues to provide FSOC with information it can use to assess systemic risk.

II. Discussion

A. Current Reporting for Large Hedge Fund Advisers to Qualifying Hedge Funds

We are adopting amendments that will require large hedge fund advisers to file a current report with respect to one or more current reporting events at a qualifying hedge fund that they advise.[18] We are modifying some of the proposed reporting events and eliminating the proposed unencumbered cash current report while also extending the reporting period from one business day to as soon as practicable, but no later than 72 hours. Currently, large hedge fund advisers file Form PF quarterly, which could cause Form PF data to be stale during fast moving events that could have systemic risk implications or negatively impact investors. The current reporting requirements for qualifying hedge funds will provide important, current information to the Commission and FSOC to facilitate timely assessment of the causes of the current reporting event, the potential impact on investors and the financial system, and any potential regulatory responses.[19] More specifically, a timely notice could allow the Commission and FSOC to assess the need for potential regulatory action, and could allow the Commission to pursue potential outreach, examinations, or investigations in response to any harm to investors or potential risks to financial stability on an expedited basis before they worsen. The current reports will also enhance our analysis of information the Commission already collects across funds and other market participants, allowing FSOC and the Commission to identify patterns that may present systemic risk or that could result in investor harm, respectively. The Commission and its staff will be able to use the information contained in the current reports to assess the nature and extent of the risks presented, as well as the potential effect on any impacted fund and the potential contagion risks across funds and counterparties more broadly.

Some commenters generally supported the requirement to provide current reports for certain events that may signal systemic risk or trigger certain investor protection concerns and some, in particular, stated that the one business day requirement was necessary to formulate an FSOC or Commission response to fast-moving market events.[20] Other commenters stated that some of the reporting items were not reflective of systemic risk concerns and did not directly connect the proposed reporting requirements with specific investor protection concerns.[21] For example, two commenters stated that extraordinary investment losses are not necessarily indicative of systemic risk and that losses are an investment risk that should not be conflated with investor protection.[22]

As discussed below, the current reporting events include extraordinary investment losses, certain margin events, counterparty defaults, material changes in prime broker relationships, operations events, and certain events associated with redemptions. We

[14] We have made a global modification in Form PF to replace the term ''private equity adviser'' with ''private equity fund adviser.'' We believe that ''private equity fund adviser'' is the more precise term, but we do not view this modification as resulting in substantive differences.

[15] This item has also been moved from proposed section 6 to section 4 because it is now an annual reporting item for large private equity fund advisers.

[16] *See* Money Market Fund Reforms, Investment Company Act Release No. 34441 (Dec. 15, 2021) [87 FR 7248 (Feb. 8, 2022)] (''Money Market Fund Proposing Release'').

[17] Accordingly, we are adopting the amendments the Commission proposed in the 2022 Form PF Proposing Release at this time to facilitate FSOC and the Commission's assessment of systemic events and the Commission's investor protection efforts through current reporting, and we are continuing to consider comments received in connection with the 2022 Form PF Joint Proposing Release. *See* discussion of compliance dates for respective sections of Form PF *infra* at section II.E.

[18] As proposed and in connection with the addition of new section 5 for current reporting, we are also making conforming changes to rule 204(b)–1 under the Advisers Act to re-designate current section 5, which includes instructions for requesting a temporary hardship exemption, as section 6.

[19] In a change from the proposal, we are replacing ''reporting event'' with ''current reporting event'' in the Form PF Glossary to highlight that these events are current events occurring at funds specific to section 5 reporting. ''Current reporting events'' includes any event that triggers the requirement to complete and file a current report pursuant to the items in section 5. We are defining ''current report'' to include a report provided pursuant to the items in section 5.

[20] *See, e.g.,* PDI Comment Letter; AFREF Comment Letter; Mark C. Comment Letter; Public Citizen Comment Letter; Anonymous Retail Investor Comment Letter; Better Markets Comment Letter.

[21] *See, e.g.,* Comment Letter of SIFMA (Mar. 21, 2022) (''SIFMA Comment Letter'') (stating that triggering events, like the extraordinary loss current report, premised on investor protection concerns such as ''large, sharp, and sustained losses'' should be viewed as part of the investment risks associated with any investing). *See also* IAA Comment Letter (stating that many of the items proposed to be reported on a current basis will not assist the Commission or FSOC in addressing systemic risk, that current reporting is not necessary to meet the Commission's investor protection goals, and that the Commission appears to conflate investment protection with mitigation of investment risk and losses).

[22] *Id.*

designed the current reporting events to indicate significant stress at a fund that could harm investors or signal risk in the broader financial system. For example, large investment losses or a margin default involving one large, highly levered hedge fund may have systemic risk implications. Counterparties to a fund in distress could react by increasing margin requirements, limiting borrowing, or forcing asset sales, and these responses could amplify the event and have potential contagion effects on the broader financial system. Similarly, reports of large investment losses at qualifying hedge funds (even if not the largest or most levered) may signal market stress that could have systemic effects.[23] Current reports would be especially useful during periods of market volatility and stress, when the Commission and FSOC may receive a large number of current reports and ascertain the affected funds and gather information to assess any potential contagion or systemic impact. The Commission or FSOC may analyze the events and organize outreach to the impacted entities, funds, counterparties, or other market participants that the current reports and other data may indicate could be next in a contagion circumstance. For example, if one fund that was particularly concentrated in a deteriorating position or strategy reported an extraordinary loss or was terminated by its prime broker for reasons related to that position or strategy, Commission staff could potentially conduct outreach to fund counterparties or other similarly situated funds to assess whether any regulatory action could mitigate the potential for contagion or harm to investors. Though some commenters stated that the current reports were not properly focused on systemic risk and would instead subject advisers to regulatory examinations and enforcement actions, we continue to believe that the potential seriousness of the events warrants the collection of current reports that could indicate directly systemic risk and investor protection concerns.[24]

The current reporting events generally incorporate objective tests to allow advisers to determine whether a report must be filed. In response to comments, we either eliminated or further tailored the current reporting events both to decrease the reporting burden and to reduce the possibility of reporting ''false positives'' (*i.e.,* incidents that trigger the proposed current reporting requirement but do not actually raise significant risks) for events that may not indicate the potential for systemic risk or investor harm.[25] We also addressed comments that indicated that we should limit or better explain proposed current reporting triggers that use materiality thresholds, like the proposed prime broker relationship termination and operations event current reporting items, and instead simplify the analysis required to determine if you need to report by making reporting dependent on binary events.[26] As a result, a number of the items continue to include quantifiable threshold percentage tests or have been further refined to trigger reporting for events that are likely indicative of severe stress at a fund or may have broader implications for systemic risk for which we seek timely information while minimizing the potential for false positives and multiple unnecessary current reports.

To supplement the objective triggers, several of the items include check boxes, largely as proposed, that will provide additional context and avoid requiring advisers to provide narrative responses during periods of stress under time pressure. These check boxes will allow the Commission and FSOC to review and analyze the current reports and screen false positives during periods in which they may be actively evaluating fast-moving market events and potentially prioritizing responses to certain affected funds, counterparties, or other market participants.

The adopted amendments will establish new section 5 that will contain Items A through J. Section 5, Item A will require advisers to identify themselves and the reporting fund, including providing the reporting fund's name, private fund identification number, National Futures Association identification number (if any), and Legal Entity Identifier (if any).[27] Section 5, Items B through I will set forth the current reporting events and the applicable reporting requirements for each event. Like the proposal, the amendments will have an optional repository for explanatory notes in section 5, Item I that the adviser may use to improve understanding of any information reported in response to the other section 5 items. The following sections discuss the timing for filing the current reports and each adopted current reporting event.

1. Timing of Hedge Fund Current Reports

In a change from the proposal, the amendments will extend the time period for the filing of current reports. Instead of a one business day filing requirement, large hedge fund advisers to qualifying hedge funds are required to report as soon as practicable, but no later than 72 hours, upon the occurrence of certain events that we believe may indicate significant stress or otherwise serve as signals of potential systemic risk implications.

Some commenters expressed concern that the proposed requirement to file reports within one business day to the Commission would be burdensome and potentially lead to inaccurate or inadequate reporting at a time when advisers and their personnel are grappling with a potential crisis at the reporting fund.[28] More specifically,

[23] *See, e.g.,* Better Markets Comment Letter (stating new reporting requirements will allow regulators to determine whether an issue at a private fund potentially signals deteriorating market conditions that could cascade into a crisis, or whether an issue at a private fund is itself indicative of a crisis already underway and that, if the Commission or FSOC determines that a crisis is underway, current reporting with details of fund assets, its exposures, and its counterparties will give the Commission and FSOC crucial information about where a crisis may spread).

[24] *See, e.g.,* AIMA/ACC Comment Letter (stating that the new reporting requirements go beyond Congress' mandate and the current Form PF Rule's stated objectives to foster the Commission's more general objectives: data collection to support examinations, and its regulatory and enforcement programs), and AIC Comment Letter (additional information that is merely potentially useful to the SEC as a compliance monitoring tool in administering its examination and enforcement programs is not an appropriate justification for significantly expanding reporting on Form PF and is inconsistent with the primary purpose of Form PF and the intent of Congress).

[25] In some instances our refinement of questions to include more current statistics would also likely reduce the number of ''false negatives.''

[26] *See* AIMA Comment Letter and SIFMA Comment Letter. Several commenters pointed to National Futures Association (''NFA'') Compliance Rule 2–50 as a form that provided more binary and limited types of reporting. NFA Notice 9080—NFA Compliance Rule 2–50: CPO Notice Filing Requirements. The Interpretive Notice is *available at https://www.nfa.futures.org/rulebooksql/rules.aspx?Section=9&RuleID=9080. See also* discussions *infra* at sections II.A.4 and II.A.6.

[27] Form PF section 5, Item A would also require identifying information on the reporting fund's adviser, including the adviser's full legal name, SEC 801-Number, NFA ID Number (if any), large trader ID (if any), and large trader ID suffix (if any), as well as the name and contact information of the authorized representative of the adviser and any related person who is signing the current report.

[28] *See, e.g.,* Comment Letter of the Institutional Limited Partners Association (Mar. 21, 2022) (''ILPA Comment Letter''); AIMA/ACC Comment Letter; Comment Letter of State Street Corporation (Mar. 21, 2022) (''State Street Comment Letter''); Comment Letter of National Venture Capital Association (Mar. 21, 2022) (''NVCA Comment Letter''); RER Comment Letter; SIFMA Comment Letter; Comment Letter of Schulte Roth & Zabel LLP (Mar. 21, 2022) (''Schulte Comment Letter''); Comment Letter of the Investment Adviser Association (Mar. 21, 2022) (''IAA Comment Letter''); NYC Bar Comment Letter; REBNY Comment Letter.

some commenters stated that advisers would need to develop complicated internal operations capable of performing calculations on a daily basis that may not be applicable to illiquid or hard-to-value assets and that the resulting data may be of limited utility to regulators.[29] One commenter indicated that critical reporting of fast moving events could be delayed by weekends or holidays.[30] Some commenters suggested that advisers could notify the Commission of the occurrence of current reporting events using telephone or email in shorter time frames while delaying current reporting on Form PF to a later date.[31]

Receiving current reports on a timely basis will help address the Commission's and FSOC's need, discussed above, for current information. In order to allow advisers to qualifying hedge funds additional time to evaluate and obtain the necessary data to confirm the existence of a filing event, which will help improve the quality of the information contained in the report, the amendments will require advisers to file current reports for current reporting events as soon as practicable, but no later than 72 hours, upon the occurrence of a reporting event rather than one business day. We believe that shifting from a business day approach to one measuring elapsed hours after an event will address commenter concerns that critical reporting of fast moving events could be delayed by weekends or holidays.[32] We believe that this time period properly balances commenters' concerns with the Commission's need for timely information, while allowing advisers to collect information within 72 hours that may not be readily ascertainable at the event's immediate outset. The 72 hour period begins upon the occurrence of the current reporting event, or the time when the adviser reasonably believes that the event occurred, and, as proposed, the form requires the adviser to respond to the best of its knowledge on the date of the report. To illustrate, if an adviser determined that a current reporting event occurred on Monday at noon, it would have to file a current report, as soon as practicable, but no later than Thursday before noon.

By extending the time period from one business day to 72 hours, we believe that an adviser will have sufficient time to identify events and conduct sufficient analysis to review and file timely current reports. Though some commenters stated that certain current reports will be burdensome to establish systems and processes to identify triggering events, in our experience, advisers to qualifying hedge funds generally already maintain the sophisticated operations and resources necessary to provide these reports. Moreover, changes we have made to the metrics for the 20 percent extraordinary loss and margin thresholds should alleviate concerns about the burdens and uncertainties concerning the timely valuation of illiquid or hard-to-value assets.[33] Though some commenters suggested that current reporting could include informal telephoning or emailing of the Commission, we continue to believe that reporting through Form PF will provide the Commission and FSOC with a systematic means through which to assess the events underlying the reporting.[34]

Lastly, advisers will be able to file an amendment to a previously filed current report to correct information that was not accurate at the time of filing in the event that information in a current report was inaccurate or was filed in error.[35] In a change from the proposal, to facilitate the filing of amendments, we are making a change to include the time of filing to enable the identification of previous filings.[36]

2. Extraordinary Investment Losses

We are adopting, largely as proposed, current reporting to require large hedge fund advisers, whose advised qualifying hedge funds experience extraordinary losses within a short period of time, to provide a current report describing the losses.[37] In a change from the proposal, reporting for extraordinary investment losses would be triggered by a loss equal to or greater than 20 percent of a fund's ''reporting fund aggregate calculated value'' (''RFACV''), which we discuss further below, as opposed to the fund's most recent net asset value (''MRNAV''), over a rolling 10-business-day period.[38] This current reporting event will capture, for example, a situation where the fund's RFACV is $1 billion and the fund loses $20 million per business day for a consecutive 10 business days. It will also capture a loss of $200 million in one business day as the rolling 10-business-day period is backward looking. We designed the threshold to capture a significant loss at the reporting fund over a relatively short rolling period as well as a precipitous loss without capturing immaterial losses that may not be indicative of stress at the fund.

Some commenters supported the extraordinary loss event.[39] One commenter stated that a 20 percent loss over a 10-day period would be a significant event for any hedge fund and may render some funds insolvent.[40] Other commenters questioned whether the 20 percent loss threshold was truly significant or indicative of actual stress, and stated that in volatile or broadly down markets, the Commission might receive a large number of reports of limited value.[41] Some commenters questioned the Commission's use of MRNAV and stated that the Commission base the loss threshold on a more current net asset value figure,[42] a net asset value figure compiled on a best efforts basis from their evaluation of fair-valued assets and unaudited figures,[43] or a month-end net asset value.[44]

We continue to believe that the extraordinary loss current reporting

[29] *See, e.g.,* SIFMA Comment Letter and USCC Comment Letter. *See also, infra* discussion of daily fund value statistics in section II.A.2.

[30] *See* Comment Letter of Sarah A. (Mar. 11, 2022) (''Sarah A. Comment Letter'') and AIMA/ACC Comment Letter.

[31] *See* SIFMA Comment Letter and State Street Comment Letter.

[32] *See* Sarah A. Comment Letter and AIMA/ACC Comment Letter. We are amending Instructions 1, 3, 9, and 12 of the general instructions to reflect this new obligation for large hedge fund advisers. Specifically, we are amending Instruction 3 to identify new section 5 and Instruction 9 to address the timing of filing the current reports.

[33] *See* discussion at *infra* sections II.A.2. and II.A.3.a.

[34] Though we require filing reports using Form PF, we also encourage engagement with Commission staff from registrants in periods of stress or otherwise.

[35] Instruction 16 explains that an adviser is not required to update information that it believes in good faith properly responded to Form PF on the date of filing even if that information is subsequently revised for purposes of the adviser's recordkeeping, risk management or investor reporting (such as estimates that are refined after completion of a subsequent audit).

[36] *See* Form PF section 5, Item A. Item A also has an additional change to require advisers to enter a CRD number to help identify the adviser.

[37] *See* Form PF section 5, Item B.

[38] The Commission proposed to include a definition for ''reporting fund aggregate calculated value'' in the 2022 Form PF Joint Proposing Release. The comment letters on the 2022 Form PF Joint Proposing Release (File No. S7–22–22) are available at *https://www.sec.gov/comments/s7-22-22/s72222.htm.* The RFACV statistic will only apply to section 5 of Form PF.

[39] *See, e.g.,* Better Markets Comment Letter. *See also* ICGN Comment Letter.

[40] Better Markets Comment Letter.

[41] *See, e.g.,* AIMA/ACC Comment Letter. AIMA/ACC also stated that the 20% threshold may not properly account for volatile market strategies that funds may employ.

[42] Comment Letter of Anonymous (Feb. 25, 2022). Two commenters also criticized basing this threshold on a dated net asset value figure. *See* SIFMA Comment Letter and MFA Comment Letter.

[43] *See* MFA Comment Letter.

[44] *See* Schulte Comment Letter and MFA Comment Letter.

event will capture critical periods of hedge fund stress. Accordingly, we are adopting, as proposed, current reporting based on a 20 percent loss but, in a change from the proposal, are establishing the threshold by reference to the RFACV fund value statistic. As discussed below, RFACV is a more current statistic than the MRNAV filed on Form PF and will limit the potential for over or under-reporting. We believe that a 20 percent loss of RFACV over a 10-business-day period is sufficiently high to avoid over-reporting during periods of relative market stability, but sufficiently low that it avoids under-reporting during periods of market stress.[45] It is also our understanding that prime brokers and other fund counterparties already track certain net asset value triggers over varying periods and routinely build them into the risk control provisions of their agreements (*e.g.,* prime broker agreements, total return swap agreements, or ISDA Master Agreements).[46] Such net asset value decline triggers typically range from 10 percent to 25 percent declines over a 30 day period.[47] Accordingly, we believe a 20 percent decline is appropriate considering that such a decline may have triggered or nearly triggered a contractual reporting threshold with credit and trading counterparties who view net asset value triggers as potential early warning indicators of hedge fund stress or potential liquidation. The reporting of large losses will provide notice to the Commission and FSOC of potential fund or market issues in advance of the occurrence of more downstream consequences, such as sharp margin increases, defaults, fund liquidations, or ramifications for other types of Commission registrants.[48] Such losses could signal a precipitous liquidation or broader market instability that could lead to secondary effects, including greater margin and collateral requirements, financing costs for the fund, and the potential for large investor redemptions.

Though commenters asserted that sharp broad-based market downturns may lead to a large number of reports from advisers, we believe that such reporting still will be useful to FSOC or the Commission during market instability. Moreover, in singular events, large, sharp, and sustained losses suffered by one fund within this short period may signal potential concerns for similarly situated funds, allowing FSOC and the Commission to analyze the scale and scope of the event and whether additional funds that may have similar investments, market positions, or financing profiles are at risk.

The amendments use RFACV as a reference statistic in response to commenters' concerns that MRNAV was too dated of a statistic and could result in false positives.[49] RFACV also is responsive to commenters' assertions that the reference value statistic be compiled on a best efforts basis from an evaluation of fair-valued assets and unaudited figures. RFACV is defined as ''every position in the reporting fund's portfolio, including cash and cash equivalents, short positions, and any fund-level borrowing, with the most recent price or value applied to the position for purposes of managing the investment portfolio'' and may be calculated using the adviser's own methodologies and conventions of the adviser's service providers, provided that these are consistent with information reported internally.[50] The RFACV is a signed value calculated on a net basis and not on a gross basis. While the inclusion of income accruals is recommended, the approach to the calculation should be consistent over time.[51] This calculation is similar to the typical practices for computing daily profit and loss and generally should include all items at their most recent, reasonable estimate, which will be marked-to-market for all holdings that can reasonably be marked daily. These value estimates are appropriate because they are both guided by the reporting fund's valuation policies and procedures that are shared with fund investors and counterparties and are increasingly performed and provided by third-party administrators who specialize in position-level valuation and reporting.[52]

Using this statistic will be both more timely and less burdensome than a requirement to calculate a daily net asset value, which would necessarily require the adviser to make daily calculations of all of the fund's assets and liabilities, including accrued fees and expenses. Referencing a timelier statistic based on a daily estimate of the fund's value will provide a more current and accurate picture of large fund losses and also acknowledges that many funds do not perform daily net asset value calculations, because they may only strike a net asset value weekly, at month end, or at investor request, or because certain of their portfolio assets are only valued on a periodic basis.[53] The use of RFACV will be less burdensome than a daily net asset value figure to operationalize because, in our experience, it will rely on systems that many large hedge fund advisers already employ, while not requiring the adviser to adjust for accrued fees or expenses, subject position values to fair valuation procedures, or include income accruals. At the same time, we are allowing advisers to use their own internal methodologies or those of their service providers when calculating RFACV, provided that these are consistent with information reported internally.

Under this current reporting event, the revised Item B requires reporting if ''on any business day the 10-day holding period return of the reporting fund is less than or equal to −20 percent of reporting fund aggregate calculated value.'' In a change from the proposal, ''holding period return'' and ''daily rate of return'' are new terms in the Form PF Glossary to help advisers calculate the daily rate-of-return and link those daily returns together to calculate a cumulative rate of return over the 10-day holding period to promote consistent responses to the

[45] *See* discussion of thresholds at *infra* section IV.C.1.a.

[46] *See, e.g.,* Poseidon Retsinas, *How Fund Managers Can Mitigate NAV Triggers' Impact on Trading Agreements,* Hedge Fund Law Report (May 14, 2020) (''HFL Report''), *available at https://www.hflawreport.com/6769831/how-fund-managers-can-mitigate-nav-triggers-impact-on-trading-agreements.thtml. See* also discussion of the 20% threshold *infra* at text accompanying footnote 323.

[47] *Id.*

[48] For example, a hedge fund's registered broker-dealer counterparties may be subject to large losses, or registered investment companies with similar portfoloio exposures, though not necessarily as leveraged, might be at risk for future losses.

[49] *See* Comment Letter of Anonymous (Feb. 25, 2022). Other commenters also criticized basing this threshold on a dated net asset value figure. *See* SIFMA Comment Letter and MFA Comment Letter.

[50] *See* section IV.C.2 *infra* (discussing the risks of unintended consequences of using RFACV statistics and the factors that mitigate those risks including the sharing of valuation policies with investors and that fund valuation is often outsourced to fund service providers with standardized methodologies).

[51] *See* Form PF Glossary. Those funds that do compute a daily net asset value may use it as their reporting fund aggregate calculated value. Where one or more portfolio positions are valued less frequently than daily, the last price used should be carried forward, though a current FX rate may be applied if the position is not valued in U.S. dollars. It is not necessary to adjust the RFACV for accrued fees or expenses. Position values do not need to be subjected to fair valuation procedures. While the RFACV definition permits funds to compute it excluding accrued fees and expenses, and without updating less frequently valued positions, these are optional, and intended to reduce burden for the funds. If the funds already calculate net asset value without these modifications on a daily basis, they can use it wherever RFACV is used.

[52] *See infra* footnote 423.

[53] Advisers utilizing RFACV should rely upon the information available to them at that current point in time when filing this item. For example, if reporting on Friday, and the reporting fund knows it has a position mark that will not be updated until Sunday, the adviser should generally rely on the Friday number for purposes of the calculation and the determination of whether to file.

current report.[54] When triggered, an adviser must file the following information: (1) the dates of the 10-business-day period over which the loss occurred, (2) the holding period return, and (3) the dollar amount of the loss over the 10-business-day period.[55] If the loss continues past the initial 10-business-day period, advisers will not report a second time until the fund has experienced a second loss of an additional 20 percent of the fund's RFACV over a second rolling 10-business-day period to begin on or after the end date stated in the adviser's initial Item B current report. This information will allow the Commission and FSOC to understand the scale of the loss and its potential effects both to investors in the reporting fund as well as the broader financial markets, particularly if current reports are filed by multiple advisers.

3. Significant Margin and Default Events

We are adopting, largely as proposed, current reporting of significant margin and default events that occur at qualifying hedge funds advised by large hedge fund advisers or at their counterparties.[56] Significant increases in margin, inability to meet a margin call, margin default, and default of a counterparty are strong indicators of fund and potential market stress. The triggers and underlying thresholds are calibrated to identify stress at a fund that may signal the potential for precipitous liquidations or broader market instability that may affect similarly situated funds, or markets in which the fund invests.

a. Increases in Margin

We are requiring advisers to report significant increases in the reporting fund's requirements for margin, collateral, or an equivalent (collectively referred to as ''margin'') based on a 20 percent threshold.[57] In a change from the proposal, and consistent with our adopted amendments to the extraordinary loss current report, we are referencing a different fund value statistic, average daily RFACV. Average daily RFACV is a more current statistic than MRNAV and, accordingly, will increase the report's accuracy and limit the potential for over- or under-reporting. In particular, in response to commenters that stated that the daily computation of net asset value may be burdensome, we selected average daily RFACV, because it is comparatively less burdensome and does not require all the calculations (*e.g.,* adjustments for accrued fees and expenses or fair valuation procedures) necessary for striking a daily net asset value.[58] The margin increase current report relies on RFACV outlined above in the extraordinary loss section, but is the average of the daily RFACV for the end of the business day on business days one through ten of the reporting period. As with the use of RFACV in the extraordinary loss current report, using the average daily RFACV will provide a more current daily number from which to calculate margin increases as opposed to using a dated net asset value statistic reported on Form PF that may be in excess of 60 days old.

Current reporting of margin increases will provide FSOC and the Commission with valuable information that may provide early indications of stress at a fund before a potential default occurs triggering more widespread systemic impacts or harm to investors. Sudden and significant margin increases can have critical effects on funds that may be operating with large amounts of leverage and could serve as precursors to defaults at fund counterparties and eventual liquidation. Large, sustained margin increases also may effectively signal that counterparties are concerned about a fund's portfolio positions as well as the potential for future margin increases from the fund's other counterparties. Moreover, a number of margin increase reports from multiple funds that invest in certain securities or sectors through different counterparties will provide FSOC and the Commission with a broader picture of industry-wide risks and potential investor harms, respectively.

Some commenters supported the requirement as proposed.[59] One commenter stated that if the fund triggered a 20 percent margin increase it could be indicative of a risk to investors in the fund and should be reported.[60] Others opposed it, stating that the 20 percent threshold was too low or arbitrarily drawn without support,[61] would capture routine margin activity occurring in the normal course of business,[62] would likely cause excess reporting that would not be indicative of fund stress, and relied on a dated net asset value statistic that had the potential to induce either over or underreporting.[63] Other commenters expressed concern that the terms ''margin,'' ''collateral,'' or ''an equivalent'' were not clearly defined.[64]

In response to commenters that questioned the 20 percent threshold and its reliance on a dated MRNAV statistic, the amendments will reference a more current value statistic while retaining the 20 percent increase. We are triggering reporting on whether the total dollar value of margin, collateral, or an equivalent posted by the reporting fund at the end of a rolling 10-business-day period less the total dollar value of margin, collateral, or an equivalent posted by the reporting fund at the beginning of the rolling 10-business-day period is greater than or equal to 20 percent of the average daily RFACV during the period.

We are adopting ''average daily reporting fund aggregate calculated value'' as a new defined term in the Form PF Glossary to help advisers calculate the amount of the margin increase and promote consistent responses to the current report.[65] This change away from the reference net asset value statistic (MRNAV) should lessen under- and over-reporting by providing a more current reference statistic, decreasing the potential for false positives. In response to comments that specifically questioned the 20 percent threshold, we believe a 20 percent increase based on the new RFACV statistic will improve our ability to capture truly large and sudden margin increase events.[66] Specifically, 20 percent is an appropriate threshold for reporting increases in margin

[54] ''Holding period return'' is defined in the Form PF Glossary to mean the cumulative *daily rate of return* over the holding period calculated by geometrically linking the *daily rates of return.* Holding period return (%) = $(((1 + R_1) \times (1 + R_2) \ldots (1 + R_{10})) - 1) \times 100$ where R_1, $R_2 \ldots R1_0$ are the daily rates of return during the holding period expressed as decimals. ''Daily rate-of-return'' is defined as the percentage change in the reporting fund aggregate value from one day to the next and adjusted for subscriptions and redemptions, if necessary.

[55] ''Dollar amount of loss over the 10-business-day period'' is defined in the Form PF Glossary to facilitate reporting of the extraordinary loss current report and is equal to the reporting fund aggregate value at the end of the 10-business-day loss period less the reporting fund aggregate value at the beginning of the 10-business day loss period less the net of any subscriptions or redemptions during the 10-business-day period.

[56] *See* Form PF section 5, Item C.

[57] An equivalent is any other type of payment or value understood to serve the same purposes as margin or collateral.

[58] *See* discussion in *supra* section II.A.2.

[59] Comment Letter of International Corporate Governance Network (Mar. 21, 2022) (''ICGN Comment Letter''); AFREF Comment Letter.

[60] ICGN Comment Letter.

[61] AIMA/ACC Comment Letter; IAA Comment Letter.

[62] AIMA/ACC Comment Letter.

[63] AIMA/ACC Comment Letter; SIFMA Comment Letter.

[64] AIMA/ACC Comment Letter; MFA Comment Letter, SIFMA Comment Letter.

[65] The Form PF Glossary definition of ''average daily reporting fund aggregate calculated value'' references the ''reporting fund aggregate calculated value'' that is utilized by the Item B extraordinary loss question.

[66] *See supra* section II.A.2. discussion of RFACV.

because our experience and data suggests that a margin increase of this magnitude as a percentage of a fund's market value could represent a significantly higher percentage increase in margin itself.[67] Given that margin increases can happen quickly in volatile markets, reporting limited to large margin defaults alone would not allow the Commission and the FSOC to identify the extent of increasing liquidity constraints among market participants which could impair market function.[68]

We continue to believe that the terms ''margin'' and ''collateral'' are general terms that will allow advisers to apply the reporting trigger to their unique collateral requirements. Commenters requested a more detailed definition of both ''margin'' and ''collateral,'' but these terms are common terms for margin that we believe properly scope the margin activity for which we seek reporting without potentially narrowing or limiting reporting to certain types of margin requirements specific to certain funds and their counterparty agreements.[69] In our experience, ''margin'' and ''collateral'' generally refer to assets and cash that can be claimed by a fund counterparty, lender, or clearinghouse if needed to satisfy an obligation. These terms refer both to assets that have been physically transferred to an account outside the fund as well as those that remain in the fund's accounts, but have been identified by custodians, prime brokers, and fund administrators as collateral for an obligation. The inclusion of ''or an equivalent'' is designed to provide increased flexibility to account for funds' unique circumstances. In the event advisers have unique circumstances related to their margining practices and reporting of margin increases, advisers may use the explanatory notes section to explain their margin increase current report.

The adviser will be required to report (1) the dates of the 10-business-day period over which the increase occurred; (2) the total dollar amount of the increase; (3) the total dollar value amount of margin, collateral or an equivalent posted by the reporting fund at both the beginning and the end of the 10-business-day period during which the increase was measured (an addition from the proposal);[70] (4) the average daily RFACV of the reporting fund during the 10-business-day period during which the increase was measured (an addition from the proposal); and (5) the identity of the counterparty or counterparties requiring the increase(s). In a change from the proposal, we are requiring the disclosure of the average daily reporting fund aggregate calculated value of the reporting fund during the 10-business-day period during which the increase was measured to provide FSOC and the Commission with a fund value statistic that provides additional context for the margin increase. If the increases in margin were to continue past the initial 10-business-day period, advisers should not file another current report until on or after the next 10-business-day period beginning on or after the end date stated in the adviser's initial Item C current report. In circumstances where multiple counterparties are involved, advisers will list all counterparties who increased margin requirements. In addition, the adviser must use check boxes to describe the circumstances of the margin increase. Commenters stated that the margin increase item would capture margin activity that was within business as usual operations. As discussed above, this reporting item is triggered on a 20 percent increase in margin, which we believe is a significant increase that will not capture margin activity that is within business as usual operations. In addition, the amended form contains clearly defined check boxes for this item that will allow the Commission and FSOC to understand the cause of the margin increase reports that may help distinguish the levels of risk. These items are largely unchanged from the proposal and include: (1) exchange or central clearing counterparty[71] requirements or known regulatory action affecting one or more counterparties; (2) one or more counterparties independently increasing the reporting fund's margin requirements; (3) the reporting fund establishing a new relationship or new business with one or more counterparties; (4) new investment positions, investment approach or strategy and/or portfolio turnover of the reporting fund; (5) a deteriorating position or positions in the reporting fund's portfolio or other credit trigger under applicable counterparty agreements; and/or (6) a reason ''other'' than those outlined that, in a change from the proposal, will now require advisers to provide an explanation in the explanatory notes section.[72] This information, along with any information advisers include in the explanatory notes section, will provide useful context concerning the margin increase and will better enable the Commission and FSOC to both screen false positives for margin increases (*i.e.,* incidents that trigger the proposed current reporting requirement but do not actually raise significant risks) and assess significant margin events.

b. Fund Margin Default or Inability To Meet Margin Call

We are also requiring, as proposed, advisers to report a fund's margin default or inability to meet a call for margin, collateral, or an equivalent (taking into account any contractually agreed cure period).[73] Quickly identifying such events is important because funds that are in margin default or that are unable to meet a call for margin are at risk of triggering the liquidation of their positions at their counterparties, and this presents serious risks to the fund's investors, its

[67] One estimate from the academic literature indicates that an increase in margin or collateral of 20% of the average daily RFACV over a ten-day period represents a substantially large increase in the actual level of margin or collateral, which would have potentially serious consequences for a fund depending on its circumstances. Based on a sample of large hedge fund advisers' qualifying hedge funds from Q4 2012 to Q1 2017, the paper finds that the hedge funds in the sample had median collateral as a percentage of borrowings of 121%, median borrowings of $.443 billion, and a median NAV of $.997 billion. This indicates that a typical hedge fund in the sample has collateral as a percentage of NAV of approximately 54.1%. For such a hedge fund, an increase in margin/collateral of 20% of RFACV represents an almost 40% increase in the level of margin/collateral posted. *See* Mathias S. Kruttli, Phillip J. Monin & Sumudu W. Watugala, *The Life of the Counterparty: Shock Propagation in Hedge Fund-Prime Broker Credit Networks,* (Dec. 2022). *See also* discussion of the margin increase threshold *infra* section IV.C.1.a.

[68] *See* Review of Margining Practices, Bank for International Settlement, Basel Committee on Banking Supervision, Committee on Payments and Market Structure, Board of International Securities Commissions (Sept. 2022), *available at https://www.bis.org/bcbs/publ/d537.htm.*

[69] *See* AIMA Comment Letter and MFA Comment Letter.

[70] In a change from the proposal, we are requiring the total dollar value amount of margin, collateral or an equivalent posted by the reporting fund at the end of the 10-business-day period during which the increase was measured rather than a cumulative figure. We believe having the dollar value figure measured both at the beginning and at the end of the 10-business day period will provide more detailed and useful information to the Commission and FSOC.

[71] In a change from the proposal, we are including ''central clearing counterparty'' or ''CCP'' requirements in this check box to reflect better the types requirements that can be imposed by central counterparties or clearing houses and impact margin.

[72] In a change from the proposal we are requiring advisers that check ''other'' to provide an explanation of their use of other in the explanatory notes section to provide additional context to their current report.

[73] *See* Form PF section 5, Item D. In situations where there is a contractually agreed upon cure period, an adviser will not be required to file an Item D current report until the expiration of the cure period, unless the fund does not expect to be able to meet the margin call during such cure period.

counterparties, and potentially the broader financial system.

A commenter supported reporting related to margin defaults or inability to meet a call for margin if it was limited to circumstances where there was a written notice of default because counterparty agreements typically require written notice of default, and written notice provides a bright line test for determining whether a default occurred.[74] The same commenter also stated that only large defaults in excess of 5 percent of a fund's last reported net asset value adjusted for subscriptions and redemptions should be reported to avoid the possibility of immaterial defaults.[75] Other commenters asserted that if the Commission did adopt any of the current reporting items, it should focus on margin defaults and the inability to satisfy redemptions, as both were events that signaled potential stress to the financial sector by contributing to fire sales and counterparty exposure risk.[76] Another commenter stated that other market participants like major broker-dealers, banks, or other counterparties could more readily provide this information to the Commission.[77]

We are largely adopting this item, as proposed, because margin defaults or a determination of an inability to meet margin calls are risk events that may portend liquidation events that could trigger systemic risk or harm investors. While commenters indicated that we should limit this reporting to large margin defaults or collect this information from other market participants or registrants, we do not believe doing so would capture key indicators of fund risk. Default events in certain trades, strategies, or positions will provide insight into whether funds or counterparties facing similar positions may be at risk. Reporting limited to large margin defaults, conversely, may not provide the FSOC with sufficiently early or fulsome information to identify and help prevent potential contagion. Furthermore, we believe it is important to receive this confidential reporting directly from the advisers to these large qualifying hedge funds on Form PF, because a fund's broker-dealer or bank counterparties may only have limited visibility into a fund's stress rather than a comprehensive picture of a fund's overall counterparty risks. In addition, we believe that limiting reporting to only written notifications of a default may incentivize funds or their counterparties to avoid written notice of default, particularly when it may be less clear a party is in default. The amendments, like the proposal, will continue to require advisers to file a current report in situations where there is a dispute with regard to the margin call to avoid delays in reporting. Advisers will not be required to file a current report in situations where there is a dispute in the amount and appropriateness of a margin call, provided the reporting fund has sufficient assets to meet the greatest of the disputed amount. According this flexibility allows funds and advisers that are capable of meeting a margin call time to respond to and resolve a margin dispute with their counterparties.

Under the amendments, an adviser will report for each separate counterparty for which the event occurred: (1) the date the adviser determines or is notified that a reporting fund is in margin default or will be unable to meet a margin call with respect to a counterparty; (2) the dollar amount of the call for margin, collateral, or equivalent; and (3) the legal name and LEI (if any) of the counterparty. In addition, the adviser will check any applicable check boxes that would describe the adviser's current understanding of the circumstances of the adviser's default or its determination that the fund will be unable to meet a call for increased margin.[78] These include: (1) an increase in margin requirements by the counterparty; (2) losses in the value of the reporting fund's portfolio or other credit trigger under the applicable counterparty agreement; (3) a default or settlement failure of a counterparty; or (4) a reason ''other'' than those outlined for which the adviser will be required to provide further information in the explanatory notes item.[79] These check boxes will enable the Commission and FSOC to identify and evaluate the circumstances underlying the inability to meet a call for margin. If the fund is unable to meet margin or defaulted with multiple counterparties on the same day, the adviser will file one current report broken out with details for each counterparty.

c. Counterparty Default

The amendments, like the proposal, will require advisers to report a margin, collateral or equivalent default or failure to make any other payment in the time and form contractually required by a counterparty.[80] Counterparty defaults can have serious implications for transacting funds, the funds' investors, and the broader market. A current report of a counterparty default will help the Commission and FSOC identify funds or market participants that may be affected by a counterparty's default and analyze whether there are broader implications for systemic risk or investor protection.

One commenter supported the reporting of counterparty defaults,[81] while others believed this item should only capture larger counterparty defaults that accounted for a greater portion of the fund's net asset value than the proposed 5 percent threshold.[82] Some commenters stated that there should not be a percentage threshold associated with the counterparty defaults and that, if a percentage was relied upon, the Commission's five percent threshold was too low.[83] Another commenter argued that counterparty default reporting should not be required for all types of market participants, but should be limited to regulated broker-dealers and banks, while noting that the net asset value calculation for counterparty defaults should be amended to a timelier figure that accounts for interim subscriptions and redemptions.[84] Other commenters stated that the triggers for a counterparty default notification differ from the default provisions utilized in industry standard documents and that the definitions and default provisions in the standard documents be expressly incorporated into Form PF triggers.[85]

We are adopting the counterparty default event with minor amendments as counterparty defaults to hedge funds of the size of qualifying hedge funds would be central to any analysis of systemic risk or potential risk of investor harm. A single hedge fund counterparty, such as a large broker dealer, may have dozens of fund counterparties that may be subject to a pending default. Though some commenters stated that certain definitions and default provisions in industry standard documents should be expressly incorporated into the counterparty default current report trigger, based on our review of certain industry contracts we believe the

[74] *See* MFA Comment Letter.

[75] *Id.*

[76] *See, e.g.,* AIMA Comment Letter.

[77] NYC Bar Comment Letter.

[78] Form PF section 5, Item D, Question 15.

[79] In a change from the proposal we are requiring advisers that check ''other'' to provide an explanation of their use of ''other'' in the explanatory notes section to provide additional context to their current report.

[80] *See* Form PF section 5, Item E.

[81] AFREF Comment Letter.

[82] *See, e.g.,* SIFMA Comment Letter; AIMA/ACC Comment Letter; IAA Comment Letter; and NYC Bar Comment Letter.

[83] *See, e.g.,* AIMA/ACC Comment Letter and NYC Bar Comment Letter.

[84] MFA Comment Letter.

[85] NYC Bar Comment Letter.

adopted reporting item will broadly capture default reporting triggers in many contracts. We also believe, given the variability we observed in industry contract default triggers, that it would be impractical to design a default trigger in the form that matches industry documents.

A current report for this item will be triggered if a counterparty to the reporting fund (1) does not meet a call for margin or has failed to make any other payment, in the time and form contractually required (taking into account any contractually agreed cure period); and (2) the amount involved is greater than five percent of RFACV. While we are not adopting a minimum threshold for reporting on a qualifying hedge fund's margin default given the potential implications of such a default, we are adopting a threshold for counterparty defaults that could affect a sizeable percentage of the fund's value. However, in response to comments that the MRNAV was not reflective of the current value of the fund, we are amending this item to reference the more current RFACV statistic that is employed in the extraordinary loss and margin event items.

While some commenters believed the five percent default trigger to be too low, we believe that the five percent of the timelier RFACV statistic is an appropriate threshold to trigger reporting because counterparty defaults of this size could have systemic waterfall effects, triggering forced-selling by the fund and identifying potential risks for other hedge funds that may transact with the same counterparty.[86] Moreover, the five percent threshold is a figure we have used in Form PF to measure and collect information regarding sizable exposures to creditors or counterparties.[87] We understand it also represents an often-used industry practice for measuring significant exposure at both the position level and the counterparty-exposure level. A default at this level could be a sign of issues at both the fund and counterparty making it well suited for systemic risk monitoring. Even if a five percent default is insignificant at a fund level, a high number of such reports across a number of hedge funds can be significant systemically, especially if it involves similar counterparties. Setting the threshold for counterparty defaults at five percent of the RFACV would limit the reports for *de minimis* or superficial defaults that may be the result of a short-lived operational error. We are not limiting reporting to defaults that occur only at regulated broker-dealer and bank counterparties because there are circumstances where large defaults with non-regulated market participants, such as foreign entities or private special purpose entities, may have direct impacts on the reporting fund and broader implications for systemic risk.

The amendments will require an adviser to report: (1) the date of the default; (2) the dollar amount of the default; and (3) the legal name and LEI (if any) of the counterparty. In the event that multiple counterparties to the fund default on the same day, the reporting item will allow an adviser to file a single current report broken out with details for each counterparty default. In the event that counterparties to the fund default on different days, the adviser would file a separate current report for each counterparty default that occurred. We did not provide check boxes for this item, because advisers to the funds are unlikely to have complete information regarding their counterparty's default and the responses would likely be speculative.

4. Prime Broker Relationship Terminated or Materially Restricted

The prime broker current report we proposed would have required an adviser to report a material change in the relationship between the reporting fund and a prime broker.[88] In response to comments, we are adopting a modified reporting item to require an adviser to report only the termination or material restriction of the reporting fund's relationship with a prime broker.[89] We have narrowed the focus of this current report trigger to exclude relationship changes that could be initiated by the fund for business reasons that may not be indicative of fund or market stress.

Some commenters supported a current report for material changes in the prime broker relationship.[90] Others opposed it, stating that prime brokers and funds would have difficulty discerning what constituted a ''material'' change in the relationship,[91] that both parties may terminate relationships for ordinary business reasons that are not indicative of fund or counterparty stress,[92] and that the Commission only should require reporting when the prime broker or the fund terminates the relationship for default or breach of the agreement, which would serve as a bright line.[93] Other commenters argued that the prime broker current reporting event was unnecessary or duplicative of the margin default current report[94] and, therefore, should be removed.[95] Another commenter stated that starting or terminating a relationship with a prime broker occurs on a frequent basis and is not an indication of potential stress at the fund but, in most instances, is based on business imperatives.[96]

After considering comments that expressed concern with the broad scope of reporting any ''material change'' in the relationship with a prime broker, we generally are narrowing the prime broker reporting items from what was proposed by requiring reporting under two separate instructions. The first instruction requires reporting when the prime broker terminates the agreement or ''materially restricts its relationship with the fund, in whole or in part, in markets where that prime broker continues to be active.'' For example, if a prime broker will no longer conduct certain trades on behalf of a U.S. fund in a particular market, like a major foreign equities market, this, in our view, would constitute a ''material restriction.'' On the other hand, if the same prime broker ceases activities in a market for all customers, this should not trigger a current report for an individual fund affected by this action. To address commenters who expressed concern that discerning a ''material change'' was difficult, we believe a material restriction generally would include a prime broker imposing substantial changes to credit limits or significant price increases, or stating that it ceases to support the fund in an important market or asset type, even if it does not terminate the relationship. We are not limiting this reporting trigger to

[86] *See* Financial Stability Oversight Council, Update on Review of Asset Management Products and Activities (Apr. 2016), at 15–18, *available at https://www.treasury.gov/initiatives/fsoc/news/Documents/FSOC%20Update%20on%20Review%20of%20Asset%20Management%20Products%20and%20Activities.pdf* (noting that large highly interconnected counterparties play a role in whether hedge fund activities have financial stability implications).

[87] *See* current question 47 of Form PF: Identify each creditor, if any, to which the reporting fund owed an amount in respect of borrowings equal to or greater than 5% of the reporting fund's net asset value as of the data reporting date. For each such creditor, provide the amount owed to that creditor.

[88] *See* 2022 Form PF Proposing Release, *supra* footnote 6, at section II.A.1.c.

[89] *See* Form PF section 5, Item F.

[90] ICGN Comment Letter; AFREF Comment Letter.

[91] *See, e.g.,* AIMA/ACC Comment Letter; MFA Comment Letter; NYC Bar Comment Letter; IAA Comment Letter; and USCC Comment Letter.

[92] *See, e.g.,* AIMA/ACC; MFA Comment Letter; NYC Bar Comment Letter; IAA Comment Letter; and SIFMA Comment Letter.

[93] AIMA/ACC Comment Letter.

[94] *See supra* section II.A.3.

[95] *See, e.g.,* AIMA/ACC Comment Letter and IAA Comment Letter.

[96] AIMA/ACC Comment Letter.

terminations, because there are certain circumstances indicating potential stress or investor protection concerns in which a prime broker may not explicitly terminate the relationship, but rather that significantly limits the fund's ability to operate.

The prime broker current report includes a new second instruction that captures instances where there is a fund termination event as well as a cessation of the relationship whether initiated by the prime broker or the fund. The change narrows the circumstances that can give rise to a report as the instruction states that termination events, as specified in the prime broker agreement or related agreements that are isolated to the financial state, activities, or other conditions solely of the prime broker should not be considered for purposes of the current report. Thus, a termination would need to be fund-specific and would not be reportable if the adviser understands that the termination was a part of a widespread change applicable to other of the prime broker's clients and isolated to the financial state, activities, or other characteristics solely of the prime broker. By narrowing the prime broker reporting items from the proposal, advisers would not be required to report when funds terminate or materially restrict prime broker relationships for ordinary course business reasons and would limit reporting to prime broker terminations or material restrictions that we believe are most clearly linked to potential fund stress and resulting systemic risk.

We also believe it is appropriate to leverage prime broker agreements to capture termination events that indicate stress at a fund. These agreements typically contain provisions, the violation of which may indicate stress at a fund, but may not as a matter of industry practice be immediately enforced resulting in the termination of the agreement or relationship between the prime broker and the reporting fund.[97] In our experience we believe it is important to capture circumstances in which a fund has, for example, repeatedly breached margin thresholds and is technically in default, but the prime broker has not terminated the relationship, and at a later date asks the fund to find prime brokerage services elsewhere. Accordingly, the item will also require an adviser to report a termination of the relationship between the prime broker and the reporting fund if the relationship between the prime broker and the reporting fund was terminated in the last 72 hours or less in accordance with the section 5 current reporting period, and a ''termination event'' was activated in the prime brokerage agreement, or related agreements, within the last 12 months.[98] By leveraging the prime broker agreement, or other related agreements with termination events in the trigger for reporting, we will capture non-routine terminations that may be indicative of stress at a fund including, for example certain ''key man'' provisions, like the departure of a manager. While funds and their prime brokers might terminate their relationship over ordinary business terms, this current report will capture terminations or material restrictions that might indicate more serious issues for a fund. Lastly, this current reporting event is tied to termination events that may have been triggered in the past 12 months in recognition that a termination may take time to become finalized after a termination event was activated.

This current report will allow the Commission and FSOC, for example, to assess whether a particular termination would have a greater or lesser impact on the broader market or on investors and better understand what potentially caused the termination. Though some commenters stated the prime broker current report was duplicative of the margin default current report, we continue to believe that a prime broker-specific question is necessary in addition to the margin default current report because prime broker terminations may signal stress that did not lead to a margin default or may indicate other potential investor protection issues.

Terminations or material restriction of a reporting fund's prime brokerage relationships of this type may signal that the fund or the brokers with whom the fund transacts are experiencing stress and may be subject to an increased risk of default or, in the case of the reporting fund, potential liquidation. In addition, a prime broker that is no longer willing to provide services to a fund client could be apprehensive of a fund's investment positions or trading practices and may consider the fund to be an unacceptable risk as a counterparty. Therefore, material restrictions upon such relationships may indicate potential stress at the fund that may have implications for investor harm and broader systemic risk concerns. In a modification from the proposal, the prime broker reporting item will require an adviser to provide the date of the termination or material restriction, the date of the termination event(s) if different, and the legal name and LEI (if any) of the prime broker involved. We are not adopting the check boxes that we proposed, because they are no longer needed in light of the narrower focus of the report on terminations or material restrictions. However, the explanatory notes item is available if advisers would like to provide more details. Lastly, the item will include a new note stating that if a prime broker changes the terms of its relationship with the reporting fund in a way that significantly limits the fund's ability to operate under the terms of the original agreement, or significantly impairs the fund's ability to trade, the adviser should consider it a ''material restriction'' that would require filing of the prime broker current report.[99] We believe this note is necessary to ensure that certain circumstances that amount to an effective ''firing'' of the fund are captured by the current report. Moreover, in response to commenters that had generally asserted that a ''material change'' to the prime broker agreement would be difficult to determine when considering filing this item, we are providing this note to provide specificity as to when there is a ''material restriction.''

5. Changes in Unencumbered Cash

In a departure from the proposal, we are not adopting a requirement that an adviser report a significant decline in holdings of unencumbered cash. In the proposal, a current report for changes in unencumbered cash would have been triggered if the value of the reporting fund's unencumbered cash declined by more than 20 percent of the reporting fund's most recent net asset value over a rolling 10-business-day period.

Some commenters supported the inclusion of this item, stating that unencumbered cash was an important metric for understanding hedge fund stability.[100] Other commenters

[97] Similarly, we requested comment on prime broker agreements, specifically whether the agreements include termination events related to net asset value triggers. We did not receive specific comments on whether prime broker agreements specifically include termination events related to net asset value triggers. We do not believe it is necessary to include specific references to terminations related to net asset value triggers in the prime broker current report because, in our experience, net asset value triggers are included in some agreements already, but may not be used in many agreements depending upon the types of fund and strategies involved.

[98] Under this reporting item the 72-hour time period within which an adviser must report would begin to run upon the occurrence of the termination or a material restriction or when the adviserreasonably believed such an event occurred.

[99] *See* Form PF section 5, Item F.

[100] AFREF Comment Letter and ICGN Comment Letter.

challenged it, primarily on the grounds that it would capture new investments or routine cash movements in certain strategies resulting in some funds filing numerous reports over the course of a year.[101] Another commenter also stated that the definition of ''unencumbered cash'' in Form PF is inconsistent with how most advisers would calculate unencumbered cash internally.[102] Another commenter stated that the 2022 Form PF Joint Proposing Release's change of the definition of ''cash equivalents'' that excluded U.S. Treasury securities would create confusion for advisers seeking to comply with an unencumbered cash current report.[103]

We are not adopting this item after considering comments received, including those commenters that stated the unencumbered cash current report may result in a large number of false positives related to certain transactions that occur in the normal course of some strategies. For example, commenters stated that changes in unencumbered cash to purchase highly liquid sovereign bonds or to transfer cash between U.S. Treasuries and sovereign debt would result in a fund submitting 30–70 reports a year to the Commission.[104] Though we still believe that unencumbered cash levels could serve as a marker for fund health in periods of market volatility or stress, receiving such a potentially large number of reports annually that may not be indicative of fund stress does not align with our policy goals for current reporting. For example, it may be difficult to distinguish quickly for reporting purposes between increases of unencumbered cash that could be attributable to ordinary course trading activity versus substantial increases or decreases that are a direct result of fund losses or cash transactions that the fund undertook in response to increased market volatility. An additional difficulty is that different types of strategies utilize very different unencumbered cash levels making it difficult to find a single unencumbered cash indicator that is meaningful, without many false positives and negatives. Lastly, other current reporting items, especially the extraordinary loss, margin, and prime broker questions, will provide real time insight into fund stress and hedge fund stability, at which this proposed question was aimed.

6. Operations Events

The proposed operations event current report would have required an adviser to report when the adviser or reporting fund experiences a ''significant disruption or degradation'' of the reporting fund's ''key operations,'' whether as a result of an event at the reporting fund, the adviser, or other service provider to the reporting fund.[105] Under the proposal, key operations would have meant operations necessary for (1) the investment, trading, valuation, reporting, and risk management of the reporting fund; as well as (2) the operation of the reporting fund in accordance with the Federal securities laws and regulations. The proposal also would have defined ''significant disruption or degradation'' to mean a 20 percent disruption or degradation of normal volume or capacity. We are adopting, with certain changes from the proposal, the requirement for an adviser to report when the adviser or reporting fund experiences a ''significant disruption or degradation'' of the reporting fund's ''critical operations,'' whether as a result of an event at the reporting fund, the adviser, or other service provider to the reporting fund.[106] As discussed below, in light of comments received, we are not adopting the proposed 20 percent threshold for the ''significant disruption or degradation'' definition.

We continue to believe that an operations event involving a qualifying hedge fund could have systemic risk implications if the fund is not able to trade as a result of such an event. In addition, notice of operations events from multiple advisers could provide an early indicator of market-wide operations events to both the Commission and FSOC. Such events could include a service provider outage that may affect the ability of multiple funds to trade, leading to negative implications for those funds' investors and broader systemic risks.

Some commenters generally supported the Commission's receiving current reports about operations events that affected private fund advisers, their funds, and their service providers.[107] For example, one commenter stated that operations events should be the subject of reporting because they can have systemic risk implications while also supporting the Commission's policy goal of investor protection.[108] Others took issue with the proposal defining a ''significant disruption or degradation'' as a ''20% disruption or degradation of normal volume or capacity,'' generally arguing that quantifying the scale of a disruption would be both difficult and operationally burdensome.[109] Some commenters indicated that the operations event item would be too difficult to respond to in one day under what may be potentially difficult operational circumstances in which the origin of the problem may still be undiscovered.[110] One commenter objected to the inclusion of service providers in the item, stating that naming a service provider in a filing to the Commission could violate confidentiality agreements or open the adviser or fund to legal liability from their service providers.[111] Other commenters stated that we should only require reporting in the event that an adviser initiated a disaster recovery or business continuity plan.[112] Some commenters questioned whether Form PF was the appropriate place for operations event reporting, stating that the Form PF operations event item may potentially conflict with, or be duplicative of, the Commission's proposal relating to cybersecurity risk management.[113] One such commenter asserted that the operations item's timing for reporting conflicted with the Commission's recent cybersecurity proposal and also did not properly reflect the dichotomy between adviser and fund-level events, stating that events involving severe weather or cybersecurity issues appear to be adviser-level events as opposed to the other proposed key events, which are all fund-level specific.[114] Another

[101] *See, e.g.,* AIMA/ACC Comment Letter; SIFMA Comment Letter; IAA Comment Letter; Schulte Comment Letter; TIAA Comment Letter; and MFA Comment Letter.

[102] AIMA/ACC Comment Letter.

[103] *See* MFA Comment Letter (Mar. 16, 2023) (stating that the proposed definition of ''cash equivalents'' was inconsistent with how financial markets generally and advisers treat short-term Treasury securities for risk management and cash management purposes).

[104] MFA Comment Letter.

[105] *See* 2022 Form PF Proposing Release, *supra* footnote 6, at section II.A.1.e.

[106] *See* Form PF section 5, Item G. The Operations Events report was initially proposed as Item H.

[107] AFREF Comment Letter and ICGN Comment Letter.

[108] *See* CRINDATA Comment Letter.

[109] *See, e.g.,* AIMA/ACC Comment Letter; CRINDATA Comment Letter; ICGN Comment Letter; MFA Comment Letter; IAA Comment Letter; Schulte Comment Letter; and SIFMA Comment Letter.

[110] *See, e.g.,* AIMA/ACC Comment Letter; NYC Bar Comment Letter; and IAA Comment Letter.

[111] AIMA/ACC Comment Letter.

[112] *See, e.g.,* Schulte Comment Letter; IAA Comment Letter; and MFA Comment Letter.

[113] *See generally* AIMA/ACC Comment Letter; USCC Comment Letter; Comment Letter of CRINDATA, LLC (Mar. 21, 2022) (''CRINDATA Comment Letter''). *See* Cybersecurity Risk Management for Investment Advisers, Registered Investment Companies, and Business Development Companies, Advisers Act Release No. 5956 (Feb. 9, 2022) [87 FR 13524 (Mar. 9, 2022)].

[114] AIMA/ACC Comment Letter, at 25 (stating that in another Commission proposal, Cybersecurity

Continued

commenter indicated that there were broad trends from other legislative and regulatory initiatives that the Commission should draw from in its approach to operations event reporting to help ensure Commission reporting works consistently with these other requirements.[115] The same commenter requested that, if the Commission adopted the operations report, it provide an additional mechanism to provide updates on the status of the significant disruption or degradation so as to provide ongoing details and eventual notice to the Commission and FSOC of the event's resolution.

In response to comments, we are adopting much of the operations event current report as proposed, but are making two modifications: (1) re-titling ''key operations'' to be ''critical operations''; and (2) not adopting the definition of a ''significant disruption or degradation'' which contained the 20 percent threshold. In response to commenter concerns that the operations item may be conflating adviser and fund-level events, we believe that the check boxes and associated reporting fund census data collected from Item A of the current report will allow us to properly determine whether this is an adviser-wide issue or fund-specific. We believe it is important to include adviser events in the operations report, because it will allow the Commission and FSOC to determine quickly whether all, or just some, of an adviser's funds or other systems are significantly disrupted or degraded. Moreover, we believe that by including the adviser and the reporting fund in the current report, the report will be more tailored and capture situations in which only certain of an adviser's reporting funds will have suffered a significant disruption or degradation. For example, this could include a situation in which only one of an adviser's funds are impacted by an outage at a pricing provider that values certain asset types specific to that fund's portfolio. In addition, we acknowledge that there are other government cybersecurity initiatives and our own proposed cybersecurity rulemaking as raised by commenters.[116] However, this reporting requirement relates to operations events that go beyond cybersecurity, and receiving such private fund specific operations event reporting with this particularity will inform the FSOC's and Commission's assessment of systemic risk and investor protection efforts.

In response to commenters' concerns that operations events may be difficult both to discern and accurately report within one business day, we are, as discussed above, extending the reporting period from one business day to as soon as reasonably practicable, but no later than 72 hours upon the occurrence of the event. In such circumstances, with this additional time, an adviser likely will be able to ascertain more information about the operations event and its impact(s) on the reporting fund. As a result, and to alleviate commenter concerns, the report will serve as an expedient means of notifying the Commission and FSOC with salient information about potential stress events rather than an alert that would need to be updated.

While some commenters stated that naming a service provider in operations reporting could open a fund or adviser to liability, we believe that identifying which service provider is contributing to the impairment of a reporting fund's operations may have implications for other advisers and funds that utilize the same service provider, the identification of which is critical for FSOC's ability to monitor systemic risk.[117] Moreover, Form PF is a non-public confidential reporting form, and any current reports identifying service providers involved in an operations event would be reported on a confidential basis.

We are not triggering an operations current report only upon the initiation of a business continuity or disaster recovery plan as there are certain internal operations scenarios that may be indicative of fund stress, but may not necessarily cause an adviser to initiate firm-wide disaster or business continuity plans.[118] For example, there are situations that do not involve natural disasters or force majeure events, but involve more isolated adviser or fund specific events that would not trigger a business continuity plan like when certain key persons that are integral to certain of a fund's operations or certain trading systems or software are unavailable and the adviser or fund is unable to perform its critical operations without them. The current report will include, as proposed, the check the box reporting to indicate whether the adviser has initiated a disaster recovery or business continuity plan relating to the operations event as this will provide greater context to the nature of the operations event and its impact on the adviser and fund.

Rather than ''key operations,'' in a change from the proposal, we will use a different term, ''critical operations,'' but maintain substantially the same underlying definition that we had proposed. ''Critical operations'' better reflects the nature and types of events for which we seek reporting. For this purpose, critical operations are operations necessary for (1) the investment, trading, valuation, reporting, and risk management of the reporting fund; or (2) the operation of the reporting fund in accordance with the Federal securities laws and regulations.[119] In response to commenters' concerns about the practicality of the 20 percent threshold, we are not adopting the definition of a ''significant disruption or degradation'' which contained the threshold. After considering comments, we understand there may be circumstances where it would be difficult to quantitatively measure disruptions in critical operations. While we are not adopting the numeric threshold, we continue to believe that, in circumstances where operations are reasonably measurable, a 20 percent disruption or degradation of normal volume or capacity generally might be indicative of the types of stress for which reporting may be necessary.

Risk Management, Strategy, Governance, and Incident Disclosure, certain advisers are required to disclose information, on amended Form 8–K, about a cybersecurity incident within four business days after it has determined that it has experienced a material cybersecurity incident).

[115] *See* CRINDATA Comment Letter. The letter discussed the recent enactment of the Cyber Incident Reporting for Critical Infrastructure Act of 2022 (''CIRCIA''). *See* Cyber Incident Reporting for Critical Infrastructure Act of 2022, H.R. 2471, 116th Cong. (2022). The letter also discussed the 2021 Department of the Treasury and banking regulators rule. *See* Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corp., *Computer-Security Incident Notification Requirements for Banking Organizations and Their Bank Service Providers* (Nov. 18, 2021) [86 FR 66424 (Nov. 23, 2021)].

[116] *See supra* footnote 113.

[117] AIMA/ACC Comment Letter.

[118] One commenter stated that a business continuity plan would not appear to be a good proxy for receiving information sought by the operations event report. *See* CRINDATA Comment Letter.

[119] While the proposed definition of ''key operations'' included operations that are ''necessary for (1) the investment, trading, valuation, reporting, and risk management of the reporting fund; *and* (2) the operation of the reporting fund in accordance with the Federal securities laws and regulations'' (emphasis added), the Commission intended for each provision of the definition to be considered a key operation. *See* 2022 Form PF Proposing Release, *supra* footnote 6, at n.39 and accompanying text (''Key operations means, for this purpose, operations necessary for (1) the investment, trading, valuation, reporting, and risk management of the reporting fund; *as well as* (2) the operation of the reporting fund in accordance with the Federal securities laws and regulations'' (emphasis added)). Accordingly, we are clarifying the definition of ''critical operations'' by defining the term as operations ''necessary for (1) the investment, trading, valuation, reporting, and risk management of the reporting fund; *or* (2) the operation of the reporting fund in accordance with the Federal securities laws and regulations'' (emphasis added). *See* Form PF Glossary.

We understand that many large hedge fund advisers maintain sophisticated back office operations, or already engage service providers that reasonably would be able to measure whether an event has impaired their critical operations beyond a 20 percent threshold. For example, in most cases, operations event reporting would likely be required if a software malfunction at the adviser disrupted the trading volume of a reporting fund by 20 percent or more of its normal capacity. This item will require reporting in cases where an adviser's ability to value the fund's assets is significantly disrupted or degraded, for example, in connection with operational issues at a service provider. As another example, events such as a severe weather event causing wide-spread power outages that significantly disrupt or degrade critical operations also would require reporting.

As proposed, the operations event current report will require the date of the operations event (or an estimate of when it occurred), and the date the operations event was discovered. Also largely as proposed, the operations event current report will require the adviser to provide additional information concerning its current understanding of the circumstances relating to the operations event and its impact on the normal operations of the reporting fund using check boxes.[120] These include whether: (1) the event occurred at a service provider; [121] (2) the event occurred at a reporting fund or reporting fund adviser or a related person; (3) the event is related to a natural disaster or other force majeure event; or (4) an unlisted ''other'' event occurred for which the adviser will be required to provide further information in the explanatory notes item.[122] In addition, this current report would require an adviser to indicate whether it has initiated a business continuity plan relating to the operations of the adviser or reporting fund as we believe this may provide additional appropriate context to the operations event.

As proposed, the operations event current report also will require the adviser to check a box to describe its current understanding of the impact of the operations event on the normal operations of the reporting fund, including whether the event resulted in the disruption or degradation of: (1) trading of portfolio assets; (2) the valuation of portfolio assets; (3) the management of the reporting fund's investment risk; (4) the ability to comply with applicable laws, rules, and regulations; or (5) any ''other'' type of operational impact than those outlined, which an adviser is required to explain further in the separate explanatory notes item. We continue to believe that these explanatory check boxes, along with the separate explanatory notes item should advisers need to provide more detailed reporting, will provide appropriate context to current reports filed for operations events and allow the Commission and FSOC to evaluate quickly the potential level of risk to funds, advisers, and their service providers.

7. Large Withdrawal and Redemption Requests, Inability To Satisfy Redemptions, or Suspensions of Redemptions

We are adopting, largely as proposed, reporting for large withdrawal and redemption requests, inability to satisfy redemptions or withdrawals, and suspensions of redemptions or withdrawals.[123] These current reports will provide more detailed and timely information to the Commission and FSOC indicating the potential for investor harm, forced selling in liquidations, or broader systemic risk.

a. Withdrawal and Redemption Requests

We are adopting the large withdrawals and redemptions current report, largely as proposed. The current report will require an adviser to report if the fund receives cumulative requests for withdrawals or redemption exceeding 50 percent of the most recent net asset value (after netting against subscriptions or other contributions from investors received and contractually committed).[124] We believe that the obligation to redeem sizable withdrawal or redemption requests of 50 percent or more of a reporting fund's most recent net asset value, despite pre-existing gates or limitations, may present significant risks to the fund and increases the risk that it may be forced to liquidate assets (potentially at lower prices), disproportionately penalizing non-redeeming investors, and potentially impacting markets more broadly.[125]

Some commenters supported reporting for large withdrawal or redemption requests of 50 percent or more,[126] while another commenter felt it was an arbitrary and unsupported.[127] Others stated that withdrawals or redemptions of this magnitude may occur in the ordinary course, and the 50 percent threshold might therefore produce ''false positives'' in certain cases, such as single investor funds with large institutional investors, changes in client preference or commercial considerations, or scheduled structured withdrawals or redemptions.[128] One commenter believed that the current reporting event should have a minimum $1 billion threshold, asserting that $250 million in redemptions for a minimally sized $500 million qualifying hedge fund is a relatively low number of systemic risk monitoring.[129] This commenter also suggested this reporting trigger not disregard any pre-existing gates or limitations as these often serve to prevent sudden large redemptions and such reports will significantly distort the risk posed by notified redemptions. The same commenter also asserted that the redemptions current report did not address the mismatch in timing between redemption requests, which are normally given anywhere from 30 to 90 days before the applicable redemption date, and subscriptions, which are usually contracted for in the two to five day period prior to the subscription date meaning that advisers would not be able to net subscriptions against redemption requests before having to report.[130]

We are maintaining the 50 percent threshold, as proposed. We continue to believe, and some commenters support, that funds receiving such large withdrawal or redemption requests in

[120] Form PF section 5, Item H, Questions 26 through 28.

[121] If the event occurred at a service provider, an adviser also must report the legal name of the service provider; the service provider's LEI, if any; and the types of services provided by the service provider.

[122] As noted above, in a change from the proposal we are requiring advisers that check ''other'' to provide an explanation of their use of other in the explanatory notes section to provide additional context to their current report.

[123] *See* Form PF, section 5 Items H and I.

[124] As with the proposed use of ''most recent net asset value'' in other circumstances described above, this measure could result in over-reporting or under-reporting, but we believe that a simple to determine measure would ease the monitoring and reporting burden for advisers. In addition, the option for an adviser to add explanatory notes to its current report to explain the circumstances surrounding the redemptions mitigates these concerns.

[125] *See* George O. Aragon, Tolga Ergun, Mila Getmansky & Giulio Girardi, *Hedge Funds: Portfolio, Investor, and Financing Liquidity,* DERA White Paper (May 17, 2017), *available at https://www.sec.gov/files/dera_hf-liquidity.pdf* (discussing hedge fund liquidity and the impact of redemptions).

[126] AFREF Comment Letter (stating that by some estimates redemption requests leading up to the financial crisis indicated that a quarter of the hedge fund industry sold 40% or more of their equity portfolios and the average hedge fund during that time sold about 30% of its equity portfolio).

[127] AIMA/ACC Comment Letter.

[128] *See, e.g.,* AIMA/ACC Comment Letter; SIFMA Comment Letter; MFA Comment Letter; and NYC Bar Comment Letter.

[129] MFA Comment Letter.

[130] MFA Comment Letter.

between routine quarterly reports on Form PF may be subject to increased selling and liquidity pressures that could be particularly harmful to investors and may contribute to the potential for broader market implications, especially if the fund is invested in illiquid assets and engages in a fire sale of assets.[131] The 50 percent threshold represents what we believe is well accepted as a substantial withdrawal that could threaten the fund's health and potentially markets if it requires substantial portfolio sales. Indeed, one commenter that disagreed with the scope of the withdrawal and redemptions event for the assessment of systemic risk acknowledged such a withdrawal could indicate a run on a fund or stress at a particular fund.[132] Another commenter stated that substantial redemptions at a fund could signal that external or internal events are causing investors to lack confidence in the fund's adviser and that, if the fund is not able to handle the redemptions without selling assets, other investors that remain in the fund could be seriously harmed.[133] Moreover, we do not believe that this item should have a $1 billion floor as substantial withdrawals from multiple qualifying hedge funds could indicate systemic risk that we believe warrants monitoring even if such withdrawals are less than $1 billion at an individual qualifying hedge fund. We designed this item to capture large dollar-value redemption requests and avoid capturing routine redemptions in the ordinary course.

We considered the comment that this reporting item should not disregard pre-existing gates or other liquidity limitations. However, requests for redemptions of this size can have impacts despite liquidity limitations. For example, if it is public knowledge that a fund is facing large redemptions, other investors may submit withdrawals, which will pressure a gated fund to liquidate or lead to a flood of asset sales once the gate is lifted due to pent up redemption pressures. If an adviser believes a report may be a ''false positive'' and the large withdrawals are occurring in the ordinary course of business for the fund, advisers may indicate the circumstances behind the large withdrawal(s) in the explanatory notes item. In addition, an event that one fund may consider a ''false positive'' may be more systemically significant if the conditions triggering it are amassed across a number of qualifying hedge funds. Commenters stated that a mismatch in timing between redemption requests and subscriptions could distort reporting of this item, but withdrawals or redemptions in excess of 50 percent in spite of subscriptions would still be a notable event for which notice would provide the Commission and FSOC with important insight.[134] Based on the above, timely notice of such events in this current report will allow the Commission and FSOC to analyze the potential implications for the fund's investors and systemic risks should such withdrawals or redemptions precipitate large-scale liquidations.

Under the withdrawals and redemptions current report, an adviser will enter: (1) the date on which the net redemption requests exceeded 50 percent of the most recent net asset value; (2) the net value of redemptions paid from the reporting fund between the last data reporting date (the end of the most recently reported fiscal quarter on Form PF) and the date of the current report; (3) the percentage of the fund's net asset value the redemption requests represent; and (4) whether the adviser has notified the investors that the reporting fund will liquidate.

b. Inability To Satisfy Redemptions or Suspension of Redemptions

We are adopting, largely as proposed, the requirement for an adviser to report if a qualifying hedge fund is unable to satisfy redemptions, or suspends redemptions for more than five consecutive business days. We have modified the form text from the proposal to state that an adviser would report in either of two cases: if the reporting fund (1) is unable to pay redemption requests, or (2) has suspended redemptions and the suspension lasts for more than 5 consecutive business days. One commenter stated that the proposed item was indicative of significant distress that could potentially lead to counterparty losses and that the five consecutive business day qualification period would appropriately limit reporting of temporary redemption suspensions that would have less of an impact on investors or the broader market.[135] Another commenter suggested that the trigger for reporting a failure to pay redemption requests should be five days following the due date specified for payment of redemption proceeds under a fund's governing documents and that hedge funds typically have a specified timeframe for paying redemption requests, and a filing should be triggered under this current report only after this timeframe has passed if a redemption remains unsatisfied.[136]

This reporting item will help the Commission and FSOC identify stress at a reporting fund and evaluate the effects of these circumstances on fund investors and the markets more broadly. We recognize that redemptions are governed by preexisting terms and conditions outlined in fund contracts and governing documents. However, we are not modifying the item in response to commenters stating that reporting should be triggered only after the period specified for payment of redemption proceeds under a fund's governing documents because reporting should be based on whether, as a factual matter, the fund has suspended redemptions for a period of five consecutive business days or not. The reporting of inability to satisfy redemptions or a prolonged suspension of redemptions will provide a potential early warning of the fund's liquidation and potentially allow the Commission or FSOC to analyze or respond to any perceived harm to investors or systemic risks on an expedited basis before they worsen. The five consecutive business day period for suspensions is properly balanced so as to limit reporting of temporary redemption suspensions that we believe have less of an impact on investors or the broader market. Under this current report, the adviser is required to report: (1) the date the reporting fund was unable to pay redemption requests or suspended redemptions; (2) the percentage of redemptions requested and not yet paid; and (3) whether the adviser has notified the investors that the reporting fund will liquidate.

8. Explanatory Notes

We are adopting the explanatory notes item, largely as proposed. This item will allow an adviser to provide a narrative response if it believes that additional information would be helpful in understanding the information reported in the current report(s). Current reports may benefit from additional context so that the Commission and FSOC can effectively evaluate them. This approach is consistent with other current reports filed with the Commission, where registrants have requested the flexibility to provide additional narrative information relating to the

[131] AFREF Comment Letter. *See also* MFA Comment Letter. MFA noted that subject to certain conditions it supported the 50% withdrawal threshold, but that there should be a minimum dollar threshold of $1 billion to trigger reporting.

[132] NYC Bar Comment Letter.

[133] ICGN Comment Letter.

[134] MFA Comment Letter.

[135] AIMA/ACC Comment Letter.

[136] MFA Comment Letter.

circumstances surrounding the current report.[137]

There were limited comments on this item. One commenter stated that this information would be helpful in understanding the information reported in response to any item in section 5, but that it is unlikely to be helpful if operations events do not require additional elaboration in the narrative response section.[138] As discussed above, we believe the operations event and its underlying reporting fields will capture enough data so as to enable the Commission and FSOC to assess the event properly in circumstances where advisers do not think a narrative response would be helpful. However, in certain circumstances where advisers check an ''other'' box we are now requiring advisers to provide an additional explanation in the explanatory notes section. We believe that requiring additional context for the ''other'' items will allow the Commission and FSOC to assess current reports, and especially the operations event item, more readily. As reporting under this section is largely optional outside of instances where they check ''other'', commenters will not need to respond to this item if additional elaboration is not helpful. The same commenter also stated that subsequent updates to the current report should provide more detail, including when the event is resolved. We are not, however, adopting a follow-up option for operations event reports as these current reports' primary purpose is advance notice of a potential systemic risk event or potential harm to investors.

B. Quarterly Private Equity Event Reports for All Private Equity Fund Advisers

In a change from the proposal, we are modifying section 6 of the proposed Form PF to be filed on a quarterly basis rather than on a current basis and moving one of the proposed private equity event reports to annual reporting in section 4.[139] Under the proposal, private equity adviser current reporting events included: (1) execution of an adviser-led secondary transaction, (2) implementation of a general partner or limited partner clawback, and (3) investor election to remove a fund's general partner or to terminate a fund's investment period or a fund. We will require reporting of the adviser-led secondaries event and the investor election to remove a fund's general partner or to terminate a fund's investment period or a fund event, but in a change from the proposal, we are moving the general partner or limited partner clawbacks event to section 4, where it will be reported on an annual basis with the other large private equity fund adviser reporting.[140] The section 6 reports will be termed ''private equity event reports'' and advisers will file these reports within 60 days after the end of their fiscal quarters.[141] If a private equity event did not occur during a particular quarter, then an adviser would not be required to file a section 6 report for that quarter. Receiving this information on a quarterly basis will provide timely notice of these private equity events and important information for the Commission's regulatory programs, including examinations, investigations, investor protection efforts, and policy relating to private fund advisers. It also will improve the Commission and FSOC's ability to evaluate material changes in market trends at the reporting funds by providing information on certain events that could significantly affect both investors and markets more broadly.

Some commenters agreed that collecting this information from all private equity fund advisers would be beneficial[142] by, for instance, providing meaningful information to the Commission's oversight efforts[143] and improving the Commission's and FSOC's ability to react to market events.[144] Other commenters argued that the proposal did not sufficiently demonstrate how this information is connected to systemic risk[145] or how the Commission would use this information to uphold investor protection.[146] One commenter stated that there was little justification for one business day reporting for both the adviser-led secondary transactions event and the removal of a general partner, termination of the investment period or termination of a fund event and advocated for extending the time period.[147]

Several commenters asserted that a one-business-day reporting requirement may be unnecessary in certain instances for these private equity event reports. While some commenters recognized the importance of timely reporting through a one-business-day reporting regime for the events set forth in the proposal,[148] a number of other commenters criticized the proposed one-business-day reporting as being unnecessarily onerous.[149] Several commenters requested, as an alternative, an annual reporting requirement for these events.[150] Other commenters supported changing section 6 reporting from current reporting to quarterly reporting if there was an event to report, and that this delay would not diminish the Commission's ability to investigate and, if appropriate, respond to protect investors.[151] Some commenters stated that some of the reporting events can occur in the ordinary course of business and do not require urgent action.[152]

After considering comments, we are requiring all private equity fund advisers reporting on Form PF to file reports on a quarterly basis upon (1) execution of an adviser-led secondary transaction, or (2) investor election to remove a fund's general partner or to terminate a fund's investment period or a fund, rather than within one business day after a reporting event as proposed.[153] We recognize that removal of a general partner or the termination of a fund's investment period or a fund may result from a stress event at a fund,

[137] *See* Part H of Form N–RN.

[138] CRINDATA Comment Letter.

[139] All private equity advisers will need to report if any of these events occurred during the applicable quarter for each private equity fund they advise. Private equity fund advisers must only report each instance of a reporting event once on the section 6 filing that covers the quarter in which such instance occurred. It is not necessary to report the same instance of a reporting event again on future section 6 filings.

[140] *See* discussion *infra* in section II.D.1.

[141] *See* Form PF Glossary (definition of ''private equity event reports'').

[142] *See, e.g.,* ILPA Comment Letter; ICGN Comment Letter; and Comment Letter of the Private Equity Stakeholder Project (Mar. 21, 2022) (''PESP Comment Letter'').

[143] *See* ILPA Comment Letter.

[144] *See* PESP Comment Letter.

[145] *See, e.g.,* AIMA Comment Letter and Schulte Comment Letter.

[146] *See, e.g.,* AIMA Comment Letter; NVCA Comment Letter; and AIC Comment Letter.

[147] *See, e.g.,* AIMA Comment Letter.

[148] *See, e.g.,* ICGN Comment Letter and PESP Comment Letter. One commenter requested that we consider using calendar days instead of business days to avoid delays in reporting. *See* Sarah A. Comment Letter.

[149] *See, e.g.,* MFA Comment Letter and AIC Comment Letter.

[150] *See, e.g.,* Comment Letter of Ropes and Gray LLP (Mar. 21, 2022) (''Ropes & Gray Comment Letter'') (recommending that if the Commission wishes event reporting on adviser-led secondaries, it be included as part of the regular annual reporting of large private equity advisers on Form PF) and IAA Comment Letter (generally objecting to the reporting of the current event items for private equity fund advisers but saying any reporting of such items should at a minimum be moved to section 4 of Form PF for annual reporting by large private equity fund advisers).

[151] *See, e.g.,* NVCA Comment Letter (suggesting the Commission, instead of requiring current reports for private equity fund advisers, require quarterly event reports filed 60 days after the end of each fiscal quarter if those events occur) and MFA Comment Letter (suggesting quarterly reporting).

[152] *Id.*

[153] As discussed below, we are requiring reporting of the implementation of a general partner or limited partner clawback on an annual basis from large private equity fund advisers. *See infra* Section II.D.1.

but this may not come into effect until after the stress event occurs. For example, we understand that such an event could involve a longstanding decline in performance, a disagreement concerning the direction of the fund, or the replacement of key fund personnel, all of which are events that may have serious implications for investors, but would not necessarily indicate urgent harm or imminent systemic risk that would necessitate a current report. We also acknowledge that some adviser-led secondary transactions, may not inherently indicate that a fund is in urgent distress, and that such transactions do not occur rapidly, thus creating less of a need for a current report.[154] We remain concerned, however, that some of these events, which include a higher potential for conflicts of interest or fund distress generally may signal an investor protection issue at a particular fund. Moreover, these reports will enable the Commission to assess trends in these reporting events that may signal the exacerbation of conflicts of interest within the private equity industry. Though we are adopting quarterly reporting, we did consider requiring private equity fund advisers to file current reports within 72 hours instead of one business day as proposed. After considering comments, we view these reporting items as likely to reveal trends that emerge more slowly as compared to hedge funds because private equity funds typically invest in more illiquid assets over longer time horizons with more limited redemption rights.[155] Thus, we believe that requiring reporting of these events on a quarterly basis appropriately balances the effects and burdens of imposing these reporting obligations on private equity fund advisers[156] while also enhancing the Commission's investor protection efforts and FSOC's ability to monitor for systemic risk.

Both of these reporting triggers are important events for a fund, and each one raises distinct conflicts of interest, which we discuss in greater detail below. As one example, we understand an investor election to terminate a fund's investment period is often tied to a change in how management fees are calculated for the remainder of the fund's life. Specifically, following the termination of an investment period, management fees generally ''step down'' to a percentage of invested capital, rather than a percentage of aggregate capital commitments. An adviser that fails to effectively administer such a change may overcharge management fees—a deficiency that the staff has observed in numerous instances.[157] Requiring reporting of these key events on a quarterly basis will allow the Commission to better identify such events and more carefully evaluate when conflicts of interests may be harming investors. In addition, because removals of general partners, terminations of a fund or its investment period, and adviser-led secondaries represent a significant potential for conflicts of interest and other sources of investor harm, we are not limiting reporting to only large private equity advisers in the annual reporting presented in Section 4. By requiring reporting of these events from all private equity fund advisers the Commission will receive broader reporting coverage of such transactions across the private equity industry to target its examination program more efficiently and better identify areas in need of more timely regulatory oversight and assessment, which should increase both the efficiency and effectiveness of its programs and, thus, increase investor protection.[158]

A few commenters requested additional private equity current reporting events, including where the adviser has indemnified itself from covering any penalties and/or legal costs and other ''for-cause'' key events.[159] While these events can be significant for a fund, we do not believe they are as critical for the FSOC to monitor systemic risk or for the Commission's investor protection efforts and may be difficult to tailor for reporting purposes. Indemnification for penalties and/or legal costs can cover a litany of scenarios. It would likely be difficult to compare a specific indemnification event against another and, as a result, may be hard to determine greater trends in the financial condition of the private equity industry. Similarly, a ''for-cause'' key event can include a broad range of events that are difficult to compare. Trends in some of these events across large private equity fund advisers may be related to systemic risk and some of these events may relate to investor protection, but some—adviser-specific poor performance, for example—may be idiosyncratic. The reporting triggers we are adopting, on the other hand, are better tailored to our overall policy goals.

Some commenters requested an exception for reporting events that occur in the ordinary course of a private equity fund adviser's business that are not suggestive of or do not give rise to concerns related to market stress or risks to investors.[160] While we acknowledge that some of these reporting events may not indicate a stress event for an individual fund, monitoring these events will support the Commission's investor protection efforts by better informing the Commission's regulatory programs while assessing trends in the aggregate frequencies of these reporting events across the private equity industry will enhance FSOC's monitoring of systemic risk. While a single adviser-led secondary transaction may not be significant on its own, an increase in the number of these transactions across the private equity industry could be significant.

1. Adviser-Led Secondary Transactions

We are adopting proposed section 6 Item B, requiring private equity fund advisers to report any adviser-led secondary transactions, but with reporting on a quarterly basis within 60 days of the end of each fiscal quarter.[161] This item requires reporting upon the completion of an adviser-led secondary transaction, including the transaction closing date and a brief description of the transaction. As proposed, we are defining ''adviser-led secondary transaction'' as any transaction initiated by the adviser or any of its related persons[162] that offers private fund investors the choice to: (1) sell all or a portion of their interests in the private fund; or (2) convert or exchange all or a portion of their interests in the private fund for interests in another vehicle advised by the adviser or any of its related persons.[163] Transactions are only subject to reporting if they are initiated by a private equity fund's

[154] *See, e.g.,* Ropes & Gray Comment Letter and IAA Comment Letter.

[155] *See* discussion *infra* in section IV.B.2.

[156] *See infra* section IV.C.2 for a more detailed discussion of the changes in these anticipated costs.

[157] Risk Alert, *Observations from Examinations of Private Fund Advisers* (Jan. 27, 2022) *available at https://www.sec.gov/files/private-fund-risk-alert-pt-2.pdf* (noting that EXAMS staff observed private fund advisers that did not follow practices described in fund disclosures regarding the calculation of the fund-level management fee during a private fund's Post-Commitment Period. EXAMS staff observed that such failures resulted in investors paying more in management fees than they were required to pay under the terms of the fund disclosures).

[158] *See* discussion *infra* at section IV.C.1.b.

[159] *See, e.g.,* ILPA Comment Letter and PESP Comment Letter.

[160] *See, e.g.,* Ropes & Gray Comment Letter and IAA Comment Letter.

[161] *See* Form PF Section 6, Item B.

[162] *See* Form PF Glossary (definition of ''related person'').

[163] *See* Form PF Glossary (definition of ''adviser-led secondary transaction'').

adviser or a related person of the adviser.[164]

Some commenters supported the requirement to report adviser-led secondary transactions, including some that agreed that this reporting requirement will help the Commission fulfill its investor protection role.[165] Other commenters argued that adviser-led secondary transactions are not historically connected to systemic risk, and that they can represent a strengthening market in certain cases.[166]

We acknowledge that an adviser-led secondary transaction can indicate strength in a particular investment in certain cases. For instance, we understand an adviser-led secondary transaction can be used to extend or add on to a successful investment.[167] Nonetheless, adviser-led secondary transactions typically reflect a deviation from the traditional life cycle of a private equity investment. In some instances, an adviser may use an adviser-led secondary transaction to attempt to restructure an investment portfolio that is struggling.[168] In other instances, an adviser may use an adviser-led secondary transaction to extend an investment beyond the contractually agreed upon term of the fund that holds it.[169] In either case, an adviser-led secondary transaction can have a meaningful impact on the liquidity profile of a private equity investment and/or the private equity fund that held it originally. Additionally, we understand that these transactions may present conflicts of interest that merit timely reporting, particularly those conflicts that arise because the adviser (or its related person) is on both sides of the transaction with potentially different economic incentives.[170] As an example, in the continuation fund context, an investor may be forced to liquidate a position it would otherwise wish to retain if it is unable to adequately conduct diligence or negotiate the terms of the continuation fund before its election is due. Requiring quarterly reporting of these complex transactions will allow the Commission to identify when such events have occurred and more carefully evaluate whether conflicts of interests have harmed investors.

Additionally, adviser-led secondary transactions can have implications for systemic risk assessment as they have become increasingly common in the private equity industry in recent years, and therefore could represent changes in the liquidity of the private equity market. For example, to the extent that an upward trend in adviser-led secondary transactions reflects a reduction in the liquidity of the private equity market stemming from private equity fund advisers' inability to sell portfolio companies to third-party buyers (or to sell those companies at existing valuations), transactions of this nature could be an indicator of a deflating investment bubble that may be important in informing systemic risk assessment. This quarterly event reporting will provide the Commission and FSOC with timely data regarding the frequency and circumstances surrounding these transactions and allow the Commission and FSOC to better assess market trends and potential market impacts.

One commenter stated that adviser-led secondary transactions can raise conflicts of interest, but that such conflicts of interest can be mitigated through thoughtful processes, disclosure and investor or advisory board consent where necessary.[171] While thoughtful processes, disclosure and investor or advisory board consent can be helpful, in the Commission's experience, they are not always utilized and, even when used, do not always ameliorate investor protection concerns. For example, it is the Commission's observation that investors are often given very short timeframes in which to choose whether to cash out of their investment or participate in an adviser-led secondary transaction. Investors are not always able to sufficiently diligence the adviser-led secondary transaction before they must decide to whether to commit to it. As another example, some advisers seek advisory board consent for adviser-led secondary transactions, but such advisory boards are comprised of only the largest investors in the fund, and the adviser does not seek consent from the remaining investors. As a result, we believe it is appropriate and necessary to require reporting of adviser-led secondary transactions.

Another commenter suggested an ordinary course exception.[172] Ordinary course adviser-led secondary transactions are just as integral to the Commission's investor protection concerns as they still involve conflicts of interest. They also will be informative to FSOC's and Commission's assessment of systemic risk in monitoring broader liquidity trends in the private equity market.

2. Removal of General Partner or Election To Terminate the Investment Period or Fund

We are adopting the requirement for all private equity fund advisers to report the removal of a general partner or election to terminate the investment period or fund item as an event reporting item, but, in a change from the proposal, advisers will report these events within 60 days after a fiscal quarter-end rather than within one business day. As proposed, this item will require all private equity fund advisers to report when a fund's investors have: (1) removed the adviser or an affiliate as the general partner or similar control person of a fund; (2) elected to terminate the fund's investment period; or (3) elected to terminate the fund, in each case as contemplated by the fund documents. This item requires reporting of the effective date of the applicable removal or termination event and a description of such removal or termination event. This required reporting is triggered upon an adviser receiving notification of the investors' election in each case.

Some commenters supported the proposed requirement to report when investors remove a general partner, or elect to terminate an investment period or a fund.[173] Others criticized this reporting requirement as being unrelated to market conditions and/or

[164] Whether a transaction is initiated by the adviser or its related persons requires a facts and circumstances analysis. However, we generally do not view a transaction to be initiated by the adviser or one of its related persons to the extent the adviser or one of its related persons, at the unsolicited request of an investor, participates in the secondary sale of such investor's fund interest.

[165] *See, e.g.,* Better Markets Comment Letter and PDI Comment Letter.

[166] *See, e.g.,* AIMA Comment Letter; AIC Comment Letter; and USCC Comment Letter.

[167] *See, e.g.,* Ropes & Gray Comment Letter. *See also,* GP-led Secondary Fund Restructurings, Considerations for Limited and General Partners, Institutional Limited Partners Association (Apr. 2019), *available at https://ilpa.org/wp-content/uploads/2019/04/ILPA-Guidance-on-GP-Led-Secondary-Fund-Restructurings-Apr-2019-FINAL.pdf.*

[168] *See, e.g.,* Rae Wee, Turnover surges as funds rush to exit private equity stakes, Reuters (Dec. 18, 2022) *available at https://www.reuters.com/business/finance/global-markets-privateequity-pix-2022-12-19/.*

[169] *See, e.g.,* Madeline Shi, Investors up allocation to secondaries as GPs seek alternative liquidity sources, PitchBook (Sep. 15, 2022) *available at https://pitchbook.com/news/articles/investor-secondaries-growth-alternative-liquidity.*

[170] We recognize that other types of conflicted transactions, such as investment-level cross transactions, often raise important conflicts of interest. However, we view adviser-led secondaries as presenting significant, intrinsic conflicts of interest due to their nature as fund-level conflicted transactions that often affect all investor capital in a fund.

[171] *See* AIMA Comment Letter.

[172] *See* IAA Comment Letter.

[173] *See, e.g.,* AFREF Comment Letter and Public Citizen Comment Letter.

likely to cause a disproportionate number of false positives.[174]

Investor removal of a general partner or election to terminate a fund's investment period or a fund itself are uncommon events. We understand that, generally, investors would prefer to avoid these actions unless unavoidable because the consequence of each could be damaging to a fund.[175] If a general partner is removed, there will likely be a gap in management of a fund as well as the risk that a new general partner may not be able to manage the fund as effectively. If investors elect to terminate the investment period of a fund or the fund itself, the entire investment strategy and planning of the fund can be disrupted and could indicate the occurrence of investor harm at the fund or other ongoing risks to investors. A collective increase in the number of any or all of these events occurring also could indicate a risk of market deterioration, particularly given the broader market impact of individual private equity funds due to the increase in the median fund size for the private equity asset class and rise in larger private equity funds.[176] If the general partner of a large buy-out fund is removed, it could also increase risk for its portfolio companies if the adviser is no longer as willing to insert equity capital when needed. Requiring reporting of these events will provide the Commission and FSOC with notification of this event (of which we might otherwise be unaware at the time it is initiated), and allow for better evaluation and monitoring.

Furthermore, these trigger events are all indicative of critical circumstances for conflicts of interest that present increased risks to investors. Removal of a general partner presents an inherent conflict for private equity fund advisers. An election to terminate an investment period of a fund or a fund itself has numerous consequences for investors, such as changes to management fees and liquidation requirements, and the staff has often had insufficient visibility into these activities by private equity fund advisers, which may pose risks to fund investors.[177] Requiring reporting of these events will allow the Commission to identify such events and any associated investor protection concerns better, including by more carefully evaluating the inherent conflicts of interests that these events represent.

We recognize, however, that these events likely do not create the type of urgent distress that would necessitate current reporting, as we had proposed. We understand that these decisions are not arrived at suddenly and that the assets of the fund will still be held for a significant period of time if the fund is wound down. Thus, we believe that requiring reporting of these events on a quarterly basis appropriately balances the effects and burdens of imposing these reporting obligations on private equity fund advisers[178] while also enhancing the Commission's investor protection efforts and FSOC's ability to monitor for systemic risk.

Several commenters suggested limiting reporting for termination of a fund's investment period to ''for cause'' terminations only.[179] We understand that general partner removals and investor elections to terminate a fund's investment period or a fund are typically associated with a serious conflict between investors and the adviser or between different members of the adviser.[180] While not all instances of these events may be strictly ''for cause,'' they all represent serious departures from ordinary course operations. Additionally, we are not requiring reporting for *all* terminations of a fund's investment period or of a fund. Rather, we are only requiring reporting when *investors elect* to terminate a fund's investment period or a fund. We believe that events of this nature are rare, and accordingly, reporting will also be rare.

Similar to the explanatory notes item that we are adopting in section 5 for current reporting by large hedge fund advisers to qualifying hedge funds, section 6, Item D, will allow an adviser to provide an optional narrative response if it believes that additional information is helpful in explaining the circumstances of events reported in section 6. We proposed including an optional explanatory note question in the proposed Section 6, Item E as part of the current reports for private equity fund advisers. Since this explanatory note question is optional, we think it is appropriate to give private equity fund advisers the opportunity to provide any explanatory notes for section 6 quarterly reporting that they deem helpful. We did not receive specific comments on whether to include this section to allow an adviser to provide an optional narrative response. We continue to believe this will allow an adviser the ability to provide additional, helpful information where necessary.

C. Filing Fees and Format for Reporting

Consistent with the proposal, we are requiring large hedge fund advisers to file current reports and private equity advisers to file quarterly private equity event reports through the same non-public filing system they use to file the rest of Form PF, the Private Fund Reporting Depository (''PFRD'').[181] Large hedge fund advisers will file current reports on section 5, and all private equity advisers will file event reports on section 6 of Form PF. Filers will not submit any other sections of Form PF at the time a either of these reports is filed. This requirement is designed to facilitate reporting of clear information in an efficient manner. Under the rule, advisers filing reports on section 5 and 6 are required to pay to the operator of PFRD fees that have been approved by the SEC. The SEC in a separate action will approve filing fees that reflect the reasonable costs associated with the filings and the establishment and maintenance of the filing system.[182] Advisers also will be able to amend their section 5 and 6 reports if they discover that information they filed was not accurate at the time of filing.[183]

One commenter stated that it could be counterproductive to require an adviser

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[174] *See, e.g.,* AIC Comment Letter; AIMA Comment Letter; and MFA Comment Letter.

[175] *See, e.g.,* LPs Vote to Boot GP from Debut Fund, but the Real Challenge Lies Ahead, Buyout Insider (July 27, 2021) *available at https://www.buyoutsinsider.com/lps-vote-to-boot-gp-from-debut-fund-but-the-real-challenge-lies-ahead/.*

[176] *See* Private Market Mega-Funds Raise More than $329B in 2021, PitchBook (Dec. 14, 2021) (''Pitchbook Article''), *available at https://pitchbook.com/news/articles/2021-largest-mega-funds-private-equity.*

[177] For example, we are aware that there have been instances where management fees were overcharged after certain triggering events like the write-off of specific portfolio investments. *See, e.g., In the Matter of ECP Manager LP,* Investment Advisers Act Release No. 5373 (Sep. 27, 2019) (settled action) (alleging that private equity fund adviser failed to apply the management fee calculation method specified in the limited partnership agreement by failing to account for write downs of portfolio securities causing the fund and investors to overpay management fees).

[178] *See infra* section IV.C.2 for a more detailed discussion of the changes in these anticipated costs.

[179] *See, e.g.,* MFA Comment Letter and NVCA Comment Letter.

[180] In our experience, advisers sometimes pursue these actions when there is disagreement between different investment professionals at an adviser that wish to separate their businesses. For example, one of these individuals may remain associated with the fund through a new general partner entity while the other individual leaves the adviser entirely.

[181] *See* Instruction 12. *See also* rule 17 CFR 275.204(b)–1.

[182] *See* section 204(c) of the Advisers Act.

[183] Consistent with the current instructions for other types of Form PF filings, large hedge fund advisers are not required to update information that they believe in good faith properly responded to Form PF on the date of filing even if that information is subsequently revised for purposes of recordkeeping, risk management or investor reporting (such as estimates that are refined after completion of a subsequent audit). This requirement is designed to provide advisers with a way to correct current reports, just as all advisers can correct other types of Form PF filings. *See* Instruction 16.

to pay a fee to report a potential operations event.[184] However, this approach is consistent with established Form PF requirements, and we have not observed a correlation between filing fees and lower levels of filing Form PF in the past. Filing fees also support the system for Form PF filing, including cybersecurity and other technological supports, which we believe benefits filers.

D. Large Private Equity Fund Adviser Reporting

We are amending the requirements relating to reporting by large private equity fund advisers in section 4 of Form PF to: (1) add certain questions that are designed to improve FSOC's ability to monitor systemic risk and FSOC's and the Commission's ability to evaluate material changes in market trends at the reporting funds; and (2) add new questions designed to enhance our understanding of certain practices of private equity fund advisers and amend certain existing questions to improve data collection.[185]

This reporting also will improve FSOC's ability to monitor systemic risk and the Commission and FSOC's ability to evaluate material changes in market trends at the reporting private equity funds by providing information on certain events and developments that could significantly affect both investors and markets more broadly. Reporting of this type on an annual basis by the largest private equity fund advisers has become increasingly important as private equity has continued to grow over the last decade and become a significant part of the economy and financial markets. Investors are increasingly exposed to the private equity industry as many pension funds and other institutional investors have allocated more assets to private equity investments. The number of investors[186] and median fund size[187] of private equity funds has increased. The number of larger private equity funds has risen.[188] These developments merit greater risk-based monitoring and oversight by the Commission and FSOC given the potential consequences for an increasing pool of private equity investors as well as financial markets broadly.

We proposed, but are not adopting, lowering the reporting threshold for large private equity fund advisers for purposes of section 4 of Form PF from $2 billion to $1.5 billion in private equity fund assets under management. A number of commenters criticized the proposal to lower this threshold as being arbitrary and/or not connected to systemic risk.[189] Some commenters stated that reducing this threshold would result in substantial burdens for small and mid-sized private equity fund advisers who will be newly covered.[190] Of these, one commenter argued that lowering this threshold could limit competition, as the smaller private equity fund advisers find it more difficult to compete against larger advisers, which can absorb the costs related to the additional filing requirements more easily due to scale.[191] Some commenters suggested increasing the threshold rather than reducing.[192] On the contrary, several commenters supported the reduction to the large private equity fund adviser reporting threshold, stating that it is important for the Commission and FSOC to receive reporting from the same proportion of private equity funds, based on committed capital, as when Form PF was created.[193]

When Form PF was originally adopted in 2011, the $2 billion reporting threshold was intended to capture 75 percent of the U.S. private equity industry based on committed capital.[194] At proposal, the existing $2 billion threshold captured about 67 percent of the U.S. private equity industry.[195] However, in response to commenters, we have conducted additional analysis on the U.S. private equity industry and have observed recent accelerated growth in the relative percentage of large private equity fund advisers. The existing $2 billion threshold now captures about 73 percent of the U.S. private equity industry.[196] If these trends continue, we expect the $2 billion threshold to capture 75 percent or more of the U.S. private equity industry in the near future. As a result, at this time, we no longer believe it is appropriate to reduce this reporting threshold to $1.5 billion to achieve the original intention for Form PF to capture 75 percent of the U.S. private equity industry.

One commenter stated that private equity fund advisers with less than $1.5 billion in private equity fund assets under management have the potential to either make higher risk loans or take on higher risk borrowing.[197] While some smaller private equity fund advisers may sometimes engage in risky behaviors, it is less likely that such practices by smaller advisers will lead to systemic risks based solely on their size.

Another commenter suggested using metrics other than assets under management to determine if a firm meets the threshold for reporting as a large private equity fund adviser.[198] We have considered using metrics other than assets under management for purposes of this threshold, but we anticipate that they would be more likely to lead to adverse incentives.[199] We believe that assets under management continues to be the appropriate metric and is less likely to create these adverse incentives. In sum, given the recent trends in the U.S. private equity industry discussed above, we believe that the existing threshold strikes an appropriate balance between obtaining information on a significant portion of the private equity industry and seeking to minimize the burdens imposed on private equity fund advisers.

1. New Question on General Partner or Limited Partner Clawbacks

We proposed to require all advisers to private equity funds to file a current report within one business day upon the implementation of a general partner or limited partner clawback in excess of an aggregate amount equal to 10 percent of a fund's aggregate capital commitments. Some commenters supported the requirement to report general and limited partner clawbacks.[200] Other commenters criticized this reporting

[184] *See* CRINDATA Comment Letter.

[185] Consistent with the proposal, Item B is being split into three new items to be designated new Item B ''Certain information regarding the reporting fund,'' new Item C ''Reporting fund and controlled portfolio company financing,'' and new Item D ''Portfolio company investment exposures.''

[186] Since 2013, the number of private equity funds has more than doubled from under 7,000 to nearly 19,000, private equity fund gross assets have quadrupled from $1.6 trillion to $6.4 trillion, and private equity fund net assets have also nearly quadrupled, increasing from $1.5 trillion to $5.7 trillion. *See* Private Funds Statistics, *supra* footnote 4.

[187] *See* Pitchbook Article, *supra* footnote 176.

[188] *Id.*

[189] *See, e.g.,* IAA Comment Letter; AIC Comment Letter; and USCC Comment Letter.

[190] *See, e.g.,* Schulte Comment Letter; IAA Comment Letter; and RER Comment Letter.

[191] *See* Schulte Comment Letter.

[192] *See* RER Comment Letter and AIC Comment Letter.

[193] *See, e.g.,* ICGN Comment Letter and Better Markets Comment Letter.

[194] *See* 2011 Form PF Adopting Release, *supra* footnote 3, at 32.

[195] Based on data reported on Form PF and Form ADV as of Dec. 2020.

[196] Based on data reported on Form PF and Form ADV as of June 2022.

[197] *See* PDI Comment Letter.

[198] *See* Comment Letter of Michelle Katauskas (Jan. 27, 2022).

[199] For instance, if we were to define large private equity fund advisers based on number of employees, advisers may be incentivized to outsource operations and minimize compliance personnel.

[200] *See, e.g.,* AFREF Comment Letter; Public Citizen Comment Letter.

requirement as being unrelated to declining market environments or systemic risk.[201]

Limited partner clawbacks could signal that a fund is under stress or is anticipating being under stress. For example, a limited partner clawback (or clawbacks) in an aggregate amount of more than 10 percent of a private equity fund's aggregate capital commitments might suggest that the fund is planning for a material event (*e.g.,* substantial litigation or legal judgment) that could negatively affect investors. While an individual limited partner clawback of this magnitude may be idiosyncratic, an upward trend in implementations of such limited partner clawbacks may be a reflection of stress in the market. Such potential impact merits regular reporting to allow for improved risked-based monitoring.

General and limited partner clawbacks also create complex conflicts of interests. Typically, the legal mechanics of general partner and limited partner clawbacks are negotiated early on in a fund's life, long before the inciting event occurs. Furthermore, fund advisers typically have significant control over the circumstances that eventually lead to a general partner or limited partner clawback. For instance, if a private equity fund adviser is concerned about over performance towards the beginning of a fund's life and under performance later on, it can delay realizing a portfolio investment to reduce the risk of a general partner clawback. Similarly, if a private fund adviser anticipates needing to initiate a limited partner clawback due to litigation, the private fund adviser is likely the one already responding to the litigation process and informing investors about it. Each of these circumstances raises critical conflicts of interest that may harm investors. Requiring reporting of general and limited partner clawbacks will allow the Commission to better identify such events and more carefully evaluate when and whether investors may have been harmed.

Additionally, we do not agree that general partner or limited partner clawbacks are unrelated to systemic risk. These clawbacks often occur when the fund has had successful investments earlier in the life of the fund, but the fund's later investments are less successful. Accordingly, while a single general partner clawback may not rise to a level of systemic significance, the widespread implementation of general partner clawbacks may be a sign of a deteriorating market, which could have systemic risk implications. Given that the implementation of general partner clawbacks by private equity funds is typically rare, if there is an upward trend in funds implementing general partner clawbacks, such trend could be indicative of a distressed market. Reporting could help the Commission and FSOC identify particular markets, sectors or funds on which such a declining market environment could have an outsized impact and which may merit additional monitoring given the potential consequence for both investors and financial market stability.

After considering comments, as noted above,[202] we now are requiring information about clawbacks to be reported annually by large private equity fund advisers.[203] General partner clawbacks and certain limited partner clawbacks will be reported in response to new Question 82 in section 4.[204] Requiring reporting of clawbacks will enable the Commission and FSOC to monitor declining market conditions in the markets in which private equity invests, and will improve the Commission's visibility into circumstances involving clawbacks that may implicate investor protection risks.

After considering comments, we recognize that requiring reporting of clawbacks within one business day of the event could be unnecessary, particularly given that these events tend to build over the life of a private equity fund with a multi-year term.[205] As a result, we are requiring large private equity advisers to file these reports on an annual basis as part of their regular Form PF filing rather than one business day as proposed. We believe this timing better balances the Commission's need for the information to enhance its regulatory programs and the assessment of broader private equity trends and declining market conditions while also recognizing that general partner or limited partner clawbacks at a particular fund may occur during years-long investment horizons. However, we continue to believe that clawback reporting that indicated a large spike in the number of limited partner clawbacks across the private equity industry may raise systemic risk or investor protection concerns that the Commission would need to evaluate.

In another modification from the proposal, we are only requiring large private equity fund advisers to complete this question. While some commenters broadly supported the former current event reporting questions as proposed,[206] a number of other commenters criticized them, noting that the proposal did not require current reporting for smaller hedge fund advisers and stating that the burdens of this reporting would fall disproportionately on smaller private equity fund advisers.[207] Of these commenters, several suggested adding thresholds to these reporting questions to mitigate these burdens.[208] Requiring all private equity fund advisers to complete the clawbacks question would provide additional information to FSOC and Commission that may be helpful in the assessment of systemic risk, but after reviewing comments, we acknowledge that the clawback question pertains more to the monitoring of broader developing trends in private equity fund activities relevant to the protection of investors and to the assessment of systemic risk. As mentioned above, the widespread implementation of general partner clawbacks at large private equity funds may signal deteriorating market trends, which could have systemic risk implications given the large size of the private equity funds involved. Accordingly, we believe that by focusing clawback reporting on large private equity fund advisers on an annual basis, we will be able to evaluate material changes in market trends and investor protection issues in private equity funds. This approach also preserves FSOC's ability to monitor for systemic risk. The existing questions in section 4 are similarly intended to serve this purpose.[209]

[201] *See, e.g.,* AIC Comment Letter; AIMA Comment Letter; and SIFMA Comment Letter.

[202] *See supra* section II.B.

[203] Large private equity fund advisers will need to report any of these private equity reporting events that occurred during the applicable reporting period of their filing for each private equity fund they advise. Large private equity fund advisers must only report each instance of a private equity reporting event once on the Form PF filing that covers the period in which such instance occurred. It is not necessary to report the same instance of a private equity reporting event again on future Form PF filings.

[204] We are also making conforming changes for its new placement in section 4 of Form PF.

[205] *See, e.g.,* RER Comment Letter; SIFMA Comment Letter; AIMA Comment Letter.

[206] *See, e.g.,* ICGN Comment Letter; Public Citizen Comment Letter and PESP Comment Letter.

[207] *See, e.g.,* IAA Comment Letter; SIFMA Comment Letter and AIC Comment Letter.

[208] *See, e.g.,* SIFMA Comment Letter and TIAA Comment Letter.

[209] *See* 2011 Form PF Adopting Release, *supra* footnote 3, at text accompanying nn. 94–95. The relative percentage of large private equity fund advisers in the U.S. private equity industry has also broadly trended upwards over time. As a result, a growing portion of private equity fund advisers are required to complete the reporting in section 4. For example, based on staff review of Form ADV filings and data from Private Fund Statistics reports, section 4 covered approximately 67% of private equity gross assets in 2020 and covers 73% of private equity gross assets today. *See* Private Funds Statistics, *supra* footnote 4.

Question 82 is substantively identical to the proposed current reporting requirement and will require reporting by large private equity fund advisers on the implementation of: (1) any general partner clawback or (2) a limited partner clawback (or clawbacks) in excess of an aggregate amount equal to 10 percent of a fund's aggregate capital commitments. This reporting includes the effective date of the clawback and the reason for the clawback.[210]

We are defining, as proposed, a ''general partner clawback'' as any obligation of the general partner, its related persons, or their respective owners or interest holders to restore or otherwise return performance-based compensation to the fund pursuant to the fund's governing agreements.[211] For example, if the general partner of a fund is entitled to performance-based compensation equaling 20 percent of the fund's profits over the life of the fund and the fund distributes such compensation to the general partner periodically based on the profitability of the fund at the time of distribution, the general partner may have received distributions of performance-based compensation over the life of the fund *in excess* of 20 percent of the fund's aggregate profits. In this situation, under the fund's governing documents, the fund's general partner is required to return the excess performance-based compensation it received to the fund.[212]

We are also defining, as proposed, ''limited partner clawback'' (sometimes referred to as a limited partner ''giveback'') as an obligation of a fund's investors to return all or any portion of a distribution made by the fund to satisfy a liability, obligation, or expense of the fund pursuant to the fund's governing agreements.[213] This required reporting is triggered when the aggregate limited partner clawbacks over the course of a fund's life exceed 10 percent of such fund's aggregate capital commitments at such time. Advisers generally should file for each additional limited partner clawback, regardless of its size, over the course of such fund's remaining life once such fund's aggregate limited partner clawbacks have exceeded this 10 percent threshold.[214] Requiring this minimum threshold is appropriate because we believe a clawback of this magnitude is more likely to be associated with an event that could have a significant negative impact on a fund's investors.

One commenter suggested that, like for limited partner clawbacks, we should limit reporting on general partner clawbacks to those that are in excess of 10 percent of the fund's aggregate capital commitments.[215] However, it is our understanding that private fund advisers generally should have greater control over the circumstances leading to a general partner clawback than a limited partner clawback. We understand that limited partner clawbacks, on the other hand, are often associated with lawsuits or other unforeseen events which the adviser may be able to influence but may not be able to prevent, even if the amount of the limited partner clawback is small. Accordingly, we believe it is important to require reporting on all general partner clawbacks but to limit reporting of limited partner clawbacks to those exceeding a minimum size threshold.

Similar to section 5, Item J and the proposed section 6, Item E, Question 83 will allow an adviser to provide an optional narrative response if it believes that additional information is helpful in explaining the circumstances of its responses in section 4. We had proposed including an optional explanatory note question in the proposed section 6, Item E as part of the current reports for private equity fund advisers. Since we are including the general partner or limited partner clawbacks in the reporting for large private equity fund advisers as part of section 4, we are adding an optional explanatory note question for section 4. Since this explanatory note question is optional, we think it is appropriate to give large private equity fund advisers the opportunity to provide any explanatory notes for section 4 that they deem helpful. We did not receive specific comments on whether to include this section to allow an adviser to provide an optional narrative response. We continue to believe this will allow an adviser the ability to provide additional, helpful information where necessary.

2. Other Amendments to Large Private Equity Fund Adviser Reporting

Private Equity Fund Investment Strategies. As proposed, we are adding Question 66 to section 4 to collect information about private equity fund investment strategies.[216] Form PF does not currently collect data on private equity fund strategies. Question 66 is structured similarly to Question 20, which collects information about hedge fund strategies and includes common strategies employed by private equity funds. This question requires advisers to choose from a list of strategies by percent of deployed capital even if the categories do not precisely match the characterization of the reporting fund's strategies. To facilitate completion of this question and alleviate challenges filers face in choosing among a limited list of investment strategy types, in a modification from the proposal, filers will be able to choose from a drop-down menu that includes all investment strategy categories for Form PF. If a reporting fund engages in multiple strategies, the adviser will have to provide a good faith estimate of the percentage the reporting fund's deployed capital represented by each strategy.

Question 66 also includes an ''other'' category for advisers to select in cases where a reporting fund's strategy is not listed, but an adviser selecting ''other'' in response to this question must explain why. This requirement is designed to improve data quality by

[210] Question 83 pertains to both general partner clawbacks and limited partner clawbacks. This question also requires filers to specify the type of clawback implemented (*i.e.,* whether it is a general partner clawback or limited partner clawback).

[211] *See* Form PF Glossary (definition of ''general partner clawback''). We are defining ''performance-based compensation'' as any allocations, payments, or distributions of capital based on the reporting fund's (or its investments') capital gains, capital appreciation and/or profit. This definition includes cash or non-cash compensation, including in-kind allocations, payments, or distributions of performance-based compensation. *See also* Form PF Glossary (definition of ''performance-based compensation''). We have slightly revised this definition from the proposal—and removed ''portfolio investment'' as a defined term—to more precisely capture performance-based compensation in the private fund space. We do not view these slight revisions as substantive changes from what was proposed.

[212] Specifically, this required reporting is triggered *at the time the general partner becomes obligated* to return to the fund performance-based compensation in excess of the amount it was ultimately entitled to receive under the fund's governing documents regardless of when such compensation is actually returned.

[213] *See* Form PF Glossary (definition of ''limited partner clawback'').

[214] For example, if a fund has a life of 10 years and has a limited partner clawback equal to 4% of its aggregate capital commitments each and every year of its life, this required reporting will be triggered in each of years 3, 4, 5, 6, 7, 8, 9, and 10.

[215] *See* NVCA Comment Letter.

[216] For purposes of this question, which is to be completed by Form PF filers that fill out section 4, private equity fund investment strategies generally include private credit (and associated sub-strategies such as distressed debt, senior debt, special situations, etc.), private equity (and associated sub-strategies such as early stage, buyout, growth, etc.), real estate, annuity and life insurance policies, litigation finance, digital assets, general partner stakes investing, and others. In connection with this question, we are also adding one new term to the Form PF Glossary of Terms for ''general partner stakes investing'' to provide specificity regarding the reporting of this term and to improve data quality. *See* Form PF Glossary of Terms. We proposed adding ''digital assets'' as a new term to the Form PF Glossary of Terms. The Commission and staff are continuing to consider this term and are not adopting ''digital assets'' as part of this rule at this time.

providing context to an adviser's selection of the ''other'' category. It also should help ensure that advisers are not selecting the ''other'' category when they should be reporting information in a different strategy category. Question 66 is designed to allow FSOC to filter data for targeted analysis, monitor trends in the private equity industry, analyze potential systemic risk, and to support the Commission's oversight of advisers to the private equity industry and investor protection efforts.

Some commenters supported adding this investment strategy reporting requirement as being beneficial to the FSOC and Commission's oversight of advisers to the private equity industry.[217] Other commenters argued that this investment strategy reporting requirement is too burdensome relative to its nexus to systemic risk.[218]

Due to the growth in the industry since adoption of Form PF and the diversity of strategies currently employed by private equity funds, it is important that we collect this investment strategy information. Different strategies carry different types and levels of risk for the markets and financial stability. Reporting on investment strategies will allow the Commission and FSOC to understand and better assess the potential market and systemic risks presented by the different strategies to both markets and investors. A shift in the reporting of private equity assets towards riskier strategies, for instance, could provide valuable information about emerging systemic risks. Similarly, this information will allow the Commission and FSOC to better assess private equity funds' increasing role in providing credit to companies.

While we recognize that adding this question will create some additional burdens for large private equity fund advisers, these burdens should be small relative to the benefits discussed above. We do not believe that a large private equity fund adviser providing a good faith estimate of its investment strategies by percentage will require substantial, additional accounting or other compliance work. We have also included the ''other'' category to allow large private equity fund advisers some flexibility with respect to reporting these investment strategies provided that they explain their use of this category.

One commenter suggested requiring more granular disclosure of private equity fund investment strategies, including requiring the disclosure of industries included in each strategy.[219] Types of industries are generally more amorphous than investment strategies, and many industries also overlap—for example, an investment in a healthcare technology company could be interpreted as either a healthcare or technology investment. It is also difficult to correlate risk with specific industries, as subcategories within industries may vary widely in terms of risk. Accordingly, we are not requiring reporting of industries at this time.

Fund-Level Borrowings. As proposed, we are adding Question 68 to require advisers to report additional information on any fund-level borrowing. If a fund engages in fund-level borrowing, this question requires the adviser to provide (1) information on each borrowing or other cash financing available to the fund,[220] (2) the total dollar amount available, and (3) the average amount borrowed over the reporting period. Consistent with the requirements for hedge fund reporting on borrowing in Form PF, private equity fund advisers that are required to complete this question in section 4 may skip Question 12 in section 1b.[221]

Some commenters supported adding this fund-level borrowing reporting requirement, stating that it will help the Commission and FSOC better identify and monitor the use of leverage within private equity funds.[222] Other commenters argued that this reporting requirement is unrelated to systemic risk.[223]

We understand that fund-level borrowing—particularly subscription lines of credit—have become increasingly important to the operation of private equity funds since the adoption of Form PF.[224] Funds vary in how they employ these facilities and their impacts can often be opaque for investors. While some private equity funds use subscription lines appropriately, we have observed some funds seeking to take advantage of these arrangements. For instance, certain funds may use subscription lines to inflate the performance metrics—such as the internal rate of return—that are reported to investors. Other funds may not appropriately inform investors about the costs that investors must bear in connection with the use of a subscription line. Additionally, funds that allow large unpaid amounts to remain on their subscription lines over an extended period of time may be exposed to greater liquidity risk which may have knock-on effects for their investors and portfolio investments. We believe that the prevalence of these subscription lines of credit could raise important systemic risk and investor protection concerns, and therefore it is important that the Commission and FSOC receive more detailed information on them.

Events of Default, Bridge Financing to Controlled Portfolio Companies, and Geographic Breakdown of Investments. As proposed, we are amending three existing questions in section 4. First, we are amending existing Question 74 to require advisers to provide more granular information about the nature of reported events of default, such as whether it is a payment default of the private equity fund, a payment default of a CPC, or a default relating to a failure to uphold terms under the applicable borrowing agreement (other than a failure to make regularly scheduled payments).[225] This more detailed information will help the Commission and FSOC better assess the impact of default events to both investors and markets more generally and may indicate emerging potential systemic risks.

Second, we are amending existing Question 75, which requires reporting on the identity of the institutions providing bridge financing to the adviser's CPCs and the amount of such financing, to add additional counterparty identifying information (*i.e.,* LEI (if any) and if the counterparty is affiliated with a major financial institution, the name of the financial institution).[226] This information should be readily available to advisers, and will provide globally standardized identification information about counterparty entities reported in this

[217] *See, e.g.,* ICGN Comment Letter and PDI Comment Letter.

[218] *See, e.g.,* REBNY Comment Letter and RER Comment Letter.

[219] *See* PDI Comment Letter.

[220] We are including other cash financing available to the fund as part of this question to capture instances in which a fund has access to capital that would not be considered borrowing, for example, where a private equity fund adviser agrees to provide a cash infusion to a fund it advises.

[221] Consistent with the requirements for hedge fund reporting on borrowing in Form PF, we have integrated the components of question 12 into this Question 68 that were not already included at proposal.

[222] *See, e.g.,* ICGN Comment Letter; PDI Comment Letter; and TIAA Comment Letter.

[223] *See, e.g.,* IAA Comment Letter; and NYC Bar Comment Letter.

[224] *See, e.g.,* Enhancing Transparency Around Subscription Lines of Credit, Institutional Limited Partners Association (June 2020), *available at https://ilpa.org/wp-content/uploads/2020/06/ILPA-Guidance-on-Disclosures-Related-to-Subscription-Lines-of-Credit_2020_FINAL.pdf.*

[225] We would redesignate Question 74 as Question 77.

[226] We would redesignate Question 75 as Question 78.

question that will enhance the Commission's and FSOC's ability to analyze exposure data for purposes of assessing systemic risk.

Third, we are amending existing Question 78, which requires reporting on the geographical breakdown of investments by private equity funds, by moving away from reporting based on a static group of regions and countries and towards identifying a private equity fund's greatest country exposures based on a percent of net asset value.[227] These changes to existing Question 78 will improve the usefulness of data collected, as reporting is currently limited to exposure by region with additional reporting on a limited number of countries of interest. For example, information obtained from this question could provide insight into whether a critical mass of private equity funds have investments concentrated in a country that is experiencing significant political instability or a natural disaster, which could be important for systemic risk assessments. We have found the existing reporting approach lacks precision because the regions are not uniformly defined and although countries of interest change over time, the form is not dynamic in this regard. This amendment will require advisers to report all countries (by ISO country code[228]) to which a reporting fund has exposure of 10 percent or more of its net asset value. We believe this exposure threshold represents significant country exposure, while balancing the burden that the question would create for advisers. Advisers will have to follow Instruction 15 for purposes of calculating the information in the proposal, including reporting the exposure in U.S. dollars which will improve data comparability across funds. Advisers also will categorize investments based on concentrations of risk and economic exposure. We are also removing regional level reporting because we are now able to analyze regional exposure using the country level information.

Several commenters supported amending these questions to require more granular information, agreeing with the proposal that these amendments will improve the FSOC and Commission's assessment of systemic risk.[229] Commenters otherwise generally did not specifically address these proposed amendments. We continue to believe that we should amend these questions as proposed for the reasons set forth above.

Not Adopting Certain Proposed Large Private Equity Fund Adviser Questions. In response to commenters, we are not adopting the following proposed large private equity fund adviser questions at this time: (1) restructuring/recapitalization of a portfolio company;[230] (2) investments in different levels of a single portfolio company's capital structure by related funds;[231] (3) financing of portfolio companies;[232] (4) floating rate borrowings of controlled portfolio companies;[233] and (5) controlled portfolio companies owned by private equity funds.[234]

Some commenters supported adopting these proposed questions on the belief that they would be beneficial to the FSOC and Commission's assessment of systemic risk.[235] Of these, one commenter argued that some of these questions would be particularly helpful to understand systemic risk related to leverage and credit.[236] Another commenter stated that these questions will improve monitoring of where risks might be building up in the industry as a whole, in particular funds, at fund investors, and in the portfolio companies of private equity funds.[237] On the other hand, some commenters criticized these questions as being burdensome and unrelated to systemic risk.[238] Several commenters emphasized the additional difficulty that these questions pose due to the complexity and administrative expense inherent in collecting the necessary information at the portfolio-company-level.[239] A few commenters stated that a private equity fund may not have a controlling interest in all of its portfolio company investments and thus may not be able to collect the required information.[240] Several commenters also argued that the scope of some of these questions is too broad and that they would capture minor and/or ordinary course transactions.[241]

While we continue to believe that these questions would provide benefits to the FSOC's and Commission's assessment of systemic risk and the Commission's investor protection efforts for the reasons described above, we acknowledge the concerns raised by some commenters. For example, each of these questions is focused on collecting information at the portfolio company-level rather than the fund-level. As stated by commenters,[242] private equity funds may not have a controlling interest in any or all of their portfolio company investments. In such cases, a private equity fund may not be able to obtain or accurately report the portfolio company information that was proposed. Depending on size and strategy, many private equity funds also have ten or more portfolio company investments and some may have hundreds or more. As a result, as some commenters argued,[243] we recognize that the costs associated with collecting this information may be far higher than collecting information at the fund itself. Additionally, we understand that some of these questions may capture ordinary course transactions in certain instances. We believe that narrowing these questions in a productive and meaningful way will require further study and analysis.

We considered, but are not adopting, a modification of these questions, in each case, to only require reporting of *controlled* portfolio companies. However, this modification would reduce the value of this reporting because non-controlling investments in portfolio companies can still be substantial and have systemic consequences. Accordingly, we have decided to adopt the proposed questions that are at the fund-level, but not adopt these proposed questions that focus on a fund's portfolio investments at this time. We believe this approach strikes the right balance between collecting beneficial information and minimizing the burdens placed on private equity funds and their advisers.

E. Effective and Compliance Dates

In order to provide time for advisers to prepare to comply with the amendments, including reviewing the requirements, building the appropriate internal reporting and tracking systems, and collecting the required information,

[227] We would redesignate Question 78 as Question 67.

[228] This is similar to reporting on Form N–PORT and will improve the comparability of data between Form PF and Form N–PORT.

[229] *See* ICGN Comment Letter and PDI Comment Letter.

[230] Proposed as Question 70 in section 4.

[231] Proposed as Question 71 in section 4.

[232] Proposed as Question 74 in section 4.

[233] Proposed as Question 82 in section 4.

[234] Proposed as Question 67 in section 4.

[235] *See, e.g.,* ICGN Comment Letter; PDI Comment Letter; and AFREF Comment Letter.

[236] *See* PDI Comment Letter.

[237] *See* Better Markets Comment Letter.

[238] *See, e.g.,* IAA Comment Letter; RER Comment Letter; and SIFMA Comment Letter.

[239] *See, e.g.,* SIFMA Comment Letter; RER Comment Letter; and MFA Comment Letter.

[240] *See, e.g.,* SIFMA Comment Letter and REBNY Comment Letter. The SIFMA Comment Letter also stated that the existence of minority investors in a single portfolio company may result in duplicative reporting for certain of these proposed questions.

[241] *See, e.g.,* TIAA Comment Letter; SIFMA Comment Letter; and MFA Comment Letter.

[242] *See, e.g.,* SIFMA Comment Letter and REBNY Comment Letter.

[243] *See, e.g.,* SIFMA Comment Letter; RER Comment Letter; and MFA Comment Letter.

as well as to simplify the compliance process, the effective dates for the amendments are the same as the compliance dates. A commenter noted that different compliance dates for these amendments as well as those proposed in the 2022 Form PF Joint Proposing Release may lead to inconsistent reporting as well as additional compliance burdens.[244] We acknowledge that having separate effective and compliance dates could cause reporting that is inconsistent since we are amending certain existing questions in Form PF. If a period exists during which some advisers may be completing the old version of these questions and other advisers are completing the amended versions, they may be providing different types of information. For example, private equity fund advisers might provide different categories of information with respect to geographical breakdowns of investments due to the amendments to Question 67 during this interim period. This information could be difficult to compare and thus would limit its value for the FSOC and our assessment of systemic risk.

We are, however, adopting two separate effective/compliance dates. For new sections 5 and 6, the effective/compliance date is December 11, 2023, which is six months after the date of publication of the rules; and for the amended, existing sections, the effective/compliance date is June 11, 2024, which is one year from the date of publication of the rules. We are requiring an earlier effective/compliance date for the new Form PF sections 5 and 6, because it requires reporting based on distinct event triggers, and it is important that the Commission and FSOC begin receiving this information as soon as practicable to improve their assessment of systemic risk. Similarly, we are adopting these changes to the Commission's sections of Form PF separately and before any changes proposed in the 2022 Form PF Joint Proposing Release because it is important that the Commission and FSOC begin receiving this information, especially hedge fund current reporting and private equity event reporting, on a more expedited basis to improve the assessment of systemic risk and investor protection. We are adopting a later effective/compliance date for the amended, existing sections to provide advisers with additional time to review the amendments, build the appropriate internal reporting and tracking systems, and collect the required information.

One commenter requested a compliance period of at least 18 months after the effective date for all amendments to Form PF.[245] We are providing a six-month period before the simultaneous compliance/effective date for the new current and quarterly reporting in sections 5 and 6, as indicated above, because this information is imperative to FSOC and our assessment of systemic risk as well as the Commission's investor protection mission. After reviewing comments, we believe it is necessary that the Commission and FSOC begin receiving these current and quarterly reports in a shorter six-month time frame to promptly improve their assessment of systemic risk. Additionally, while we recognize that preparing to complete the amended, existing sections will require additional time, we believe that providing a one-year period to do so is sufficient given the modifications of this rule from the proposal. Accordingly, beginning six months after the date of this rule's publication in the **Federal Register**, any adviser that is required to file sections 5 or 6 of Form PF must do so. Starting one year after the date of publication of the rule in the **Federal Register**, any adviser that is required to file Form PF must complete the fully amended form.

The amendments we adopt relate to different sections of Form PF than those proposed in the 2022 Form PF Joint Proposing Release and, because they are separate, we believe that the compliance periods are appropriate. If the Commission adopts amendments proposed in the 2022 Form PF Joint Proposing Release, the Commission may address any potential issues or concerns with the compliance date at that time.

III. Other Matters

Pursuant to the Congressional Review Act, the Office of Information and Regulatory Affairs has designated these rules as not a ''major rule'' as defined by 5 U.S.C. 804(2).

The requirements for reporting by hedge funds, including the amendments adopted here, function independently from those governing reporting by private equity funds. As explained above, each set of amendments addresses particular concerns of the Commission focused on the context in which they function, and provide benefits in furtherance of the Commission's mission of investor protection and systemic risk monitoring by FSOC. If any of the provisions of these rules, or the application thereof to any person or circumstance, is held to be invalid, such invalidity shall not affect other provisions or application of such provisions to other persons or circumstances that can be given effect without the invalid provision or application.

IV. Economic Analysis

A. Introduction

The Commission is mindful of the economic effects, including the costs and benefits, of the final amendments. Section 202(c) of the Advisers Act provides that when the Commission is engaging in rulemaking under the Advisers Act and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission shall also consider whether the action will promote efficiency, competition, and capital formation, in addition to the protection of investors.[246] The analysis below addresses the likely economic effects of the final amendments, including the anticipated and estimated benefits and costs of the amendments and their likely effects on efficiency, competition, and capital formation. The Commission also discusses the potential economic effects of certain alternatives to the approaches taken in these final amendments.

Many of the benefits and costs discussed below are difficult to quantify. For example, the Commission cannot quantify how regulators may adjust their policies and oversight of the private fund industry in response to the additional data collected under the final amendments. Also, in some cases, data needed to quantify these economic effects are not currently available and the Commission does not have information or data that would allow such quantification. For example, costs associated with the final amendments may depend on existing systems and levels of technological expertise within the private fund advisers, which could differ across reporting persons. While the Commission has attempted to quantify economic effects where possible, much of the discussion of economic effects is qualitative in nature. The Commission has sought comment on all aspects of the economic analysis, especially any data or information that would enable a quantification of economic effects, and the analysis below takes into consideration relevant comments received.

[244] *See* MFA Comment Letter (Mar. 16, 2023).

[245] *See* IAA Comment Letter.

[246] 15 U.S.C. 80b–2(c).

B. Economic Baseline and Affected Parties

1. Economic Baseline

The Commission adopted Form PF in 2011, with additional amendments made to section 3 along with certain money market reforms in 2014.[247] Form PF complements the basic information about private fund advisers and funds reported on Form ADV.[248] Unlike Form ADV, Form PF is not an investor-facing disclosure form. Information that private fund advisers report on Form PF is provided to regulators on a confidential basis and is nonpublic.[249] The purpose of Form PF is to provide the Commission and FSOC with data that regulators can deploy in their regulatory and oversight programs directed at assessing and managing systemic risk and protecting investors both in the private fund industry and in the U.S. financial markets more broadly.[250]

Private funds and their advisers play an important role in both private and public capital markets. These funds, including hedge funds and private equity, currently have more than $17.0 trillion in gross private fund assets.[251] Private funds invest in large and small businesses and use strategies that range from long-term investments in equity securities to frequent trading and investments in complex instruments. Their investors include individuals, institutions, governmental and private pension funds, and non-profit organizations.

Before Form PF was adopted, the Commission and other regulators had limited visibility into the economic activity of private funds and their advisers, and relied largely on private vendor databases about private funds that covered only voluntarily provided private fund data and are not representative of the total population.[252] Form PF represented an improvement in available data about private funds and their advisers, both in terms of its reliability and completeness.[253] Generally, investment advisers registered (or required to be registered) with the Commission with at least $150 million in private fund assets under management must file Form PF.[254] Smaller private fund advisers and all private equity fund advisers file annually to report general information such as the types of private funds advised (*e.g.,* hedge funds or private equity funds), fund size, use of borrowings and derivatives, strategy, and types of investors.[255] Large private equity fund advisers also provide data about each private equity fund they manage. Large hedge fund advisers also provide data about each reporting fund they manage, and are required to file quarterly.[256]

The Commission and FSOC now have almost a decade of experience with analyzing the data collected on Form PF. The collected data has helped FSOC establish a baseline picture of the private fund industry for the use in assessing systemic risk [257] and improved the Commission's oversight of private fund advisers.[258] Form PF data also has enhanced the Commission and FSOC's ability to frame regulatory policies regarding the private fund industry, its advisers, and the markets in which they participate, as well as more effectively evaluate the outcomes of regulatory policies and programs directed at this sector, including the management of systemic risk and the protection of investors.[259] Additionally, based on the data collected through Form PF filings, regulators have been able to regularly inform the public about ongoing industry statistics and trends by generating quarterly Private Fund Statistics reports [260] and by making publicly available certain results of staff research regarding the characteristics, activities, and risks of private funds and their advisers.[261]

However, this decade of experience with analyzing Form PF data has also highlighted certain limitations of information collected on Form PF, including information gaps and situations where additional and timelier information would improve the Commission and FSOC's understanding of the private fund industry and the potential systemic risk relating to its activities, and improve regulators' ability to protect investors.[262] The need for additional and timelier information collected on Form PF is further

[247] *See supra* footnote 3.

[248] Investment advisers to private funds report on Form ADV general information about private funds that they advise. This includes basic organizational, operational information, and information about the fund's key service providers. Information on Form ADV is available to the public through the Investment Adviser Public Disclosure System, which allows the public to access the most recent Form ADV filing made by an investment adviser. *See, e.g.,* Form ADV, *Investor.gov, available at https://www.investor.gov/introduction-investing/investing-basics/glossary/form-adv; see also* SEC, *Investment Adviser Public Disclosure, available at https://adviserinfo.sec.gov/.* Some private fund advisers that are required to report on Form ADV are not required to file Form PF (for example, exempt reporting advisers and advisers with less than $150 million in private fund assets under management). Other advisers are required to file Form PF and are not required to file Form ADV (for example, commodity pools that are not private funds). Based on the staff review of Form ADV filings and the Private Fund Statistics, less than 10% of funds reported on Form ADV but not on Form PF in 2022. *See infra* footnote 284.

[249] Commission staff publish quarterly reports of aggregated and anonymized data regarding private funds on the Commission's website. *See* Division of Investment Management, *Private Fund Statistics, available at https://www.sec.gov/divisions/investment/private-funds-statistics.shtml; see also supra* footnote 4.

[250] *See supra* section I.

[251] These estimates are based on staff review of data from the Private Fund Statistics report for the first quarter of 2022, issued in Jan. 2023. Private fund advisers who file Form PF currently have $20.1 trillion in gross assets. *See* Division of Investment Management, *Private Fund Statistics* (Jan. 3, 2023), *available at https://www.sec.gov/divisions/investment/private-funds-statistics.shtml.* As discussed above, not all private fund advisers are required to file Form PF. *See supra* footnote 248.

[252] *See, e.g.,* SEC, 2020 Annual Staff Report Relating to the Use of Form PF Data (Nov. 2020), *available at https://www.sec.gov/files/2020-pf-report-congress.pdf.*

[253] *Id.*

[254] Registered investment advisers with less than $150 million in private funds assets under management, exempt reporting advisers, and state-registered advisers report general private fund data on Form ADV, but do not file Form PF. *See supra* footnote 248.

[255] *Id.*

[256] *See supra* footnotes 13, 254.

[257] *See, e.g.,* Office of Financial Research (OFR), 2021 Annual Report to Congress (Nov. 2021), *available at https://www.financialresearch.gov/annual-reports/files/OFR-Annual-Report-2021.pdf;* and Financial Stability Oversight Council (FSOC), 2020 Annual Report (2020), *available at https://home.treasury.gov/system/files/261/FSOC2020AnnualReport.pdf.*

[258] *See supra* footnote 252.

[259] *See supra* footnotes 257, 258.

[260] *See supra* footnotes 4, 249.

[261] *See, e.g.,* David C. Johnson & Francis A. Martinez, *Form PF Insights on Private Equity Funds and Their Portfolio Companies,* Off. Fin. Res. Brief Series 18–01 (June 14, 2018), *available at https://www.financialresearch.gov/briefs/2018/06/14/form-pf-insights-on-private-equity-funds/;* Daniel Hiltgen, Private Liquidity Funds: Characteristics and Risk Indicators, DERA White Paper (Jan. 27, 2017) (''Hiltgen Paper''), *available at https://www.sec.gov/files/2017-03/Liquidity%20Fund%20Study.pdf; George O. Aragon, Tolga Ergun, Mila Getmansky & Giulio Girardi, Hedge Funds: Portfolio, Investor, and Financing Liquidity,* DERA White Paper (May 17, 2017), *available at https://www.sec.gov/files/dera_hf-liquidity.pdf;* George O. Aragon, A. Tolga Ergun & Giulio Girardi, Hedge Fund Liquidity Management: Insights for Fund Performance and Systemic Risk Oversight, DERA White Paper (Mar. 23, 2022), *available at https://ssrn.com/abstract=3734596* (retrieved from Elsevier SSRN database); Mathias S. Kruttli, Phillip J. Monin & Sumudu W. Watugala, *The Life of the Counterparty: Shock Propagation in Hedge Fund-Prime Broker Credit Networks,* 146 J. Fin. Econ. 965 (2022) (''Kruttli, Monin & Watugala''); Mathias S. Kruttli, Phillip J. Monin, Lubomir Petrasek & Sumudu W. Watugala, *Hedge Fund Treasury Trading and Funding Fragility: Evidence from the COVID–19 Crisis,* Fed. Res. Bd., Fin. & Econ. Discussion Series 2021–038 (Apr. 2021), *available at https://www.federalreserve.gov/econres/feds/hedge-fund-treasury-trading-and-funding-fragility-evidence-from-the-covid-19-crisis.htm;* Mathias S. Kruttli, Phillip J. Monin & Sumudu W. Watugala, *Investor Concentration, Flows, and Cash Holdings: Evidence from Hedge Funds,* Fed. Res. Bd., Fin. & Econ. Discussion Series 2017–121 (Dec. 15, 2017), *available at https://doi.org/10.17016/FEDS.2017.121.*

[262] *See supra* section I.

heightened by the increasing significance of private fund advisers to financial markets and to the broader economy, and resulting regulatory concerns regarding potential risks to U.S. financial stability from this sector.[263]

2. Affected Parties

The final rule amends and introduces new reporting requirements for the advisers to hedge funds [264] and private equity funds.[265]

Hedge funds are one of the largest categories of private funds,[266] and as such play an important role in the U.S. financial system due to their ability to mobilize large pools of capital, take economically important positions in a market, and their extensive use of leverage, derivatives, complex structured products, and short selling.[267] While these features may enable hedge funds to generate higher returns as compared to other investment alternatives, the same features may also create spillover effects in the event of losses (whether caused by their investment and derivatives positions or use of leverage or both) that could lead to significant stress or failure not just at the affected fund but also across financial markets.[268]

In the second quarter of 2022, there were 9,733 hedge funds reported on Form PF, managed by 1,857 advisers. Hedge fund advisers that are required to file Form PF had investment discretion over approximately $9.4 trillion in gross assets under management, which represented almost half of the reported assets in the private fund industry.[269] Currently, hedge fund advisers with between $150 million and $2 billion in regulatory assets (that do not qualify as large hedge fund advisers) file Form PF annually, in which they provide general information about funds they advise such as the types of private funds advised, fund size, their use of borrowings and derivatives, strategy, and types of investors. Large hedge fund advisers with at least $1.5 billion in regulatory assets under management attributable to hedge funds file Form PF quarterly, in which they provide data about each hedge fund they managed during the reporting period (irrespective of the size of the fund). Large hedge fund advisers must report more information on Form PF about qualifying hedge funds [270] than other hedge funds they manage during the reporting period. In the second quarter of 2022, there were 2,059 qualifying hedge funds reported on Form PF, managed by 598 advisers. These advisers had $7.9 trillion in gross assets under management, which represented approximately 84 percent of the reported hedge fund assets.[271]

Private equity funds are another large category of funds in the private fund industry. In the second quarter of 2022, there were 18,987 private equity funds reported on Form PF, managed by 1,635 advisers. Advisers to private equity funds had investment discretion over approximately one third of the reported gross assets in the private fund industry.[272] Many private equity funds focus on long-term returns by investing in a private, non-publicly traded company or business—the portfolio company—and engage actively in the management and direction of that company or business in order to increase its value.[273] Investments in private equity funds are often more illiquid with more limited redemption rights as a result.[274] Other private equity funds may specialize in making minority investments in fast-growing companies or startups.[275]

While all fund advisers are subject to fiduciary duties to their clients, private equity funds' long-term investment horizons and various relationships with affiliates and portfolio companies mean that there exist opportunities for fund advisers to pursue transactions or investments despite conflicts of interest and also to extract private benefits at the expense of the funds they manage and, by extension, the limited partners invested in the funds.[276] The Commission has brought several enforcement actions against private equity fund advisers that allegedly received undisclosed fees and expenses,[277] impermissibly shifted and misallocated expenses,[278] or failed to disclose conflicts of interests adequately.[279] In addition, private equity funds' increasingly extensive use of leverage for financing portfolio companies and a significant increase in

[263] The private fund industry has experienced significant growth in size and changes in terms of business practices, complexity of fund structures, and investment strategies and exposures in the past decade. *See supra* footnote 4.

[264] Form PF defines ''hedge fund'' broadly to include any private fund (other than a securitized asset fund) that has any of the following three characteristics: (1) a performance fee or allocation that takes into account unrealized gains, or (2) a high leverage (*i.e.,* the ability to borrow more than half of its net asset value (including committed capital) or have gross notational exposure in excess of twice its net asset value (including committed capital)), or (3) the ability to short sell securities or enter into similar transactions (other than for the purpose of hedging currency exposure or managing duration). Any non-exempt commodity pools about which an investment adviser is reporting or required to report are automatically categorized as hedge funds. Excluded from the ''hedge fund'' definition in Form PF are vehicles established for the purpose of issuing asset backed securities (''securitized asset funds''). *See* Form PF Glossary.

[265] Form PF defines ''private equity fund'' broadly to include any private fund that is not a hedge fund, liquidity fund, real estate fund, securitized asset fund or venture capital fund and does not provide investors with redemption rights in the ordinary course. Private funds that have the ability to borrow or short securities have to file as a hedge fund. *See* Form PF Glossary.

[266] *See supra* footnote 251.

[267] *See, e.g.,* Lloyd Dixon, Noreen Clancy & Krishna B. Kumar, *Hedge Fund and Systemic Risk,* RAND Corporation (2012); John Kambhu, Til Schuermann & Kevin Stiroh, *Hedge Funds, Financial Intermediation, and Systemic Risk,* Fed. Res. Bank of N.Y. Staff Rpt. No. 291, July's Econ. Policy Rev. (2007).

[268] *See supra* footnotes 257, 263; *see also infra* section IV.C.1.a.

[269] *See supra* footnote 251. In the second quarter of 2022, hedge fund assets accounted for 47% of the gross asset value (''GAV'') ($9.4/$20.1 trillion) and 35% of the net asset value (''NAV'') ($4.9/$13.9 trillion) of all private funds reported on Form PF.

[270] *See supra* footnote 13.

[271] *See supra* footnote 251. In the second quarter of 2022, qualifying hedge fund assets accounted for 84% of the GAV ($7.9/$9.4 trillion) and 80% of the NAV ($3.9/$4.9 trillion) of all hedge funds reported on Form PF.

[272] *See supra* footnote 251. In the first quarter of 2022, private equity assets accounted for 32% of the GAV ($6.4/$20.1 trillion) and 41% of the NAV ($5.7/$13.9 trillion) of all private funds reported on Form PF.

[273] After purchasing controlling interests in portfolio companies, private equity fund advisers frequently get involved in managing those companies by serving on the company's board; selecting and monitoring the management team; acting as sounding boards for CEOs; and sometimes stepping into management roles themselves. *See, e.g., Private Equity Funds, Investor.gov, available at https://www.investor.gov/introduction-investing/investing-basics/investment-products/private-investment-funds/private-equity.*

[274] *Id.*

[275] *Id.*

[276] Private equity fund advisers may be managing multiple private equity funds and portfolio companies. The funds typically pay the private equity fund adviser for advisory services. Additionally, the portfolio companies may also pay the private equity fund adviser for services such as managing and monitoring the portfolio company. Affiliates of the private equity fund adviser may also play a role as service providers to the funds or the portfolio companies. *See, e.g.,* SEC, Office of Compliance Inspections and Examinations, Risk Alert, *Observations from Examinations of Investment Advisers Managing Private Funds* (June 23, 2020), *available at https://www.sec.gov/files/Private%20Fund%20Risk%20Alert_0.pdf;* Andrew Ceresney, Director, SEC Division of Enforcement, Securities Enforcement Forum West 2016 Keynote Address: Private Equity Enforcement Securities and Exchange Commission (May 12, 2016) (''Ceresney Keynote''), *available at https://www.sec.gov/news/speech/private-equity-enforcement.html.*

[277] *See, e.g.,* In the Matter of Blackstone Management Partners, L.L.C., et. al., Advisers Act Release No. 4219 (Oct. 7, 2015) (settled action).

[278] *See, e.g.,* In the Matter of Cherokee Investment Partners, LLC and Cherokee Advisers, LLC, Advisers Act Release No. 4258 (Nov. 5, 2015) (settled action); In the Matter of Lincolnshire Management, Inc., Advisers Act Release No. 3927 (Sept. 22, 2014) (settled action).

[279] *See, e.g.,* In the Matter of Mitchell J. Friedman, Advisers Act Release No. 5338 (Sept. 4, 2019) (settled action).

the use of private credit strategies both raise systemic risk concerns.[280]

Currently, all private equity fund advisers registered with the Commission who are required to file Form PF must do so annually. Private equity fund advisers with between $150 million and $2 billion in regulatory assets under management attributable to private equity funds must provide general information while large private equity fund advisers with at least $2 billion in regulatory assets under management must report more detailed data about the private equity funds they manage (section 4 of Form PF).[281] In the second quarter of 2022, there were 18,987 private equity funds reported on Form PF, managed by 1,635 advisers, with $6.4 trillion in gross assets under management.[282] Of those, 6,644 funds were private equity funds managed by 435 large private equity fund advisers with discretion over nearly $4.9 trillion in gross assets, representing 77 percent of the reported private equity assets.[283] However, because not all private equity fund advisers file Form PF, section 4 private equity fund advisers represent less than 77 percent of total private equity fund regulatory assets. Currently, the $2 billion reporting threshold captures 73 percent of the entire private equity industry.[284]

Private funds are typically limited to accredited investors and qualified clients such as pension funds, insurance companies, foundations and endowments, and high income and net worth individuals.[285] Retail U.S. investors with exposure to private funds are typically invested in private funds indirectly through public and private pension plans and other institutional investors.[286] In the second quarter of 2022, public pension plans had $1,871 billion invested in reporting private funds while private pension plans had $1,341 billion invested in reporting private funds, making up 13.5 percent and 9.7 percent of the overall beneficial ownership in the private equity industry, respectively.[287] Private fund advisers have also sought to be included in individual investors' retirement plans, including their 401(k)s.[288]

C. Benefits and Costs

1. Benefits

The final amendments are designed to facilitate two primary goals the Commission sought to achieve with reporting on Form PF as articulated in the original adopting release, namely: (1) facilitating FSOC's understanding and monitoring of potential systemic risk relating to activities in the private fund industry and assisting FSOC in determining whether and how to deploy its regulatory tools with respect to nonbank financial companies; and (2) enhancing the Commission's ability to evaluate and develop regulatory policies and improving the efficiency and effectiveness of the Commission's efforts to protect investors and maintain fair, orderly and efficient markets.[289]

Specifically, the final amendments include amendments to section 4 of Form PF, which will enhance and provide more specificity regarding the information collected on large advisers of private equity funds, including new annual reporting for certain triggering events that were originally proposed as current reporting requirements for all private equity fund advisers. The final amendments also introduce new section 5 of Form PF, which will require advisers to qualifying hedge funds to provide current reporting to the Commission when their funds are facing certain events that may signal stress or potential future stress in financial markets or implicate investor protection concerns. In addition, the final amendments include improvements to definitions and existing questions aimed to reduce their ambiguity and improve data quality. Below we discuss benefits associated with the specific elements of the amendments.

a. Current Reporting Requirements for Large Hedge Fund Advisers to Qualifying Hedge Funds (Section 5 of Form PF)

The final amendments introduce new section 5 of Form PF requiring large hedge fund advisers to qualifying hedge funds (*i.e.,* hedge funds with a net asset value of at least $500 million) to file a current report with the Commission when their funds experience certain stress events: (1) extraordinary investment losses, (2) significant margin events and default events, (3) a prime broker relationship being terminated or materially restricted, (4) operations events, and (5) certain events associated with withdrawals and redemptions at the reporting hedge fund.[290] These events may serve as signals to the Commission and FSOC about significant stress at the reporting fund and potential risks to financial stability. Advisers will be required to file current reports within 72 hours of the occurrence of such an event.[291] Advisers will also be allowed to provide a narrative response if they believe that additional information would be helpful

[280] *See Moody's Warns of 'Systemic Risks' in Private Credit Industry,* Fin. Times (Oct. 26, 2021), *available at https://www.ft.com/content/862d0efb-09e5-4d92-b8aa-7856a59adb20.* One commenter argues that this Moody's report is ''more speculative than informative . . . Investors have significant transparency on how leverage might be employed by the investment manager as part of their due diligence process prior to investing. This will include any appropriate leverage limits, risk management systems, the source of financing as well as the collateral required. Leverage providers, typically banks but also some pension funds or insurers, will also undertake their own analysis before providing financing to private credit funds. Their risk appetite therefore plays a significant role in determining the availability of leverage for private credit funds.'' The commenter argues that ''[t]he actual observations of that report do not match the Commission's conclusion,'' based on a quote that ''vehicles balance [. . .] risks through portfolio diversity and stronger creditor protections in loan agreements than for institutional loans.'' AIMA/ACC Comment Letter. However, while we agree that it is important to distinguish leverage at the fund level and portfolio company leverage, we believe that the commenter's statements do not engage with key conclusions of the Moody's study, namely that ''private credit also heightens credit risks via reduced transparency, rising leverage and lender concentrations. Additionally, its rapid growth and the disintermediation of regulated financial institutions are sweeping a mounting tide of leverage into a less-regulated grey zone, with systemic implications. Risks that are rising beyond the spotlight of public investors and regulators may be difficult to quantify, even as they come to have broader economic consequences.'' Moody's Investors Service, *As Private Credit Continues to Grow, Risks are Getting Swept Into Grey Zone* (Oct. 25, 2021), *available at https://live.moodys.io/global-banking-series-america-edition/global-investment-banks-navigating-a-changing-world/as-private-credit-continues-to-grow-risks-are-getting-swept-into-grey-zone.* For additional discussion of leveraged lending and systemic risk, *see, e.g.,* Rod Dubitsky, *CLOs, Private Equity, Pensions, and Systemic Risk,* 26 J. Structured Fin. 8 (2020), *available at https://jsf.pm-research.com/content/26/1/8.*

[281] *See supra* footnote 13.

[282] *See supra* footnote 251.

[283] *Id.*

[284] Based on staff review of Form ADV filings, in 2022, the aggregate regulatory assets under management under the discretion of private equity fund advisers were $6.7 trillion. According to the Private Fund Statistics Report, this aggregate estimate includes approximately $6.4 trillion (95%) in gross assets under management by private equity fund advisers that file Form PF, $4.9 trillion of which were under the discretion of large private equity fund advisers. This represents 73% of the industry. *See supra* footnote 251.

[285] *See supra* footnote 273; *see also Hedge Funds, Investor.gov, available at https://www.investor.gov/introduction-investing/investing-basics/investment-products/private-investment-funds/hedge-funds.*

[286] *See supra* footnotes 251, 285.

[287] *Id.*

[288] *See, e.g.,* Dep't of Labor, Information Letter (June 3, 2020), *available at https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/information-letters/06-03-2020.*

[289] *See supra* footnote 3.

[290] *See supra* section II.A.1. In a departure from the proposal, we are not adopting a requirement that an adviser report a significant decline in holdings of unencumbered cash.

[291] This is a departure from the proposal, which required advisers to file a current report within one business day of the occurrence of such an event. As discussed above, advisers should consider filing a current report as soon as possible following such an event. *See supra* section II.A.1.

in understanding the information reported in the current report(s).[292]

The reporting of these stress events is designed to assist the Commission and FSOC in assessing potential risks to financial stability that hedge funds' activities could pose due to the complexity of their strategies, their interconnectedness in the financial system, and the limited regulations governing them.[293] There are two main channels through which stress events at an individual hedge fund may pose risks to broader financial stability: forced liquidation of assets, which could depress asset prices, and spillover of stress to the fund's counterparties, which could negatively impact other activities of the counterparties.

First, when a large hedge fund experiences significant losses, a margin default, or faces large redemptions, it may be forced to deleverage and liquidate its positions at substantially depressed prices. Forced liquidation of assets by the hedge fund at depressed prices may affect other investors and financial institutions holding the same or similar assets.[294] Consequently, more investors and financial institutions may then face increased stress from margin calls and creditor concerns. This could lead to more sales at depressed prices, potentially causing stress across the entire financial system. Second, large hedge funds that use leverage through loans, derivatives, or reverse repurchase agreements with other financial institutions as counterparties may cause significant problems at those financial institutions in times of stress.[295] This in turn may force those institutions to scale back their lending efforts and other investment and financing activities with other counterparties, thereby potentially creating stress for other market participants.[296]

As a result, a stress event at one large hedge fund may potentially spill over to the fund's lenders, counterparties, and across the entire financial system, carrying with it significant economic costs and the loss of confidence of investors. We believe that a timely notice about stress events could provide an early warning of the fund's assets liquidation and risk to counterparties. Such a timely notice could allow the Commission and FSOC to assess the need for a regulatory policy response, if any, and could allow the Commission to pursue potential outreach, examinations, or investigations, in response to any harm to investors or potential risks to financial stability on an expedited basis before those harms or risks worsen.

In addition, current reporting of stress events at multiple qualifying hedge funds may indicate broader market instability with potential risks for similarly situated funds, or markets in which these funds invest. Current reports will allow the Commission and FSOC to assess the prevalence of the reported stress events based on the number of funds filing in a short time frame, and identify patterns among similarly situated funds and common factors that contributed to the reported stress events. In that regard, current reports will be especially useful during periods of market volatility and stress, when the Commission and FSOC are actively and quickly ascertaining the affected funds, gathering information to assess systemic risk, and determining whether and how to pursue regulatory responses, if any, and when the Commission is actively determining whether and how to pursue outreach, examinations, or investigations. We anticipate that the current reporting requirement will improve the transparency to the Commission and FSOC of hedge fund activities and risk exposures, which will enhance systemic risk assessment and investor protection efforts.

We believe that those efforts will be beneficial for hedge fund advisers, hedge funds, and hedge fund investors, as well as for other market participants, as the new and timely information about stress events at hedge funds will help the Commission and FSOC to assess emerging risk events proactively, and will help the Commission further evaluate the need for outreach, examinations, or investigations, in order to minimize market disruptions. In turn, this could help develop robust resolution mechanisms for dealing with the stress at systemically important hedge funds, which could lead to more resilient financial markets and instill stronger investor confidence in the U.S. hedge fund industry and financial markets more broadly.[297] The Commission may also use this information to further advance investor protection efforts.

We also anticipate that the current reporting requirements might incentivize some hedge fund managers to enhance internal risk controls and reporting, which could support more effective risk management for these funds.[298] However, some investment advisers commented that they did not believe that a current reporting regime would provide any incentive for enhanced internal controls.[299] We disagree with the assertion that there will be no additional incentives to enhance internal risk controls. We believe that at the margin there may be such enhanced incentives. To the extent these enhanced internal risk controls and reporting improve managers' ability to monitor and respond to potential stress events, we believe this could provide market-wide benefits to funds, their investors, and financial markets more broadly.

Additionally, other commenters stated that under the current reporting regime, investors may demand additional reporting themselves, knowing that reporting systems are being developed for Commission and

[292] *See supra* section II.A.8.

[293] *See supra* sections II.A., II.A.1.

[294] For example, because financial institutions base asset valuations in part on recent transaction prices for comparable assets, when assets are sold at depressed prices, forced liquidations at depressed prices could lead to lower valuations for entire classes of similar assets. *See, e.g.,* Andrei Shleifer & Robert Vishny, *Fire Sales in Finance and Macroeconomics,* 25 J. Econ. Perspectives 29 (2011), *available at https://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.25.1.29; see also* Fernando Duarte & Thomas Eisenbach, *Fire-Sale Spillovers and Systemic Risk,* 76 J. Fin. 1251, 1251–1256 (2021), *available at https://onlinelibrary.wiley.com/doi/full/10.1111/jofi.13010;* Wulf A. Kaal & Timothy A. Krause, *Hedge Funds and Systemic Risk, in* Handbook on Hedge Funds (Oxford Univ. Press 2016).

[295] For example, a lender to a hedge fund may view its loans as increasingly high risk as the hedge fund's balance sheet deteriorates. *See, e.g.,* Mark Gertler & Nobuhiro Kiyotaki, *Chapter 11—Financial Intermediation and Credit Policy in Business Cycle Analysis,* in *Handbook of Monetary Economics* (2010), *available at https://eml.berkeley.edu/~webfac/obstfeld/kiyotaki.pdf.*

[296] For example, if a bank has a large exposure to a hedge fund that defaults or operates in markets where prices are falling rapidly, the bank's greater exposure to risk may reduce its ability or willingness to extend credit to worthy borrowers. To the extent that these bank-dependent borrowers cannot access alternative sources of funding, their investment and economic activity could be curtailed. *See, e.g.,* Reint Gropp, *How Important Are Hedge Funds in a Crisis?,* FRBSF Econ. Letter (Apr. 14, 2014), *available at https://www.frbsf.org/economic-research/files/el2014-11.pdf.* Even banks and financial institutions that are not directly harmed by the forced liquidation of assets by hedge funds may contribute to a system-wide lending contraction in response to hedge fund crises, to the extent they withdraw capital from lending to exploit distressed prices. *See, e.g.,* Jeremy Stein, Member of the Board of Governors of the Federal Reserve System, *Workshop on 'Fire Sales' as a Driver of Systemic Risk in Tri-Party Repo and Other Secured Funding Markets* (Oct. 4, 2013), *available at https://www.bis.org/review/r131007d.pdf.*

[297] *See, e.g.,* Jón Daníelsson, Ashley Taylor & Jean-Pierre Zigrand, *Highwaymen or Heroes: Should Hedge Funds Be Regulated? A Survey,* 1 J. Fin. Stability 522 (2005).

[298] For example, fund advisers may not internalize all of the benefits that enhanced risk reporting provides other fund advisers and investors to other fund advisers. Current reporting requirements may result in reporting practices that are more consistent with fund advisers considering the impact of their internal risk reporting on the broader market.

[299] *See, e.g.,* MFA Comment Letter.

FSOC reporting.[300] To the extent investors secure this additional reporting, those investors would benefit from enhanced information on potential risks associated with their investments.[301]

Furthermore, requiring hedge fund advisers to report stress events on Form PF will support regulatory efficiency because all eligible hedge fund advisers will be required to file information about certain stress events on a standardized form. Advisers will also be allowed to provide a narrative response if they believe that additional information would be helpful in understanding the information reported in the current report(s).[302] Having standardized information, plus additional potential narrative detail explaining additional context behind the standardized reporting, will provide a more complete record of significant stress events in the hedge fund industry that can be used by the Commission and FSOC to identify regulatory tools and mechanisms that could potentially be used to make future systemic crises episodes both less likely to occur as well as less costly and damaging when they do occur.[303] The observations from this research could help inform and frame regulatory responses to future market events and policymaking.

Some investment adviser groups raised three categories of concerns with respect to current reporting, which we will discuss in turn: First, some commenters broadly question whether current reporting can provide useful data indicative of systemic risk or market stress at all.[304] Second, as a closely related matter, one commenter questioned whether the Commission would be able to take relevant actions using the data from the current reporting regime in the event of systemic risk or market stress.[305] Lastly, some commenters questioned the Commission's analysis in the particular threshold choices of the trigger events in the current reporting regime.[306]

First, some commenters more broadly questioned the benefits of current reporting. For example, one commenter stated that ''there is no policy justification for the proposed amendments which would seek to impose unnecessary and disproportionate compliance and operational burdens on advisers.'' [307] Commenters also stated, broadly, that the events the Commission requests reporting on are not indicative of systemic risk and market disruption,[308] or that the data produced will have little utility in assessing actual systemic risks.[309] We disagree. As an initial matter, the above literature supports a view that extraordinary investment losses (or other systemic stress events) at one large hedge fund may potentially spill over to the fund's lenders, counterparties, and across the entire financial system. We believe the broader criticisms by commenters do not dispute these results. These commenters also do not dispute that the current reporting regime will facilitate outreach, examinations, or investigations.

Moreover, other commenters support the stated benefits. For example, one commenter stated that ''[t]he Financial Crisis Inquiry Commission in 2011 cited the lack of transparency into the non-bank sector numerous times as a major contributor to the financial crisis of 2008. To prevent additional financial instability stemming from a lack of visibility for regulators into hedge fund holdings, and to enable the FSOC and policy makers to consider appropriate policy responses, the Commission and FSOC both need to have this critical data.'' [310] Another commenter supported the current reporting disclosures, stating that they believed the systemic risk posed by private funds ought to be monitored.[311] As a final example, a third commenter specifically described the risks from extraordinary investment losses at a hedge fund as being able to impact markets, necessitating intervention to protect markets and investors, and stating broadly that the rest of the triggering events are similarly important.

Certain revisions to the final amendments are in response to comments that specific elements of the proposed current reporting triggers were redundant or likely to result in false positive reports that were not indicators of systemic stress, and thus preserve the benefits of the proposal while removing unnecessary costs as compared to the proposed current reporting triggers. For example, some commenters stated that parties may terminate prime broker relationships for ordinary business reasons that are not indicative of fund or counterparty stress, among other related concerns.[312] After considering comments, we are narrowing the prime broker reporting items to only apply when the prime broker terminates the agreement or materially restricts its relationship with the fund, in whole or in part, in markets where that prime broker continues to be active,[313] or when there is a termination of the relationship between the prime broker and the reporting fund if a ''termination event'' was activated in the prime brokerage agreement, or related agreements, in the last 12 months.[314] Similarly, with respect to changes in unencumbered cash, some commenters argued that the proposed current reporting trigger would capture routine cash movements in certain strategies resulting in some funds filing numerous reports over the course of a year.[315] We are persuaded by commenters and are not adopting this item after considering comments received.[316] Lastly, some commenters argued that the proposed extraordinary investment loss and margin increase reporting based on outdated NAV figures would yield unreliable current reports. For example, an extraordinary investment loss current report regime based on an outdated NAV figure would yield excessive reports during upward-trending markets, when current fund values greatly exceed last quarter's NAV and subsequent losses are therefore overly likely to exceed 20 percent of last quarter's NAV.[317] The final amendments instead require reporting based on the more timely RFACV measure.[318] We believe these changes

[300] *See, e.g.,* SIFMA Comment Letter; AIMA Comment Letter.

[301] These benefits would be partially offset by the additional costs to funds of this reporting, and those costs may be passed on to investors. *See infra* section IV.C.2.

[302] *See supra* section II.A.8.

[303] For instance, a more complete record would allow the staff to more accurately assess the prevalence of the reported stress events, identify patterns among affected funds, and detect factors that contributed to the reported stress events. The observations from this research could be used to identify causes for, and implications of, possible future similar stress events, or causes of, and implications for, investor harm, thus enabling the Commission and FSOC to better assess such future events.

[304] AIMA/ACC Comment Letter; MFA Comment Letter.

[305] AIMA/ACC Comment Letter.

[306] AIMA/ACC Comment Letter; MFA Comment Letter.

[307] AIMA/ACC Comment Letter.

[308] *Id.*

[309] MFA Comment Letter.

[310] AFREF Comment Letter; *see also supra* section II.A.

[311] Public Citizen 50 Comment Letter (''We support these additional disclosures. Because the scope of private funds is so large, the systemic risk they pose must be monitored with greater care. We specifically support the urgent reporting of losses. Losses of 20% or more may indicate stress at the fund or even the markets where the fund participates.''); *see also supra* section II.A.

[312] *See supra* section II.A.4.

[313] This instruction excludes termination events related to the financial state, activities or other characteristics solely of the prime broker. *See supra* section II.A.4.

[314] *See supra* section II.A.4.

[315] *See supra* section II.A.5.

[316] *See supra* section II.A.5.

[317] *See supra* section II.A.2.

[318] *See supra* sections II.A.2, II.A.3.

preserve the benefits of the final amendments while reducing the costs relative to the proposal.

Second, in addition to questioning whether the trigger events in the current reporting regime are useful as relevant indicators of systemic risk or market stress, one commenter questioned whether the Commission had demonstrated an ability to intervene to avoid a subsequent systemic event using current reporting data.[319] However, again, this commenter broadly does not dispute that the current reporting trigger events will facilitate outreach, examinations, or investigations. We have also discussed above the other potential responses that would be facilitated by the timely notices of a stress event under the current reporting regime, such as FSOC and the Commission analyzing the scale and scope of the event and identifying whether additional funds that may have similar investments, market positions, or financing profiles are at risk.[320] For example, as noted above, if one fund that was particularly concentrated in a deteriorating position or strategy reported an extraordinary loss or was terminated by their prime broker for reasons related to that position or strategy, Commission staff could potentially conduct outreach to fund counterparties or other similarly situated funds to assess whether any regulatory action could mitigate the potential for contagion or harm to investors.[321]

Third, some commenters argue that benefits of certain current reports will be mitigated where other triggering events have already provided pertinent information.[322] We agree that this may be true in certain cases. For example, for extraordinary losses that result from adverse movements against short positions, the reporting fund will, in general, be required to post additional margin or collateral. The benefits from the subsequent margin, collateral, or equivalent increase may be limited by the Commission having already received an extraordinary investment loss current report. However, we believe that the current reporting triggering events all offer unique benefits. For example, margin, collateral, or equivalent increases may result from increased volatility before defaults actually occur, providing early warning indicators of hedge fund stress or potential liquidation, much like extraordinary investment losses.

Lastly, commenters questioned the Commission's analysis in several of the particular parameter choices of the current reporting regime. We discuss these parameter choices each in turn.

First, some commenters questioned whether the extraordinary investment loss current report threshold should be set at 20 percent, or some higher threshold.[323] While the Commission requested comment on the choice of threshold,[324] no commenter offered data or analysis targeted at estimating a different threshold for extraordinary investment losses. Only one commenter suggested an alternative threshold of 50 percent, but did so with no data or analysis defending this alternative threshold as more optimal than a 20 percent threshold, besides the fact that it would generate fewer current reports.[325] Moreover, other commenters supported the extraordinary loss current reporting regime as proposed, with a 20 percent threshold.[326] As noted above, it is also our understanding that NAV decline triggers in risk control provisions of prime broker agreements or ISDA master agreements typically range from 10 percent to 25 percent declines over a 30 day period.[327] We are not aware of any data or literature that would suggest a flaw in a choice of a 20 percent threshold. We therefore continue to believe that the benefits stated above will be achieved with an extraordinary loss current reporting regime based on a 20 percent loss threshold.

Nevertheless, in further response to the comment file's concerns regarding the parameter choice for extraordinary investment losses, we are able to examine existing Form PF's monthly reports of gross and net performance. While there are no existing data on how often extraordinary investment loss current reports would be received under the final amendments to Form PF, we have examined the number of times a qualifying hedge fund's monthly gross and net performance, as reported on the existing Form PF, crossed thresholds of 10 percent through 35 percent from 2013–2021.[328] We believe that, in general, a hedge fund reporting a monthly loss of X percent in historical Form PF data indicates that, had a current reporting regime with a threshold of X percent for extraordinary investment losses been in place in the past, that hedge fund would have generated a current report in that month. Therefore, the frequency of hedge funds reporting monthly losses of different percentages in historical data represents a useful proxy for how often current reports are likely to be generated in the future.

Before analyzing the data, we evaluate two reasons why these data may differ from the rate that current reports will be generated. First, the reference statistics used for extraordinary investment loss current reporting do not require the deduction of all fees and expenses or the inclusion of income accruals. Therefore, the rate of reporting under the current reporting regime will likely be in the range of, but not necessarily equal to, the gross and net performance loss threshold crossing rates provided above. Second, while statistical models and literature vary in terms of whether they indicate 10-day hedge fund losses are likely to be greater or less than monthly losses, as a leading matter, standard deviations of many statistical processes increase with time horizon. We therefore believe that both the gross and net performance tables as presented below, which are based on monthly performances, likely overstate the rate at which hedge fund losses under the current reporting regime would be triggered by each of the above thresholds. This would indicate that a 20 percent threshold is conservatively high and is likely to reduce costs from false positive reports during periods where there is no market stress,

[319] AIMA/ACC Comment Letter.

[320] *See supra* sections II.A., II.A.2.

[321] *See supra* section II.A.

[322] *See, e.g.,* AIMA/ACC Comment Letter; MFA Comment Letter.

[323] *See supra* section II.A.2; *see also, e.g.,* AIMA/ACC Comment Letter (''[T]he Proposing Release does not elaborate on its 'experience' nor does it provide robust data or examples of hedge funds experiencing equal or greater losses than 20 percent of the fund's most NAV reported on Form PF that would justify inclusion of the quantitative threshold.''); MFA Comment Letter (''For reports required under section 5.B. (Extraordinary Investment Loss), raise the threshold of extraordinary losses to 50 percent. . . . A higher reporting threshold will reduce the 'noise' of a large number of reports that are based on temporary market events.'').

[324] 2022 Form PF Proposing Release, *supra* footnote 6, at 19, 116.

[325] MFA Comment Letter.

[326] *See supra* section II.A; *see also, e.g.,* Better Markets Comment Letter (''[A] 20 percent loss in value over such a short term would certainly rattle investors, spook markets, and necessitate an urgent and hard look by regulators into a variety of issues related to the fund to protect markets and investors.''); Public Citizen 50 Comment Letter (''Losses of 20 percent or more may indicate stress at the fund or even the markets where the fund participates.'').

[327] *See supra* section II.A.2; *see also, e.g.,* HFL Report, *supra* footnote 46.

[328] A qualifying hedge fund is defined in Form PF as ''any hedge fund that has a net asset value (individually or in combination with any feeder funds, parallel funds and/or dependent parallel managed accounts) of at least $500 million as of the last day of any month in the fiscal quarter immediately preceding your most recently completed fiscal quarter.'' Monthly gross and net performance results are reported in Section 1b, Item C, Question 17. *See supra* footnote 13.

potentially at the expense of generating fewer current reports during a systemic risk episode.

We first tabulate the number of private funds in Form PF with performance data. This is provided in Table 1. The third and fourth columns demonstrate that the majority of funds and advisers in all years report 12 months of performance data.

TABLE 1

Year	Number of funds	Number of advisers	Number of funds with 12 months of performance data	Number of advisers with 12 months of performance data
2013	1369	469	1041	402
2014	1515	514	1207	450
2015	1570	522	1241	458
2016	1572	509	1241	455
2017	1699	528	1345	474
2018	1718	538	1394	471
2019	1684	525	1388	472
2020	1722	526	1272	454
2021	1727	561	1430	509

We next examine two key features of Form PF monthly performance data: The number of threshold crossings during periods where there is no market stress, and the number of threshold crossings during periods of market stress. Tables 2 and 3 display the number of times a qualifying hedge fund's monthly gross and net performance, as reported on the existing Form PF, crossed thresholds of 10 percent through 35 percent separately in 2020 and then in the years 2013–2019 and 2021.

TABLE 2

Year(s)	Average number of instances per year of qualifying hedge fund monthly net performance losses greater than threshold					
	−10%	−15%	−20%	−25%	−30%	−35%
2013–2019, 2021	127	49	27	17	11	8
2020	885	443	229	135	90	63

TABLE 3

Year(s)	Average number of instances per year of qualifying hedge fund monthly gross performance losses greater than threshold					
	−10%	−15%	−20%	−25%	−30%	−35%
2013–2019, 2021	133	48	27	16	11	9
2020	902	446	230	132	91	63

Thresholds of 10 percent and 15 percent demonstrate substantially high rates of crossing of these thresholds in all years, including periods with no indicators of market stress. This indicates a high likelihood that extraordinary investment loss current reporting thresholds set at 10 percent or 15 percent would yield a large number of current report filings every month, regardless of market conditions. Thresholds of 30 percent and 35 percent demonstrate few crossings of these thresholds even in 2020, indicating a risk that extraordinary investment loss current reporting with a 30 percent (or higher) threshold would fail to generate a sufficiently broad sample that would allow FSOC and the Commission to analyze the scale and scope of any future systemic events and whether additional funds that may have similar investments, market positions, or financing profiles are at risk. This risk is exacerbated by the fact that Tables 3 and 4 are likely conservative estimates of the number of current reports that would be generated by each threshold choice.

While the thresholds of both 20 percent and 25 percent yield relatively few crossings of thresholds prior to 2020, and a large number of threshold crossings in 2020, we believe the additional current reports generated in 2020 using a period of 20 percent will lead to substantially improved systemic risk assessment. As noted above, one commenter suggested a threshold of 50 percent.[329] However, it is clear from Tables 2 and 3 that any threshold greater than 35 percent would substantially or completely erode the benefits of the current reporting system by producing negligible numbers of current reports even in a systemic crisis. To the extent that that these tables overstate the rate at which hedge fund losses under the current reporting regime would be triggered by each of the above thresholds, as noted above, we believe that a 20 percent threshold is conservatively high. To the extent we have selected a conservatively high threshold, the choice will reduce costs from false positive reports during periods where there is no market stress,

[329] *See* MFA Comment Letter.

potentially at the expense of reduced benefits if the current reporting regime generates fewer current reports during a systemic risk episode.

Similar concerns from commenters arose with respect to threshold choices for significant margin increases, default events, and withdrawals and redemptions.[330]

With respect to margin increases, as an initial matter, margin increases may be viewed as potential hedges by a counterparty against future possible losses of an investment portfolio. From that perspective, we believe that it is reasonable to use the same threshold for margin increases as for extraordinary investment losses. Moreover, as with extraordinary investment losses, while the Commission requested comment on the appropriateness of this threshold choice,[331] no commenter offered data or analysis targeted at estimating a different threshold, or indicated any data or literature that would suggest a flaw in our threshold choices.

In further response to commenter concerns, we have also re-evaluated the literature on margin increases. One recent estimate from the academic literature indicates that an increase in margin or collateral of 20 percent of the average daily RFACV over a 10-day period represents a substantially large increase in the actual level of margin/collateral.[332] Specifically, this estimate from the literature, based on a sample of large hedge fund advisers' qualifying hedge funds from Q4 2012 to Q1 2017, finds that the hedge funds in the sample had median collateral as a percentage of borrowings of 121 percent, median borrowings of $.443 billion, and a median NAV of $.997 billion. This indicates that a typical hedge fund in the sample has collateral as a percentage of NAV of approximately 54.1 percent.[333] For such a hedge fund, an increase in margin/collateral of 20 percent of RFACV represents an almost 40 percent increase in the level of margin/collateral posted.[334] We believe this represents a substantially large increase in the level of margin/collateral.

The distributions of fund borrowings and collateralization in the sample are right-skewed, and so the results for the largest hedge funds in the data differ from the results for the median hedge fund.[335] The 75th percentile fund NAV in the data is $2 billion, the 75th percentile of fund borrowings is $1.3 billion, and the 75th percentile for collateral as a percentage of borrowings is 183.8 percent.[336] Such a hedge fund has collateral as a percentage of NAV of approximately 119.47 percent. For such a hedge fund, an increase in margin/collateral of 20 percent of RFACV represents a 16.7 percent increase in the level of margin/collateral, compared to almost 40 percent for the median hedge fund. This indicates that the largest hedge funds may be required to file current reports for smaller increases in the level of their margin/collateral as compared to smaller hedge funds. However, for such a fund, an increase in margin/collateral of 20 percent of RFACV represents a $400 million increase in margin/collateral, and we believe such large increases in margin/collateral at the largest hedge funds are likely still to be indicative of potential systemic risk, especially if multiple such increases are reported to the Commission and FSOC.

Default events and withdrawals/redemptions also have associated parameter choices. Counterparty defaults must be reported that accounted for a greater portion of the fund's NAV than a 5 percent threshold, and withdrawals/redemptions must be reported when they exceed 50 percent of the most recent net asset value (after netting against subscriptions or other contributions from investors received and contractually committed).[337]

There are no data currently available that we are aware of, in Form PF or otherwise, that would provide an estimate as to how often counterparty default or withdrawal/redemption current reports are likely to be received. While the Commission requested comment on the appropriateness of these threshold choices,[338] no commenter offered data or analysis targeted at estimating a different threshold, or indicated any data or literature that would suggest a flaw in our threshold choices. However, as discussed above, we believe that the counterparty default threshold represents an often-used industry practice for measuring significant exposure at both the position level and the counterparty-exposure level. A default at this level could be a sign of issues at both the fund and counterparty making it well suited for systemic risk monitoring. Even if a five percent default is insignificant at a fund level, a high number of such reports can be significant systemically.[339] We also believe that withdrawals/redemptions exceeding 50 percent of a fund net asset value is well accepted as a substantial withdrawal that threatens a fund's health and potentially markets if it requires substantial portfolio sales.[340]

b. Quarterly Private Equity Event Reports for All Private Equity Advisers

In a change from the proposal, the final amendments will require section 6 of Form PF to be filed on a quarterly basis and will narrow the scope of events included in this reporting to only include (1) execution of an adviser-led secondary transaction, and (2) investor election to remove a fund's general partner or to terminate a fund's investment period or a fund.[341]

Although advisers to private equity funds have become an essential part of the U.S. financial system,[342] there is only partial and insufficient information about their funds' governance, strategies, performance, and volatility available to regulators. Moreover, because private equity funds' investments are mostly in private companies and businesses, there is limited information available on the performance of these investments, on the performance and volatility of private equity funds, and therefore on potential harms investors may face.[343] As a result, significant events at private equity funds that could have substantial

[330] *See supra* sections II.A.3, II.A.7.

[331] 2022 Form PF Proposing Release, *supra* footnote 6, at 27.

[332] Kruttli, Monin & Watugala, *supra* footnote 261.

[333] 1.21851*.443/.997 = .541.

[334] Kruttli, Monin & Watugala, *supra* footnote 261. While there is not reliable data on the average level of margin/collateral increases by bilateral intermediaries during the Covid–19 financial turmoil, we note that a 40% increase in the level of margin/collateral is consistent with how much central counterparties increased their initial margin requirements during this period. *See, e.g.,* Basel Committee on Banking Supervision, Committee on Payments and Market Infrastructures, Board of the International Organization of Securities Commissions, Consultative Report, Review of Margining Practices (Oct. 2021), *available at https://www.bis.org/bcbs/publ/d526.pdf.*

[335] Kruttli, Monin & Watugala, *supra* footnote 261.

[336] *Id.*

[337] *See supra* sections II.A.3, II.A.7.

[338] 2022 Form PF Proposing Release, *supra* footnote 6, at 29, 41.

[339] *See supra* section II.A.3.

[340] *Id.*

[341] The required reporting of these events was initially proposed as a current reporting requirement. *See supra* section II.B.

[342] *See supra* section IV.B.2.

[343] Even when the updated valuations of private equity portfolio companies are available, these valuations may appear relatively uninformative as they tend to respond slowly to market information and could be artificially smoothed. *See* Tim Jenkinson, Miguel Sousa & Rüdiger Stucke, *How Fair are the Valuations of Private Equity Funds?* (Feb. 2013) (unpublished manuscript), *available at https://www.psers.pa.gov/About/Investment/Documents/PPMAIRC%202018/27%20How%20Fair%20are%20the%20Valuations%20of%20Private%20Equity%20Funds.pdf;* Robert Harris, Tim Jenkinson & Steven Kaplan, *Private Equity Performance: What Do We Know?,* 69 J. Fin. 1851 (Mar. 27, 2014).

consequences for a fund's investors—namely a removal of a general partner, termination of a fund or its investment period, or the occurrence of an adviser-led secondary—may not be known to the Commission or FSOC early enough to enable any effective regulatory response, outreach, examinations, or investigation that could effectively further investor protection.

These new quarterly reporting requirements for private equity fund advisers will provide a timelier alert to the Commission on significant developments at the reporting funds that could potentially cause investor harm and loss of investor confidence. Such alerts will enable the Commission to assess in a reasonably prompt time-frame the severity of the reported events at the reporting private equity fund and, to the extent the reported event may cause significant investor harm and loss of investor confidence, these alerts will allow the Commission to frame potential regulatory responses.

The Commission could also use the information provided in these quarterly reports to target its examination program more efficiently and better identify areas in need of more timely regulatory oversight and assessment, which should increase both the efficiency and effectiveness of its programs and, thus, increase investor protection. For example, the removal of a fund's adviser or affiliate as general partner, termination of a fund's investment period, or termination of a fund could signal the liquidation of the fund earlier than anticipated, which could present risks to investors and potentially certain markets in which the fund assets were invested, as the entire investment strategy and planning of the fund can be disrupted.[344] We understand that, because the consequence of each of these actions could be damaging to a fund, investors would generally prefer to negotiate with a fund's adviser to avoid the adviser pursuing any of these actions.[345] Quarterly reports of these events from private equity fund advisers of any size may therefore reflect potential areas for Commission outreach, examinations, or investigations.

As another example, a report about an adviser-led secondary transaction may signal to the Commission a potential area for inquiry to prevent investor harm and protect investors' interests, as such transactions may present fund-level conflicts of interest, such as those that arise because the adviser (or its related person) is on both sides of the transaction in adviser-led secondary transactions with potentially different economic incentives.[346] Reporting about such events could alert the Commission to specific investor protection issues at the fund's adviser, including potential conflicts of interest, and therefore merit targeted oversight and assessment. Quarterly reporting about such events could alert the Commission to specific investor protection issues at the fund's adviser, including potential conflicts of interest that merit more timely targeted oversight and assessment.

These events may also signal to the Commission and FSOC the presence of significant changes in market trends and potential developing or growing risks to broader financial markets, as well as indicate potential areas for the Commission to pursue outreach, examinations, and investigations designed to prevent investor harm and protect investors' interests. Private equity fund investors will benefit, as the new and timely information about private equity funds and their advisers would help the Commission and FSOC to assess risks as they emerge and address them with appropriate regulatory responses, if any, thereby minimizing potential investor harms and market disruptions, as well as limiting potential damages and costs associated with them. Data on these events may also may help inform and frame any regulatory response to future market events and future policymaking.

Also, multiple reports about removals of general partners, terminations of a fund's investment period, or terminations of a fund itself may reflect rising market stress. In particular, these events may pose risks for private equity portfolio companies, who may face liquidity challenges from removal of the private equity fund's capital, for example if the adviser is no longer as willing to insert equity capital when needed once key GPs are removed.[347] Similarly, multiple reports about adviser-led secondary transactions such as a fund reorganization may serve as a warning to the Commission and FSOC about deteriorating market conditions that may prevent private equity managers from utilizing more traditional ways to exit their portfolio companies and realize gains.[348] These events also can represent risks for private equity portfolio companies, who may face liquidity risks from removal of a private equity fund's capital.

A number of commenters stated that private equity reporting of these events does not need to be done within one business day in order for the information to be actionable for the Commission and FSOC.[349] We agree with these commenters in part, for example that these reporting items as likely to reveal trends that emerge more slowly as compared to hedge funds because private equity funds typically invest in more illiquid assets over longer time horizons with more limited redemption rights,[350] and have revised the reporting requirement timeline to instead be quarterly, within 60 days of the end of the quarter.[351] However, because we believe that these events represent more timely risks of conflicts of interest between advisers and their investors, we do not agree that the investor protection benefits from these quarterly reporting events could be substantially achieved with an annual reporting requirement, unlike general partner and limited partner clawbacks, for which we are replacing the proposed current reporting requirements with annual reporting requirements.[352] As discussed below, general partner and limited partner clawbacks represent the realization of risk that develop over the life of a private equity fund, potentially over several years, and so do not represent sources of investor harm requiring more frequent reporting than annual.[353]

We similarly believe that, because removals of general partners, terminations of a fund or its investment period, and adviser-led secondaries represent potentially significant potential for conflicts of interest and other sources of investor harm, that

[344] *See supra* section II.B.

[345] *Id.*

[346] *Id.*

[347] *Id.*

[348] For example, private equity exits have been adversely affected by the global Covid–19 pandemic as the three traditional ways for private equity fund advisers to exit portfolio companies—trade sales, secondary buy-outs and initial public offerings (''IPOs'')—became unattainable or unattractive for some advisers. *See, e.g.,* Alastair Green, Ari Oxman & Laurens Seghers, *Preparing for Private-Equity Exits in the COVID–19 Era,* McKinsey & Co., Private Equity & Principal Investors Insights (June 11, 2020), *available at https://www.mckinsey.com/industries/private-equity-and-principal-investors/our-insights/preparing-for-private-equity-exits-in-the-covid-19-era.* Conversely, during the same period, there was an increase in the adviser-led secondary transactions. *See, e.g.,* Nicola Chapman, Martin Forbes, Colin Harley & Sherri Snelson, *Private Equity Turns to Fund Restructurings in COVID–19 Slowdown,* White & Case Debt Explorer (Feb. 8, 2021), *available at https://debtexplorer.whitecase.com/leveraged-finance-commentary/private-equity-turns-to-fund-restructurings-in-covid-19-slowdown*#!.

[349] *See, e.g.,* MFA Comment Letter; AIC Comment Letter; *see also supra* section II.B.

[350] *See supra* section IV.B.2.

[351] *See supra* section II.B. One commenter suggested quarterly reporting as an alternative for private equity current reports. *See* MFA Comment Letter.

[352] *Id., see also infra* section IV.C.1.c.

[353] *Id.*

limiting reporting to only large private equity advisers would substantially reduce the benefits of the required reporting. We believe that the investor protection benefits associated with these events require reporting from all private equity fund advisers.

Some advisers' comment letters asserted that these events in private equity funds do not reflect areas of systemic risk or investor harm.[354] However, other comment letters from investors agreed with our description of benefits in the proposing release and stated that reporting of these private equity events are relevant for systemic risk and investor protection.[355] Moreover, the comment letters disputing the relevance of private equity reporting benefits do not address the above facts demonstrating that the private equity industry can be a relevant source of investor harm or systemic risk. Commenters also did not dispute the increasing number of investors in private equity funds and the increasing exposure of public pension plans to private equity.[356] It is also the Commission's view that quarterly reporting of these events may provide insight into key events in the private equity industry and allow the Commission and FSOC to identify sources of investor harm and potential risks, as they emerge, in the private equity space that might otherwise be obscured.[357]

c. Reporting of General Partner or Limited Partner Clawbacks for Large Private Equity Fund Advisers

The final amendments introduce a new annual reporting event into section 4 of Form PF requiring all large advisers of private equity funds to file a report with the Commission on an annual basis disclosing whether an implementation of a general partner or limited partner clawback occurred at one or more funds that they manage.[358] An adviser would also be permitted to provide an optional narrative response if it believes that additional information is helpful in explaining the circumstances of its responses in section 4, including general partner or limited partner clawbacks.[359]

As discussed above,[360] although advisers to private equity funds have become an essential part of the U.S. financial system,[361] there is only partial and insufficient information about their funds' governance, strategies, performance, and volatility available to regulators.[362] As a result, general partner and limited partner clawbacks at private equity funds that could have substantial consequences for the fund's investors may not ever be known to the Commission or FSOC, preventing any possible regulatory response, outreach, examinations, or investigations that could further investor protection. The final rule will also enable the Commission and FSOC to identify trends in the use of clawbacks and any resulting potential systemic risk and investor protection concerns. The observations from this research could potentially inform and frame any regulatory response to future market events and policymaking related to use of clawbacks.

Reports of general partner or limited partner clawbacks may signal to the Commission and FSOC the presence of significant changes in market trends surrounding liquidity or credit conditions, and potential developing or growing risks to broader financial markets, as well as indicate potential areas for the Commission to pursue outreach, examinations, and investigations designed to prevent investor harm and protect investors' interests. For example, an implementation of a limited partner clawback may signal that the fund is planning for a material event such as substantial litigation or a legal judgment that could negatively impact the fund's investors and potentially other market participants. This information could also be used to target its examination program more efficiently and effectively and better identify areas in need of regulatory oversight and assessment, which should increase both the efficiency and effectiveness of its programs and, thus, increase investor protection.

In addition, reporting of clawbacks at multiple private equity funds may indicate broader market instability that negatively affects similarly situated funds, or markets in which these funds invest. For example, widespread implementation of general partner clawbacks among private equity funds may be a sign of an emerging market-wide stress episode, worsening of economic conditions contributing to the underperformance of the funds' portfolio companies, or deteriorating private equity credit environments. Because limited partner clawbacks may signal increasing rates of litigation or legal judgment, widespread increased rates of such clawbacks may also indicate stress in the market as evidenced by higher rates of legal judgments.[363]

These reports will therefore allow the Commission and FSOC to assess the prevalence of clawbacks and identify patterns among similarly situated funds and any common factors that contributed to the reported events. We anticipate that the improved transparency of private equity fund activities as a result of the final reporting requirements to the Commission and FSOC will enhance regulatory systemic risk assessment and investor protection efforts. Because an adviser will also be allowed to provide a narrative response if it believes that additional information would be helpful in understanding the information reported in new section 4 reporting questions on clawbacks,[364] the Commission's and FSOC's efforts will benefit from additional potential narrative detail explaining the context behind the reporting events.

A number of commenters stated that private equity reporting of these events does not need to be done within one business day in order to achieve these benefits.[365] Unlike the quarterly reporting requirements discussed above,[366] for general partner and limited partner clawbacks we agree that the principal benefits from reporting of these events accrue from revealing the frequency of these reporting events and an enhanced ability for the Commission to examine potential conflicts of interest across the private equity industry.[367] In particular, we believe that these events tend to build over the life of a private equity fund with a multi-year term.[368] In particular, the legal mechanics of general partner and limited partner clawbacks are negotiated early on in a fund's life, long before the inciting event occurs.[369] Then, an inciting event for a clawback actually occurs, typically, when the fund has had successful investments earlier in the life of the

[354] *See, e.g.,* AIMA/ACC Comment Letter; Schulte Comment Letter.

[355] *See, e.g.,* ILPA Comment Letter; ICGN Comment Letter; PESP Comment Letter.

[356] *See supra* sections II.B, IV.B.2.

[357] *Id.*

[358] The required reporting of these events was initially proposed as a current reporting requirement. *See supra* section II.D.

[359] *See supra* section II.D.

[360] *See supra* section IV.C.1.b.

[361] *See supra* section IV.B.2.

[362] *See supra* footnote 343 and accompanying text.

[363] *See supra* section II.D.1.

[364] *Id.*

[365] *See, e.g.,* MFA Comment Letter; AIC Comment Letter; *see also supra* section II.D.1.

[366] *See supra* section IV.C.1.b.

[367] *See supra* section II.D.1.

[368] *See supra* section II.B.2; *see also, e.g.,* RER Comment Letter; SIFMA Comment Letter; AIMA Comment Letter.

[369] *Id.*

fund, but the fund's later investments are less successful.[370] Thus, we believe that many of the benefits of private equity reporting of these events that we described in the proposing release will be maintained with annual reporting, and that annual reporting (rather than current reporting or quarterly reporting) will substantially mitigate the burden on private equity fund advisers, relative to the proposal.

We believe the benefits of the new annual reporting events will be substantially preserved, relative to the proposal to have these events be current reports. We believe that annual reporting of clawbacks will substantially preserve the benefits of the required reporting because it will still produce data on trends in these reporting events, and upwards trends may represent rising systemic stress at private equity funds and rising conflicts of interest within the private equity industry. Unlike the quarterly reporting events,[371] we believe that measurement of annual trends is sufficiently informative for the Commission's and FSOC's systemic risk assessment and investor protection efforts, as we believe general partner and limited partner clawbacks currently do not represent more immediate systemic risks or risks of investor harm. General partner and limited partner clawbacks represent the realization of risk that develop over the life of a private equity fund, potentially over several years, and so we believe that they do not represent sources of investor harm requiring more frequent reporting than annual.[372]

We have also limited the reporting requirements to large private equity fund advisers only. While the threshold for which private equity fund advisers must file section 4 of Form PF captures approximately 73 percent of assets held by private equity funds, preserving the majority of systemic risk assessment and investor protection benefits, the investor protection benefits will be reduced by the loss of reporting of these events for smaller private equity fund advisers.[373] However, the staff's understanding is that general partner and limited partner clawbacks are comparatively rare, and so we believe the losses of benefits from this reduction in reporting are likely to be small, while the reduction in burden will be comparatively larger from narrowing the scope to only large private equity advisers.[374]

Some advisers' comment letters asserted that these events in private equity funds do not represent areas of systemic risk or investor harm.[375] However, other comment letters from investors agreed with the benefits articulated in the proposing release, and stated that reporting of these private equity events are relevant for systemic risk monitoring and investor protection.[376] Moreover, as discussed above,[377] the comment letters disputing the relevance of private equity reporting benefits did not address the above facts motivating these private equity events as a relevant source of information on potential rising systemic risks over time. Commenters also do not dispute the increasing number of investors in private equity funds and the increasing exposure of public pension plans to private equity.[378] It is also the Commission's view that reporting of these events may thus provide insight into key trends in the private equity industry and potentially enable the Commission and FSOC to identify risks in the private equity space that might otherwise be obscured.[379]

d. Other Amendments To Reporting for Large Private Equity Fund Advisers

The final amendments to section 4 of Form PF include requirements for additional information that large private equity fund advisers must provide regarding their activities, risk exposures, and counterparties on an annual basis.[380] The final amendments will further improve the transparency of private equity fund activities and risks to the Commission and FSOC and help in developing a more complete picture of the markets where private equity funds operate. In turn, this will enhance the Commission's and FSOC's ability to assess potential systemic risks presented by private equity funds, as well as the potential for loss of investor confidence should conflicts of interest in private equity funds materialize. Specifically, new information about private equity funds will assist regulators in understanding the diversity of and trends in investment strategies employed by advisers to private equity funds,[381] as well as their fund-level borrowings.[382] The final amendments will also provide for more information regarding risks from default,[383] risks from counterparty exposures,[384] and risks from outside the U.S.[385] An adviser would also be permitted to provide an optional narrative response if it believes that additional information is helpful in explaining the circumstances of any of its responses in section 4.[386] This improved understanding will aid the Commission and FSOC in effectively and efficiently assessing new systemic risks and other potential sources of investor harm, as well as informing the Commission's and FSOC's broader views on the private equity landscape.

[370] *Id.*

[371] *See supra* section II.B.

[372] *See supra* section II.D.1.

[373] Moreover, this coverage has broadly trended upwards over time. For example, based on staff review of Form ADV filings and data from Private Fund Statistics reports, section 4 covered approximately 67% of private equity gross assets in 2020 and covers 73% of private equity gross assets today. *See* Division of Investment Management, *Private Fund Statistics* (Jan. 3, 2023), *available at https://www.sec.gov/divisions/investment/private-funds-statistics.shtml; see also supra* sections II.B., IV.B, footnotes 251, 284. Lastly, limiting the reporting to only large private equity fund advisers means that smaller private equity fund advisers will face no increased burdens under the final amendments.

[374] *See infra* sections IV.C.2, V.C.

[375] *See, e.g.,* AIMA/ACC Comment Letter; Schulte Comment Letter.

[376] *See, e.g.,* ILPA Comment Letter; ICGN Comment Letter; PESP Comment Letter.

[377] *See supra* section IV.C.1.b.

[378] *See supra* sections II.D.1, IV.B.2.

[379] *Id.*

[380] *See supra* section II.D.2.

[381] The final amendments introduce a new Question 66 that asks advisers to provide information about their private fund strategies by choosing from a mutually exclusive list of strategies, allocating the percent of capital deployed to each strategy, even if the categories do not precisely match the characterization of the reporting fund's strategies. If a reporting fund engages in multiple strategies, the adviser would provide a good faith estimate of the percentage the reporting fund's deployed capital represented by each strategy. We believe that analysis of trends from this question, and resulting systemic risk assessment, will also benefit from allowing advisers to choose from a drop-down menu that includes all investment strategy categories for Form PF. We believe this will increase the likelihood that advisers will be able to easily identify a selection that accurately reflects their fund's strategy. *See supra* section II.D.2. Along with this question, the final amendments will define ''general partner stakes investing'' in the glossary, providing specificity regarding the reporting of this term and improving data quality. *See supra* footnote 216 and accompanying text.

[382] The final amendments introduce a new Question 68 that requires advisers to report additional information on fund-level borrowing. *Id.*

[383] The final amendments amend existing Question 74 to require advisers to provide more information about the nature of reported events of default, such as whether it is a payment default of the private equity fund, a payment default of a CPC, or a default relating to a failure to uphold terms under the applicable borrowing agreement (other than a failure to make regularly scheduled payments). *Id.*

[384] The final amendments amend existing Question 75, which requires reporting on the identity of the institutions providing bridge financing to the adviser's CPCs and the amount of such financing, to add additional counterparty identifying information (*i.e.,* LEI (if any) and if the counterparty is affiliated with a major financial institution, the name of the financial institution). *Id.*

[385] The final amendments amend existing Question 78, which asks advisers to report the geographical breakdown of investments by private equity funds. The new requirement asks for a private equity fund's greatest country exposures based on a percent of net asset value. *Id.*

[386] *See supra* section II.D.

Overall, the amendments to section 4 of Form PF will ultimately assist the Commission and FSOC in better identifying and assessing risks to U.S. financial stability and pursuing appropriate regulatory policy in response, and will further assist the Commission in determining the potential need for outreach, examinations, and investigations, thereby enhancing efforts to protect investors and other market participants. We expect that the new information about large private equity fund advisers and funds they manage will enable the Commission and FSOC to better assess potential risks to financial markets and investor harm.

Some commenters argued that investment strategy reporting requirement is too burdensome relative to its nexus to systemic risk.[387] Other commenters also argued that the new fund-level borrowing reporting requirement is unrelated to systemic risk.[388]

However, as noted above,[389] some commenters supported the benefits from these two new reporting requirements, stating that adding investment strategy reporting requirement as being beneficial to the FSOC and Commission's oversight of advisers to the private equity industry.[390] One commenter suggested requiring more granular disclosure of private equity fund investment strategies, including requiring the disclosure of industries included in each strategy.[391] Some commenters also supported adding the additional fund-level borrowings reporting requirement, stating that it will help the Commission and FSOC identify and assess the use of leverage within private equity funds.[392]

Moreover, we believe both of these new reporting requirements offer specific insights that contribute to systemic risk and investor protection benefits. First, different investment strategies carry different types and levels of risk for the markets and financial stability. Second, advisers to private equity funds vary in their use of fund-level borrowing, in particular with certain funds using subscription credit facilities to boost performance metrics, with investors bearing the cost of interest on the debt used and potentially suffering lower total returns.[393] Moreover, large unpaid borrowings that remain on subscription lines can pose additional liquidity risks during periods of market stress, potentially contributing to systemic risks. The additional private equity reporting in the final amendments will therefore allow the Commission and FSOC to understand and better assess these risks, and will further allow the Commission to analyze new areas of potential investor harm to determine any necessary outreach, examination, or investigation.

Lastly, as noted above,[394] several comments supported the benefits from amendments requiring more information, and commenters otherwise did not specifically address those amendments.[395]

2. Costs

The final amendments to Form PF will lead to certain additional costs for private fund advisers. These costs are broadly most likely to be borne by private funds, and therefore by private funds' investors, though some portion of these costs may be borne by advisers. These costs will vary depending on the scope of the required information and the frequency of the reporting, which is determined based on the size and types of funds managed by the adviser. For the current reporting requirements for hedge funds and the new quarterly and annual reporting requirements for private equity funds on the occurrence of reporting events, the costs will also vary depending on whether funds experience a reporting event and the frequency of those events. Generally, the costs will be lower for private fund advisers that manage fewer private fund assets or that do not manage types of private funds that may be more prone to financial stress events. These costs are quantified, to the extent possible, by examination of the analysis in section V.C.[396]

We anticipate that the costs to advisers will be comprised of both direct compliance costs and indirect costs. Direct costs for advisers will consist of internal costs (for compliance attorneys and other non-legal staff of an adviser, such as computer programmers, to prepare and review the required disclosure) and external costs (including filing fees as well as any costs associated with outsourcing all or a portion of the Form PF reporting responsibilities to a filing agent, software consultant, or other third-party service provider).[397]

We believe that the direct costs associated with the final amendments will be most significant for the first updated Form PF report that a private fund adviser will be required to file because the adviser will need to familiarize itself with the new reporting form and may need to configure its systems to efficiently gather the required information. In addition, we believe that some large private fund advisers will find it efficient to automate some portion of the reporting process, which will increase the burden of the initial filing. In subsequent reporting periods, we anticipate that filers will incur significantly lower costs because much of the work involved in the initial report is non-recurring and because of efficiencies realized from system configuration and reporting automation efforts accounted for in the initial reporting period. This is consistent with the results of a survey of private fund advisers, finding that the majority of respondents identified the cost of subsequent annual Form PF filings at about half of the initial filing cost.[398]

We anticipate that the final amendments aimed at improving data quality and comparability will impose limited direct costs on advisers given that advisers already accommodate similar requirements in their current Form PF and Form ADV reporting and can utilize their existing capabilities for preparing and submitting an updated Form PF. We expect that most of the costs will arise from the requirements for large private equity fund advisers to report additional information on Form PF,[399] as well as new current reporting requirements for advisers to qualifying

[387] *See, e.g.,* REBNY Comment Letter; RER Comment Letter.

[388] *See, e.g.,* IAA Comment Letter; NYC Bar Comment Letter.

[389] *See supra* section II.D.2.

[390] *See, e.g.,* ICGN Comment Letter; PDI Comment Letter.

[391] *See* PDI Comment Letter.

[392] *See, e.g.,* ICGN Comment Letter; PDI Comment Letter; TIAA Comment Letter.

[393] *See, e.g.,* James F. Albertus & Matthew Denes, Distorting Private Equity Performance: The Rise of Fund Debt, Frank Hawkins Kenan Institute of Private Enterprise Report (June 2019), *available at https://www.kenaninstitute.unc.edu/wp-content/uploads/2019/07/DistortingPrivateEquityPerformance_07192019.pdf.*

[394] *See supra* section II.D.2.

[395] *See, e.g.,* ICGN Comment Letter; PDI Comment Letter.

[396] A 2015 survey of SEC-registered investment advisers to private funds affirmed the Commission's cost estimates for smaller private fund advisers' Form PF compliance costs, and found that the Commission overestimated Form PF compliance costs for larger private fund advisers. *See* Wulf Kaal, *Private Fund Disclosures Under the Dodd-Frank Act,* 9 Brook. J. Corp., Fin., and Comm. L. (2015).

[397] *See infra* section V.C. (for an analysis of the direct costs associated with the new Form PF requirements for quarterly and annual filings).

[398] *Id.*

[399] These costs will be substantially mitigated, in comparison to the proposing release, by the removal of several items from the final amendments in response to comment letters. For example, we do not believe that a large private equity fund adviser providing a good faith estimate of its investment strategies by percentage will require substantial additional accounting or other compliance work. *See supra* section II.D.2.

hedge funds as well as new quarterly and annual reporting requirements for private equity funds on the occurrence of reporting events.

For existing section 4 filers, the direct costs associated with the final amendments to section 4 will mainly include an initial cost to set up a system for collecting, verifying additional information, and limited ongoing costs associated with periodic reporting of this additional information.[400] Certain elements of the final adopted amendments to section 4 are designed to mitigate these costs. For example, we believe that allowing advisers to choose from a drop-down menu that includes all investment strategy categories for Form PF will reduce the burden of strategy reporting by making it easier for advisers to identify a selection that reflects their fund strategy.[401] We have also removed certain questions from the final amendments in response to commenters' concerns on the burden of those questions.[402]

The direct costs associated with the new current reporting requirements for the advisers of qualifying hedge funds and quarterly reporting for private equity funds on the occurrence of reporting events will include initial costs required to set up a system for monitoring significant events that are subject to the reporting requirement as well as filing fees (the amount of which would be determined by the Commission in a separate action).[403] We anticipate these initial costs to be limited because the reporting events were tailored and designed not to be overly burdensome and to allow hedge fund advisers and private equity fund advisers to use existing risk management frameworks that they already maintain to actively assess and manage risk. For example, for private equity fund advisers, we believe that every private equity fund adviser already has systems for documenting the occurrence of an adviser-led secondary transactions. In particular, advisers will use the same PFRD non-public filing system as used to file the rest of Form PF.[404] The subsequent compliance costs will depend on the occurrence of the reporting events and frequency with which those events occur.[405] To the extent that the reporting events occur infrequently, we anticipate the costs to be limited as hedge fund advisers and private equity fund advisers will not be required to file reports in the absence of the events. For example, during periods of normal market activity, we expect relatively few filings for this part of Form PF. The costs associated with the amendment, however, will increase with the frequency of stress events at the adviser's hedge funds.

We believe that the corresponding initial costs associated with the final annual reporting requirements of general partner or limited partner clawbacks for private equity fund advisers, which was previously proposed as a reporting event requiring a current report, will be limited.[406] This is because we are requiring the reporting only from large private equity fund advisers on an annual basis, which we believe will allow those advisers to modify existing systems and processes—rather than generate new ones—as these advisers are already collecting and reporting information specific to private equity funds on an annual basis. We similarly anticipate these initial costs to be limited because we believe that every private equity fund adviser already has systems for documenting the occurrence of general partner or limited partner clawbacks. Also, limiting the reporting to only large private equity fund advisers means that smaller private equity fund advisers will face no increased burdens under the final amendments.[407]

Some commenters stated that there would be substantial burden including initial set-up costs, external costs, and ongoing costs associated with the current reporting regime.[408] More specifically, commenters expressed concern that the proposed requirement to file reports within one business day to the Commission would be burdensome and potentially lead to inaccurate or inadequate reporting at a time when advisers and their personnel are grappling with a potential crisis at the reporting fund.[409] Some commenters also stated that advisers would need to develop complicated internal operations capable of performing calculations on a daily basis that may not be applicable to illiquid or hard-to-value assets and that the resulting data may be of limited utility to regulators.[410] Some commenters identified specific elements of the proposed current reporting regime as costly, such as the proposed requirements that required a daily NAV calculation.[411] One commenter lastly expressed concerns with the costs needed to build these systems in time to meet the proposed compliance date timeline, requesting an 18 month transition period instead.[412]

Certain changes in the final amendments are in response to these comment file considerations on the costs of the proposal, including the changes to current reporting for extraordinary investment losses, margin events, prime broker relationship changes, and operations events, the decisions to extend hedge fund adviser current reporting to 72 hours, the decision to extend private equity fund adviser reporting of general partner

[400] Based on the analysis in section V.C., direct internal compliance costs for section 4 filers associated with the preparation and reporting of additional information is estimated at $13,905 per annual filing per large private equity fund adviser, and includes the new costs associated with new annual event reporting. This is calculated as the cost of filing under the proposal of $41,730 minus the cost of filing prior to the proposal of $27,825. *See* Table 8. It is estimated that there will be no additional direct external costs and no changes to filing fees associated with the final amendments to section 4. *See* Table 10.

[401] *See supra* section II.D.2.

[402] *Id.*

[403] *See infra* section V.

[404] *Id.*

[405] Based on the analysis in section V.C., direct internal costs associated with the preparation and filing of current reports is estimated at $5,160 per report for large hedge fund advisers and $2,024 per quarterly filing of a private equity event report for all private equity fund advisers. *See* Table 9. In addition, large hedge fund advisers and all private equity fund advisers will be subject to an external cost burden of $1,695 per report associated with outside legal services and additional one-time cost ranging from $0 to $15,000 per adviser associated with system changes. *See* Table 12. Additionally, there will be a filing fee per current report for hedge fund advisers and all private equity fund advisers that is yet to be determined. *See* Table 12.

[406] Based on the analysis in section V.C., the initial direct internal costs associated with the preparation of annual reporting of general partner or limited partner clawbacks for large private equity fund advisers, previously required as current event reporting, is $3,965 per year over three years (given by the additional direct initial costs relative to the proposal, or $32,592 − $26,775, which includes an amortization over three years). *See* Table 7. Similarly, the direct ongoing annual costs for the former current event reporting questions for large private equity fund advisers is $6,480 (given by the additional direct internal costs relative to the proposal, or $41,730 − $35,250). *See* Table 8. Private equity fund advisers will no longer face an additional external cost burden associated with the annual event reporting items. *See* Table 11.

[407] *See infra* section V.C.

[408] *See, e.g.,* MFA Comment Letter (stating, among other concerns, that ''private fund managers and their administrators will have to bear the costs of building and maintaining systems that would have to monitor aspects of their funds' investments, redemptions, margin and collateral positions, and other aspects of fund operations on a daily basis to determine whether a report is required.''); *see also, e.g.,* AIMA/ACC Comment Letter.

[409] ILPA Comment Letter; AIMA/ACC Comment Letter; State Street Comment Letter; NVCA Comment Letter; RER Comment Letter; SIFMA Comment Letter; Schulte Comment Letter; IAA Comment Letter; NYC Bar Comment Letter; REBNY Comment Letter.

[410] SIFMA Comment Letter and USCC Comment Letter.

[411] *See, e.g.,* MFA Comment Letter; SIFMA Comment Letter.

[412] MFA Comment Letter. Our estimates of quantified costs, including costs for one-time system changes, consider the need to build systems in time for compliance dates for current and private equity event reporting. *See infra* section V.

removals and fund terminations to quarterly reporting, and the decision to switch reporting of general partner and limited partner clawbacks from current to annual reporting limited to large private equity fund advisers.[413] We believe that these changes to the final amendments will help avoid unnecessary burdens on advisers. For example, we specify that we believe the RFACV reference statistic for current reporting of extraordinary investment losses and margin events will in general be governed by existing fund valuation policies and procedures.[414] We have also narrowed the scope of current reporting of prime broker relationship changes.[415] The final amendments have also changed the current reporting required timing for hedge funds from one business day to 72 hours, changed the reporting timing for adviser-led secondaries, removal of a general partner, and election to terminate a fund or its investment period from current reporting to quarterly reporting, changed the reporting timing and scope for reporting of clawbacks by private equity funds from current reporting for all private equity funds within one business day to annual reporting only for large private equity fund advisers, and removed the current reporting regime for changes in unencumbered cash altogether.[416]

Some commenters also stated that certain terms associated with the current reporting regime are potentially ambiguous. These commenters specifically requested more precise definitions associated with ''margin'' and ''collateral.'' [417] We believe that any such costs associated with the ambiguity of the terms ''margin'' and ''collateral'' will be de minimis, because (1) we believe these are common terms with accepted industry definitions,[418] and (2) the Form PF instructions on the current reporting of increases in margin include language designed to provide increased flexibility to account for funds' unique circumstances.[419] Commenters' concerns could also be relevant for the term ''termination event'' as applied in the current report triggering event for prime broker relationship termination.[420] We similarly believe in this instance that any costs associated with ambiguity of the term ''termination event'' will be de minimis, because we understand such termination events to be commonly understood clauses in prime broker contractual relationships in the industry.[421]

Indirect costs for advisers will include the costs associated with additional actions that advisers may decide to undertake in light of the additional reporting requirements. Specifically, to the extent that the final amendments provide an incentive for advisers to improve internal controls and devote additional time and resources to managing their risk exposures and enhancing investor protection, this may result in additional expenses for advisers, some of which may be passed on to the funds and their investors.[422] For example, as discussed above, some commenters stated that under the current reporting regime, investors may demand additional reporting themselves, knowing that reporting systems are being developed for Commission and FSOC reporting.[423] While this additional reporting may benefit investors, the costs of this additional reporting represent an additional cost of the rule, and these costs may be passed on to investors.

Indirect costs for investors may also include unintended negative consequences where advisers change their behavior in response to the final reporting requirements.[424] First, there may be unintended changes in adviser behavior associated with extraordinary investment loss current reporting based on the RFACV measure. Because the RFACV measure requires reporting based on the most recent price or value applied to the position for purposes of managing the investment portfolio, advisers may have an incentive to change their valuation methodologies for purposes of managing the investment portfolio in order to circumvent required reporting of extraordinary investment losses, and these changes may be to the detriment of fund investors. For example, the RFACV measure allows advisers who do not value a position daily to carry forward the last price when calculating RFACV, and advisers may cease certain daily valuations in response.

However, we believe there are two key factors that mitigate, but may not eliminate, this concern. First, advisers must document their valuation principles and methodologies in investor-facing documents.[425] Investors are advised by industry literature to closely scrutinize these manuals and evaluate the fund's valuation practices.[426] Second, we understand

[413] *See supra* sections II.A, II.B, II.D.1.

[414] *See supra* sections II.A.2, II.A.3.

[415] *See supra* section II.A.4.

[416] *See supra* sections II.A, II.A.5, II.B, II.D.1.

[417] *See* AIMA Comment Letter; MFA Comment Letter; *see also supra* section II.A.3.

[418] *See supra* footnote 69 and accompanying text.

[419] *See supra* section II.A.3.

[420] *See supra* section II.A.4.

[421] *See, e.g.,* David S. Mitchell, William C. Thum, Aaron S. Cutler & Eduardo Ugarte II, *Trading Agreements and NAV Termination Triggers—Avoiding Unexpected Landmines,* Bloomberg Law Reports, 2009, *available at https://www.friedfrank.com/uploads/siteFiles/Publications/576038144C948759E3DBB1410957B03B.pdf; The Credit and Legal Risks of Entering Into an ISDA Agreement,* ThinkAdvisor (Jan. 3, 2005), *available at https://www.thinkadvisor.com/2005/01/03/the-credit-and-legal-risks-of-entering-into-an-isda-master-agreement/;* HFL Report, *supra* footnote 46.

[422] As discussed above, the length of the reporting period is intended to mitigate costs associated with advisers needing to both respond to the reporting event and file the required current report. *See supra* section II.A.

[423] SIFMA Comment Letter; AIMA Comment Letter. *See supra* section IV.C.1.a.

[424] Whether respondents may want to change their behavior in response to reporting requirements, in an effort to influence what they must report, is referred to as the ''incentive compatibility'' of the reporting regime. An incentive compatible reporting regime is one where respondents do not change their behavior in response to reporting requirements. *See, e.g.,* Andreu Mas-Colell, et al., Chapter 13, *in* Microeconomic Theory (Oxford Univ. Press, 1995), for a discussion of incentive compatibility.

[425] *See, e.g.,* Erin Faccone, *The Essential Guide to Third-Party Valuations for Hedge Fund Investors* 1, CAIA (2018), *available at https://caia.org/sites/default/files/essentials.pdf* (''Starting from the top, every fund manager must have a written valuation policy in place that is used to price the portfolio.''); PWC, Guide to Sound Practices for the Valuation of Investments 4 (2018 ed.), *available at https://www.sec.gov/comments/s7-07-20/s70720-7464497-221255.pdf* (''In advance of a fund's launch, a summary of practical and workable pricing and valuation practices, procedures and controls should be enshrined in a Valuation Policy Document and approved by the fund governing body in consultation with the investment manager and other relevant stakeholders. The Valuation Policy Document, which may be based in whole or in part on the investment manager's and/or the valuation service provider's valuation policies, should address the universe of instruments in which the fund may invest, and should be reviewed at least annually (and more frequently where the circumstances warrant) by the investment manager and the fund governing body. Regardless of how simple a fund's valuation procedures may appear, proper documentation of the valuation process removes the scope for dispute or uncertainty in the future and provides a clear framework for governance in the area.'').

[426] *Id. See also, e.g.,* IOSCO, Principles for the Valuation of Hedge Fund Portfolios Final Report, A Report of the Technical Committee of the International Organization of Securities Commissions 1 (Nov. 2007), *available at https://www.iosco.org/library/pubdocs/pdf/IOSCOPD253.pdf,* (''This paper is focused on principles for valuing the investment portfolios of hedge funds and the challenges that arise when valuing illiquid or complex financial instruments. The principles are designed to mitigate the structural and operational conflicts of interest that may arise between the interests of the hedge fund manager and the interests of the hedge fund. Hedge funds may use significant leverage in their investment strategies, the impact of which increases the importance of establishing appropriate valuations of a hedge fund's financial instruments . . . . Investors need to be vigilant with respect to any hedge fund that does not exhibit these principles throughout all aspects of its valuation process. Investors should satisfy themselves that the management and governance culture promotes the application of the principles to the extent

that many advisers outsource the back office functionality of valuation and other position-level reporting to fund administrators, and these administrators would be unlikely to revise their valuation services to aid an adviser in avoiding filing a current report.[427]

As a second example, there may be unintended consequences associated with current reporting of margin/collateral increases. This current reporting trigger event increases the incentives for hedge funds to attempt to convince their counterparties to forego calling more collateral in the opening stages of a systemic risk event, so that the hedge fund can avoid filing a current report. Because counterparties calling more collateral can be a prophylactic, systemic-risk-reducing measure, this response by hedge funds carries a risk of making subsequent systemic risk episodes more damaging. While we believe the risk of this unintended consequence is low, because hedge funds already have substantial incentives to attempt to avoid margin/collateral increases and we do not believe this rule substantially increases those incentives, at the margin it may occur. Hedge funds may also have an increased incentive to avoid prime broker terminations in response to the current reporting requirements, but we again believe these potential costs are likely to be low, because hedge funds already have a strong incentive to avoid prime broker terminations.

Form PF collects confidential information about private funds and their trading strategies, and the inadvertent public disclosure of such competitively sensitive and proprietary information could adversely affect the funds and their investors. Some commenters expressed concerns over these risks of potential inadvertent public disclosures.[428] However, we anticipate that these adverse effects will be mitigated by certain aspects of the Form PF reporting requirements and controls and systems designed by the Commission for handling the data. For example, with the exception of select questions, such as those relating to restructurings or recapitalizations of portfolio companies and investments in different levels of the same portfolio company by funds advised by the adviser and its related person,[429] Form PF data generally could not, on its own, be used to identify individual investment positions. The Commission has controls and systems for the use and handling of the final modified and new Form PF data in a manner that reflects the sensitivity of the data and is consistent with the maintenance of its confidentiality. The Commission has substantial experience with the storage and use of nonpublic information reported on Form PF as well as other nonpublic information that the Commission handles in its course of business.

D. Effects on Efficiency, Competition, and Capital Formation

We anticipate that the increased ability for the Commission's and FSOC's oversight, resulting from the final amendments, will promote better functioning and more stable financial markets, which would lead to efficiency improvements. The additional and timelier data collected on the amended Form PF about private funds and advisers will help reduce uncertainty about risks in the U.S. financial system and inform and frame regulatory responses to future market events and policymaking. It will also help develop regulatory tools and mechanisms that could potentially be used to make future systemic crises episodes less likely to occur and less costly and damaging when they do occur.

Also, we believe that the final amendments will improve the efficiency and effectiveness of the Commission's and FSOC's oversight of private fund advisers by enabling them to manage and analyze information related to the risks posed by private funds more quickly, more efficiently, and more consistently than is currently possible. Private fund advisers' responses to new questions will help the Commission and FSOC better understand the investment activities of private funds and the scope of their potential effect on investors and the U.S. financial markets.

We do not anticipate significant effects of the final amendments on competition in the private fund industry because the reported information generally will be nonpublic and similar types of advisers will have comparable burdens under the amended Form. Some commenters stated that the additional compliance costs of the rule will impact smaller advisers, who may need to increase their management fees to cover the cost of compliance with additional reporting requirements more than larger advisers who can absorb the additional compliance costs, and further stated this may negatively impact competition.[430] We believe these impacts on competition will be limited for two reasons. First, the reporting requirements were tailored and designed not to be overly burdensome. Second, we have implemented changes in the final amendments that are in response to comment file considerations on the costs of the proposal that reduce the costs of the final amendments relative to the proposal. However, at the margin, the heightened compliance costs for smaller advisers from the final amendments may negatively affect competition.

As discussed in the benefits sections, we expect the final amendments will enhance the Commission's and FSOC's systemic risk assessment and investor protection efforts, which could ultimately lead to more resilient financial markets and instill stronger investor confidence in the U.S. private fund industry and financial markets more broadly. We anticipate that these developments will make U.S. financial markets more attractive for investments and improve private fund advisers' ability to raise capital, thereby, facilitating capital formation.

E. Reasonable Alternatives

1. Changing the Frequency of Current Reporting, Quarterly Reporting Events, and Annual Reporting Events

At the proposing stage, we considered an alternative to current reporting for hedge fund and private equity fund advisers, namely requiring advisers to report relevant information as part of the existing Form PF filing or on a scheduled basis, such as semi-annually, quarterly, or monthly. The final amendments incorporate that alternative in part, as the final amendments require all private equity fund advisers to report certain events quarterly and requiring large private equity fund advisers to

practicable. While the adoption and compliance with these principles should benefit investors, the measures themselves will not reduce the need for investors to conduct appropriate initial and ongoing due diligence with respect to their interests in hedge funds.'').

[427] *See, e.g.,* PWC, Asset Management Benchmarking—Fund Administration 8 (July 2015), *available at https://www.pwc.com/gx/en/asset-management/benchmarking-hub/assets/pwc-am-fund-administration.pdf#:~:text=More%20than%20half%20of%20hedge%20funds%20and%20hybrid,of%20them%20to%20outsource%20some%20back%20office%20functions.%C2%B2* (''In recent PwC study on Hedge Fund Administration, from 2006 to 2013, the percentage of hedge fund AUM outsourced to administrators increased dramatically from 50 percent to 81 percent.''); *Fund Administration Services,* SS&C Tech, *available at https://www.ssctech.com/outsourcing-services/fund-administration-services* (describing handling of NAV calculations, supplemental NAV transparency reporting, income and expense accruals, and other services); *Fund Services,* STP Investment Services, *available at https://stpis.com/services/fund-services/* (offering a variety of fund services including a service to ''Price portfolio holdings based upon your valuation policy'').

[428] *See, e.g.,* AIMA Comment Letter.

[429] *See supra* section II.D.2.

[430] *See, e.g.,* Schulte Comment Letter; PDI Comment Letter.

report other events annually, depending on the event, but still requires current reporting for large hedge fund advisers to qualifying hedge funds.[431]

As an alternative to the final amendments, we considered requiring these hedge fund advisers to report relevant information as part of the existing Form PF filing or on a scheduled basis. In general, this alternative would provide the Commission and FSOC with the same information but on a less timely basis and without substantially reducing the cost to hedge fund advisers. Specifically, we believe that this alternative approach would not significantly reduce the cost burden to hedge fund advisers compared to the final current reporting requirement, because hedge fund advisers would still need to incur initial costs to set up a system for monitoring significant events that are subject to the final current reporting requirement.

At the same time, delayed reporting about stress events at hedge funds would significantly reduce the Commission's and FSOC's ability to assess and frame timely responses to the emerging risks and limit potential market disruptions, damages, and costs associated with them.

We also considered a final rule for hedge fund advisers that would require advisers to, on an annual basis, submit reports of their daily tracking of the reference statistics currently included in the current reporting regime. For example, instead of submitting a current report of an extraordinary investment loss as defined by the above RFACV measure, hedge fund advisers could file an annual report of their daily RFACV values over the course of the year. This would provide more granular information,[432] but the information would still be less timely, and this reporting would be a substantially higher burden for hedge fund advisers, who would need to conduct additional due diligence on every single daily RFACV value.

We lastly considered requiring all private equity fund advisers to also report general partner or limited partner clawbacks quarterly, or requiring only large private equity fund advisers to report adviser-led secondaries, removals of general partners, and fund terminations annually. Requiring all private equity fund advisers to report general partner or limited partner clawbacks quarterly would substantially increase the burden on private equity fund advisers, and by extension their investors, especially for private equity fund advisers who do not currently file Form PF sections for large private equity fund advisers. As discussed above, we do not believe the additional investor protection or systemic risk assessment benefits justify this additional burden, particularly given that these events tend to build over the life of a private equity fund with a multi-year term.[433] In particular, the legal mechanics of general partner and limited partner clawbacks are negotiated early on in a fund's life, long before the inciting event occurs.[434] Then, an inciting event for a clawback actually occurs, typically, when the fund has had successful investments earlier in the life of the fund, but the fund's later investments are less successful.[435] We believe trends of these types of events can be appropriately analyzed through information from large private equity fund advisers on an annual basis. Conversely, because removals of general partners, terminations of a fund or its investment period, and adviser-led secondaries represent potentially significant and more timely potential for conflicts of interest and other sources of investor harm, limiting reporting to annual reporting would substantially reduce the benefits of the required reporting. We believe that the investor protection benefits associated with these events require more timely reporting.

2. Changing Current Reporting Filing Time

At the proposing stage, we considered an alternative to require hedge fund and private equity fund advisers to file current reports within a time period longer than the proposed one business day. The final amendments incorporate that alternative, and will require hedge fund advisers to file current reports within 72 hours, and will no longer require private equity fund advisers to file current reports, instead requiring either quarterly or annual reporting depending on the former current reporting event.[436] We have also considered an alternative to require hedge fund advisers to file current reports within even longer time periods.

Although this alternative would provide more time to hedge fund advisers to prepare and file the form, we do not anticipate that this would substantially reduce the cost burden to advisers as compared to the final 72 hour reporting requirement. We believe that the structures of the final reporting requirements are relatively simple and require advisers to flag the reporting event from a menu of available options and add straightforward explanatory notes about the events, which generally should not require considerable time to complete. Extending the reporting time period may increase internal costs to advisers to prepare and review the required disclosure, to the extent a longer reporting time period indirectly signals to advisers a need for greater detail, thoroughness, or diligence.

On the other hand, due to the time sensitive nature of the reported events, additional reporting time would significantly reduce the Commission's and FSOC's ability to assess and frame timely responses to the emerging risks and limit potential market disruptions, damages and costs associated with them.

3. Alternative Reporting Thresholds for Current Reporting by Hedge Fund Advisers (Versus Just Large Hedge Fund Advisers to Qualifying Hedge Funds)

We considered an alternative to require all hedge fund advisers to file section 5 of Form PF upon occurrence of stress events at one of their hedge funds (irrespective of the fund size) instead of requiring this reporting from only large advisers to qualifying hedge funds.

Although this information would be beneficial for the Commission and FSOC, as this would provide a more complete picture of the stress events in the hedge fund industry and allow better assessment of systemic risk and investor protection issues in the smaller hedge funds space, we believe that this benefit would be marginal as compared to the benefit of the information about qualifying hedge funds for two reasons. First, the hedge fund industry is dominated by qualifying hedge funds that currently account for approximately 81 percent of the industry's gross assets under management among filers of Form PF.[437] Therefore, the final current reporting requirement will cover stress events that affect a broad, representative set of assets in the hedge fund industry. Second, the final current reporting is designed to serve as a signal to the Commission and FSOC about systemically important stress events at hedge funds. Stress events at larger hedge funds are more likely to be systemically important due to their quantitatively important positions in a market and more extensive use of

[431] *See supra* section II.A, II.B, II.D.

[432] For example, this alternative would allow the Commission to more precisely measure the frequency of RFACV losses of different sizes than is possible today. *See supra* IV.C.1.a.

[433] *See supra* sections II.B.2, IV.C.1.c.

[434] *Id.*

[435] *Id.*

[436] *See supra* section II.A.

[437] *See supra* footnote 271.

leverage. Overall, we believe at this time that requiring advisers to smaller hedge funds to file current reports would impose a significant burden on these smaller advisers and not significantly expand or improve the Commission's and FSOC's oversight and assessment of systemic risk efforts.

We also considered an alternative to increase the reporting threshold for hedge funds that would require a subgroup of the largest qualifying hedge funds to file current reports. Although this alternative would reduce the reporting burden at smaller qualifying hedge advisers, we believe that this would also reduce the benefit associated with the final current reporting. Specifically, we believe that this alternative would likely impede the Commission's and FSOC's ability to assess and respond to emerging industry risks, as this would reduce the scope of reported stress events to the events that affect the largest qualifying hedge funds. To the extent that largest qualifying hedge funds have a greater propensity to withstand deteriorating market conditions, the Commission and FSOC would have less visibility into the stress events that simultaneously affect smaller qualifying hedge funds that may indicate or have implications for systemic risk and investor protection concerns.

4. Different Size Thresholds for Private Equity Fund Advisers Who Must File Quarterly and Annual Reports on the Occurrence of Reporting Events

The final amendments will require new annual reporting of general partner or limited partner clawbacks as part of section 4 for large private equity fund advisers. We considered instead requiring this new annual reporting for more private equity fund advisers, for example by creating a new section 1d of Form PF that would apply to all private equity fund advisers who file Form PF. This alternative would enhance the benefits of the rule by generating annual reports on clawbacks. This is because section 4 of Form PF, for large private equity fund advisers, relies on a size threshold that already captures approximately 73 percent of the private equity market.[438] However, a number of commenters criticized the proposed private equity reporting requirements as being overly burdensome, and suggested adding thresholds to the former current event reporting questions to mitigate these burdens.[439] We believe that the clawback question pertains more to the evaluation of broader emerging trends in certain private equity fund activities relevant to the assessment of systemic risk and to the protection of investors, and so we believe the losses of benefits from narrowing the scope to large private equity advisers will be small. We also understand clawbacks to be infrequent activities. Accordingly, we believe that by focusing clawback reporting on large private equity fund advisers, we will be able to evaluate material changes in market trends and investor protection issues in private equity funds.

The final amendments will also require new quarterly reporting of removals of general partners, terminations of an investment period or fund life, and adviser-led secondaries from all private equity fund advisers. We considered instead requiring this new quarterly reporting for only large private equity fund advisers. However, because removals of general partners, terminations of a fund or its investment period, and adviser-led secondaries represent potentially significant potential for conflicts of interest and other sources of investor harm, we believe limiting reporting to only large private equity advisers would substantially reduce the benefits of the required reporting. We believe that the investor protection benefits associated with these events require reporting from all private equity fund advisers.

5. Changing the Reporting Events for Current Reporting by Hedge Fund Advisers

We also considered alternatives to which stress events should trigger current reporting for hedge fund advisers. Alternative reporting events include both different thresholds for how severe of a stress event triggers a current report, as well as different categories of stress events altogether, separate from those considered in the final amendments. For example, hedge fund reporting for extraordinary investment losses could be revised to be triggered by a 10 percent loss, or a 30 percent loss, or any other threshold.[440] As another alternative, the threshold could instead compare losses against the volatility of the fund's returns. As discussed above, commenters argued that the Commission should consider alternative thresholds for every reporting event, and in one case a commenter suggested an alternative threshold choice for extraordinary investment loss current reporting.[441]

Similar alternative thresholds were considered for other reporting events. For example, current reporting of default events could be limited to only defaults of a certain size.[442] Current reporting of margin/collateral increases could be limited to only report large increases of margin/collateral on uncleared positions, or positions not cleared by a central counterparty.[443]

Lastly, current reporting could alternatively be triggered by stress events besides those considered in the final amendments. For example, hedge fund current reporting could be triggered by a large increase in the volatility of the fund's returns, even if that volatility does not result in investment losses. We considered this alternative again with respect to the final amendments.

In general, alternative triggers to the final current reporting requirements would either provide the Commission and FSOC with more information at a greater cost to advisers, less information at a lower cost to advisers, or an alternative metric for measuring the same stress event as the final reporting event. We believe that the thresholds in the final amendments will trigger reporting for relevant stress events for which we seek timely information while minimizing the potential for false positives and multiple unnecessary current reports. For example, we have discussed the potential for alternative thresholds associated with current reporting requirements in detail above, including how the threshold choices balance the need for timely information with risk of false positives.[444] For other alternatives, we believe that the alternative would not substantially reduce the costs for advisers. For example, we do not believe that limiting current reporting of margin/collateral increases to uncleared positions would reduce costs because, as several commenters state, the cost of margin/collateral current reporting includes the cost of developing systems for daily tracking of margin/collateral at the reporting fund, and limiting the triggering event to uncleared positions or positions not cleared by a central counterparty would not alleviate those costs.[445] To the extent that hedge funds currently do track their total daily margin/collateral, and this alternative would require them to instead

[438] *See supra* sections II.B, IV.B.2.

[439] *See supra* sections II.B, II.D.

[440] We estimated the likely relative frequency of current reporting at these different thresholds above. *See supra* section IV.C.1.a. MFA suggested a threshold of 50%, but did not offer any analysis defending this alternative threshold choice. *See* MFA Comment Letter.

[441] *Id.*

[442] *See supra* section II.A.3.

[443] *Id.*

[444] *See supra* section IV.C.1.a.

[445] *See supra* section IV.C.2.

disentangle margin/collateral for cleared and uncleared positions, this alternative could be even more costly.

6. Alternative Size Threshold for Section 4 Reporting by Large Private Equity Fund Advisers

The final amendments to section 4 of Form PF will maintain the current filing threshold for large private equity fund advisers at $2 billion. We also considered alternatives to reduce the reporting size threshold below $2 billion or increase it above $2 billion.

While some commenters suggested increasing the reporting threshold,[446] we believe that increasing the threshold for large private equity fund advisers above $2 billion would likely impede the Commission's and FSOC's ability to a representative picture of the private fund industry and lead to misleading conclusions regarding emerging industry trends and characteristics, as this would reduce the coverage of private equity assets in today's market below 73 percent.[447]

On the other hand, reducing the current report size threshold below $2 billion would be marginally beneficial for the Commission's and FSOC's risk oversight and assessment efforts as this would increase the representativeness of the sample of reporting advisers. While some commenters supported lowering the threshold,[448] most commenters opposed the additional costs associated with lowering the threshold and questioned the benefits of lowering the threshold.[449] Collecting more detailed information about these funds would help the Commission and FSOC to detect certain new trends and group behaviors with potential systemic consequences among these advisers and funds. However, this would also increase the number of advisers that would be categorized as large private equity fund advisers subject to the more detailed reporting and impose additional reporting burden on those advisers.

We think that the current threshold of $2 billion in the final amendments strikes an appropriate balance between obtaining information regarding a significant portion of the private equity industry for analysis while continuing to minimize the burden imposed on smaller advisers.

7. Alternatives to the New Section 4 Reporting Requirements for Large Private Equity

The additional large private equity fund adviser questions and revisions to existing questions are designed to enhance the Commission's and FSOC's understanding of certain practices in the private equity industry and amend certain existing questions to improve data collection.[450] We also considered alternatives to these final amendments in the form of different choices of framing, level of detail requested, and precise information targeted, and considered these alternatives again with respect to the final amendments. For example, for Question 66 of section 4, on reporting of private equity strategies, we considered consolidating ''Private Credit—Junior/Subordinated Debt,'' ''Private Credit—Mezzanine Financing,'' ''Private Credit—Senior Debt,'' and Private Credit—Senior Subordinated Debt'' into the ''Private Credit—Direct Lending/Mid Market Lending'' category.[451]

We believe that the amendments as stated in the final rule, including the decision to not adopt portfolio-level reporting requirements, maximize data quality and enhance the usefulness of reported data, without imposing unnecessary additional burden on filers.[452]

V. Paperwork Reduction Act

Certain provisions of the final Form PF and rule 204(b)–1 revise an existing ''collection of information'' within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[453] The SEC published a notice requesting comment on changes to this collection of information in the 2022 Form PF Proposing Release and submitted the collection of information to the Office of Management and Budget (''OMB'') for review in accordance with the PRA.[454] The title for the collection of information we are amending is ''Form PF and Rule 204(b)–1'' (OMB Control Number 3235–0679), and includes both Form PF and rule 204(b)–1 (''the rules''). The Commission's solicitation of public comments included estimating and requesting public comments on the burden estimates for all information collections under this OMB control number (*i.e.,* both changes associated with the rulemaking and other burden updates). These changes in burden also reflect the Commission's revision and update of burden estimates for all information collections under this OMB control number (whether or not associated with rulemaking changes) and responses to the Commission's request for public comment on all information collection burden estimates for this OMB control number. 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. Compliance with the information collection is mandatory.

The respondents are investment advisers who are (1) registered or required to be registered under Advisers Act section 203, (2) advise one or more private funds, and (3) managed private fund assets of at least $150 million at the end of their most recently completed fiscal year (collectively, with their related persons).[455] Form PF divides respondents into groups based on their size and types of private funds they manage, requiring some groups to file more information more frequently than others. The types of respondents are (1) smaller private fund advisers (*i.e.,* private fund advisers who do not qualify as a large private fund adviser), (2) large hedge fund advisers, (3) large liquidity fund advisers, and (4) large private equity fund advisers.[456] As discussed more fully in section II above and as summarized in sections V.A and V.C below, the rules will require current reporting for qualifying hedge fund advisers, will require private equity event reporting for all private equity fund advisers, and will revise what large private equity fund advisers are required to file.

We have revised our burden estimates in response to comments we received, to reflect modifications from the proposal, and to take into consideration updated data. We received general comments to our time and cost burdens indicating that we underestimated the burdens to implement the proposed amendments to Form PF, particularly with respect to the new systems required to comply with the proposed current reporting obligations.[457] One commenter stated that the proposed ''real-time'' current reporting requirements would impose significant operational burdens on private fund advisers.[458] Another commenter stated that the calculations required for the operations event current

[446] RER Comment Letter; AIC Comment Letter.

[447] *See supra* section II.D.

[448] *See, e.g.,* ICGN Comment Letter and Better Markets Comment Letter.

[449] *See, e.g.,* Schulte Comment Letter; IAA Comment Letter; and RER Comment Letter.

[450] *See supra* section II.D.

[451] *See supra* section II.D.

[452] *Id.*

[453] 44 U.S.C. 3501 through 3521.

[454] 44 U.S.C. 3507(d); 5 CFR 1320.11.

[455] *See* 17 CFR 275.204(b)–1.

[456] *See supra* footnote 13 (discussing the definitions of large hedge fund advisers and large private equity fund advisers).

[457] *See, e.g.,* AIMA/ACC Comment Letter; IAA Comment Letter; MFA Comment Letter; USCC Comment Letter.

[458] *See* RER Comment Letter.

reporting item would be very costly.[459] Conversely, as discussed above more fully in sections I and II above, the amendments as adopted have been modified in some respects from the proposal in a manner that changes our time and cost burden estimates. The new current reporting requirement for large hedge fund advisers will require such advisers to report current reporting events as soon as practicable, but no later than 72 hours from the current reporting event, rather than within one business day as proposed. The new private equity event reporting requirement for all private equity fund advisers will require such advisers to report certain events within 60 days from the adviser's fiscal quarter end, rather than within one business day as proposed. We are also eliminating or tailoring certain reporting events that trigger a current report filing obligation for large hedge fund advisers and a private equity event report filing obligation for private equity fund advisers. For example, we are tailoring the private equity fund adviser event reporting requirement to be limited to reporting on a quarterly basis on (1) general partner removals and investor elections to terminate a fund or its investment period and (2) the occurrence of execution of an adviser-led secondary transaction. Large private equity fund advisers will be also required to report the implementation of a general partner or limited partner clawback on an annual basis in lieu of the proposed requirement, which would have required all private fund advisers (both smaller private fund advisers that advise private equity funds and large private equity fund advisers) to report these events within one business day. These changes from the proposal will reduce the scope of categories subject to current reporting and private equity event reporting, which reduce our estimated burdens. Several commenters also stated that our cost analysis underestimated the cost of a daily net asset value calculation because it would require the development of new systems.[460] In a change from the proposal, the current reporting requirements for qualifying hedge fund advisers will require calculation of RFACV, rather than a daily net asset value calculation, which will reduce the burden on qualifying hedge fund advisers. We are also not adopting at this time the proposed amendments that would have required large liquidity funds to report certain additional information. Further, in a change from the proposal, we are not adopting a change to the filing threshold for large private equity fund advisers, which has changed the estimated number of large private equity fund adviser filers.

In addition, we have modified our estimates from the proposal to address general comments to our proposed time and cost estimates for current reporting and private equity event reporting.[461] We have increased our estimate on the number of annual responses for current reporting and private equity event reporting. We have also increased our time burden estimate for current reporting requirements for large hedge fund advisers in response to comments we received to include additional estimated cost and time burden to comply with the new current reporting requirements. The time burden estimate changes also reflect changes from the proposed current reporting requirements discussed more fully above, such as the change in the reporting timeframes and the changes in the reporting events that decrease our time burden estimate. Our time and cost estimates also incorporate other adjustments, which are not based on changes from the proposed amendments, for updated data for the estimated number of respondents and salary/wage information across all respondent types.

A. Purpose and Use of the Information Collection

The rules implement provisions of Title IV of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act''), which amended the Advisers Act to require the SEC to, among other things, establish reporting requirements for advisers to private funds.[462] The rules are intended to assist FSOC in its monitoring obligations under the Dodd-Frank Act, but the SEC also may use information collected on Form PF in its regulatory programs, including examinations, investigations, and investor protection efforts relating to private fund advisers.[463]

The final amendments are designed to enhance FSOC's ability to monitor systemic risk as well as bolster the SEC's regulatory oversight of private fund advisers and investor protection efforts. The final amendments do the following:

- Require all qualifying hedge fund advisers to file current reports upon certain current reporting events, as discussed more fully in section II.A above;
- Require all private equity fund advisers to file private equity event reports upon certain reporting events, as discussed more fully in section II.B above; and
- Adopt additional reporting items for large private equity fund advisers and amend how large private equity fund advisers report information about the private equity funds they advise, as discussed more fully in section II.B above.

The final current reporting rule requires advisers to qualifying hedge funds to report information upon certain current reporting events as soon as practicable, but no later than 72 hours from the current reporting event. The final private equity event reporting rule requires all private equity fund advisers to report information upon certain reporting events on a quarterly basis.[464] As discussed more fully in sections I and II, above, we are adopting the current reporting and private equity event reporting requirements so FSOC can receive more timely data to identify and respond to qualifying hedge funds and private equity funds that are facing stress that could result in systemic risk or harm to investors, while modifying the deadline to report to lessen the burden on such funds.

B. Confidentiality

Responses to the information collection will be kept confidential to the extent permitted by law.[465] Form PF elicits non-public information about private funds and their trading strategies, the public disclosure of which could adversely affect the funds and their investors. The SEC does not intend to make public Form PF information that is identifiable to any particular adviser or private fund, although the SEC may use Form PF information in an enforcement action and to assess potential systemic risk.[466] SEC staff issues certain publications designed to inform the public of the private funds industry, all of which use only aggregated or masked information to avoid potentially disclosing any proprietary information.[467] The

[459] *See* AIMA/ACC Comment Letter.

[460] *See, e.g.,* AIMA/ACC Comment Letter; MFA Comment Letter; USCC Comment Letter.

[461] *See, e.g.,* AIMA/ACC Comment Letter; MFA Comment Letter; State Street Comment Letter; USCC Comment Letter.

[462] *See* 15 U.S.C. 80b–4(b) and 15 U.S.C. 80b–11(e).

[463] *See* 2011 Form PF Adopting Release, *supra* footnote 3.

[464] *See* 5 CFR 1320.5(d)(2)(i).

[465] *See* 5 CFR 1320.5(d)(2)(vii) and (viii).

[466] *See* 15 U.S.C. 80b–10(c).

[467] *See, e.g.,* Private Funds Statistics, issued by staff of the SEC Division of Investment Management's Analytics Office, which we have used in this PRA as a data source, *available at*

Continued

Advisers Act precludes the SEC from being compelled to reveal Form PF information except (1) to Congress, upon an agreement of confidentiality, (2) to comply with a request for information from any other Federal department or agency or self-regulatory organization for purposes within the scope of its jurisdiction, or (3) to comply with an order of a court of the United States in an action brought by the United States or the SEC.[468] Any department, agency, or self-regulatory organization that receives Form PF information must maintain its confidentiality consistent with the level of confidentiality established for the SEC.[469] The Advisers Act requires the SEC to make Form PF information available to FSOC.[470] For advisers that are also commodity pool operators or commodity trading advisers, filing Form PF through the Form PF filing system is filing with both the SEC and CFTC.[471] Therefore, the SEC makes Form PF information available to FSOC and the CFTC, pursuant to Advisers Act section 204(b), making the information subject to the confidentiality protections applicable to information required to be filed under that section. Before sharing any Form PF information, the SEC requires that any such department, agency, or self-regulatory organization represent to the SEC that it has in place controls designed to ensure the use and handling of Form PF information in a manner consistent with the protections required by the Advisers Act. The SEC has instituted procedures to protect the confidentiality of Form PF information in a manner consistent with the protections required in the Advisers Act.[472]

C. Burden Estimates

We are revising our total burden final estimates to reflect the final amendments, updated data, and new methodology for certain estimates, and comments we received to our estimates.[473] The tables below map out the proposed and final Form PF requirements as they apply to each group of respondents and detail our burden estimates.

1. Proposed Form PF Requirements by Respondent

TABLE 1—PROPOSED FORM PF REQUIREMENTS BY RESPONDENT

Form PF	Smaller private fund advisers	Large hedge fund advisers	Large liquidity fund advisers	Large private equity fund advisers
Section 1a and section 1b (basic information about the adviser and the private funds it advises). *No proposed revisions*.	Annually	Quarterly	Quarterly	Annually.
Section 1c (additional information concerning hedge funds). *No proposed revisions*.	Annually, if they advise hedge funds.	Quarterly	Quarterly, if they advise hedge funds.	Annually, if they advise hedge funds.
Section 2 (additional information concerning qualifying hedge funds). *No proposed revisions*.	No	Quarterly	No	No.
Section 3 (additional information concerning liquidity funds). *Proposed revisions*.	No	No	Quarterly	No.
Section 4 (additional information concerning private equity funds). *Proposed revisions*.	No	No	No	Annually.
Section 5 (current reporting concerning qualifying hedge funds). *The proposal would add section 5*.	No	Upon a reporting event	No	No.
Section 6 (current reporting for private equity fund advisers). *The proposal would add section 6*.	Upon a reporting event, if they advise private equity funds.	No	No	Upon a reporting event.
Section 7 (temporary hardship request). *The proposed rules would make this available for current reporting*.	Optional, if they qualify	Optional, if they qualify	Optional, if they qualify	Optional, if they qualify.

https://www.sec.gov/divisions/investment/private-funds-statistics.shtml.

[468] *See* 15 U.S.C. 80b–4(b)(8).

[469] *See* 15 U.S.C. 80b–4(b)(9).

[470] *See* 15 U.S.C. 80b–4(b)(7).

[471] *See* 2011 Form PF Adopting Release, *supra* footnote 3, at n.17.

[472] *See* 5 CFR 1320.5(d)(2)(viii).

[473] For the previously approved estimates, *see* ICR Reference No. 202011–3235–019 (conclusion date Apr. 1, 2021), *available at https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202011-3235-019.*

TABLE 2—FINAL FORM PF REQUIREMENTS BY RESPONDENT

Form PF	Smaller private fund advisers	Large hedge fund advisers	Large liquidity fund advisers	Large private equity fund advisers
Section 1a and section 1b (basic information about the adviser and the private funds it advises). *No final revisions.*	Annually	Quarterly	Quarterly	Annually.
Section 1c (additional information concerning hedge funds). *No final revisions.*	Annually, if they advise hedge funds.	Quarterly	Quarterly, if they advise hedge funds.	Annually, if they advise hedge funds.
Section 2 (additional information concerning qualifying hedge funds). *No final revisions.*	No	Quarterly	No	No.
Section 3 (additional information concerning liquidity funds). *No final revisions.*	No	No	No	No.
Section 4 (additional information concerning private equity funds). *The final rules modify section 4.*	No	No	No	Annually.
Section 5 (current reporting concerning qualifying hedge funds). *The final rules add section 5.*	No	As soon as practicable upon a current reporting event, but no later than 72 hours.	No	No.
Section 6 (event reporting for private equity fund advisers). The final rules add section 6.	Within 60 days of fiscal quarter end upon a reporting event, if they advise private equity funds.	No	No	Within 60 days of fiscal quarter end upon a reporting event.
Section 7 (temporary hardship request). *The final rules make this available for current and private equity event reporting.*	Optional, if they qualify	Optional, if they qualify	Optional, if they qualify	Optional, if they qualify.

3. Annual Hour Burden Proposed and Final Estimates

Below are tables with annual hour burden proposed and final estimates for (1) initial filings, (2) ongoing annual and quarterly filings, (3) current reporting and private equity event reporting, and (4) transition filings, final filings, and temporary hardship requests.

TABLE 3—ANNUAL HOUR BURDEN PROPOSED AND FINAL ESTIMATES FOR INITIAL FILINGS

Respondent [1]	Number of respondents = aggregate number of responses [2]	Hours per response [3]		Hours per response amortized over 3 years [4]	Aggregate hours amortized over 3 years [5]
Smaller Private Fund Advisers:					
Proposed Estimate	[6] 313	40	÷ 3 =	13	4,069
Final Estimate	[7] 358	40	÷ 3 =	13	4,654
Previously Approved	272	40		23	6,256
Change	86	0		(10)	(1,602)
Large Hedge Fund Advisers:					
Proposed Estimate	[8] 14	325	÷ 3 =	108	1,512
Final Estimate	[9] 16	325	÷ 3 =	108	1,728
Previously Approved	17	325		658	11,186
Change	(1)	0		(550)	(9,458)
Large Liquidity Fund Advisers:					
Proposed Estimate	[10] 1	202	÷ 3 =	67	67
Final Estimate	[11] 1	200	÷ 3 =	67	67
Previously Approved	2	200		588	1,176
Change	(1)	0		(521)	(1,109)
Large Private Equity Fund Advisers:					
Proposed Estimate	[12] 42	250	÷ 3 =	83	3,486
Final Estimate	[13] 17	[14] 252	÷ 3 =	84	1,428
Previously Approved	9	200		133	1,197
Change	8	52		(49)	231

Notes:

[1] We expect that the hourly burden will be most significant for the initial report because the adviser will need to familiarize itself with the new reporting form and may need to configure its systems in order to efficiently gather the required information. In addition, we expect that some large private fund advisers will find it efficient to automate some portion of the reporting process, which will increase the burden of the initial filing but reduce the burden of subsequent filings.

[2] This concerns the initial filing; therefore, we estimate one response per respondent. The proposed and final changes are due to using updated data to estimate the number of advisers. The proposed changes concerning large private equity fund advisers also were due to the proposed amendment to reduce the filing threshold, which will not be adopted in this Release.

[3] Hours per response proposed and final changes for large private equity fund advisers are due to amendments to section 4. Hours per response proposed estimate changes for large liquidity fund advisers were due to proposed amendments to section 3. We have reduced the final hours estimate from the proposed hours estimate because the proposed large liquidity fund amendments will not be adopted in this Release.

[4] We amortize the initial time burden over three years because we believe that most of the burden would be incurred in the initial filing. We use a different methodology to calculate the estimate than the methodology staff used for the previously approved burdens. We believe the previously approved burdens for initial filings inflated the estimates by using a methodology that included subsequent filings for the next two years, which, for annual filers, included 2 subsequent filings, and for quarterly filers, included 11 subsequent filings. For the requested burden, we calculate the initial filing, as amortized over the next three years, by including only the hours related to the initial filing, not any subsequent filings. This approach is designed to more accurately estimate the initial burden, as amortized over three years. (For example, to estimate the previously approved burden for a large hedge fund adviser making its initial filing, staff estimated that the adviser would have an amortized average annual burden of 658 hours (1 initial filing × 325 hours + 11 subsequent filings (because it files quarterly) × 150 hours = 1,975 hours. 1,975 hours/3 years = approximately 658 previously approved hours per response, amortized over three years).) Changes are due to using the revised methodology, and changes for the large hedge fund advisers also are due to amendments to section 4. The proposed changes for large liquidity fund advisers were due to proposed amendments to section 3, which we are not adopting in this Release.

[5] (Number of responses) × (hours per response amortized over three years) = aggregate hours amortized over three years. Changes are due to (1) using updated data to estimate the number of advisers and (2) the new methodology to estimate the hours per response, amortized over three years. For large private equity fund advisers, changes in our proposed estimates were also due to the proposed amendments to lower the threshold, which we are not adopting in this Release, and amendments to section 4. The proposed changes for large liquidity fund advisers were due to proposed amendments to section 3, which we are not adopting in this Release.

[6] In the case of the proposed estimates, Private Funds Statistics show 2,427 smaller private fund advisers filed Form PF in the fourth quarter of 2020. Based on filing data from 2016 through 2020, an average of 12.9 percent of them did not file for the previous due date. (2,427 × 0.129 = 313 advisers.)

[7] In the case of the final estimates, Private Funds Statistics show 2,616 smaller private fund advisers filed Form PF in the most recent reporting period. Based on filing data from 2017 through 2021, an average of 13.7 percent of them did not file during the prior year. (2,616 × 0.137 = 358.39 advisers, rounded to 358 advisers.)

[8] In the case of the proposed estimates, Private Funds Statistics show 545 large hedge fund advisers filed Form PF in the fourth quarter of 2020. Based on filing data from 2016 through 2020, an average of 2.6 percent of them did not file for the previous due date. (545 × 0.026 = 14.17 advisers, rounded to 14 advisers.)

[9] In the case of the final estimates, Private Funds Statistics show 598 large hedge fund advisers filed Form PF in the most recent reporting period. Based on filing data from 2017 through 2021, an average of 2.7 percent of them did not file during the prior year. (598 × 0.027 = 16.146 advisers, rounded to 16 advisers.)

[10] In the case of the proposed estimates, Private Funds Statistics show 23 large liquidity fund advisers filed Form PF in the fourth quarter of 2020. Based on filing data from 2016 through 2020, an average of 1.5 percent of them did not file for the previous due date. (23 × 0.015 = 0.345 advisers, rounded up to 1 adviser.)

[11] In the case of the final estimates, Private Funds Statistics show 22 large liquidity fund advisers filed Form PF in the most recent reporting period. Based on filing data from 2017 through 2021, an average of 1.5 percent of them did not file during the prior year. (22 × 0.015 = 0.33 advisers, rounded up to 1 adviser.)

[12] In the case of the proposed estimates, Private Funds Statistics show 364 large private equity fund advisers filed Form PF in the fourth quarter of 2020. Based on filing data from 2016 through 2020, an average of 3.5 percent of them did not file for the previous due date. (364 × 0.035 = 12.74 advisers, rounded to 13 advisers.) As discussed in section II.B of the 2022 Form PF Proposing Release, we estimated that reducing the filing threshold for large private equity fund advisers would capture eight percent more of the U.S. private equity industry based on committed capital (from 67 percent to 75 percent of the U.S. private equity industry). Therefore, we proposed to estimate the number of large private equity fund advisers would increase by eight percent, as a result of the proposed threshold. (364 large private equity fund advisers × 0.08 = 29.12, rounded to 29 additional large private equity fund advisers filing for the first time as a result of the proposed threshold + 13 advisers = 42 advisers.)

[13] In the case of the final estimates, Private Funds Statistics show 435 large private equity fund advisers filed Form PF in the most recent reporting period. Based on filing data from 2017 through 2021, an average of 3.9 percent of them did not file during the prior year. (435 × 0.039 = 16.97 advisers, rounded to 17 advisers.) In a change from the proposal, we are not adopting a change to the filing threshold for large private equity fund advisers in this Release.

[14] The increase in the hours estimate from the proposing estimate to the final estimate is due to the change from a current reporting requirement to an annual reporting requirement for large private equity fund advisers for general partner and limited partner clawbacks, as more fully described in Section II.D above, and in response to commenters. Our final estimate considers that certain proposed questions for large private equity fund advisers will be on an annual, rather than a current, basis.

TABLE 4—ANNUAL HOUR BURDEN PROPOSED AND FINAL ESTIMATES FOR ONGOING ANNUAL AND QUARTERLY FILINGS

Respondent [1]	Number of respondents (advisers) [2]		Number of responses [3]		Hours per response [4]		Aggregate hours [5]
Smaller Private Fund Advisers:							
Proposed Estimate	[6] 2,114	×	1	×	15	=	31,710
Final Estimate	[7] 2,258	×	1	×	15	=	33,870
Previously Approved	2,055	×	1	×	15	=	30,825
Change	203		0		0		3,045
Large Hedge Fund Advisers:							
Proposed Estimate	[8] 531	×	4	×	150	=	318,600
Final Estimate	[9] 582	×	4	×	150	=	349,200
Previously Approved	537	×	4	×	150	=	322,200
Change	45		0		0		27,000
Large Liquidity Fund Advisers:							
Proposed Estimate	[10] 22	×	4	×	71	=	6,248
Final Estimate	[11] 21	×	4	×	70	=	5,880
Previously Approved	20	×	4	×	70	=	5,600
Change	1		0		0		280
Large Private Equity Fund Advisers:							
Proposed Estimate	[12] 351	×	1	×	125	=	43,875
Final Estimate	[13] 418	×	1	×	[14] 128	=	53,504
Previously Approved	313	×	1	×	100	=	31,300
Change	105		0		28		22,204

Notes:

[1] We estimate that after an adviser files its initial report, it will incur significantly lower costs to file ongoing annual and quarterly reports, because much of the work for the initial report is non-recurring and likely created system configuration and reporting efficiencies.

[2] Changes to the number of respondents are due to using updated data to estimate the number of advisers. For large private equity fund advisers, the changes in our proposed estimates were also due to the amendment to lower the threshold, which we are not adopting in this Release.

[3] Smaller private fund advisers and large private equity fund advisers file annually. Large hedge fund advisers and large liquidity fund advisers file quarterly.

[4] Hours per response changes for the large private equity fund advisers are due to the amendments to section 4. Hours per response proposed estimate changes for large liquidity fund advisers were due to proposed amendments to section 3. We have reduced the final hours estimate for large liquidity fund advisers from the proposed hours estimate because the proposed large liquidity fund amendments will not be adopted in this Release.

[5] Changes to the aggregate hours are due to using updated data to estimate the number of advisers. For large private equity fund advisers, changes also are due to the amendments to section 4.

[6] In the case of the proposed estimates, Private Funds Statistics show 2,427 smaller private fund advisers filed Form PF in the fourth quarter of 2020. We estimated that 313 of them filed an initial filing, as discussed in Table 3: Annual Hour Burden Proposed and Final Estimates for Initial Filings. (2,427 total smaller advisers − 313 advisers who made an initial filing = 2,114 advisers who make ongoing filings.)

[7] In the case of the final estimates, Private Funds Statistics show 2,616 smaller private fund advisers filed Form PF in the most recent reporting period. We estimated that 358 of them filed an initial filing, as discussed in Table 3: Annual Hour Burden Proposed and Final Estimates for Initial Filings. (2,616 total smaller advisers − 358 advisers who made an initial filing = 2,258 advisers who make ongoing filings.)

[8] In the case of the proposed estimates, Private Funds Statistics show 545 large hedge fund advisers filed Form PF in the fourth quarter of 2020. We estimated that 14 of them filed an initial filing, as discussed in Table 3: Annual Hour Burden Proposed and Final Estimates for Initial Filings. (545 total large hedge fund advisers − 14 advisers who made an initial filing = 531 advisers who make ongoing filings.)

[9] In the case of the final estimates, Private Funds Statistics show 598 large hedge fund advisers filed Form PF in the most recent reporting period. We estimated that 16 of them filed an initial filing, as discussed in Table 3: Annual Hour Burden Proposed and Final Estimates for Initial Filings. (598 total large hedge fund advisers − 16 advisers who made an initial filing = 582 advisers who make ongoing filings.)

[10] In the case of the proposed estimates, Private Funds Statistics show 23 large liquidity fund advisers filed Form PF in the fourth quarter of 2020. We estimated that one of them filed an initial filing, as discussed in Table 3: Annual Hour Burden Proposed and Final Estimates for Initial Filings. (23 total large liquidity fund advisers − 1 adviser who made an initial filing = 22 advisers who make ongoing filings.)

[11] In the case of the final estimates, Private Funds Statistics show 22 large liquidity fund advisers filed Form PF in the most recent reporting period. We estimated that one of them filed an initial filing, as discussed in Table 3: Annual Hour Burden Proposed and Final Estimates for Initial Filings. (22 total large liquidity fund advisers − 1 adviser who made an initial filing = 21 advisers who make ongoing filings.)

[12] In the case of the proposed estimates, Private Funds Statistics show 364 large private equity fund advisers filed Form PF in the fourth quarter of 2020. Based on filing data from 2016 through 2020, an average of 3.5 percent of them did not file for the previous due date. (364 × 0.035 = 12.74 advisers, rounded to 13 advisers.) (364 total large private equity fund advisers − 13 advisers who made an initial filing = 351 advisers who make ongoing filings.) Lowering the filing threshold for large private equity fund advisers would result in additional advisers filing for the first time, as discussed in Table 3: Annual Hour Burden Proposed and Final Estimates for Initial Filings.

[13] In the case of the final estimates, Private Funds Statistics show 435 large private equity fund advisers filed Form PF in the most recent reporting period. Based on filing data from 2017 through 2021, an average of 3.9 percent of them did not file during the prior year. (435 × 0.039 = 16.97 advisers, rounded to 17 advisers.) (435 total large private equity fund advisers − 17 advisers who made an initial filing = 418 advisers who make ongoing filings.) As discussed in Table 3: Annual Hour Burden Proposed and Final Estimates for Initial Filings, we are not adopting the proposed change in threshold for large private equity fund advisers.

[14] The increase in the hours estimate from the proposing estimate to the final estimate is due to the change from a current reporting requirement to an annual reporting requirement for large private equity fund advisers for general partner and limited partner clawbacks, as more fully described in Section II.D above, and in response to commenters. Our final estimate considers that certain proposed questions for large private equity fund advisers will be on an annual, rather than a current, basis.

TABLE 5—ANNUAL HOUR BURDEN PROPOSED AND FINAL ESTIMATES FOR CURRENT REPORTING AND PRIVATE EQUITY EVENT REPORTING

Respondent [1]	Aggregate number of responses		Hours per response [2]		Aggregate hours
Smaller Private Fund Advisers:					
Proposed Estimate	6	×	8.5	=	51
Final Estimate	20	×	5	=	100
Previously Approved	Not Applicable				
Change	Not Applicable				
Large Hedge Fund Advisers:					
Proposed Estimate	6	×	8.5	=	51
Final Estimate	[3] 60	×	10	=	600
Previously Approved	Not Applicable				
Change	Not Applicable				
Large Private Equity Fund Advisers:					
Proposed Estimate	6	×	8.5	=	51
Proposed Estimate	20	×	5	=	100
Previously Approved	Not Applicable				
Change	Not Applicable				

Notes:

[1] In a change from the proposal, qualifying hedge fund advisers will file current reports under section 5 as soon as practicable, but no later than 72 hours from the current reporting event, and private equity fund advisers will file event reports under section 6 on a quarterly basis, in each case rather than within one business day as proposed. There are no previously approved estimates for the proposed and final current reporting and private equity event reporting amendments because they are new requirements.

[2] We estimated in the proposal that the time to prepare and file a current report would range from 4 hours to 8.5 hours, depending on the current reporting event. Therefore, we proposed to use the upper range (8.5 hours) to calculate estimates. In our final estimates, we have revised the estimated time to prepare and file a current report for large hedge fund advisers to 10 hours. We considered comments that we received to our hour burden estimate, as well as changes to current reporting questions and the reporting timeline from the proposed amendments to the final amendments. Our final time burden estimate includes the costs associated with the required explanatory notes that are more fully described in section II.D.1 above. We have revised the estimated time to prepare and file a private equity event report for private equity fund advisers to 5 hours in consideration of changes from the proposed amendments to the final amendments to the event reporting questions and the change in the reporting timeline from within one business day to on a quarterly basis.

[3] In light of comments received and modifications to the proposal, our estimate of the aggregate number of responses expected across all current reporting and private equity event reporting categories has increased. As discussed more fully in section IV.C.1.a above and in consideration of comments we received, we have modified our estimate of the number of current reports associated with extraordinary losses for large hedge fund advisers. We have also modified our estimate of current reports and private equity reporting events associated with other reporting event categories. We also recognize in our estimate that advisers may concurrently experience multiple current reporting events or private equity reporting events, as applicable, and may therefore report more than one reporting event in a single filing.

TABLE 6—ANNUAL HOUR BURDEN PROPOSED AND FINAL ESTIMATES FOR TRANSITION FILINGS, FINAL FILINGS, AND TEMPORARY HARDSHIP REQUESTS

Filing type [1]	Aggregate number of responses [2]		Hours per response		Aggregate hours [3]
Transition Filing from Quarterly to Annual:					
Proposed Estimate	[4] 63	×	0.25	=	15.75
Final Estimate	[5] 71	×	0.25	=	17.75
Previously Approved	45	×	0.25	=	11.25
Change	26		0		6.5
Final Filings:					
Proposed Estimate	[6] 232		0.25	=	58
Final Estimate	[7] 235	×	0.25	=	58.75
Previously Approved	54	×	0.25	=	13.5
Change [8]	181		0		45.25
Temporary Hardship Requests:					
Proposed Estimate	[9] 3	×	1	=	3
Final Estimate	[10] 4	×	1	=	4
Previously Approved	4	×	1	=	4
Change	0		0		0

Notes:

[1] Advisers must file limited information on Form PF in three situations. First, any adviser that transitions from filing quarterly to annually because it has ceased to qualify as a large hedge fund adviser or large liquidity fund adviser, must file a Form PF indicating that it is no longer obligated to report on a quarterly basis. Second, any adviser that is no longer subject to Form PF's reporting requirements, must file a final report indicating this. Third, an adviser may request a temporary hardship exemption if it encounters unanticipated technical difficulties that prevent it from making a timely electronic filing. A temporary hardship exemption extends the deadline for an electronic filing for seven business days. To request a temporary hardship exemption, the adviser must file a request on Form PF. Under the final rule, temporary hardship exemptions are available for current reporting and private equity event reporting, as discussed in section II. This final amendment will not result in any changes to the hours per response.

[2] Changes to the aggregate number of responses are due to using updated data. Changes for final filings also are due to using a different methodology, as discussed below.

[3] Changes to the aggregate hours are due to the changes in the aggregate number of responses.

[4] In the case of the proposed estimates, Private Funds Statistics show 568 advisers filed quarterly reports in the fourth quarter of 2020. Based on filing data from 2016 through 2020, an average of 11.1 percent of them filed a transition filing. (568 × 0.111 = 63 responses.)

[5] In the case of the final estimates, Private Funds Statistics show 620 advisers filed quarterly reports in the most recent reporting period. Based on filing data from 2017 through 2021, an average of 11.5 percent of them filed a transition filing. (620 × 0.115 = 71.3 responses, rounded to 71 responses.)

[6] In the case of the proposed estimates, Private Funds Statistics show 3,359 advisers filed Form PF in the fourth quarter of 2020. Based on filing data from 2016 through 2020, an average of 6.9 percent of them filed a final filing. (3,359 × 0.069 = approximately 232 responses.)

[7] In the case of the final estimates, Private Funds Statistics show 3,671 advisers filed Form PF in the most recent reporting period. Based on filing data from 2017 through 2021, an average of 11.5 percent of them filed a final filing. (3,671 × 0.115 = approximately 422 responses.)

[8] Changes for final filings are due to using a different methodology. The previously approved estimates used a percentage of quarterly filers to estimate how many advisers filed a final report. We use a percentage of all filers to estimate how many advisers filed a final report, because all filers may file a final report, not just quarterly filers. Therefore, this methodology is designed to more accurately estimate the number of responses for final filings.

[9] In the case of the proposed estimates, based on experience receiving temporary hardship requests, we estimate that 1 out of 1,000 advisers will file a temporary hardship exemption annually. Private Funds Statistics show there were 3,359 private fund advisers who filed Form PF in the fourth quarter of 2020. (3,359/1,000 = approximately 3 responses.)

[10] In the case of the final estimates, Private Funds Statistics show there were 3,671 private fund advisers who filed Form PF in the most recent reporting period. (3,671/1,000 = approximately 4 responses.)

4. Annual Monetized Time Burden Proposed and Final Estimates

Below are tables with annual monetized time burden proposed and final estimates for (1) initial filings, (2) ongoing annual and quarterly filings, (3) current reporting and private equity event reporting, and (4) transition filings, final filings, and temporary hardship requests.[474]

[474] The hourly wage rates used in our proposed and final estimates are based on (1) SIFMA's *Management & Professional Earnings in the Securities Industry 2013,* modified by SEC staff to account for an 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead; and (2) SIFMA's *Office Salaries in the Securities Industry 2013,* modified by SEC staff to account for an 1,800-hour work-year and inflation, and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead. The final estimates are based on the preceding SIFMA data sets, which SEC staff have updated since the proposing release to account for current inflation rates.

TABLE 7—PROPOSED AND FINAL ANNUAL MONETIZED TIME BURDEN OF INITIAL FILINGS

Respondent [1]	Per response [2]		Per response amortized over 3 years [3]		Aggregate number of responses [4]		Aggregate monetized time burden amortized over 3 years
Smaller Private Fund Advisers:							
Proposed Estimate	[5] $13,620	÷ 3 =	$4,540	×	313	=	$1,421,020
Final Estimate	[6] 15,520	÷ 3 =	5,174	×	358	=	1,852,292
Previously Approved	13,460			×	272	=	3,661,120
Change	2,060				86		(1,808,828)
Large Hedge Fund Advisers:							
Proposed Estimate	[7] 104,423	÷ 3 =	34,808	×	14	=	487,312
Final Estimate	[8] 118,890	÷ 3 =	39,630	×	16	=	634,080
Previously Approved	103,123			×	17	=	1,753,091
Change	15,767				(1)		(1,119,011)
Large Liquidity Fund Advisers:							
Proposed Estimate	[9] 64,893	÷ 3 =	21,631	×	1	=	21,631
Final Estimate	[10] 73,200	÷ 3 =	24,400	×	1	=	24,400
Previously Approved	63,460			×	2	=	126,920
Change	9,740				(1)		(102,520)
Large Private Equity Fund Advisers:							
Proposed Estimate	[11] 80,325	÷ 3 =	26,775	×	42	=	1,124,550
Final Estimate	[12] 92,221	÷ 3 =	30,740	×	17	=	522,580
Previously Approved	63,460			×	9	=	571,140
Change	28,761				8		(48,560)

Notes:

[1] We expect that the monetized time burden will be most significant for the initial report, for the same reasons discussed in Table 3: Annual Hour Burden Proposed and Final Estimates for Initial Filings. Accordingly, we anticipate that the initial report will require more attention from senior personnel, including compliance managers and senior risk management specialists, than will ongoing annual and quarterly filings. Changes are due to using (1) updated hours per response estimates, as discussed in Table 3: Annual Hour Burden Proposed and Final Estimates for Initial Filings, (2) updated aggregate number of responses, as discussed in Table 3: Annual Hour Burden Proposed and Final Estimates for Initial Filings, and (3) updated wage estimates. Changes to the aggregate monetized time burden, amortized over three years, also are due to amortizing the monetized time burden, which the previously approved estimates did not calculate, as discussed below.

[2] For the hours per response in each calculation, *see* Table 3: Annual Hour Burden Proposed and Final Estimates for Initial Filings.

[3] We amortize the monetized time burden for initial filings over three years, as we do with other initial burdens in this PRA, because we believe that most of the burden would be incurred in the initial filing. The previously approved burden estimates did not calculate this.

[4] *See* Table 3: Annual Hour Burden Proposed and Final Estimates for Initial Filings.

[5] In the case of the proposed estimates, for smaller private fund advisers, we estimated that the initial report would most likely be completed equally by a compliance manager at a cost of $316 per hour and a senior risk management specialist at a cost of $365 per hour. Smaller private fund advisers generally would not realize significant benefits from or incur significant costs for system configuration or automation because of the limited scope of information required from smaller private fund advisers. (($316 per hour × 0.5) + ($365 per hour × 0.5)) × 40 hours per response = $13,620.

[6] In the case of the final estimates, for smaller private fund advisers, we estimate that the initial report will most likely be completed equally by a compliance manager at a cost of $360 per hour and a senior risk management specialist at a cost of $416 per hour. Smaller private fund advisers generally would not realize significant benefits from or incur significant costs for system configuration or automation because of the limited scope of information required from smaller private fund advisers. (($416 per hour × 0.5) + ($360 per hour × 0.5)) × 40 hours per response = $15,520.

[7] In the case of the proposed estimates, for large hedge fund advisers, we estimated that for the initial report, of a total estimated burden of 325 hours, approximately 195 hours will most likely be performed by compliance professionals and 130 hours would most likely be performed by programmers working on system configuration and reporting automation. Of the work performed by compliance professionals, we anticipate that it will be performed equally by a compliance manager at a cost of $316 per hour and a senior risk management specialist at a cost of $365 per hour. Of the work performed by programmers, we anticipated that it would be performed equally by a senior programmer at a cost of $339 per hour and a programmer analyst at a cost of $246 per hour. (($316 per hour × 0.5) + ($365 per hour × 0.5)) × 195 hours = $66,397.50. (($339 per hour × 0.5) + ($246 per hour × 0.5)) × 130 hours = $38,025. $66,397.50 + $38,025 = $104,422.50, rounded to $104,423.

[8] In the case of the final estimates, for large hedge fund advisers, we estimate that for the initial report, of a total estimated burden of 325 hours, approximately 195 hours will most likely be performed by compliance professionals and 130 hours will most likely be performed by programmers working on system configuration and reporting automation. Of the work performed by compliance professionals, we anticipate that it will be performed equally by a compliance manager at a cost of $360 per hour and a senior risk management specialist at a cost of $416 per hour. Of the work performed by programmers, we anticipate that it will be performed equally by a senior programmer at a cost of $386 per hour and a programmer analyst at a cost of $280 per hour. (($360 per hour × 0.5) + ($416 per hour × 0.5)) × 195 hours = $75,600. (($386 per hour × 0.5) + ($280 per hour × 0.5)) × 130 hours = $43,290. $75,600 + $43,290 = $118,890.

[9] In the case of the proposed estimates, for large liquidity fund advisers, we estimated that for the initial report, of a total estimated burden of 202 hours, approximately 60 percent would most likely be performed by compliance professionals and approximately 40 percent would most likely be performed by programmers working on system configuration and reporting automation (that is approximately 121 hours for compliance professionals and 81 hours for programmers). Of the work performed by compliance professionals, we anticipated that it would be performed equally by a compliance manager at a cost of $316 per hour and a senior risk management specialist at a cost of $365 per hour. Of the work performed by programmers, we anticipated that it would be performed equally by a senior programmer at a cost of $339 per hour and a programmer analyst at a cost of $246 per hour. (($316 per hour × 0.5) + ($365 per hour × 0.5)) × 121 hours = $41,200.50. (($339 per hour × 0.5) + ($246 per hour × 0.5)) × 81 hours = $23,692.50. $41,200.50 + $23,692.50 = $64,893.

[10] In the case of the final estimates, for large liquidity fund advisers, we estimate that for the initial report, of a total estimated burden of 200 hours, approximately 60 percent will most likely be performed by compliance professionals and approximately 40 percent will most likely be performed by programmers working on system configuration and reporting automation (that is approximately 120 hours for compliance professionals and 80 hours for programmers). Of the work performed by compliance professionals, we anticipate that it will be performed equally by a compliance manager at a cost of $360 per hour and a senior risk management specialist at a cost of $416 per hour. Of the work performed by programmers, we anticipate that it will be performed equally by a senior programmer at a cost of $386 per hour and a programmer analyst at a cost of $280 per hour. (($360 per hour × 0.5) + ($416 per hour × 0.5)) × 120 hours = $46,560. (($386 per hour × 0.5) + ($280 per hour × 0.5)) × 80 hours = $26,640. $46,560 + $26,640 = $73,200.

[11] In the case of the proposed estimates, for large private equity fund advisers, we expected that for the initial report, of a total estimated burden of 250 hours, approximately 60 percent would most likely be performed by compliance professionals and approximately 40 percent would most likely be performed by programmers working on system configuration and reporting automation (that is approximately 150 hours for compliance professionals and 100 hours for programmers). Of the work performed by compliance professionals, we anticipated that it would be performed equally by a compliance manager at a cost of $316 per hour and a senior risk management specialist at a cost of $365 per hour. Of the work performed by programmers, we anticipated that it would be performed equally by a senior programmer at a cost of $339 per hour and a programmer analyst at a cost of $246 per hour. (($316 per hour × 0.5) + ($365 per hour × 0.5)) × 150 hours = $51,075. (($339 per hour × 0.5) + ($246 per hour × 0.5)) × 100 hours = $29,250. $51,075 + $29,250 = $80,325.

[12] In the case of the final estimates, for large private equity fund advisers, we expect that for the initial report, of a total estimated burden of 252 hours, approximately 60 percent will most likely be performed by compliance professionals and approximately 40 percent will most likely be performed by programmers working on system configuration and reporting automation (that is approximately 151 hours for compliance professionals and 101 hours for programmers). Of the work performed by compliance professionals, we anticipate that it will be performed equally by a compliance manager at a cost of $360 per hour and a senior risk management specialist at a cost of $416 per hour. Of the work performed by programmers, we anticipate that it will be performed equally by a senior programmer at a cost of $386 per hour and a programmer analyst at a cost of $280 per hour. (($360 per hour × 0.5) + ($416 per hour × 0.5)) × 151 hours = $58,588. (($386 per hour × 0.5) + ($280 per hour × 0.5)) × 101 hours = $33,633. $58,588 + $33,633 = $92,221.

TABLE 8—PROPOSED AND FINAL ANNUAL MONETIZED TIME BURDEN OF ONGOING ANNUAL AND QUARTERLY FILINGS

Respondent [1]	Per response [2]		Aggregate number of responses		Aggregate monetized time burden
Smaller Private Fund Advisers:					
Proposed Estimate	[3] $4,230	×	[4] 2,114	=	$8,942,220
Final Estimate	[5] 4,815	×	[6] 2,258	=	10,872,270
Previously Approved	4,173.75	×	2,055	=	8,577,056
Change	641.25		203		2,295,214
Large Hedge Fund Advisers:					
Proposed Estimate	[7] 42,300	×	[8] 2,124	=	89,845,200
Final Estimate	[9] 48,150	×	[10] 2,328	=	112,093,200
Previously Approved	41,737.50	×	2,148	=	89,652,150
Change	6,412.50		180		22,441,050
Large Liquidity Fund Advisers:					
Proposed Estimate	[11] 20,022	×	[12] 88	=	1,761,936
Final Estimate	[13] 22,470	×	[14] 84	=	1,887,480
Previously Approved	29,216.25	×	80	=	2,337,300
Change [9]	(6,746.25)		4		(449,820)
Large Private Equity Fund Advisers:					
Proposed Estimate	[15] 35,250	×	[16] 351	=	12,372,750
Final Estimate	[17] 41,730	×	[18] 418	=	17,443,140
Previously Approved	27,825	×	313	=	8,709,225
Change	13,905		105		8,733,915

Notes:

[1] We expect that the monetized time burden will be less costly for ongoing annual and quarterly reports than for initial reports, for the same reasons discussed in Table 4: Annual Hour Burden Proposed and Final Estimates for Ongoing Annual and Quarterly Filings. Accordingly, we anticipate that senior personnel will bear less of the reporting burden than they would for the initial report. Changes are due to using (1) updated wage estimates, (2) updated hours per response estimates, as discussed in Table 4: Annual Hour Burden Proposed and Final Estimates for Ongoing Annual and Quarterly Filings, and (3) updated aggregate number of responses. Changes to estimates concerning large liquidity fund advisers primarily appear to be due to correcting a calculation error, as discussed below.

[2] For all types of respondents, in the case of the proposed estimates, we estimated that both annual and quarterly reports would be completed equally by (1) a compliance manager at a cost of $316 per hour, (2) a senior compliance examiner at a cost of $243, (3) a senior risk management specialist at a cost of $365 per hour, and (4) a risk management specialist at a cost of $203 an hour. ($316 × 0.25 = $79) + ($243 × 0.25 = $60.75) + ($365 × 0.25 = $91.25) + ($203 × 0.25 = $50.75) = $281.75, rounded to $282 per hour. For all types of respondents, in the case of the final estimates, we estimate that both annual and quarterly reports would be completed equally by (1) a compliance manager at a cost of $360 per hour, (2) a senior compliance examiner at a cost of $276, (3) a senior risk management specialist at a cost of $416 per hour, and (4) a risk management specialist at a cost of $232 an hour. ($360 × 0.25 = $90) + ($276 × 0.25 = $69) + ($416 × 0.25 = $104) + ($232 × 0.25 = $58) = $321. To calculate the cost per response for each respondent, we used the hours per response from Table 4: Annual Hour Burden Proposed and Final Estimates for Ongoing Annual and Quarterly Filings.

[3] In the case of the proposed estimates, cost per response for smaller private fund advisers: ($282 per hour × 15 hours per response = $4,230 per response.)

[4] In the case of the proposed estimates, (2,114 smaller private fund advisers × 1 response annually = 2,114 aggregate responses.)

[5] In the case of the final estimates, cost per response for smaller private fund advisers: ($303 per hour × 15 hours per response = $4,545 per response.)

[6] In the case of the final estimates, (2,258 smaller private fund advisers × 1 response annually = 2,258 aggregate responses.)

[7] In the case of the proposed estimates, cost per response for large hedge fund advisers: ($282 per hour × 150 hours per response = $42,300 per response.)

[8] In the case of the proposed estimates, (531 large hedge fund advisers × 4 response annually = 2,124 aggregate responses.)

[9] In the case of the final estimates, cost per response for large hedge fund advisers: ($321 per hour × 150 hours per response = $48,150 per response.)

[10] In the case of the final estimates, (582 large hedge fund advisers × 4 responses annually = 2,328 aggregate responses.)

[11] In the case of the proposed estimates, cost per response for large liquidity fund advisers: ($282 per hour × 71 hours per response = $20,022 per response.)

[12] In the case of the proposed estimates, (22 large liquidity fund advisers × 4 responses annually = 88 aggregate responses.)

[13] In the case of the final estimates, cost per response for large liquidity fund advisers: ($321 per hour × 70 hours per response = $22,470 per response.)

[14] In the case of the final estimates, (21 large liquidity fund advisers × 4 responses annually = 84 aggregate responses.)

[15] The previously approved estimates appear to have mistakenly used a different amount of hours per response (105 hours), rather than the actual estimate for large liquidity fund advisers (which was 70 hours per response), causing the monetized time burden to be inflated in error. Therefore, the extent of these changes are primarily due to using the correct hours per response, which we now estimate as 70 hours, as discussed in Table 4: Annual Hour Burden Proposed and Final Estimates for Ongoing Annual and Quarterly Filings. In the case of the proposed estimates, cost per response for large private equity fund advisers: ($282 per hour × 125 hours per response = $35,250 per response.)

[16] In the case of the proposed estimates, (351 large private equity fund advisers × 1 response annually = 351 aggregate responses.)

[17] In the case of the final estimates, cost per response for large private equity fund advisers: ($321 per hour × 130 hours per response = $41,730 per response.)

[18] In the case of the final estimates, (418 large private equity fund advisers × 1 response annually = 418 aggregate responses.)

TABLE 9—PROPOSED AND FINAL ANNUAL MONETIZED TIME BURDEN OF CURRENT REPORTING AND PRIVATE EQUITY EVENT REPORTING

Respondent [1]	Per response		Aggregate number of responses [2]		Aggregate monetized time burden
Smaller Private Fund Advisers:					
Proposed Estimate	[3] $4,182	×	6	=	$25,902
Final Estimate	[4] $2,024	×	20	=	40,480
Previously Approved	Not Applicable				
Change	Not Applicable				
Large Hedge Fund Advisers:					
Proposed Estimate	[5] 3,538	×	6	=	21,228
Final Estimate	[6] 5,160	×	60	=	309,600
Previously Approved	Not Applicable				
Change	Not Applicable				
Large Private Equity Fund Advisers:					
Proposed Estimate	[3] 4,182	×	6	=	25,092
Final Estimate	[4] 2,024	×	20	=	40,480
Previously Approved	Not Applicable				
Change	Not Applicable				

Notes:

[1] In a change from the proposal, qualifying hedge fund advisers will file current reports under section 5 as soon as practicable, but no later than 72 hours from the current reporting event, and private equity fund advisers will file event reports under section 6 on a quarterly basis, in each case rather than within one business day as proposed. There are no previously approved estimates for these proposed and final amendments because they are new requirements.

[2] *See* Table 5: Annual Hour Burden Proposed and Final Estimates for Current Reporting and Private Equity Event Reporting.

[3] In the case of the proposed estimates, for the cost per response for smaller private fund advisers and large private equity fund advisers, we estimated that, depending on the circumstances, different legal professionals at the adviser would work on the current report or the private equity event report, as applicable. We estimated that the time costs for a legal professional to be approximately $492, which is a blended average of hourly rate for a deputy general counsel ($610) and compliance attorney ($373). (8.5 hours to file current report or private equity event report, as applicable × $492 per hour for a legal professional = $4,182).

[4] In the case of the final estimates, we estimate that the time costs for a legal professional to be approximately $560, which is a blended average of hourly rate for a deputy general counsel ($695) and compliance attorney ($425). We estimate that the time costs for a financial professional to be approximately $355, which is a blended average hourly rate for a senior risk management specialist ($416) and a financial reporting manager ($339). Of the total 5 hours that a private equity event report would take, we estimate that an adviser would spend on average 2.5 hours of legal professional time and 1.5 hours of financial professional time to prepare, review, and submit a private equity event report. (2.5 hours × $560 per hour for a legal professional = $1,400) + (1.5 hours × $416 per hour for a financial professional = $624) = $2,024.

[5] In the case of the proposed estimates, for the cost per response, we estimated that, depending on the circumstances, different legal professionals and financial professionals at the advisers would work on the current report because the current reporting events may require both legal and quantitative analysis. We estimated that the time costs for a legal professional to be approximately $492, which is a blended average of hourly rate for a deputy general counsel ($610) and compliance attorney ($373). We estimate that the time costs for a financial professional to be approximately $331, which is a blended average hourly rate for a senior risk management specialist ($365) and a financial reporting manager ($297). Of the total 8.5 hours that a current report would take, we estimate that an adviser would spend on average 4.5 hours of legal professional time and 4 hours of financial professional time to prepare, review, and submit a current report pursuant to section 5. (4.5 hours × $492 per hour for a legal professional = $2,214) + (4 hours × $331 per hour for a financial professional = $1,324) = $3,583.

[6] In the case of the final estimates, we estimate that the time costs for a legal professional to be approximately $560, which is a blended average of hourly rate for a deputy general counsel ($695) and compliance attorney ($425). We estimate that the time costs for a financial professional to be approximately $355, which is a blended average hourly rate for a senior risk management specialist ($416) and a financial reporting manager ($339). Of the total 10 hours that a current report would take, we estimate that an adviser would spend on average 5.5 hours of legal professional time and 4.5 hours of financial professional time to prepare, review, and submit a current report. (5.5 hours × $560 per hour for a legal professional = $3,080) + (5 hours × $416 per hour for a financial professional = $2,080) = $5,160.

TABLE 10—PROPOSED AND FINAL ANNUAL MONETIZED TIME BURDEN FOR TRANSITION FILINGS, FINAL FILINGS, AND TEMPORARY HARDSHIP REQUESTS

Filing Type [1]	Per response		Aggregate number of responses [2]		Aggregate monetized time burden
Transition Filing from Quarterly to Annual:					
Proposed Estimate	[3] $18	×	63	=	$1,134
Final Estimate	[4] 20.50	×	71	=	1,455.50
Previously Approved	17.75	×	45	=	621.25
Change	2.75		26		834.25
Final Filings:					
Proposed Estimate	[5] 18	×	232	=	4,176
Final Estimate	[6] 20.50	×	422	=	8,651
Previously Approved	17.75	×	54	=	958.50
Change	2.75		368		7,692.50
Temporary Hardship Requests:					

TABLE 10—PROPOSED AND FINAL ANNUAL MONETIZED TIME BURDEN FOR TRANSITION FILINGS, FINAL FILINGS, AND TEMPORARY HARDSHIP REQUESTS—Continued

Filing Type [1]	Per response		Aggregate number of responses [2]		Aggregate monetized time burden
Proposed Estimate	[7] 222	×	3	=	666
Final Estimate	[8] 252.38	×	4	=	1,009.52
Previously Approved	221.63	×	4	=	886.52
Change	30.75		0		123

Notes:
[1] All changes are due to using updated data concerning wage rates and the number of responses.
[2] *See* Table 6: Annual Hour Burden Proposed and Final Estimates for Transition Filings, Final Filings, and Temporary Hardship Requests.
[3] In the case of the proposed estimates, we estimated that each transition filing would take 0.25 hours and that a compliance clerk would perform this work at a cost of $72 an hour. (0.25 hours × $72 = $18.)
[4] In the case of the final estimates, we estimate that each transition filing will take 0.25 hours and that a compliance clerk would perform this work at a cost of $82 an hour. (0.25 hours × $82 = $20.50.)
[5] In the case of the proposed estimates, we estimated that each transition filing would take 0.25 hours and that a compliance clerk would perform this work at a cost of $72 an hour. (0.25 hours × $72 = $18.)
[6] In the case of the final estimates, we estimate that each transition filing will take 0.25 hours and that a compliance clerk would perform this work at a cost of $82 an hour. (0.25 hours × $82 = $20.50.)
[7] In the case of the proposed estimates, we estimated that each temporary hardship request will take 1 hour. We estimated that a compliance manager would perform five-eighths of the work at a cost of $316 and a general clerk would perform three-eighths of the work at a cost of $64. (1 hour × ((⅝ of an hour × $316 = $197.50) + (⅜ of an hour × $64 = $24)) = $238 per response.
[8] In the case of the final estimates, we estimate that each temporary hardship request will take 1 hour. We estimate that a compliance manager would perform five-eighths of the work at a cost of $360 and a general clerk would perform three-eighths of the work at a cost of $73. (1 hour × ((⅝ of an hour × $360 = $225) + (⅜ of an hour × $73 = $27.38)) = $252.38 per response.

5. Annual External Cost Burden Proposed and Final Estimates

Below are tables with annual external cost burden proposed and final estimates for (1) initial filings as well as ongoing annual and quarterly filings and (2) current reporting and private equity event reporting. There are no filing fees for transition filings, final filings, or temporary hardship requests and we continue to estimate there would be no external costs for those filings, as previously approved.

TABLE 11—PROPOSED AND FINAL ANNUAL EXTERNAL COST BURDEN FOR ONGOING ANNUAL AND QUARTERLY FILINGS AS WELL AS INITIAL FILINGS

Respondent [1]	Number of responses per respondent [2]		Filing fee per filing [3]		Total filing fees	External cost of initial filing [4]		External cost of initial filing amortized over 3 years [5]		Number of initial filings [6]		Aggregate external cost of initial filing amortized over 3 years [7]	Total aggregate external cost [8]
Smaller Private Fund Advisers													
Proposed Estimate	1	×	$150	=	$150	Not Applicable							[9] $364,050
Final Estimate	1	×	150	=	150	Not Applicable							[10] 392,400
Previously Approved	1	×	150	=	150	Not Applicable							349,050
Change	0		0		0	No Change							43,350
Large Hedge Fund Advisers:													
Proposed Estimate	4	×	150	=	600	50,000	÷ 3 =	16,667	×	14	=	233,338	[11] 560,338
Final Estimate	4	×	150	=	600	50,000	÷ 3 =	16,667	×	16	=	266,672	[12] 625,472
Previously Approved	4	×	150	=	600	50,000			×	17	=	850,000	1,182,400
Change	0		0		0	0				(1)		(583,328)	(556,928)
Large Liquidity Fund Advisers:													
Proposed Estimate	4	×	150	=	600	50,000	÷ 3 =	16,667	×	1	=	16,667	[13] 30,467
Final Estimate	4	×	150	=	600	50,000	÷ 3 =	16,667	×	1	=	16,667	[14] 29,867
Previously Approved	4	×	150	=	600	50,000			×	2	=	100,000	113,200
Change	0		0		0	0				(1)		(83,333)	(83,333)
Large Private Equity Fund Advisers:													
Proposed Estimate	1	×	150	=	150	50,000	÷ 3 =	16,667	×	42	=	700,014	[15] 754,614
Final Estimate	1	×	150	=	150	50,000	÷ 3 =	16,667	×	17	=	283,339	[16] 348,589

TABLE 11—PROPOSED AND FINAL ANNUAL EXTERNAL COST BURDEN FOR ONGOING ANNUAL AND QUARTERLY FILINGS AS WELL AS INITIAL FILINGS—Continued

Respondent [1]	Number of responses per respondent [2]		Filing fee per filing [3]		Total filing fees	External cost of initial filing [4]		External cost of initial filing amortized over 3 years [5]		Number of initial filings [6]		Aggregate external cost of initial filing amortized over 3 years [7]	Total aggregate external cost [8]
Previously Approved	1	×	150	=	150	50,000			×	9	=	450,000	498,300
Change	0		0		0	0				8		(166,661)	(149,711)

Notes:

[1] We estimate that advisers would incur the cost of filing fees for each filing. For initial filings, advisers may incur costs to modify existing systems or deploy new systems to support Form PF reporting, acquire or use hardware to perform computations, or otherwise process data required on Form PF.

[2] Smaller private fund advisers and large private equity fund advisers file annually. Large hedge fund advisers and large liquidity fund advisers file quarterly.

[3] The SEC established Form PF filing fees in a separate order. Since 2011, filing fees have been and continue to be $150 per annual filing and $150 per quarterly filing. *See* Order Approving Filing Fees for Exempt Reporting Advisers and Private Fund Advisers, Advisers Act Release No. 3305 (Oct. 24, 2011) [76 FR 67004 (Oct. 28, 2011)].

[4] In the previous PRA submission for the rules, staff estimated that the external cost burden for initial filings would range from $0 to $50,000 per adviser. This range reflected the fact that the cost to any adviser may depend on how many funds or the types of funds it manages, the state of its existing systems, the complexity of its business, the frequency of Form PF filings, the deadlines for completion, and the amount of information the adviser must disclose on Form PF. Smaller private fund advisers would be unlikely to bear such costs because the information they must provide is limited and will, in many cases, already be maintained in the ordinary course of business. We continue to estimate that the same cost range would apply.

[5] We amortize the external cost burden of initial filings over three years, as we do with other initial burdens in this PRA, because we believe that most of the burden would be incurred in the initial filing. The previously approved burden estimates did not calculate this.

[6] *See* Table 3: Annual Hour Burden Proposed and Final Estimates for Initial Filings.

[7] Changes to the aggregate external cost of initial filings, amortized over three years are due to (1) using updated data and (2) amortizing the external cost of initial filings over three years, which the previously approved PRA did not calculate. Changes concerning large private equity fund advisers in our proposed estimates were also due to the proposed amendment to reduce the filing threshold, which we are not adopting in this Release.

[8] Changes to the total aggregate external cost are due to (1) using updated data and (2) amortizing the external cost of initial filings over three years, which the previously approved PRA did not calculate. Changes concerning large private equity fund advisers in our proposed estimates were also due to the proposed amendment to reduce the filing threshold, which we are not adopting in this Release.

[9] In the case of the proposed estimates, Private Funds Statistics show 2,427 smaller private fund advisers filed Form PF in the fourth quarter of 2020. (2,427 smaller private fund advisers × $150 total filing fees) = $364,050 aggregate cost.

[10] In the case of the final estimates, Private Funds Statistics show 2,616 smaller private fund advisers filed Form PF in the most recent reporting period. (2,616 smaller private fund advisers × $150 total filing fees) = $392,400 aggregate cost.

[11] In the case of the proposed estimates, Private Funds Statistics show 545 large hedge fund advisers filed Form PF in the fourth quarter of 2020. (545 large hedge fund advisers × $600 total filing fees) + $233,338 total external costs of initial filings, amortized over three years = $560,338 aggregate cost.

[12] In the case of the final estimates, Private Funds Statistics show 598 large hedge fund advisers filed Form PF in the most recent reporting period. (598 large hedge fund advisers × $600 total filing fees) + $266,672 total external costs of initial filings, amortized over three years = $625,472 aggregate cost.

[13] In the case of the proposed estimates, Private Funds Statistics show 23 large liquidity fund advisers filed Form PF in the fourth quarter of 2020. (23 large liquidity fund advisers × $600 total filing fees) + $16,667 total external costs of initial filings, amortized over three years = $30,467 aggregate cost.

[14] In the case of the final estimates, Private Funds Statistics show 22 large liquidity fund advisers filed Form PF in the most recent reporting period. (22 large liquidity fund advisers × $600 total filing fees) + $16,667 total external costs of initial filings, amortized over three years = $29,867 aggregate cost.

[15] In the case of the proposed estimates, Private Funds Statistics show 364 large private equity fund advisers filed Form PF in the fourth quarter of 2020. (364 large private equity fund advisers × $150 total filing fees) + $700,014 total external costs of initial filings, amortized over three years = $754,614 aggregate cost.

[16] In the case of the final estimates, Private Funds Statistics show 435 large private equity fund advisers filed Form PF in the most recent reporting period. (435 large private equity fund advisers × $150 total filing fees) + $283,339 total external costs of initial filings, amortized over three years = $348,589 aggregate cost.

TABLE 12—PROPOSED AND FINAL ANNUAL EXTERNAL COST BURDEN FOR CURRENT REPORTING AND PRIVATE EQUITY EVENT REPORTING

Respondent [1]	Aggregate number of responses [2]		Cost of outside counsel per current report or private equity event report		Aggregate cost of outside counsel	One-time cost of system changes [3]	Total aggregate external cost [4]
Smaller Private Fund Advisers:							
Proposed Estimate	6	×	[5] $992	=	$5,952	$12,500	$18,452
Final Estimate	20	×	[6] 1,695	=	33,900	15,000	48,900
Previously Approved	Not Applicable						
Change	Not Applicable						
Large Hedge Fund Advisers:							
Proposed Estimate	6	×	[5] 992	=	5,952	12,500	18,452
Final Estimate	60	×	[6] 1,695	=	101,700	15,000	116,700
Previously Approved	Not Applicable						
Change	Not Applicable						
Large Private Equity Fund Advisers:							
Proposed Estimate	6	×	[5] 992	=	5,952	12,500	18,452
Final Estimate	20	×	[6] 1,695	=	33,900	15,000	48,900
Previously Approved	Not Applicable						
Change	Not Applicable						

TABLE 12—PROPOSED AND FINAL ANNUAL EXTERNAL COST BURDEN FOR CURRENT REPORTING AND PRIVATE EQUITY EVENT REPORTING—Continued

Respondent [1]	Aggregate number of responses [2]		Cost of outside counsel per current report or private equity event report		Aggregate cost of outside counsel	One-time cost of system changes [3]	Total aggregate external cost [4]
Advisers would pay filing fees, the amount of which would be determined in a separate action.							

Notes:

[1] In a separate action, the SEC would approve filing fees that reflect the reasonable costs associated with current report and private equity event report filings and the establishment and maintenance of the filing system. (*See* 15 U.S.C. 80b–4(c).) We estimate that large hedge fund advisers and private equity fund advisers would incur costs of outside counsel for each current report or private equity event report, as applicable. We also estimate that large hedge fund advisers and private equity fund advisers may incur a one-time cost to modify existing systems or deploy new systems to support current reporting or private equity event reporting, as applicable, acquire or use hardware to perform computations, or otherwise process data to identify the reporting events set forth in section 5 or section 6, as applicable, because such reporting events are quantitative. There are no previously approved estimates for the current reporting amendment or private equity event report amendment because they are new requirements.

[2] *See* Table 5: Annual Hour Burden Proposed and Final Estimates for Current Reporting and Private Equity Event Reporting.

[3] In the case of the proposed estimates, we estimated that the one-time external cost burden would range from $0 to $12,500, per adviser. This range of costs reflects the fact that the cost to any adviser might depend on how many funds or the types of funds it manages, the state of its existing systems, and the complexity of its business. In consideration of comments, we have increased our estimate of the one-time external cost burden to between $0 and $15,000, per adviser. Our cost estimate also considers the compliance date for current and private equity event reporting.

[4] (Aggregate cost of outside counsel) + (one-time cost of system changes, as applicable) = total aggregate cost.

[5] In the case of the proposed estimates, we estimated the cost for outside legal counsel is $496. This is based on an estimated $400 per hour cost for outside legal services, as used by the Commission for these services in the ''Exemptions for Advisers to Venture Capital Funds, Private Fund Advisers With Less Than $150 Million Under Management, and Foreign Private Advisers'' final rule, Advisers Act Release No. 3222 (June 22, 2011) [76 FR 39646 (July 6, 2011)], as inflated using the Consumer Price Index. We estimated that approximately two hours of the total legal professional time that would otherwise be spent on current reporting, would be shifted from in-house legal professionals to outside legal counsel. (2 hours × $496 for outside legal services = $992.)

[6] In the case of the final estimates, we estimate the cost for outside legal counsel is $565. We estimate that approximately three hours of the total legal professional time that would otherwise be spent on current reporting or private equity event reporting, would be shifted from in-house legal professionals to outside legal counsel. The increased hour estimate reflects our increased hour burden for current reporting and private equity event reporting. (3 hours × $565 for outside legal services = $1,695.)

6. Summary of Proposed and Final Estimates and Change in Burden

TABLE 13—AGGREGATE ANNUAL PROPOSED ESTIMATES

Description [1]	Proposed estimate	Final estimate	Previously approved	Change
Respondents	3,388 respondents [2]	3,671 respondents [3]	3,225 respondents	446 respondents.[4]
Responses	5,363 responses [5]	5,907 responses [6]	5,056 responses	851 responses.[7]
Time Burden	409,797 hours [8]	451,012 hours [9]	409,768 hours	41,244 hours.[10]
Monetized Time Burden (Dollars).	$116,054,007 [11]	$145,721,172.52 [12]	$122,152,100.25	$23,569,072.27.[13]
External Cost Burden (Dollars).	$1,739,825 [14]	$1,610,828 [15]	$3,628,850	($2,018,022).[16]

Notes:

[1] Changes are due to (1) the amendments, (2) using updated data, and (3) using different methodologies to calculate certain estimates, as described in this PRA.

[2] Private Funds Statistics show the following advisers filed Form PF in the fourth quarter of 2020: 2,427 smaller private fund advisers + 545 large hedge fund advisers + 23 large liquidity fund advisers + 364 large private equity fund advisers = 3,359 advisers. 3,359 advisers + 29 additional large private equity fund advisers filing for the first time as a result of the proposed threshold = 3,388 respondents.

[3] In the case of the final estimates, Private Funds Statistics show the following advisers filed Form PF in the most recent reporting period: 2,616 smaller private fund advisers + 598 large hedge fund advisers + 22 large liquidity fund advisers + 435 large private equity fund advisers = 3,671 respondents.

[4] Changes are due to (1) the proposed amendment to reduce the filing threshold for large private equity fund advisers, which we are not adopting in this Release, and (2) using updated data.

[5] In the case of the proposed estimates, for initial filings (Table 3): (313 smaller private fund adviser responses + 14 large hedge fund adviser responses + 1 large liquidity fund adviser response + 42 large private equity fund adviser responses = 370 responses.) For ongoing annual and quarterly filings (Table 8): 2,114 smaller private fund adviser responses + 2,124 large hedge fund adviser responses + 88 large liquidity fund adviser responses + 351 large private equity fund adviser responses = 4,677 responses.) For current reporting (Table 5): (6 smaller private fund adviser responses + 6 large hedge fund adviser responses + 6 large private equity fund adviser responses = 18 responses.) (370 responses for initial filings + 4,677 responses for ongoing annual and quarterly filings + 18 responses for current reporting + 63 responses for transition filings + 232 responses for final filings + 3 responses for temporary hardship requests = 5,363 responses.)

[6] In the case of the final estimates, for initial filings (Table 3): (358 smaller private fund adviser responses + 16 large hedge fund adviser responses + 1 large liquidity fund adviser response + 17 large private equity fund adviser responses = 392 responses. For ongoing annual and quarterly filings (Table 8): 2,258 smaller private fund adviser responses + 2,328 large hedge fund adviser responses + 84 large liquidity fund adviser responses + 418 large private equity fund adviser responses = 5,088 responses.) For current reporting and private equity event reporting (Table 5): (20 smaller private fund advisers responses + 60 large hedge fund adviser responses + 20 large private equity fund responses = 100 responses.) (392 responses for initial filings + 5,088 responses for ongoing annual and quarterly filings + 100 responses for current reporting and private equity event reporting + 71 responses for transition filings + 252 responses for final filings + 4 responses for temporary hardship requests = 5,907 responses.)

[7] Changes are due to (1) the amendment to add current reporting requirements, (2) the proposal to reduce the filing threshold for large private equity fund advisers, which we are not adopting in this Release, and (3) updated data concerning the number of filers.

[8] In the case of the proposed estimates, for initial filings: (4,069 hours for smaller private fund advisers + 1,512 hours for large hedge fund advisers + 67 hours for large liquidity fund advisers + 3,486 hours for large private equity fund advisers = 9,134 hours). For ongoing annual and quarterly filings: (31,710 hours for smaller private fund advisers + 318,600 hours for large hedge fund advisers + 6,248 for hours large liquidity fund advisers + 43,875 hours for large private equity fund advisers = 400,433 hours). For current reporting: (51 hours for smaller private fund advisers + 51 hours for large hedge fund advisers + 51 hours for large private equity fund advisers = 153 hours.) (9,134 hours for initial filings + 400,433 for ongoing annual and quarterly filings + 153 hours for current reporting + 15.75 hours for transition filings + 58 hours for final filings + 3 hours for temporary hardship requests = 409,796.75 hours, rounded to 409,797 hours.

[9] In the case of the final estimates, for initial filings: (4,654 hours for smaller private fund advisers + 1,728 hours for large hedge fund advisers + 67 hours for large liquidity fund advisers + 1,428 hours for large private equity fund advisers = 7,877 hours). For ongoing annual and quarterly filings: (33,870 hours for smaller private fund advisers + 349,200 hours for large hedge fund advisers + 5,880 for hours large liquidity fund advisers + 53,504 hours for large private equity fund advisers = 442,454 hours). For current reporting and private equity event reporting: (100 hours for smaller private fund advisers + 600 hours for large hedge fund advisers + 100 hours for large private equity fund advisers = 800 hours.) (7,877 hours for initial filings + 442,254 hours for ongoing annual and quarterly filings + 800 hours for current reporting and private equity event reporting + 17.75 hours for transition filings + 58.75 hours for final filings + 4 hours for temporary hardship requests = 451,011.5 hours, rounded to 451,012 hours.

[10] Although we would expect the time burden to increase more, given the amendments, we estimate a smaller increase primarily because we use a different methodology to calculate initial burden hours, as discussed in Table 3: Annual Hour Burden Proposed and Final Estimates for Initial Filings, because the previously approved burdens for initial filings appear to have inflated the estimates.

[11] In the case of the proposed estimates, for initial filings: ($1,421,020 for smaller private fund advisers + $487,312 for large hedge fund advisers + $21,631 for large liquidity fund advisers + $1,124,550 for large private equity fund advisers = $3,054,513). For ongoing annual and quarterly filings: ($8,942,220 for smaller private fund advisers + $89,845,200 for large hedge fund advisers + $1,761,936 for large liquidity fund advisers + $12,372,750 for large private equity fund advisers = $112,922,106). For current reporting: ($25,092 for smaller private equity fund advisers + $21,228 for large hedge fund advisers + $25,092 for large private equity fund advisers = $71,412). ($3,054,513 for initial filings + $112,922,106 for ongoing annual and quarterly filings + $71,412 for current reporting + $1,134 for transition filings + $4,176 for final filings + $666 for temporary hardship requests = $116,054,007.)

[12] In the case of the final estimates, for initial filings: ($1,852,292 for smaller private fund advisers + $634,080 for large hedge fund advisers + $24,400 for large liquidity fund advisers + $522,580 for large private equity fund advisers = $3,033,352). For ongoing annual and quarterly filings: ($10,872,270 for smaller private fund advisers + $112,093,200 for large hedge fund advisers + $1,887,480 for large liquidity fund advisers + $17,443,140 for large private equity fund advisers = $142,286,090). For current reporting and private equity event reporting: ($40,480 for smaller private equity fund advisers + $309,600 for large hedge fund advisers + $40,480 for large private equity fund advisers = $390,560). ($3,033,352 for initial filings + $142,286,090 for ongoing annual and quarterly filings + $390,560 for current reporting and private equity event reporting + $1,420 for transition filings + $8,651 for final filings + $1,099.52 for temporary hardship requests = $145,721,172.52).

[13] Although we would expect the monetized time burden to increase, given the amendments, we estimate it would decrease primarily because we use a different methodology to calculate it. We believe the previously approved burden inflated the estimates by using a methodology that inflated an element of the total: the monetized time burden for initial filings. To calculate the monetized time burden for initial filings, the previously approved estimates included subsequent filings. For the requested total burden, we calculate the initial filing element by including only the hours related to the initial filing, not any subsequent filings. We also amortize the monetized time burden for an initial filing over three years, by dividing the initial filing burden by three years, as discussed in Table 3: Annual Hour Burden Proposed and Final Estimates for Initial Filings. The methodology is designed to more accurately reflect the estimates.

[14] In the case of the proposed estimates, for annual, quarterly, and initial filing costs: ($364,050 for smaller private fund advisers + $560,338 for large hedge funds + $30,467 for large liquidity fund advisers + $754,614 for large private equity fund advisers = $1,709,469). For current reporting: ($5,952 for smaller private fund advisers + $18,452 for large hedge funds + $5,952 for large private equity fund advisers = $30,356). ($1,709,469 annual, quarterly, and initial cost external cost burden + $30,356 current reporting external cost burden = $1,739,825 total annual external cost burden.)

[15] In the case of the final estimates, for annual, quarterly, and initial filing costs: ($392,400 for smaller private fund advisers + $625,472 for large hedge funds + $29,867 for large liquidity fund advisers + $348,589 for large private equity fund advisers = $1,396,328). For current reporting and private equity event reporting: ($48,900 for smaller private equity fund advisers + $116,700 for large hedge funds + $48,900 for large private equity fund advisers = $214,500). ($1,396,328 annual, quarterly, and initial cost external cost burden + $214,500 current reporting external cost burden = $1610,828 total annual external cost burden.) Although we would expect the external cost burden to increase, given the amendments, we estimate it would decrease primarily because we use a different methodology to calculate it.

[16] We believe the previously approved burden inflated the estimates by (1) multiplying the filing fees by three years and (2) not amortizing the external costs for initial filings: ($742,950 aggregate annual filing fees × 3 years = $2,228,850 in filing fees) + $1,400,000 external costs of initial filings = $3,628,850). We do not multiply the aggregate annual filing fees by three years because we are estimating the external cost burden for one year, not three. We amortize the external cost for initial filings over three years, by dividing the external cost of an initial filing by three years, as discussed in Table 10: Annual External Cost Burden for Ongoing Annual and Quarterly Filings as well as Initial Filings. The methodology is designed to more accurately reflect the estimates.

VI. Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act of 1980 (''Regulatory Flexibility Act''),[475] the Commission certified that the amendments to Advisers Act rule 204(b)–1 and Form PF would not, if adopted, have a significant economic impact on a substantial number of small entities.[476] The Commission included this certification in section V of the 2022 Form PF Proposing Release. As disclosed in more detail in the 2022 Form PF Proposing Release, for purposes of the Advisers Act and the Regulatory Flexibility Act, an investment adviser generally is a small entity if it: (1) has assets under management having a total value of less than $25 million; (2) did not have total assets of $5 million or more on the last day of the most recent fiscal year; and (3) does not control, is not controlled by, and is not under common control with another investment adviser that has assets under management of $25 million or more, or any person (other than a natural person) that had total assets of $5 million or more on the last day of its most recent fiscal year.[477]

By definition, no small entity on its own would meet rule 204(b)–1 and Form PF's minimum reporting threshold of $150 million in regulatory assets under management attributable to private funds. Based on Form PF and Form ADV data as of December 2022, the SEC estimates that no small entity advisers are required to file Form PF. The SEC does not have evidence to suggest that any small entities are required to file Form PF but are not filing Form PF. The Commission therefore stated in the 2022 Form PF Proposing Release there would be no significant economic impact on a substantial number of small entities from the proposed amendments to Advisers Act rule 204(b)–1 and Form PF.

The Commission requested comment on the Commission's certification in section V of the 2022 Form PF Proposing Release. While some commenters addressed the potential impact of the proposed amendments on

[475] 5. U.S.C. 601, *et seq.*

[476] 5 U.S.C. 605(b).

[477] 17 CFR 275.0–7.

smaller and mid-size private funds,[478] no commenters responded to this request for comment regarding the Commission's certification. We are adopting the amendments largely as proposed, with certain modifications as discussed more fully above in section II that do not affect the Advisers Act rule 204(b)–1 and Form PF's minimum reporting threshold. We do not believe that these changes alter the basis upon which the certification in the 2022 Form PF Proposing Release was made. Accordingly, we certify that the final amendments to Advisers Act rule 204(b)–1 and Form PF will not have a significant economic impact on a substantial number of small entities.

Statutory Authority

The Commission is amending Form PF pursuant to authority set forth in Sections 204(b) and 211(e) of the Advisers Act [15 U.S.C. 80b–4(b) and 80b–11(e)].

List of Subjects 17 CFR Part 275 and 279

Reporting and recordkeeping requirements, Securities.

[478] *See, e.g.,* AIMA/ACC Comment Letter; Better Markets Comment Letter; PDI Comment Letter; Schulte Comment Letter; SIFMA Comment Letter; TIAA Comment Letter.

Text of Rules

For the reasons set forth in the preamble, title 17, chapter II of the Code of Federal Regulations is amended as follows.

PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

■ 1. The general authority citation for part 275 continues to read as follows.

Authority: 15 U.S.C. 80b–2(a)(11)(G), 80b–2(a)(11)(H), 80b–2(a)(17), 80b–3, 80b–4, 80b–4a, 80b–6(4), 80b–6a, and 80b–11, unless otherwise noted.

* * * * *

■ 2. Amend § 275.204(b)–1 by revising paragraphs (f)(2)(i) and (f)(3) to read as follows:

§ 275.204(b)–1 Reporting by investment advisers to private funds.

* * * * *

(f) * * *

(2) * * *

(i) Complete and file in paper format, in accordance with the instructions to Form PF, Item A of Section 1a and Section 7 of Form PF, checking the box in Section 1a indicating that you are requesting a temporary hardship exemption, no later than one business day after the electronic Form PF filing was due; and

* * * * *

(3) The temporary hardship exemption will be granted when you file Item A of Section 1a and Section 7 of Form PF, checking the box in Section 1a indicating that you are requesting a temporary hardship exemption.

* * * * *

PART 279—FORMS PRESCRIBED UNDER THE INVESTMENT ADVISERS ACT OF 1940

■ 3. The authority citation for part 279 continues to read as follows:

Authority: The Investment Advisers Act of 1940, 15 U.S.C. 80b–1, *et seq.,* Pub. L. 111–203, 124 Stat. 1376.

§ 279.9 Form PF, reporting by investment advisers to private funds.

■ 4. Revise Form PF [referenced in § 279.9].

Note: Form PF will not appear in the Code of Federal Regulations.

By the Commission.

Dated: May 3, 2023.

Vanessa A. Countryman,

Secretary.

BILLING CODE 8011–01–P

FORM PF (Paper Version)

Reporting Form for Investment Advisers to Private Funds and Certain Commodity Pool Operators and Commodity Trading Advisors

OMB APPROVAL	
OMB Number:	3235-0679
Expires:	[ ]
Estimated average burden	

Form PF: General Instructions — Page 1

Read these instructions carefully before completing Form PF. Failure to follow these instructions, properly complete Form PF, or pay all required fees may result in your Form PF being delayed or rejected.

In these instructions and in Form PF, "you" means the *private fund adviser* completing or amending this Form PF. If you are a "separately identifiable department or division" (SID) of a bank, "you" means the SID rather than the bank (except as provided in Question 1(a)). Terms that appear in *italics* are defined in the Glossary of Terms to Form PF.

1. Who must complete and file a Form PF?

You must complete and file a Form PF, if:

A. You are registered or required to register with the *SEC* as an investment adviser;

OR

You are registered or required to register with the *CFTC* as a *CPO* or *CTA* and you are also registered or required to register with the *SEC* as an investment adviser;

AND

B. You manage one or more *private funds*.

AND

C. You and your *related persons*, collectively, had at least $150 million in *private fund assets under management* as of the last day of your most recently completed fiscal year.

Many *private fund advisers* meeting these criteria will be required to complete only Section 1 of Form PF and will need to file only on an annual basis. *Large private fund advisers*, however, will be required to provide additional data, and *large hedge fund advisers* and *large liquidity fund advisers* will need to file every quarter. *Large hedge fund advisers* will need to file a current report in Section 5 and advisers to *private equity funds* will need to file a current report in Section 6, upon certain *current reporting events*. See Instructions 3, 9, and 12 below.

For purposes of determining whether you meet the reporting threshold, you are not required to include the *regulatory assets under management* of any *related person* that is *separately operated*. See Instruction 5 below for more detail.

If your *principal office and place of business* is outside the United States, for purposes of this Form PF you may disregard any *private fund* that, during your last fiscal year, was not a *United States person*, was not offered in the United States, and was not beneficially owned by any *United States person*.

2. I have a *related person* who is required to file Form PF. May I and my *related person* file a single Form PF?

Related persons may (but are not required to) report on a single Form PF information with respect to

all such *related persons* and the *private funds* they advise. You must identify in your response to Question 1 the *related persons* as to which you are reporting and, where information is requested about you or the *private funds* you advise, respond as though you and such *related persons* were one firm.

3. How is Form PF organized?

Section 1 – All Form PF filers

Section 1a — All *private fund advisers* required to file Form PF must complete Section 1a. Section 1a asks general identifying information about you and the types of *private funds* you advise.

Section 1b — All *private fund advisers* required to file Form PF must complete Section 1b. Section 1b asks for certain information regarding the *private funds* that you advise.

Section 1c — All *private fund advisers* that are required to file Form PF and advise one or more *hedge funds* must complete Section 1c. Section 1c asks for certain information regarding the *hedge funds* that you advise.

Section 2 – *Large hedge fund advisers*

Section 2a — You are required to complete Section 2a if you and your *related persons*, collectively, had at least $1.5 billion in *hedge fund assets under management* as of the last day of any month in the fiscal quarter immediately preceding your most recently completed fiscal quarter. You are not required to include the *regulatory assets under management* of any *related person* that is *separately operated*.

Subject to Instruction 4, Section 2a requires information to be reported on an aggregate basis for all *hedge funds* that you advise.

Section 2b — If you are required to complete Section 2a, you must complete a separate Section 2b with respect to each *qualifying hedge fund* that you advise.

However:

if you are reporting separately on the funds of a *parallel fund structure* that, in the aggregate, comprises a *qualifying hedge fund*, you must complete a separate Section 2b for each *parallel fund* that is part of that *parallel fund structure* (even if that *parallel fund* is not itself a *qualifying hedge fund*); and

if you report answers on an aggregated basis for any *master-feeder arrangement* or *parallel fund structure* in accordance with Instruction 5, you should only complete a separate Section 2b with respect to the *reporting fund* for such *master- feeder arrangement* or *parallel fund structure*.

Section 3 – *Large liquidity fund advisers*

Section 3 — You are required to complete Section 3 if (i) you advise one or more *liquidity funds* and (ii) as of the last day of any month in the fiscal quarter immediately preceding your most recently completed fiscal quarter, you and your *related persons*, collectively,

had at least $1 billion in *combined money market and liquidity fund assets under management*. You are not required to include the *regulatory assets under management* of any *related person* that is *separately operated*.

You must complete a separate Section 3 with respect to each *liquidity fund* that you advise.

However, if you report answers on an aggregated basis for any *master-feeder arrangement* or *parallel fund structure* in accordance with Instruction 5, you should only complete a separate Section 3 with respect to the *reporting fund* for such *master-feeder arrangement* or *parallel fund structure*.

Section 4 – *Large private equity fund advisers*

Section 4 — You are required to complete Section 4 if you and your *related persons*, collectively, had at least $2 billion in *private equity fund assets under management* as of the last day of your most recently completed fiscal year. You are not required to include the *regulatory assets under management* of any *related person* that is *separately operated*.

You must complete a separate Section 4 with respect to each *private equity fund* that you advise.

However, if you report answers on an aggregated basis for any *master-feeder arrangement* or *parallel fund structure* in accordance with Instruction 5, you should only complete a separate Section 4 with respect to the *reporting fund* for such *master-feeder arrangement* or *parallel fund structure*.

Section 5 – *Current report* for *large hedge fund advisers* to *qualifying hedge funds*

Section 5 — Section 5 is the current reporting form for *large hedge fund advisers* to *qualifying hedge funds*. You must complete and file Section 5 for any *current reporting event* with respect to a *qualifying hedge fund* you advise.

Section 6 – *Quarterly event report* for advisers to *private equity funds*

Section 6 — Section 6 is the quarterly event reporting form about *private equity funds*. You must complete and file Section 6 for any *private equity reporting event* with respect to a *private equity fund* you advise.

Section 7 – Advisers requesting a temporary hardship exemption

Section 7 — See Instruction 14 for details.

4. I am a subadviser or engage a subadviser for a *private fund*. Who is responsible for reporting information about that *private fund*?

Only one *private fund adviser* should complete and file Form PF for each *private fund*. If the adviser that filed *Form ADV Section 7.B.1* with respect to any *private fund* is required to file Form PF, the same adviser must also complete and file Form PF for that *private fund*. If the adviser that filed *Form ADV Section 7.B.1* with respect to any *private fund* is not required to file Form PF (e.g., because it is an *exempt reporting adviser*) and one or more other advisers to the fund is required to file Form PF, another adviser must complete and file Form PF for that *private fund*.

Where a question requests aggregate information regarding the *private funds* that you advise, you

should only include information regarding the *private funds* for which you are filing Section 1b of Form PF.

5. When am I required to aggregate information regarding *parallel funds*, *parallel managed accounts*, *master-feeder arrangements* and funds managed by *related persons*?

You are required to aggregate related funds and accounts differently depending on the purpose of the aggregation.

Reporting thresholds. For purposes of determining whether you meet any reporting threshold, you must aggregate *parallel funds, dependent parallel managed accounts* and master-feeder funds. In addition, you must treat any *private fund* or *parallel managed account* advised by any of your *related persons* as though it were advised by you. You are not required, however, to aggregate *private funds* or *parallel managed accounts* of any *related person* that is *separately operated.*

Responding to questions. When reporting on individual funds, you may provide information regarding *master-feeder arrangements* or *parallel fund structures* either in the aggregate or separately, provided that you do so consistently throughout the Form. (For example, you may complete either a single Section 1b for all of the funds in a *master-feeder arrangement* or a separate Section 1b for each fund in the arrangement, but you must then take the same approach when completing other applicable sections of the Form.) Where a question requests aggregate information regarding the *private funds* that you advise, you should only include information regarding the *private funds* for which you are filing Section 1b of Form PF. You are not required to report information regarding *parallel managed accounts* (except in Question 11). You should not report information for any *private fund* advised by any of your *related persons* unless you have identified that *related person* in Question 1(b) as a *related person* for which you are filing Form PF.

See the table below for additional details.

For purposes of determining whether a *private fund* is a *qualifying hedge fund*	**For purposes of reporting information in Sections 1b, 1c, 2b, 3 and 4**
• You must aggregate any *private funds* that are part of the same *master-feeder arrangement* (even if you did not, or were not permitted to, aggregate these *private funds* for purposes of *Form ADV Section 7.B.1*)	• You may, but are not required to, report answers on an aggregated basis for any *private funds* that are part of the same *master-feeder arrangement* (even if you did not, or were not permitted to, aggregate these *private funds* for purposes of *Form ADV Section 7.B.1*)
• You must aggregate any *private funds* that are part of the same *parallel fund structure*	• You may, but are not required to, report answers on an aggregated basis for any *private funds* that are part of the same *parallel fund structure*
• Any *dependent parallel managed account* must be aggregated with the largest *private fund* to which that *dependent parallel managed account* relates	• You are not required to report information regarding *parallel managed accounts* (except in Question 11)

You must treat any *private fund* or *parallel managed account* advised by any of your *related persons* as though it were advised by you (including *related persons* that you have not identified in Question 1(b) as *related persons* for which you are filing Form PF, though you may exclude *related persons* that are *separately operated*)	You should not report information for any *private fund* advised by any of your *related persons* unless you have identified that *related person* in Question 1(b) as a *related person* for which you are filing Form PF

6. I am required to aggregate funds or accounts to determine whether I meet a reporting threshold, or I am electing to aggregate funds for reporting purposes. How do I "aggregate" funds or accounts for these purposes?

Where two or more *parallel funds* or master-feeder funds are aggregated in accordance with Instruction 5, you must treat the aggregated funds as if they were all one *private fund*. Investments that a *feeder fund* makes in a *master fund* should be disregarded but other investments of the *feeder fund* should be treated as though they were investments of the aggregated fund.

Where you are aggregating *dependent parallel managed accounts* to determine whether you meet a reporting threshold, assets held in the accounts should be treated as assets of the *private funds* with which they are aggregated.

Example 1. You advise a *master-feeder arrangement* with one *feeder fund*. The *feeder fund* has invested $500 in the *master fund* and holds a *foreign exchange derivative* with a notional value of $100. The *master fund* has used the $500 received from the *feeder fund* to invest in *corporate bonds*. Neither fund has any other assets or liabilities.

For purposes of determining whether the funds comprise a *qualifying hedge fund*, this *master-feeder arrangement* should be treated as a single *private fund* whose only investments are $500 in *corporate bonds* and a *foreign exchange derivative* with a notional value of $100. If you elect to aggregate the *master-feeder arrangement* for reporting purposes, the treatment would be the same.

Example 2. You advise a *parallel fund structure* consisting of two *hedge funds*, named *parallel fund* A and *parallel fund* B. You also advise a related *dependent parallel managed account*. The account and each fund have invested in *corporate bonds* of Company X and have no other assets or liabilities. The value of *parallel fund* A's investment is $400, the value of *parallel fund* B's investment is $300 and the value of the account's investment is $200.

For purposes of determining whether either of the *parallel funds* is a *qualifying hedge fund*, the entire *parallel fund structure* and the related *dependent parallel managed account* should be treated as a single *private fund* whose only asset is $900 of *corporate bonds* issued by Company X.

If you elect to aggregate the *parallel fund structure* for reporting purposes, you would disregard the *dependent parallel managed account*, so the result would be a single *private fund* whose only asset is $700 of *corporate bonds* issued by Company X.

7. I advise a *private fund* that invests in other *private funds* (e.g., a "fund of funds"). How should

I treat these investments for purposes of Form PF?

Investments in other *private funds* generally. For purposes of this Form PF, you may disregard any *private fund's* equity investments in other *private funds*. However, if you disregard these investments, you must do so consistently (e.g., do not include disregarded investments in the *net asset value* used for determining whether the fund is a "hedge fund"). For Question 17, even if you disregard these assets, you may report the performance of the entire fund and are not required to recalculate performance in order to exclude these investments. Do not disregard any liabilities, even if incurred in connection with these investments.

Funds that invest substantially all of their assets in other *private funds*. If you advise a *private fund* that (i) invests substantially all of its assets in the equity of *private funds* for which you are not an adviser and (ii) aside from such *private fund* investments, holds only *cash and cash equivalents* and instruments acquired for the purpose of hedging currency exposure, then you are only required to complete Section 1b for that fund. For all other purposes, you should disregard such fund. For example, where questions request aggregate information regarding the *private funds* you advise, do not include the assets or liabilities of any such fund.

Solely for purposes of this Instruction 7, you may treat as a *private fund* any issuer formed under the laws of a jurisdiction other than the United States that has not offered or sold its securities in the United States or to *United States persons* but that would be a *private fund* if it had engaged in such an offering or sale.

Notwithstanding the foregoing, you must include disregarded assets in responding to Question 10.

8. I advise a *private fund* that invests in companies that are not *private funds*. How should I treat these investments for purposes of Form PF?

Except as provided in Instruction 7, investments in funds should be included for all purposes under this Form PF. You are not, however, required to "look through" a fund's investments in any other entity unless the Form specifically requests information regarding that entity or the other entity's primary purpose is to hold assets or incur leverage as part of the *reporting fund's* investment activities.

9. When am I required to update Form PF?

You are required to update Form PF at the following times:

Periodic filings (large hedge fund advisers)	Within 60 calendar days after the end of your first, second and third fiscal quarters, you must file a *quarterly update* that updates the answers to all Items in this Form PF relating to the *hedge funds* that you advise. Within 60 calendar days after the end of your fourth fiscal quarter, you must file a *quarterly update* that updates the answers to all Items in this Form PF. You may, however, submit an initial filing for the fourth quarter that updates information relating only to the *hedge funds* that you advise so long as you amend your Form PF within 120 calendar days after the end of the quarter to update information relating to any other *private funds* that you advise. When you file such an amendment, you are not required to update information previously filed for such quarter.

Periodic filings (large liquidity fund advisers)	Within 15 calendar days after the end of your first, second and third fiscal quarters, you must file a *quarterly update* that updates the answers to all Items in this Form PF relating to the *liquidity funds* that you advise. Within 15 calendar days after the end of your fourth fiscal quarter, you must file a *quarterly update* that updates the answers to all Items in this Form PF. You may, however, submit an initial filing for the fourth quarter that updates information relating only to the *liquidity funds* that you advise so long as you amend your Form PF within 120 calendar days after the end of the quarter to update information relating to any other *private funds* that you advise (subject to the next paragraph). When you file such an amendment, you are not required to update information previously filed for such quarter. If you are both a *large liquidity fund adviser* and a *large hedge fund adviser*, you must file your *quarterly updates* with respect to the *liquidity funds* that you advise within 15 calendar days and with respect to the *hedge funds* you advise within 60 calendar days.
Periodic filings (all other advisers)	Within 120 calendar days after the end of your fiscal year, you must file an *annual update* that updates the answers to all Items in this Form PF. *Large hedge fund advisers and large liquidity fund advisers* are not required to file *annual updates* but instead file *quarterly updates* for the fourth quarter.
Transition filing	If you are transitioning from quarterly to annual filing because you are no longer a *large hedge fund adviser* or *large liquidity fund adviser*, then you must complete and file Item A of Section 1a and check the box in Section 1a indicating that you are making your final quarterly filing. You must file your transition filing no later than the last day on which your next *quarterly update* would be timely.
Current reports (large hedge fund advisers)	*Large hedge fund advisers* must file a *current report* in Section 5 upon certain *current reporting events* with respect to *qualifying hedge funds* they advise. See Section 5 for filing deadlines.
Private Equity Event Reports *(all advisers to private equity funds)*	All advisers to *private equity funds* must file a *private equity event report* in Section 6 upon certain *private equity reporting events* with respect to *private equity funds* they advise within 60 calendar days after the end of their first, second, third, and fourth fiscal quarters.
Final filing	If you are no longer required to file Form PF, then you must complete and file Item A of Section 1a and check the box in Section 1a indicating that you are making your final filing. You must file your final filing no later than the last day on which your next Form PF update would be timely. This applies to all Form PF filers.

Failure to update your Form PF as required by these instructions is a violation of *SEC* and, where applicable, *CFTC* rules and could lead to revocation of your registration.

10. How do I obtain *private fund* identification numbers for my *reporting funds*?

Each *private fund* must have an identification number for purposes of reporting on *Form ADV* and Form PF. *Private fund* identification numbers can only be obtained by filing *Form ADV*.

If you need to obtain a *private fund* identification number and you are required to file a *quarterly update* of Form PF prior to your next annual update of *Form ADV*, then you must acquire the identification number by filing an other-than-annual amendment to your *Form ADV* and following the instructions on Form ADV for generating a new number. When filing an other-than-annual amendment for this purpose, you must complete and file all of *Form ADV Section 7.B.1* for the new *private fund*.

See Instruction 6 to Part 1A of *Form ADV* for additional information regarding the acquisition and use of *private fund* identification numbers.

11. Who must sign my Form PF or update?

The individual who signs the Form PF depends upon your form of organization:

- For a sole proprietorship, the sole proprietor.
- For a partnership, a general partner.
- For a corporation, an authorized principal officer.
- For a limited liability company, a managing member or authorized person.
- For a SID, a principal officer of your bank who is directly engaged in the management, direction or supervision of your investment advisory activities.
- For all others, an authorized individual who participates in managing or directing your affairs.

The signature does not have to be notarized and should be a typed name.

If you and one or more of your *related persons* are filing a single Form PF, then Form PF may be signed by one or more individuals; however, the individual, or the individuals collectively, must have authority, as provided above, to sign both on your behalf and on behalf of all such *related persons*.

12. How do I file my Form PF?

You must file Form PF electronically through the Form PF filing system on the Investment Adviser Registration Depository website (www.iard.com), which contains detailed filing instructions. Questions regarding filing through the Form PF filing system should be addressed to the Financial Industry Regulatory Authority (FINRA) at 240-386-4848.

If you are a *large hedge fund adviser* filing a current report in Section 5, only file Section 5. Do not file any other sections of the form. If you are an adviser to *private equity funds* filing a current report in Section 6 only file Section 6. Do not file any other sections of the form. For all other types of filings, file the applicable sections as provided in Instruction 3.

13. Are there filing fees?

Yes, you must pay a filing fee for your Form PF filings. The Form PF filing fee schedule is published at https://www.sec.gov/iard and http://www.iard.com.

14. What if I am not able to file electronically?

A temporary hardship exemption is available if you encounter unanticipated technical difficulties that prevent you from making a timely filing with the Form PF filing system, such as a computer malfunction or electrical outage. This exemption does not permit you to file on paper; instead, it

extends the deadline for an electronic filing for seven "business days" (as such term is used in *SEC* rule 204(b)-1(f)).

To request a temporary hardship exemption, you must complete and file on paper Item A of Section 1a and Section 7 of Form PF, checking the box in Section 1a indicating that you are requesting a temporary hardship exemption. Mail one manually signed original and one copy of your exemption filing to: U.S. Securities and Exchange Commission, Branch of Regulations and Examinations, Mail Stop 0-25, 100 F Street NE, Washington, DC 20549. You must preserve in your records a copy of any temporary hardship exemption filing. Any request for a temporary hardship exemption must be filed no later than one business day after the electronic Form PF filing was due. For more information, see *SEC* rule 204(b)-1(f).

15. May I rely on my own methodologies in responding to Form PF? How should I enter requested information?

You may respond to this Form using your own internal methodologies and the conventions of your service providers, provided the information is consistent with information that you report internally and to current and prospective investors. However, your methodologies must be consistently applied and your responses must be consistent with any instructions or other guidance relating to this Form. You may explain any of your methodologies, including related assumptions, in Question 4.

In responding to Questions on this Form, the following guidelines apply unless otherwise specifically indicated:

- provide the requested information as of the close of business on the *data reporting date*;
- if information is requested for any month or quarter, provide the requested information as of the close of business on the last calendar day of the month or quarter, respectively;
- if a question requests information expressed as a percentage, enter the response as a percentage (not a decimal) and round to the nearest one percent;
- if a question requests a monetary value, provide the information in U.S. dollars as of the *data reporting date*, rounded to the nearest thousand;
- if a question requests a numerical value other than a percentage or a dollar value, provide information rounded to the nearest whole number;
- if a question requests information regarding a "position" or "positions," you should determine whether a set of legal and contractual rights constitutes a "position" in a manner consistent with your internal recordkeeping and risk management procedures (e.g., some advisers may record as a single position two or more partially offsetting legs of a transaction entered into with the same counterparty under the same master agreement, while others may record these as separate positions);
- if a question requires you to distinguish long positions from short positions, classify positions in a manner consistent with your internal recordkeeping and risk management procedures (provided that, for *CDS*, *exotic CDS*, *index CDS*, and *single name CDS*, the protection seller should be viewed as long and the protection buyer should be viewed as short);
- do not net long and short positions;
- for derivatives (other than options), "value" means *gross notional value*; for options, "value" means delta adjusted notional value; for all other investments and for all *borrowings* where the reporting fund is the creditor, "value" means market value or, where there is not a readily

available market value, fair value; for *borrowings* where the reporting fund is the debtor, "value" means the value you report internally and to current and prospective investors; and

- for questions 20, 21, 25, 28, and 35, the numerator you use to determine the percentage of *net asset value* should be measured on the same basis as *gross asset value* and may result in responses that total more than 100%.

16. How do I amend Form PF, for example, to make a correction?

If you discover that information you filed on Form PF was not accurate at the time of filing, you may correct the information by re-filing and checking the box in Section 1a, Section 5 or Section 6, as applicable, indicating that you are amending a previously submitted filing. You are not required to update information that you believe in good faith properly responded to Form PF on the date of filing even if that information is subsequently revised for purposes of your recordkeeping, risk management or investor reporting (such as estimates that are refined after completion of a subsequent audit).

Large hedge fund advisers and *large liquidity fund advisers* that comply with their fourth quarter filing obligations by submitting an initial filing followed by an amendment in accordance with Instruction 9 will not be viewed as affirming responses regarding one fund solely by providing updated information regarding another fund at a later date.

17. How may I preserve on Form PF the anonymity of a *private fund* that I advise?

If you seek to preserve the anonymity of a *private fund* that you advise by maintaining its identity in your books and records in numerical or alphabetical code, or similar designation, pursuant to rule 204-2(d), you may identify the *private fund* on Form PF using the same code or designation in place of the fund's name.

18. May I report on Form PF regarding a *commodity pool* that is not a *private fund*? How should I treat the *commodity pool* for purposes of Form PF?

If you are otherwise required to report on Form PF, you may report information regarding any *commodity pool* you advise on Form PF, even if it is not a *private fund*. Properly reporting on Form PF regarding the *commodity pool* will constitute substitute compliance with CFTC reporting requirements to the extent provided in *CEA* rule 4.27.

Commodity pools should be treated as *hedge funds* for purposes of Form PF. If you are reporting on Form PF regarding a *commodity pool* that is not a *private fund*, then treat it as a *private fund* for purposes of Form PF. However, such a *commodity pool* is not required to be included when determining whether you exceed one or more reporting thresholds. If such a *commodity pool* is a *qualifying hedge fund* and you are otherwise required to report information in section 2a of Form PF, then you must report regarding the *commodity pool* in section 2b of Form PF.

Federal Information Law and Requirements for a Collection of Information

Section 204(b) of the *Advisers Act* [15 U.S.C. 80b-4(b)] authorizes the *SEC* to collect the information that Form PF requires. The information collected on Form PF is designed to facilitate the Financial Stability Oversight Council's ("FSOC") monitoring of systemic risk in the private fund industry and to assist FSOC in determining whether and how to deploy its regulatory tools with respect to nonbank financial companies. The *SEC* and *CFTC* may also use information collected on Form PF in their regulatory programs, including examinations, investigations and investor protection efforts relating to private fund advisers. Filing Form PF

is mandatory for advisers that satisfy the criteria described in Instruction 1 to the Form. *See also* 17 C.F.R. § 275.204(b)-1. The SEC does not intend to make public information reported on Form PF that is identifiable to any particular adviser or *private fund*, although the SEC may use Form PF information in an enforcement action. *See* Section 204(b) of the *Advisers Act*.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. The Office of Management and Budget has reviewed this collection of information under 44 U.S.C. 3507. Any member of the public may direct any comments concerning the accuracy of the burden estimate and any suggestion for reducing this burden to: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

Section 1a: Information about you and your *related persons*

Check the box that indicates what you would like to do:

A. If you are not a *large hedge fund adviser* or *large liquidity fund adviser*:

- ☐ Submit your first filing on Form PF
  for the period ended: _____
- ☐ Submit an *annual update*
  for the period ended: _____
- ☐ Amend a previously submitted filing
  for the period ended: _____
- ☐ Submit a final filing
- ☐ Request a temporary hardship exemption

B. If you are a *large hedge fund adviser* or *large liquidity fund adviser*:

- ☐ Submit your first filing on Form PF
  for the [1st, 2nd, 3rd, 4th] quarter, which ended: _____
- ☐ Submit a *quarterly update* (including fourth quarter updates)
  for the [1st, 2nd, 3rd, 4th] quarter, which ended: _____
- ☐ Amend a previously submitted filing
  for the [1st, 2nd, 3rd, 4th] quarter, which ended: _____
- ☐ Transition to annual reporting
- ☐ Submit a final filing
- ☐ Request a temporary hardship exemption

Item A. Information about you

1. (a) Provide your name and the other identifying information requested below.

(This should be your full legal name. If you are a sole proprietor, this will be your last, first, and middle names. If you are a SID*, enter the full legal name of your bank. Please use the same name that you use in your* Form ADV.*)*

Legal name	SEC 801-Number	NFA ID Number, if any	Large trader ID, if any	Large trader ID suffix, if any

(b) Provide the following information for each of the *related persons*, if any, with respect to which you are reporting information on this Form PF:

Legal name	SEC 801-Number	NFA ID Number, if any	Large trader ID, if any	Large trader ID suffix, if any

2. Signatures of sole proprietor or authorized representative *(see Instruction 11 to Form PF)*.

Signature on behalf of the *firm* and its *related persons*:

I, the undersigned, sign this Form PF on behalf of, and with the authority of, the *firm*. In addition, I sign this Form PF on behalf of, and with the authority of, each of the *related persons* identified in Question 1(b) (other than any *related person* for which another individual has signed this Form PF below).

To the extent that Section 1 or 2 of this Form PF is filed in accordance with a regulatory obligation imposed by *CEA* rule 4.27, the *firm*, each *related person* for which I am signing this Form PF, and I shall accept that any false or misleading statement of a material fact therein or material omission therefrom shall constitute a violation of section 6(c)(2) of the *CEA*.

Name of individual:	
Signature:	
Title:	
Email address:	
Telephone contact number (include area code and, if outside the United States, country code):	
Date:	

Signature on behalf of *related persons*:

I, the undersigned, sign this Form PF on behalf of, and with the authority of, the *related person(s)* identified below.

To the extent that Section 1 or 2 of this Form PF is filed in accordance with a regulatory obligation imposed by *CEA* rule 4.27, each *related person* identified below and I shall accept that any false or misleading statement of a material fact therein or material omission therefrom shall constitute a violation of section 6(c)(2) of the *CEA*.

Name of each *related person* on behalf of which this individual is signing:	
Name of individual:	
Signature:	
Title:	
Email address:	
Telephone contact number (include area code and, if outside the United States, country code):	
Date:	

Item B. Information about assets of *private funds* that you advise

3. Provide a breakdown of your *regulatory assets under management* and your *net assets under*

management as follows:

(If you are filing a quarterly update *for your first, second or third fiscal quarter, you are only required to update row (a), in the case of a* large hedge fund adviser*, or row (b), in the case of a* large liquidity fund adviser*.)*

	Regulatory assets under management	***Net assets under management***
(a) *Hedge funds*		
(b) *Liquidity funds*		
(c) *Private equity funds*		
(d) *Real estate funds*		
(e) *Securitized asset funds*		
(f) *Venture capital funds*		
(g) *Other private funds*		
(h) Funds and accounts other than *private funds* (*i.e.*, the remainder of your assets under management)		

Item C. Miscellaneous

4. You may use the space below to explain any assumptions that you made in responding to any question in this Form PF. Assumptions must be in addition to, or reasonably follow from, any instructions or other guidance relating to Form PF. If you are aware of any instructions or other guidance that may require a different assumption, provide a citation and explain why that assumption is not appropriate for this purpose.

Question number	**Description**

Section 1b: Information about the *private funds* you advise

Subject to Instruction 5, you must complete a separate Section 1b for each *private fund* that you advise.

Item A. *Reporting fund* identifying information

5. (a) Name of the *reporting fund* .....
   (b) *Private fund* identification number of the *reporting fund* .....
   (c) *NFA* identification number of the *reporting fund*, if applicable .....
   (d) *LEI* of the *reporting fund*, if applicable .....

6. Check "yes" below if the *reporting fund* is the *master fund* of a *master-feeder arrangement* and you are reporting for all of the funds in the *master-feeder arrangement* on an aggregated basis. Otherwise, check "no."

   (See Instruction 5 for information regarding aggregation of master-feeder arrangements*. If you respond "yes," do not complete a separate Section 1b, 1c, 2b, 3 or 4 with respect to any of the* feeder funds*.)*

   ☐ Yes ☐ No

7. (a) Check "yes" below if the *reporting fund* is the largest fund in a *parallel fund structure* and you are reporting for all of the funds in the structure on an aggregated basis. Otherwise, check "no."

   (See Instruction 5 for information regarding aggregation of parallel funds*. If you respond "yes," do not complete a separate Section 1b, 1c, 2b, 3 or 4 with respect to any of the other* parallel funds *in the structure.)*

   ☐ Yes ☐ No

   If you responded "yes" to Question 7(a), complete (b) through (e) below for each other *parallel fund* in the *parallel fund structure*.

   (b) Name of the *parallel fund* .....
   (c) *Private fund* identification number of the *parallel fund* .....
   (d) *NFA* identification number of the *parallel fund*, if applicable .....
   (e) *LEI* of the *parallel fund*, if applicable .....

Item B. Assets, financing and investor concentration

8. *Gross asset value* of *reporting fund* .....

   (This amount may differ from the amount you reported in response to question 11 of Form ADV Section 7.B.1*. For instance, the amounts may not be the same if you are filing Form PF on a quarterly basis, if you are aggregating a* master-feeder arrangement *for purposes of this Form PF and you did not aggregate that* master-feeder arrangement *for purposes of* Form ADV Section 7.B.1*. or if you are aggregating* parallel funds *for purposes of this Form PF.)*

9. *Net asset value* of *reporting fund* .....

10. *Value* of *reporting fund's* investments in equity of other *private funds* .....

11. *Value* of all *parallel managed accounts* related to the *reporting fund* .....

(If any of your parallel managed accounts *relates to more than one of the* private funds *you advise, only report the value of the account once, in connection with the largest* private fund *to which it relates.)*

12. Provide the following information regarding the *value* of the *reporting fund's borrowings* and the types of creditors.

(You are not required to respond to this question for any reporting fund *with respect to which you are answering Question 43 in Section 2b or Question 68 in Section 4. Do not net out amounts that the* reporting fund *loans to creditors or the value of collateral pledged to creditors.)*

(The percentages borrowed from the specified types of creditors should add up to approximately 100%.)

(a) Dollar amount of total *borrowings*.....

(b) Percentage borrowed from *U.S. financial institutions* .....

(c) Percentage borrowed from *non-U.S. financial institutions*.....

(d) Percentage borrowed from U.S. creditors that are not financial institutions .....

(e) Percentage borrowed from non-U.S. creditors that are not financial institutions.....

13. (a) Does the *reporting fund* have any outstanding derivatives positions?

☐ Yes ☐ No

(b) If you responded "yes" to Question 13(a), provide the aggregate *value* of all derivatives positions of the *reporting fund*.....

(You are not required to respond to Question 13 for any reporting fund *with respect to which you are answering Question 44 in Section 2b.)*

14. Provide a summary of the *reporting fund's* assets and liabilities categorized using the hierarchy below. For assets and liabilities that you report internally and to current and prospective investors as representing fair value, or for which you are required to determine fair value in order to report the *reporting fund's* regulatory assets under management on Form ADV, categorize them into the following categories based on the valuation assumptions utilized:

Level 1 – Quoted prices (unadjusted) in active markets for identical assets or liabilities.

Level 2 – Other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly.

Level 3 – Unobservable inputs, such as your assumptions or the fund's assumptions used to determine the fair value of the asset or liability.

For any assets and liabilities that you report internally and to current and prospective investors as representing a measurement attribute other than fair value, and for which you are not required to determine fair value in order to report the *reporting fund's* regulatory assets under management on Form ADV, separately report these assets and liabilities in the "cost-based" measurement column.

(If the fund's financial statements are prepared in accordance with U.S. generally accepted accounting principles ("U.S. GAAP") or another accounting standard that requires the

categorization of assets and liabilities using a fair value hierarchy similar to that established under U.S. GAAP, then respond to this question using the fair value hierarchy established under the applicable accounting standard.)

(This question requires the use of fair values and cost-based measurements, which may be different from the values contemplated by Instruction 15. You are only required to respond to this question if you are filing an annual update *or a* quarterly update *for your fourth fiscal quarter.)*

	Fair value			
	Level 1	Level 2	Level 3	Cost-based
Assets	$_____	$_____	$_____	$_____
Liabilities	$_____	$_____	$_____	$_____

15. Specify the approximate percentage of the *reporting fund's* equity that is beneficially owned by the five beneficial owners having the largest equity interests in the *reporting fund.* [ ]

(For purposes of this question, if you know that two or more beneficial owners of the reporting fund *are* affiliated *with each other, you should treat them as a single beneficial owner.)*

16. Specify the approximate percentage of the *reporting fund's* equity that is beneficially owned by the following groups of investors.

(Include each investor in only one group. The total should add up to approximately 100%. With respect to beneficial interests outstanding prior to March 31, 2012, that have not been transferred on or after that date, you may respond to this question using good faith estimates based on data currently available to you.)

(a) Individuals that are *United States persons* (including their trusts) ..... [ ]

(b) Individuals that are not *United States persons* (including their trusts) ..... [ ]

(c) Broker-dealers ..... [ ]

(d) Insurance companies ..... [ ]

(e) Investment companies registered with the *SEC* ..... [ ]

(f) *Private funds* ..... [ ]

(g) Non-profits ..... [ ]

(h) Pension plans (excluding governmental pension plans) ..... [ ]

(i) Banking or thrift institutions (proprietary) ..... [ ]

(j) State or municipal *government entities* (excluding governmental pension plans) .... [ ]

(k) State or municipal governmental pension plans ..... [ ]

(l) Sovereign wealth funds and foreign official institutions ..... [ ]

(m) Investors that are not *United States persons* and about which the foregoing beneficial ownership information is not known and cannot reasonably be obtained because the beneficial interest is held through a chain involving one or more third-party intermediaries ..... [ ]

(n) Other ..... [ ]

Item C. *Reporting fund* performance

17. Provide the *reporting fund's* gross and net performance, as reported to current and prospective investors (or, if calculated for other purposes but not reported to investors, as so calculated). If the fund reports different performance results to different groups of investors, provide the most representative results. You are required to provide monthly and quarterly performance results only if such results are calculated for the *reporting fund* (whether for purposes of reporting to current or prospective investors or otherwise).

(If your fiscal year is different from the reporting fund's *fiscal year, then for any portion of the* reporting fund's *fiscal year that has not been completed as of the* data reporting date*, provide the relevant information from that portion of the* reporting fund's *preceding fiscal year.)*

(Enter your responses as percentages rounded to the nearest one-hundredth of one percent. Performance results for monthly and quarterly periods should not be annualized. If any period precedes the date of the fund's formation, enter "NA". You are not required to include performance results for any period with respect to which you previously provided performance results for the reporting fund *on Form PF.)*

	Last day of fiscal period	Gross performance	Net of management fees and incentive fees and allocations
(a) 1st month of *reporting fund's* fiscal year			
(b) 2nd month of *reporting fund's* fiscal year			
(c) 3rd month of *reporting fund's* fiscal year.....			
(d) First quarter.....			
(e) 4th month of *reporting fund's* fiscal year			
(f) 5th month of *reporting fund's* fiscal year			
(g) 6th month of *reporting fund's* fiscal year			
(h) Second quarter			
(i) 7th month of *reporting fund's* fiscal year			
(j) 8th month of *reporting fund's* fiscal year			
(k) 9th month of *reporting fund's* fiscal year			
(l) Third quarter			
(m) 10th month of *reporting fund's* fiscal year			
(n) 11th month of *reporting fund's* fiscal year			
(o) 12th month of *reporting fund's* fiscal year			
(p) Fourth quarter			
(q) *Reporting fund's* most recently completed fiscal year.....			

Section 1c: Information about the *hedge funds* you advise

Subject to Instruction 5, you must complete a separate Section 1c for each *hedge fund* that you advise.

Item A. *Reporting fund* identifying information

18.	(a) Name of the *reporting fund*	
	(b) *Private fund* identification number of the *reporting fund*	

Item B. Certain information regarding the *reporting fund*

19. Does the *reporting fund* have a single primary investment strategy or multiple strategies?

☐ Single primary strategy ☐ Multi-strategy

20. Indicate which of the investment strategies below best describe the *reporting fund's* strategies. For each strategy that you have selected, provide a good faith estimate of the percentage of the *reporting fund's net asset value* represented by that strategy. If, in your view, the *reporting fund's* allocation among strategies is appropriately represented by the percentage of deployed capital, you may also provide that information.

(Select the investment strategies that best describe the reporting fund's strategies, even if the descriptions below do not precisely match your characterization of those strategies; select "other" only if a strategy that the reporting fund *uses is significantly different from any of the strategies identified below. You may refer to the* reporting fund's *use of these strategies as of the* data reporting date *or throughout the* reporting period*, but you must report using the same basis in future filings.)*

(The strategies listed below are mutually exclusive (i.e., do not report the same assets under multiple strategies). If providing percentages of capital, the total should add up to approximately 100%.)

Strategy	% of *NAV* (required)	% of capital (optional)
☐ Equity, Market Neutral		
☐ Equity, Long/Short		
☐ Equity, Short Bias		
☐ Equity, Long Bias		
☐ Macro, Active Trading		
☐ Macro, Commodity		
☐ Macro, Currency		
☐ Macro, Global Macro		

☐ Relative Value, Fixed Income Asset Backed		

☐ Relative Value, Fixed Income Convertible Arbitrage		
☐ Relative Value, Fixed Income Corporate		
☐ Relative Value, Fixed Income Sovereign		
☐ Relative Value, Volatility Arbitrage		
☐ Event Driven, Distressed/Restructuring		
☐ Event Driven, Risk Arbitrage/Merger Arbitrage		
☐ Event Driven, Equity Special Situations		
☐ Credit, Long/Short		
☐ Credit, Asset Based Lending		
☐ Managed Futures/*CTA*, Fundamental		
☐ Managed Futures/*CTA*, Quantitative		
☐ Investment in other funds		
☐ Other: _____		

21. During the *reporting period*, approximately what percentage of the *reporting fund's net asset value* was managed using high-frequency trading strategies?

(In your response, please do not include strategies using algorithms solely for trade execution. This question concerns strategies that are substantially computer-driven, where decisions to place bids or offers, and to buy or sell, are primarily based on algorithmic responses to intraday price action in equities, futures and options, and where the total number of shares or contracts traded throughout the day is generally significantly larger than the net change in position from one day to the next.)

☐ 0% ☐ less than 10% ☐ 10-25% ☐ 26-50%

☐ 51-75% ☐ 76-99% ☐ 100% or more

22. Identify the five counterparties to which the *reporting fund* has the greatest mark-to- market net counterparty credit exposure, measured as a percentage of the *reporting fund's net asset value*.

(For purposes of this question, you should treat affiliated *entities as a single group to the extent exposures may be contractually or legally set-off or netted across those entities and/or one affiliate guarantees or may otherwise be obligated to satisfy the obligations of another.* CCPs *should not be regarded as counterparties for purposes of this question.)*

(In your response, you should take into account: (i) mark-to-market gains and losses on derivatives; and (ii) any loans or loan commitments.)

(However, you should not take into account: (i) margin posted by the counterparty; or (ii) holdings of debt or equity securities issued by the counterparty.)

	Legal name of the counterparty (or, if multiple affiliated entities, counterparties)	Indicate below if the counterparty is affiliated with a major financial institution	Exposure (% of *reporting fund's net asset value*)
(a)		[drop-down list of counterparty names] Other: _____ [Not applicable]	
(b)		[drop-down list of counterparty names] Other: _____ [Not applicable]	
(c)		[drop-down list of counterparty names] Other: _____ [Not applicable]	
(d)		[drop-down list of counterparty names] Other: _____ [Not applicable]	
(e)		[drop-down list of counterparty names] Other: _____ [Not applicable]	

23. Identify the five counterparties that have the greatest mark-to-market net counterparty credit exposure to the *reporting fund*, measured in U.S. dollars.

(For purposes of this question, you should treat affiliated *entities as a single group to the extent exposures may be contractually or legally set-off or netted across those entities and/or one affiliate guarantees or may otherwise be obligated to satisfy the obligations of another.* CCPs *should not be regarded as counterparties for purposes of this question.)*

(In your response, you should take into account: (i) mark-to-market gains and losses on derivatives; and (ii) any loans or loan commitments.)

(However, you should not take into account: (i) margin posted to the counterparty; or (ii) holdings of debt or equity securities issued by the counterparty.)

	Legal name of the counterparty (or, if multiple affiliated entities, counterparties)	Indicate below if the counterparty is affiliated with a major financial institution	Exposure (in U.S. dollars)
(a)		[drop-down list of counterparty names] Other: _____ [Not applicable]	
(b)		[drop-down list of counterparty names] Other: _____ [Not applicable]	
(c)		[drop-down list of counterparty names] Other: _____ [Not applicable]	
(d)		[drop-down list of counterparty names] Other: _____ [Not applicable]	
(e)		[drop-down list of counterparty names] Other: _____ [Not applicable]	

24. Provide the following information regarding your use of trading and clearing mechanisms during the *reporting period*.

(Provide good faith estimates of the mode in which instruments were traded and cleared by the reporting fund*, and not the market as a whole. For purposes of this question, a "trade" includes any transaction, whether entered into on a bilateral basis or through an exchange, trading facility or other system and whether long or short. With respect to clearing, transactions for which margin is held in a customer omnibus account at a* CCP *should be considered cleared by a* CCP*. Tri-party* repo *applies where* repo *collateral is held at a custodian (not including a* CCP*) that acts as a third party agent to both the* repo *buyer and the* repo *seller.)*

(The total in each part of this question should add up to 100%. Enter "NA" in each part of this question for which the reporting fund *engaged in no relevant trades.)*

	%
(a) Estimated % (in terms of *value*) of securities (other than derivatives) that were traded by the *reporting fund*:	
On a regulated exchange	
OTC	
(b) Estimated % (in terms of trade volumes) of derivatives that were traded by the *reporting fund*:	
On a regulated exchange or swap execution facility	
OTC	
(c) Estimated % (in terms of trade volumes) of *derivatives* that were traded by the *reporting fund* and:	
Cleared by a *CCP*	
Bilaterally transacted (i.e., not cleared by a *CCP*)	
(d) Estimated % (in terms of *value*) of *repo* trades that were entered into by the *reporting fund* and:	
Cleared by a *CCP*	
Bilaterally transacted (i.e., not cleared by a *CCP*)	
Constitute a tri-party *repo*	

25. What percentage of the *reporting fund's net asset value* relates to transactions that are not described in any of the categories listed in items (a) through (d) of Question 24?

Section 2a: Aggregated information about *hedge funds* that you advise

Item A. Exposure of *hedge fund* assets

26. Aggregate *hedge fund* exposures.

(Give a dollar value *for long and short positions as of the last day in each month of the* reporting period*, by* sub-asset class*, including all exposure whether held physically, synthetically or through derivatives. Enter "NA" in each space for which there are no relevant positions.)*

(Include any closed out and OTC *forward positions that have not yet expired/matured. Do not net positions within* sub-asset classes*. Positions held in side-pockets should be included as positions of the* hedge funds*. Provide the absolute value of short positions. Each position should only be included in a single* sub-asset class*.)*

(Where "duration/WAT/10-year eq." is required, provide at least one of the following with respect to the position and indicate which measure is being used: bond duration, weighted average tenor or 10-year bond equivalent. Duration and weighted average tenor should be entered in terms of years to two decimal places.)

	1st Month		2nd Month		3rd Month	
	LV	***SV***	***LV***	***SV***	***LV***	***SV***
Listed equity						
Issued by financial institutions						
Other *listed equity*.....						
Unlisted equity						
Issued by financial institutions						
Other *unlisted equity*.....						
Listed equity derivatives						
Related to financial institutions						
Other *listed equity derivatives*						
Derivative exposures to unlisted equities						
Related to financial institutions						
Other *derivative exposures to unlisted equities*.....						
Corporate bonds issued by financial institutions (other than *convertible bonds*)						
Investment grade						
☐ Duration ☐ WAT ☐ 10-year eq..						
Non-investment grade						
☐ Duration ☐ WAT ☐ 10-year eq..						

Corporate bonds not issued by financial institutions (other than *convertible bonds*)						
Investment grade						
☐ Duration ☐ WAT ☐ 10-year eq..						
Non-investment grade						
☐ Duration ☐ WAT ☐ 10-year eq..						
Convertible bonds issued by financial institutions						
Investment grade						
☐ Duration ☐ WAT ☐ 10-year eq..						
Non-investment grade						
☐ Duration ☐ WAT ☐ 10-year eq..						
Convertible bonds not issued by financial institutions						
Investment grade						
☐ Duration ☐ WAT ☐ 10-year eq..						
Non-investment grade						
☐ Duration ☐ WAT ☐ 10-year eq..						
Sovereign bonds and municipal bonds						
U.S. treasury securities.....						
☐ Duration ☐ WAT ☐ 10-year eq..						
Agency securities						
☐ Duration ☐ WAT ☐ 10-year eq..						
GSE bonds						
☐ Duration ☐ WAT ☐ 10-year eq..						
Sovereign bonds issued by *G10* countries other than the U.S.						
☐ Duration ☐ WAT ☐ 10-year eq..						
Other *sovereign bonds* (including supranational bonds).....						
☐ Duration ☐ WAT ☐ 10-year eq..						
U.S. state and local bonds.....						
☐ Duration ☐ WAT ☐ 10-year eq..						
Loans						
Leveraged loans						

☐ Duration ☐ WAT ☐ 10-year eq..						
Other loans (not including *repos*).....						
☐ Duration ☐ WAT ☐ 10-year eq..						
Repos.....						
☐ Duration ☐ WAT ☐ 10-year eq.						
ABS/structured products						
MBS.....						
☐ Duration ☐ WAT ☐ 10-year eq..						
ABCP.....						
☐ Duration ☐ WAT ☐ 10-year eq..						
CDO/CLO.....						
☐ Duration ☐ WAT ☐ 10-year eq..						
Other ABS.....						
☐ Duration ☐ WAT ☐ 10-year eq..						
Other structured products						
Credit derivatives						
Single name CDS						
Index CDS						
Exotic CDS.....						
Foreign exchange derivatives (investment)						
Foreign exchange derivatives (hedging).....						
Non-U.S. currency holdings.....						
Interest rate derivatives.....						
Commodities (derivatives)						
Crude oil.....						
Natural gas.....						
Gold.....						
Power.....						
Other commodities.....						
Commodities (physical)						
Crude oil.....						
Natural gas.....						

Gold						
Power						
Other commodities						
Other derivatives						
Physical real estate						
Investments in internal private funds						
Investments in external private funds						
Investments in registered investment companies						
Cash and cash equivalents						
Certificates of deposit						
☐ Duration ☐ WAT ☐ 10-year eq.						
Other deposits						
Money market funds						
Other *cash and cash equivalents* (excluding government securities)						
Investments in funds for cash management purposes (other than *money market funds*)						
Investments in other sub-asset classes						

27. For each month of the *reporting period*, provide the *value* of turnover during the month in each of the asset classes listed below for the *hedge funds* that you advise.

(The value *of turnover should be the sum of the absolute* values *of transactions in the relevant asset class during the period.)*

	1st Month	2nd Month	3rd Month
Listed equity			
Corporate bonds (other than *convertible bonds*)			
Convertible bonds			
Sovereign bonds and municipal bonds			
U.S. treasury securities			
Agency securities			
GSE bonds			
Sovereign bonds issued by *G10* countries other than the U.S.			
Other *sovereign bonds* (including supranational bonds)			

U.S. state and local bonds.....			
Futures.....			

28. (a) Provide a geographical breakdown of the investments held by the *hedge funds* that you advise (by percentage of the total *net asset value* of these *hedge funds*).

(See Instruction 15 for information on calculating the numerator for purposes of this Question.)

Region	**% of *NAV***
(i) Africa.....	
(ii) Asia and Pacific (other than the Middle East)	
(iii) Europe (*EEA*).....	
(iv) Europe (other than *EEA*).....	
(v) Middle East.....	
(vi) North America	
(vii) South America	
(viii) Supranational	

(b) Provide the value of investments in the following countries held by the *hedge funds* that you advise (by percentage of the total *net asset value* of these *hedge funds*).

(See Instruction 15 for information on calculating the numerator for purposes of this Question.)

Country	**% of *NAV***
(i) Brazil.....	
(ii) China (including Hong Kong)	
(iii) India	
(iv) Japan	
(v) Russia.....	
(vi) United States	

Section 2b: Information about *qualifying hedge fund*s that you advise.

You must complete a separate Section 2b for each *qualifying hedge fund* that you advise. However, with respect to *master-feeder arrangements* and *parallel fund structures* that collectively comprise *qualifying hedge funds*, you may report collectively or separately about the component funds as provided in the General Instructions.

Item A. *Reporting fund* identifying information

29. (a) Name of the *reporting fund* .....

(b) *Private fund* identification number of the *reporting fund* .....

Item B. *Reporting fund* exposures and trading

Check this box if you advise only one *hedge fund*. If you check this box, you may skip Question 30. ☐

30. *Reporting fund* exposures.

(Give a dollar value *for long and short positions as of the last day in each month of the* reporting period*, by* sub-asset class*, including all exposure whether held physically, synthetically or through derivatives. Enter "NA" in each space for which there are no relevant positions.)*

(Include any closed out and OTC *forward positions that have not yet expired/matured. Do not net positions within* sub-asset classes*. Positions held in side-pockets should be included as positions of the* hedge funds*. Provide the absolute value of short positions. Each position should only be included in a single* sub-asset class*.)*

(Where "duration/WAT/10-year eq." is required, provide at least one of the following with respect to the position and indicate which measure is being used: bond duration, weighted average tenor or 10-year bond equivalent. Duration and weighted average tenor should be entered in terms of years to two decimal places.)

	1st Month		2nd Month		3rd Month	
	LV	***SV***	***LV***	***SV***	***LV***	***SV***
Listed equity						
Issued by financial institutions						
Other *listed equity*.....						
Unlisted equity						
Issued by financial institutions						
Other *unlisted equity*.....						

Listed equity derivatives						
Related to financial institutions						
Other *listed equity derivatives*						
Derivative exposures to unlisted equities						
Related to financial institutions						
Other *derivative exposures to unlisted equities*						
Corporate bonds issued by financial institutions (other than *convertible bonds*)						
Investment grade						
☐ Duration ☐ WAT ☐ 10-year eq.						
Non-investment grade						
☐ Duration ☐ WAT ☐ 10-year eq.						
Corporate bonds not issued by financial institutions (other than *convertible bonds*)						
Investment grade						
☐ Duration ☐ WAT ☐ 10-year eq.						
Non-investment grade						
☐ Duration ☐ WAT ☐ 10-year eq.						
Convertible bonds issued by financial institutions						
Investment grade						
☐ Duration ☐ WAT ☐ 10-year eq.						
Non-investment grade						
☐ Duration ☐ WAT ☐ 10-year eq.						
Convertible bonds not issued by financial institutions						
Investment grade						
☐ Duration ☐ WAT ☐ 10-year eq.						
Non-investment grade						
☐ Duration ☐ WAT ☐ 10-year eq.						
Sovereign bonds and municipal bonds						
U.S. treasury securities						
☐ Duration ☐ WAT ☐ 10-year eq.						

Agency securities						
☐ Duration ☐ WAT ☐ 10-year eq..						
GSE bonds						
☐ Duration ☐ WAT ☐ 10-year eq..						
Sovereign bonds issued by *G10* countries other than the U.S.						
☐ Duration ☐ WAT ☐ 10-year eq..						
Other *sovereign bonds* (including supranational bonds)						
☐ Duration ☐ WAT ☐ 10-year eq..						
U.S. state and local bonds						
☐ Duration ☐ WAT ☐ 10-year eq..						

Loans

Leveraged loans						
☐ Duration ☐ WAT ☐ 10-year eq..						
Other loans (not including *repos*)						
☐ Duration ☐ WAT ☐ 10-year eq..						

Repos						
☐ Duration ☐ WAT ☐ 10-year eq.						

ABS/structured products

MBS						
☐ Duration ☐ WAT ☐ 10-year eq..						
ABCP						
☐ Duration ☐ WAT ☐ 10-year eq..						
CDO/CLO						
☐ Duration ☐ WAT ☐ 10-year eq..						
Other ABS						
☐ Duration ☐ WAT ☐ 10-year eq..						
Other structured products						

Credit derivatives

Single name CDS						
Index CDS						
Exotic CDS						

Foreign exchange derivatives (investment)						
Foreign exchange derivatives (hedging)						
Non-U.S. currency holdings						
Interest rate derivatives						

Commodities (derivatives)						
Crude oil						
Natural gas						
Gold						
Power						
Other commodities						
Commodities (physical)						
Crude oil						
Natural gas						
Gold						
Power						
Other commodities						
Other derivatives						
Physical real estate						
Investments in internal private funds						
Investments in external private funds						
Investments in registered investment companies						
Cash and cash equivalents						
Certificates of deposit						
☐ Duration ☐ WAT ☐ 10-year eq.						
Other deposits						
Money market funds						
Other *cash and cash equivalents* (excluding government securities)						
Investments in funds for cash management purposes (other than *money market funds*)						
Investments in other sub-asset classes						

31. What is the *reporting fund's* base currency?

[drop-down of currencies]

Other: _____

32. Provide the following information regarding the liquidity of the *reporting fund's* portfolio.

(Specify the percentage by value *of the* reporting fund's *positions that may be liquidated within each of the periods specified below. Each investment should be assigned to only one*

period and such assignment should be based on the shortest period during which you believe that such position could reasonably be liquidated at or near its carrying value. Use good faith estimates for liquidity based on market conditions over the reporting period *and assuming no fire-sale discounting. In the event that individual positions are important contingent parts of the same trade, group all those positions under the liquidity period of the least liquid part (so, for example, in a convertible bond arbitrage trade, the liquidity of the short should be the same as the* convertible bond*). Exclude* cash and cash equivalents*.)*

(The total should add up to approximately 100%.)

	% of portfolio capable of being liquidated within
1 day or less	
2 days – 7 days	
8 days – 30 days	
31 days – 90 days	
91 days – 180 days	
181 days – 365 days	
Longer than 365 days	

		1st Month	**2nd Month**	**3rd Month**
33.	*Value* of *reporting fund's unencumbered cash*			
34.	Total number of open positions (approximate), determined on the basis of each position and not the issuer or counterparty			

35. For each open position of the *reporting fund* that represents 5% or more of the *reporting fund's net asset value*, provide the information requested below.

		% of *net asset value*	***Sub-asset class***
(a)	First month of the *reporting period*		
	(i) Position		[drop-down of asset classes]
	(ii) Position		[drop-down of asset classes]
(b)	Second month of the *reporting period*		
	(i) Position		[drop-down of asset classes]
	(ii) Position		[drop-down of asset classes]
(c)	Third month of the *reporting period*		
	(i) Position		[drop-down of asset classes]
	(ii) Position		[drop-down of asset classes]

36. For each of the top five counterparties listed in your response to Question 22 with respect to the *reporting fund*, provide the following information regarding the collateral and other credit support that the counterparty has posted to the *reporting fund*.

(For purposes of Questions 36, 37 and 38, include as collateral assets purchased in connection with repos *and collateral posted under an arrangement pursuant to which the secured party has loaned securities to the pledgor.* Repos *and* reverse-repos *with the same counterparty may be netted to the extent secured by the same type of collateral.)*

(a) Counterparty [1, 2, 3, 4, 5]:	
(i) *value* of collateral posted in the form of *cash and cash equivalents*	
(ii) *value* of collateral posted in the form of securities (other than *cash and cash equivalent* instruments).....	
(iii) *value* of other collateral and credit support posted (including face amount of letters of credit and similar third party credit support).....	

37. For each of the top five counterparties listed in your response to Question 23 with respect to the *reporting fund*, provide the following information regarding the collateral and other credit support that the *reporting fund* has posted to the counterparty.

(a) Counterparty [1, 2, 3, 4, 5]:	
(i) *value* of collateral posted in the form of *cash and cash equivalents*	
(ii) *value* of collateral posted in the form of securities (other than *cash and cash equivalent* instruments).....	
(iii) *value* of other collateral and credit support posted (including face amount of letters of credit and similar third party credit support).....	

38. (a) Of the total amount of collateral and other credit support that counterparties have posted to the *reporting fund*, what percentage:

(i) may be rehypothecated?	
(ii) has the *reporting fund* rehypothecated?	
(b) Of the total amount of collateral and other credit support that the *reporting fund* has posted to counterparties, what percentage may be rehypothecated?	

39. During the *reporting period*, did the *reporting fund* clear any transactions directly through a

CCP?

☐ Yes ☐ No

Item C. *Reporting fund* risk metrics

40. (a) During the *reporting period*, did you regularly calculate the *VaR* of the *reporting fund*?

(Please respond without regard to whether you reported the result of this calculation internally or to investors.)

☐ Yes ☐ No

(b) If you responded "yes" to Question 40(a), provide the following information.

(If you regularly calculate the VaR *of the* reporting fund *using multiple combinations of confidence interval, horizon and historical observation period, complete a separate response to this Question 40(b) for each such combination.)*

(i) Confidence interval used (e.g., 100%-alpha%) *(as a percentage)* .....

(ii) Time horizon used *(in number of days)*.....

(iii) What weighting method was used to calculate *VaR*?

☐ None ☐ Exponential ☐ Other: _____

(iv) If you responded "exponential" to Question 40(b)(iii), provide the weighting factor used *(as a decimal to two places)*.....

(v) What method was used to calculate *VaR*?

☐ Historical simulation ☐ Monte Carlo simulation

☐ Parametric ☐ Other:

(vi) Historical lookback period used *(in number of years; enter "NA" if none used)*.....

(vii) *VaR* at the end of the 1st month of the *reporting period (as a % of NAV)* .....

(viii) *VaR* at the end of the 2nd month of the *reporting period (as a % of NAV)* .....

(ix) *VaR* at the end of the 3rd month of the *reporting period (as a % of NAV)* .....

41. Are there any risk metrics other than (or in addition to) *VaR* that you consider to be important to the *reporting fund's* risk management?

(Select all that you consider relevant. Please respond without regard to whether you reported the metric internally or to investors. If none, "None.")

[drop-down of risk metrics]

Other: _____

42. For each of the market factors identified below, determine the effect of the specified changes on the *reporting fund's* portfolio and provide the results.

(You may omit a response to any market factor that you do not regularly consider in formal testing in connection with the reporting fund's *risk management. If you omit any market factor, check either the box in the first column indicating that you believe that this market factor is not relevant to the* reporting fund's *portfolio or the box in the second column indicating that this market factor is relevant but not formally tested. For this purpose, "formal testing" means that the adviser has models or other systems capable of simulating the effect of a market factor on the fund's portfolio, not that the specific assumptions outlined in the question were used in testing.)*

(For each market factor, separate the effect on your portfolio into long and short components where (i) the long component represents the aggregate result of all positions whose valuation changes in the same direction as the market factor under a given stress scenario and (ii) the short component represents the aggregate result of all positions whose valuation changes in the opposite direction from the market factor under a given stress scenario.)

(Assume that changes in a market factor occur instantaneously and that all other factors are held constant. If the specified change in any market factor would make that factor less than zero, use zero instead.)

(Please note the following regarding the market factors identified below:

(i) A change in "equity prices" means that the prices of all equities move up or down by the specified amount, without regard to whether the equities are listed on any exchange or included in any index;

(ii) "Risk free interest rates" means rates of interest accruing on sovereign bonds *issued by governments having the highest credit quality, such as* U.S. treasury securities*;*

(iii) A change in "credit spreads" means that all spreads against risk free interest rates change by the specified amount;

(iv) A change in "currency rates" means that the values of all currencies move up or down by the specified amount relative to the reporting fund's *base currency;*

(v) A change in "commodity prices" means that the prices of all physical commodities move up or down by the specified amount;

(vi) A change in "option implied volatilities" means that the implied volatilities of all the options that the reporting fund *holds increase or decrease by the specified number of percentage points; and*

(vii) A change in "default rates" means that the rate at which debtors default on all instruments of the specified type increases or decreases by the specified number of percentage points.*)*

Not relevant	Relevant/not formally tested	Market factor – changes in market factor	Effect on long components of portfolio (as % of *NAV*)	Effect on short components of portfolio (as % of *NAV*)
☐	☐	Equity prices:		
		Equity prices increase 5%		
		Equity prices decrease 5%		
		Equity prices increase 20%		
		Equity prices decrease 20%		
☐	☐	Risk free interest rates (changes represent a parallel shift in the yield curve):		
		Risk free interest rates increase 25*bp*		
		Risk free interest rates decrease 25*bp*		
		Risk free interest rates increase 75*bp*		
		Risk free interest rates decrease 75*bp*		
☐	☐	Credit spreads:		
		Credit spreads increase 50*bp*		
		Credit spreads decrease 50*bp*		
		Credit spreads increase 250*bp*		
		Credit spreads decrease 250*bp*		
☐	☐	Currency rates:		
		Currency rates increase 5%		
		Currency rates decrease 5%		
		Currency rates increase 20%		
		Currency rates decrease 20%		
☐	☐	Commodity prices:		
		Commodity prices increase 10%		
		Commodity prices decrease 10%		
		Commodity prices increase 40%		
		Commodity prices decrease 40%		
☐	☐	Option implied volatilities:		
		Implied volatilities increase 4 percentage points		
		Implied volatilities decrease 4 percentage points		
		Implied volatilities increase 10 percentage points		
		Implied volatilities decrease 10 percentage points		
☐	☐	Default rates (*ABS*):		

		Default rates increase 1 percentage point.....		
		Default rates decrease 1 percentage point.....		
		Default rates increase 5 percentage points		
		Default rates decrease 5 percentage points		
☐	☐	Default rates (*corporate bonds* and *CDS*):		
		Default rates increase 1 percentage point.....		
		Default rates decrease 1 percentage point.....		
		Default rates increase 5 percentage points		
		Default rates decrease 5 percentage points		

Item D. Financing information

43. For each month of the *reporting period*, provide the following information regarding the *value* of the *reporting fund's borrowings*, the types of creditors and the collateral posted to secure its *borrowings*.

(For each type of borrowing*, information is requested regarding the percentage borrowed from specified types of creditors. In each case, the total percentages allocated among these types of creditors should add up to 100%.)*

(Do not net out amounts that the reporting fund *loans to creditors or the value of collateral pledged to creditors.)*

	1st Month	2nd Month	3rd Month
(a) Dollar amount of *unsecured borrowing*			
(i) Percentage borrowed from *U.S. financial institutions*.....			
(ii) Percentage borrowed from *non-U.S. financial institutions*			
(iii) Percentage borrowed from U.S. creditors that are not financial institutions			
(iv) Percentage borrowed from non-U.S. creditors that are not financial institutions			

(b) S*ecured borrowing*.

(Classify secured borrowing *according to the legal agreement governing the borrowing (e.g., Global Master Repurchase Agreement for* reverse repo *and Prime Brokerage Agreement for prime brokerage). Please note that for* reverse repo borrowings*, the amount should be the net amount of cash borrowed (after taking into account any initial margin/independent amount, 'haircut' and repayments). Positions under a Global Master Repurchase Agreement should not be netted.)*

(i) Dollar amount via prime brokerage.....			
(A) *value* of collateral posted in the form of *cash and cash equivalents*			
(B) *value* of collateral posted in the form of securities (other than *cash and cash equivalent* instruments)...			
(C) *value* of other collateral and credit support posted (including face amount of letters of credit and similar third party credit support)			
(D) percentage borrowed from *U.S. financial institutions*.....			
(E) percentage borrowed from *non-U.S. financial institutions*.....			
(F) percentage borrowed from U.S. creditors that are not financial institutions.....			
(G) percentage borrowed from non-U.S. creditors that are not financial institutions			
(ii) Dollar amount via *reverse repo (for purposes of items (A) through (D) below, include as collateral any assets sold in connection with the* reverse repo *as well as any variation margin)*			
(A) *value* of collateral posted in the form of *cash and cash equivalents*			
(B) *value* of collateral posted in the form of securities (other than *cash and cash equivalent* instruments)...			
(C) *value* of other collateral and credit support posted (including face amount of letters of credit and similar third party credit support)			
(D) percentage borrowed from *U.S. financial institutions*.....			
(E) percentage borrowed from *non-U.S. financial institutions*.....			
(F) percentage borrowed from U.S. creditors that are not financial institutions.....			
(G) percentage borrowed from non-U.S. creditors that are not financial institutions			

(iii) Dollar amount of other *secured borrowings*			
(A) *value* of collateral posted in the form of *cash and cash equivalents*			
(B) *value* of collateral posted in the form of securities (other than *cash and cash equivalent* instruments) ...			
(C) *value* of other collateral and credit support posted (including face amount of letters of credit and similar third party credit support)			
(D) percentage borrowed from *U.S. financial institutions*.....			
(E) percentage borrowed from *non-U.S. financial institutions*.....			
(F) percentage borrowed from U.S. creditors that are not financial institutions.....			
(G) percentage borrowed from non-U.S. creditors that are not financial institutions			

	1st Month	2nd Month	3rd Month
44. For each month of the *reporting period*, provide the aggregate *value* of all derivatives positions of the *reporting fund (enter "NA" if no outstanding derivatives positions at the end of the relevant period)*....			

45. For each month of the *reporting period*, provide the following information regarding the *reporting fund's* derivative positions that were not cleared by a *CCP* and the collateral posted to secure those positions.

(If the reporting fund *is a net receiver of collateral, provide the collateral value as a negative number.)*

	1st Month	2nd Month	3rd Month
(a) Aggregate net mark-to-market value of all derivatives positions of the *reporting fund* that were not cleared by a *CCP (enter "NA" if no relevant derivatives positions outstanding at the end of the relevant period)*.....			
(b) Net *value* of collateral posted by or to the *reporting fund* in respect of these positions in the form of *cash and cash equivalents*			
(c) Net *value* of collateral posted by or to the *reporting fund* in respect of these positions in the form of securities (other than *cash and cash equivalent* instruments)			
(d) Net *value* of other collateral and credit support posted by or to the *reporting fund* in respect of these positions (including face amount of letters of credit and similar third party credit support.....			

46. Financing liquidity:

(a) Provide the aggregate dollar amount of *borrowing* by and cash financing available to the *reporting fund* (including all drawn and undrawn, committed and uncommitted lines of credit as well as any term financing) .....

(b) Divide the amount reported in response to Question 46(a) among the periods specified below depending on the longest period for which the creditor is contractually committed to provide such financing.

(If a creditor (or syndicate or administrative/collateral agent) is permitted to vary unilaterally the economic terms of the financing or to revalue posted collateral in its own discretion and demand additional collateral, then the financing should be deemed uncommitted for purposes of this question. Uncommitted financing should be included under "1 day or less.")

(The total should add up to 100%.)

	% of total financing
1 day or less	
2 days – 7 days.....	
8 days – 30 days	
31 days – 90 days	
91 days – 180 days	
181 days – 365 days.....	
Longer than 365 days.....	

47. Identify each creditor, if any, to which the *reporting fund* owed an amount in respect of *borrowings* equal to or greater than 5% of the *reporting fund's net asset value* as of the *data reporting date*. For each such creditor, provide the amount owed to that creditor.

(This question does not require the precise legal name of the creditor; if the creditor belongs to an affiliated *group that is included in the list below, select that group and do not enter the creditor's name in the space for "other.")*

Name of creditor	**Dollar amount owed to each creditor**
[drop-down list of creditor/counterparty names] Other: _____	
[repeat drop-down list of creditor/counterparty names] Other: _____	
[repeat drop-down list of creditor/counterparty names] Other: _____	

Item E. Investor information

48. (a) As of the *data reporting date*, what percentage of the *reporting fund's net asset value*, if any, is subject to a "side-pocket" arrangement? | |

(This question relates to whether assets are currently in a side-pocket and not the potential for assets to be moved to a side-pocket.)

(b) Have additional assets been placed in a side-pocket since the end of the prior *reporting period*?

(Check "NA" if you reported no assets under Question 48(a) in the current period and/or the prior period.)

☐ Yes ☐ No ☐ NA

49. Provide the following information regarding the *reporting fund's* restrictions on investor withdrawals and redemptions.

(For Questions 49 and 50, please note that the standards for imposing suspensions and restrictions on withdrawals/redemptions may vary among funds. Make a good faith determination of the provisions that would likely be triggered during conditions that you view as significant market stress.)

(a) Does the *reporting fund* provide investors with withdrawal/redemption rights in the ordinary course?

☐ Yes ☐ No

(If you responded "yes" to Question 49(a), then you must respond to Questions 49(b)-(e).)

As of the *data reporting date*, what percentage of the *reporting fund's net asset value*, if any:

(b) May be subjected to a suspension of investor withdrawals/redemptions by an adviser or fund governing body *(this question relates to an adviser's or governing body's right to suspend and not just whether a suspension is currently effective)*	
(c) May be subjected to material restrictions on investor withdrawals/ redemptions (e.g., "gates") by an adviser or fund governing body *(this question relates to an adviser's or governing body's right to impose a restriction and not just whether a restriction has been imposed)*	
(d) Is subject to a suspension of investor withdrawals/redemptions *(this question relates to whether a suspension is currently effective and not just an adviser's or governing body's right to suspend)*	
(e) Is subject to a material restriction on investor withdrawals/redemptions (e.g., a "gate") *(this question relates to whether a restriction has been imposed and not just an adviser's or governing body's right to impose a restriction)*	

50. Investor liquidity (as a % of *net asset value*):

(Divide the reporting fund's net asset value *among the periods specified below depending on the shortest period within which investors are entitled, under the fund documents, to withdraw invested funds or receive redemption payments, as applicable. Assume that you would impose gates where applicable but that you would not completely suspend withdrawals/redemptions and that there are no redemption fees. Please base on the notice period before the valuation date rather than the date proceeds would be paid to investors.)*

(The total should add up to approximately 100%.)

	% of *NAV* locked for
1 day or less	
2 days – 7 days	
8 days – 30 days	
31 days – 90 days	
91 days – 180 days	
181 days – 365 days	
Longer than 365 days	

Section 3: Information about *liquidity funds* that you advise.

You must complete a separate Section 3 for each *liquidity fund* that you advise. However, with respect to *master-feeder arrangements* and *parallel fund structures*, you may report collectively or separately about the component funds as provided in the General Instructions.

Item A. *Reporting fund* identifying and operational information

51. (a) Name of the *reporting fund* .....

(b) *Private fund* identification number of the *reporting fund* .....

52. Does the *reporting fund* use the amortized cost method of valuation in computing its *net asset value*?

☐ Yes ☐ No

53. Does the *reporting fund* use the penny rounding method of pricing in computing its *net asset value*?

☐ Yes ☐ No

54. (a) Does the *reporting fund* have a policy of complying with the *risk limiting conditions* of *rule 2a-7*?

☐ Yes ☐ No

(b) If you responded "no" to Question 54(a) above, does the *reporting fund* have a policy of complying with the following provisions of *rule 2a-7*:

(i) the diversification conditions? ☐ Yes ☐ No

(ii) the credit quality conditions? ☐ Yes ☐ No

(iii) the liquidity conditions? ☐ Yes ☐ No

(iv) the maturity conditions? ☐ Yes ☐ No

Item B. *Reporting fund* assets

55. Provide the following information for each month of the *reporting period.*

	1st Month	2nd Month	3rd Month
(a) Net asset value of *reporting fund* as reported to current and prospective investors			
(b) Net asset value per share of *reporting fund* as reported to current and prospective investors *(to the nearest hundredth of a cent)*			
(c) Net asset value per share of *reporting fund (to the nearest hundredth of a cent; exclude the value of any capital support agreement or similar arrangement)*			
(d) *WAM* of *reporting fund (in days)*			
(e) *WAL* of *reporting fund (in days)*			

(f) *7-day gross yield* of *reporting fund (to the nearest hundredth of one percent*			
(g) Dollar amount of the *reporting fund's* assets that are *daily liquid assets*			
(h) Dollar amount of the *reporting fund's* assets that are *weekly liquid assets*			
(i) Dollar amount of the *reporting fund's* assets that have a *maturity* greater than 397 days			

Item C. Financing information

56. (a) Is the amount of total *borrowing* reported in response to Question 12 equal to or greater than 5% of the *reporting fund's net asset value*?

☐ Yes ☐ No

(b) If you responded "yes" to Question 56(a) above, divide the dollar amount of total *borrowing* reported in response to Question 12 among the periods specified below depending on the type of *borrowing*, the type of creditor and the latest date on which the reporting fund may repay the principal amount of the *borrowing* without defaulting or incurring penalties or additional fees.

(If a creditor (or syndicate or administrative/collateral agent) is permitted to vary unilaterally the economic terms of the financing or to revalue posted collateral in its own discretion and demand additional collateral, then the borrowing *should be deemed to have a maturity of 1 day or less for purposes of this question. For amortizing loans, each amortization payment should be treated separately and grouped with other* borrowings *based on its payment date.)*

(The total amount of borrowings *reported below should equal approximately the total amount of* borrowing *reported in response to Question 12.)*

	1 day or less	**2 days to 7 days**	**8 days to 30 days**	**31 days to 397 days**	**Greater than 397 days**
(i) *Unsecured borrowing*					
(A) *U.S. financial institutions*					
(B) *Non-U.S. financial institutions*					
(C) Other U.S. creditors					
(D) Other non-U.S. creditors					
(ii) *Secured borrowing*					
(A) *U.S. financial institutions*					
(B) *Non-U.S. financial institutions*					
(C) Other U.S. creditors					

(D) Other non-U.S. creditors					

57. (a) Does the *reporting fund* have in place one or more committed liquidity facilities?

☐ Yes ☐ No

(b) If you responded "yes" to Question 57(a), provide the aggregate dollar amount of commitments under the liquidity facilities

Item D. Investor information

58. Specify the number of outstanding shares or units of the *reporting fund's* stock or similar securities……..

59. Provide the following information regarding investor concentration.

(For purposes of this question, if you know that two or more beneficial owners of the reporting fund *are* affiliated *with each other, you should treat them as a single beneficial owner.)*

(a) Specify the percentage of the *reporting fund's* equity that is beneficially owned by the beneficial owner having the largest equity interest in the *reporting fund*……..

(b) How many investors beneficially own 5% or more of the reporting fund's equity? .....

60. Provide a good faith estimate, as of the *data reporting date*, of the percentage of the *reporting fund's* outstanding equity that was purchased using *securities lending collateral*……..

61. Provide the following information regarding the restrictions on withdrawals and redemptions by investors in the *reporting fund.*

(For Questions 61 and 62, please note that the standards for imposing suspensions and restrictions on withdrawals/redemptions may vary among funds. Make a good faith determination of the provisions that would likely be triggered during conditions that you view as significant market stress.)

As of the *data reporting date*, what percentage of the *reporting fund's net asset value*, if any:

(a) May be subjected to a suspension of investor withdrawals/redemptions by an adviser or fund governing body *(this question relates to an adviser's or governing body's right to suspend and not just whether a suspension is currently effective)*……

(b) May be subjected to material restrictions on investor withdrawals/ redemptions (e.g., "gates") by an adviser or fund governing body *(this question relates to an adviser's or governing body's right to impose a restriction and not just whether a restriction been imposed)* .....

(c) Is subject to a suspension of investor withdrawals/redemptions *(this question relates to whether a suspension is currently effective and not just an adviser's or governing body's right to suspend).* .....

(d) Is subject to a material restriction on investor withdrawals/redemptions (e.g., a "gate") *(this question relates to whether a restriction has been imposed and not just an adviser's or governing body's right to impose a restriction)*.....	

62. Investor liquidity (as a % of *net asset value*):

(Divide the reporting fund's net asset value *among the periods specified below depending on the shortest period within which investors are entitled, under the fund documents, to withdraw invested funds or receive redemption payments, as applicable. Assume that you would impose gates where applicable but that you would not completely suspend withdrawals/redemptions and that there are no redemption fees. Please base on the notice period before the valuation date rather than the date proceeds would be paid to investors. The total should add up to 100%.)*

	% of *NAV* locked for
1 day or less	
2 days – 7 days.....	
8 days – 30 days	
31 days – 90 days	
91 days – 180 days	
181 days – 365 days.....	
Longer than 365 days.....	

Item E. Portfolio Information

63. For each security held by the *reporting fund*, provide the following information for each month of the *reporting period*.

(a) Name of the issuer .....

(b) Title of the issue (including coupon, if applicable).....

(c) CUSIP.....

(d) *LEI*, if available…….....

(e) In addition to CUSIP and *LEI*, provide at least one of the following other identifiers, if available:

(i) ISIN.....

(ii) CIK.....

(iii) Other unique identifier.....

(f) The category of investment that most closely identifies the instrument

(Select from among the following categories of investment: U.S. Treasury Debt; U.S. Government Agency Debt; Non-U.S. Sovereign, Sub-Sovereign and Supra-National debt; Certificate of Deposit; Non- Negotiable Time Deposit; Variable Rate Demand Note; Other Municipal Security; Asset Backed Commercial Paper; Other Asset Backed Securities; U.S. Treasury Repurchase Agreement, if collateralized only by U.S. Treasuries (including Strips) and cash; U.S. Government Agency Repurchase Agreement, collateralized only by U.S. Government Agency securities, U.S. Treasuries, and cash; Other Repurchase Agreement, if any collateral falls outside Treasury, Government Agency and cash; Insurance Company Funding Agreement; Investment Company; Financial Company Commercial Paper; Non-Financial Company Commercial Paper; or Tender Option Bond. If Other Instrument, include a brief description.)

(g) For repos, specify whether the repo is "open" (*i.e.*, the repo has no specified end date and, by its terms, will be extended or "rolled" each business day (or at another specified period) unless the investor chooses to terminate it), and provide the following information about the securities subject to the repo (*i.e.*, the collateral):

(If multiple securities of an issuer are subject to the repo, the securities may be aggregated, in which case provide: (i) the total principal amount and value and (ii) the range of maturity dates and interest rates.)

(i) Whether the repo is "open" .....

(ii) Name of the collateral issuer .....

(iii) CUSIP.....

(iv) *LEI*, if available.....

(v) Maturity date .....

(vi) Coupon or yield .....

(vii) The principal amount, to the nearest cent.....

(viii) Value of the collateral, to the nearest cent.....

(ix) The category of investment that most closely represents the collateral .....

(Select from among the following categories of investment: Asset-Backed Securities; Agency Collateralized Mortgage Obligations; Agency Debentures and Agency Strips; Agency Mortgage-Backed Securities; Private Label Collateralized Mortgage Obligations; Corporate Debt Securities; Equities; Money Market; U.S. Treasuries (including strips); Other Instrument. If Other Instrument, include a brief description, including, if applicable, whether it is a collateralized debt obligation, municipal debt, whole loan, or international debt).

(h) If the rating assigned by a *credit rating agency* played a substantial role in the *reporting fund's* (or its adviser's) evaluation of the quality, maturity or liquidity of the security, provide the name of each *credit rating agency* and the rating each assigned to the security.

(i) The maturity date used to calculate *WAM*.....

(j) The maturity date used to calculate *WAL*.....

(k) The ultimate legal maturity date (*i.e.*, the date on which, in accordance with the terms of the security without regard to any interest rate readjustment or *demand feature*, the principal amount must unconditionally be paid).....

(l) If the security has a *demand feature* on which the *reporting fund* (or its adviser) is relying when evaluating the quality, maturity, or liquidity of the security, provide the following information:

(If the security does not have such a demand feature*, enter "NA.")*

(i) Identity of the *demand feature* issuer(s) .....

(ii) If the rating assigned by a *credit rating agency* played a substantial role in the *reporting fund's* (or its adviser's) evaluation of the quality, maturity or liquidity of the *demand feature*, its issuer, or the security to which it relates, provide the name of each *credit rating agency* and the rating assigned by each *credit rating agency* .....

(iii) The period remaining until the principal amount of the security may be recovered through the *demand feature*.....

(iv) The amount (*i.e.*, percentage) of fractional support provided by each *demand feature* issuer.....

(v) Whether the *demand feature* is a *conditional demand feature*.....

(m) If the security has a *guarantee* (other than an unconditional letter of credit reported in response to Question 63(l) above) on which the *reporting fund* (or its adviser) is relying when evaluating the quality, maturity, or liquidity of the security, provide the following information:

(If the security does not have such a guarantee*, enter "NA.")*

(i) Identity of the *guarantor(s)* .....

(ii) If the rating assigned by a *credit rating agency* played a substantial role in the *reporting fund's* (or its adviser's) evaluation of the quality, maturity or liquidity of the *guarantee*, the *guarantor*, or the security to which the *guarantee* relates, provide the name of each *credit rating agency* and the rating assigned by each *credit rating agency*.....

(iii) The amount (*i.e.*, percentage) of fractional support provided by each *guarantor*.....

(n) If the security has any enhancements, other than those identified in response

to Questions 63(l) and (m) above, on which the *reporting fund* (or its adviser) is relying when evaluating the quality, maturity, or liquidity of the security, provide the following information:

(If the security does not have such an enhancement, enter "NA.")

(i) Identity of the enhancement provider(s) .....

(ii) The type of enhancement(s) .....

(iii) If the rating assigned by a *credit rating agency* played a substantial role in the *reporting fund's* (or its adviser's) evaluation of the quality, maturity or liquidity of the enhancement, its provider, or the security to which it relates, provide the name of each *credit rating agency* used and the rating assigned by the credit rating agency…..

(iv) The amount (*i.e.*, percentage) of fractional support provided by each enhancement provider .....

(o) The yield of the security as of the reporting date:……..

(p) The total *value* of the *reporting fund's* position in the security, and separately, if the *reporting fund* uses the amortized cost method of valuation, the amortized cost value, in both cases to the nearest cent:

(i) Including the value of any sponsor support.....

(ii) Excluding the value of any sponsor support.....

(q) The percentage of the *reporting fund's* net assets invested in the security, to the nearest hundredth of a percent.....

(r) Is the security categorized as a level 3 asset or liability in Question 14?.....

(s) Is the security a *daily liquid asset*?.....

(t) Is the security a *weekly liquid asset*?.....

(u) Is the security an *illiquid security*?.....

(v) Explanatory notes. Disclose any other information that may be material to other disclosures related to the portfolio security.

(If none, leave blank.)

Item F. Parallel Money Market Funds

64. If the *reporting fund* pursues substantially the same investment objective and strategy and invests side by side in substantially the same positions as a *money market fund* advised by you or any of your *related persons*, provide the *money market fund's* EDGAR series identifier. .....

(If neither you nor any of your related persons *advise such a* money market fund*, enter "NA.")*

Section 4: Information about *private equity funds* that you advise.

You must complete a separate Section 4 for each *private equity fund* that you advise. However, with respect to *master-feeder arrangements* and *parallel fund structures*, you may report collectively or separately about the component funds as provided in the General Instructions.

Item A. *Reporting fund* identifying information

65.	(a)	Name of the *reporting fund*	
	(b)	*Private fund* identification number of the *reporting fund*	

Item B. Certain information regarding the *reporting fund*

66. Indicate the investment strategy in the drop-down menu that best describe the *reporting fund's* investment strategy by percent of deployed capital, during the *reporting period*. If the *reporting fund* engages in more than one strategy, provide a good faith estimate of the percentage of the *reporting fund's* deployed capital represented by each strategy.

(Select the investment strategy or strategies that best describe the reporting fund*'s strategies, even if the categories below do not precisely match your characterization of the* reporting fund*'s strategy. If you report all or part of the* reporting fund*'s strategy as "Other", explain in Question 83. The strategies listed are mutually exclusive (i.e., do not report the same portion of deployed capital in multiple strategies). The total should add to 100%.)*

Strategy	% of capital
[drop-down menu]	

67. Identify, by ISO country code, each country to which the *reporting fund's* investments in portfolio companies represent exposure of 10% or more of the *reporting fund's net asset value.*

(See Instruction 15 for information on calculating the numerator for purposes of this Question. You should categorize investments based on concentrations of risk and economic exposures.

Country	ISO code	% of NAV

Item C. Reporting fund and portfolio company financing;

68. Provide the following information regarding the *value* of the *reporting fund's borrowings* and the types of creditors.

(Do not net out amounts that the reporting fund *loans to creditors or the value of collateral pledged to creditors. The percentages borrowed from the specified types of creditors should add up to approximately 100%.)*

(a)	Dollar amount of total *borrowings*	
(b)	Percentage borrowed from *U.S. financial institutions*	
(c)	Percentage borrowed from *non-U.S. financial institutions*	
(d)	Percentage borrowed from U.S. creditors that are not financial institutions	
(e)	Percentage borrowed from non-U.S. creditors that are not financial institutions	

(f) Does the *reporting fund* borrow or have the ability to borrow at the fund-level as an alternative or complement to financing of portfolio companies? If so, check "yes' and complete subsection (g) of this question. Otherwise, check "no'

☐ Yes ☐ No

(g) For each type of *borrowing* or other cash financing available to the *reporting fund,* provide the total dollar amount available and the average amount borrowed over the reporting period.

Type of Financing	Total amount available (in dollars)	Average borrowed over the reporting period (in dollars)
□ Credit secured by the investments of the *reporting fund*		
□ Credit secured by *unfunded commitments*		
□ Credit secured by a combination of *unfunded commitments* and investments of the *reporting fund*.		
□ Other (explain in Question 83)		

69. (a) Do you or any of your *related persons* guarantee, or are you or any of your *related persons* otherwise obligated to satisfy, the obligations of any portfolio company in which the *reporting fund* invests?

(You are not required to respond "yes" simply because a portfolio company is a primary obligor and is also your related person*.)*

☐ Yes ☐ No

(b) If you responded "yes" to Question 69(a) above, report the total dollar *value* of all such guarantees and other obligations

70. What is the weighted average debt-to-equity ratio of the *controlled portfolio companies* in which the *reporting fund* invests *(expressed as a decimal to the tenths place)*?

(Weighting should be based on gross assets of each controlled portfolio company *as a percentage of the aggregate gross assets of the* reporting fund's controlled portfolio

companies.*)*

71.	What is the highest debt-to-equity ratio of any *controlled portfolio company* in which the reporting fund invests *(expressed as a decimal to the tenths place)*?	
72.	What is the lowest debt-to-equity ratio of any *controlled portfolio company* in which the reporting fund invests *(expressed as a decimal to the tenths place)*?	
73.	What is the aggregate gross asset value of the *reporting fund's controlled portfolio companies*?	
74.	What is the aggregate principal amount of *borrowings* categorized as current liabilities on the most recent balance sheets of the *reporting fund's controlled portfolio companies*?	
75.	What is the aggregate principal amount of *borrowings* categorized as long-term liabilities on the most recent balance sheets of the *reporting fund's controlled portfolio companies*?	
76.	What percentage of the aggregate *borrowings* of the *reporting fund's controlled portfolio companies* is payment-in-kind (PIK) or zero-coupon debt?	

77. During the *reporting period*, did the *reporting fund* or any of its *controlled portfolio companies* experience an event of default under any of its indentures, loan agreements or other instruments evidencing obligations for borrowed money? If so, check "yes" and complete subsections (a) of this question. Otherwise, check "no".

(Do not include a potential event of default (i.e., an event that would constitute an event of default with the giving of notice, the passage of time or otherwise) unless it has become an event of default.)

☐ Yes ☐ No

(a) Identify the nature of the default event (check all that apply):

- ☐ Payment default of the *reporting fund*
- ☐ Payment default of a *controlled portfolio company*
- ☐ A default relating to a failure to uphold terms under the applicable borrowing agreement, other than a failure to make regularly scheduled payments.

78. (a) Does any *controlled portfolio company* of the *reporting fund* have in place one or more bridge loans or commitments (subject to customary conditions) for a bridge loan?

☐ Yes ☐ No

(b) If you responded "yes" to Question 78(a), identify each *person* that has provided all or part of any bridge loan or commitment to the relevant *controlled portfolio company*. For each such *person*, provide the applicable outstanding amount or commitment amount.

Legal Name of Counterparty	*LEI, if any*	Indicate below if the counterparty is affiliated with a major financial institution	Outstanding amount of financing, if drawn	Amount of commitment, if undrawn

		[repeat drop-down list of creditor/counterparty names] Other:		
		[repeat drop-down list of creditor/counterparty names] Other:		
		[repeat drop-down list of creditor/counterparty names] Other:		

Item D: Portfolio company investment exposures

79. (a) Is any of the *reporting fund's controlled portfolio companies* a *financial industry portfolio company*?

☐ Yes ☐ No

(b) If you responded "yes" to Question 79(a), then for each of the *reporting fund's controlled portfolio companies* that constitutes a *financial industry portfolio company*, provide the following information.

Legal Name	**Address of principal office (include city, state and country)**	***NAICS code***	***LEI*, if any**	**Debt-to-equity ratio of portfolio company**	**Gross asset value of portfolio company**	**% of *reporting fund's* gross assets invested in this portfolio company**	**% of portfolio company beneficially owned by the *reporting fund***

80. Provide a breakdown of the *reporting fund's* investments in portfolio companies by industry, based on the *NAICS codes* of the companies.
(The total should add up to 100%.)

NAICS code	**% of *reporting fund's* total portfolio company investments**

81. If you or any of your *related persons* (other than the *reporting fund*) invest in any companies that are portfolio companies of the *reporting fund*, provide the aggregate dollar amount of these investments. ☐

82. If the *reporting fund* effectuates (i) any *general partner clawback* or (ii) a *limited partner clawback or clawbacks* in excess of an aggregate amount equal to 10 percent of a fund's aggregate capital commitments, provide the following:

(a) Effective date:	
(b) Type of clawback (General Partner/Limited Partner):	
(c) Reason for clawback:	

83. You may provide any information you believe would be helpful in understanding the information reported in response to any question in this Section 4 of this form. Identify the related question for each comment *(use a drop-down menu so that notes are received in a structured format).*

Section 5: Current report for large hedge fund advisers to qualifying hedge funds.

Upon the occurrence of any one or more of the events specified in Items B to I of this Section 5, you must file a current report responding to questions required by the applicable Item(s) (a "*current report*") as soon as practicable, but no later than 72 hours. The 72 hour period begins upon the occurrence of the event or when you reasonably believe the event occurred and you must respond to the best of your knowledge on the date of your *current report.* You may provide an additional explanation of the facts and circumstances relating to the event, including the causes and or proposed resolution in explanatory notes under Item J of this Section 5.

In this Section 5, references to *most recent net asset value* mean the *net asset value* reported as of the *data reporting date*.

☐ Check here if you are filing an amendment to a previously filed current report. Provide the filing date of the current report you are amending [Drop-down list of Month, Day, Year, Time].

Item A: Information about you and the reporting fund

5-1 Provide your name and the other identifying information requested below.

(This should be your full legal name.)

Legal name	CRD Number	SEC 801-Number	NFA ID Number, if any	Large trader ID, if any	Large trader ID suffix, if any

5-2(a) Name of the *reporting fund*	
5-2(b) Private fund identification number of the *reporting fund*	
5-2(c) NFA identification number of the reporting fund, if applicable	
5-2(d) *LEI* of the reporting fund, if any	

5-3 Signatures of authorized representative (*see Instruction 11 to Form PF*)

I, the undersigned, sign this Section 5 on behalf of, and with the authority of, the *firm*. In addition, I sign this Section 5 on behalf of, and with the authority of, each of the *related persons* identified in Question 1(b) (other than any *related person* for which another individual has signed this Section 5 below).

Name of individual:	
Signature:	
Title:	
Email address:	
Telephone contact number (include area code and, if outside the United States, country code):	
Date:	

Signature on behalf of *related persons:*
I, the undersigned, sign this Section 5 on behalf of, and with the authority of, the *related person(s)* identified below.
Name of each *related person* on behalf of which this individual is signing:

Name of individual:	
Signature:	

Title:	
Email address:	
Telephone contact number (include area code and, if outside the United States, country code):	
Date:	

Item B. Extraordinary Investment Losses

If on any business day the 10-business-day *holding period return* of the *reporting fund* is less than or equal to -20% of *reporting fund aggregate calculated value*, provide the information required by Questions 5-4 to 5-7, below. *(Current reports should not be filed for overlapping 10-business-day periods.)*

5-4 Beginning date of the 10-business-day loss period:	
5-5 End date of the 10-business-day loss period:	
5-6 *Holding period return*:	
5-7 *Dollar amount of loss over the 10-business-day loss period*:	

Item C. Margin, Collateral or Equivalent Increase

If the total dollar value of margin, collateral, or an equivalent posted by the *reporting fund* at the end of a rolling 10-business-day period less the total dollar value of margin, collateral, or an equivalent posted by the *reporting fund* at the beginning of the rolling 10-business-day period is greater than or equal to 20% of the *average daily reporting fund aggregate calculated value* during the period, provide the following information. (*if the total value of margin, collateral or an equivalent posted by the reporting fund continues to increase, do not file another current report until on or after the next 10-business-day period beginning after the end date stated at 5-9 below.*)

5-8 Beginning date of the 10-business-day period during which the increase was measured:	
5-9 End date of the 10-business-day period during which the increase was measured:	
5-10 Provide the total dollar value amount of margin, collateral or an equivalent posted by the *reporting fund* at the beginning of the 10-business-day period during which the increase was measured:	
5-11 Provide the total dollar value amount of margin, collateral or an equivalent posted by the *reporting fund* at the end of the 10-business-day period during which the increase was measured:	
5-12 Provide the *average daily reporting fund aggregate calculated value* of the *reporting fund* during the 10-business-day period during which the increase was measured:	

5-13 Counterparty or counterparties requiring increased margin, collateral or equivalent. *(If multiple counterparties are involved list them in order of the dollar amount of cumulative increase required by each counterparty.)*

Legal name of the counterparty	Counterparty LEI, if any
(a)	
(b)	
(c)	

5-14 Check one or more of the following to describe your current understanding of circumstances relating to the margin increase(s) (check all that apply):

- The increase is a result of exchange or *CCP* requirements or known regulatory action affecting the counterparty.
- A counterparty or counterparties independently increased the *reporting fund's* margin, collateral or equivalent requirements.
- The *reporting fund* established a new relationship or new business with one or more counterparties.
- The increase is attributable to new investment positions, investment approach or strategy and/or portfolio turnover of the reporting fund.
- The increase is related to a deteriorating position or positions in the *reporting fund's* portfolio or other credit trigger under applicable counterparty agreements.
- Other (provide explanation in Item J).

Item D. Notice of Margin Default or Determination of Inability to Meet a Call for Margin, Collateral or Equivalents

Provide the following information if you either (1) receive notification that the *reporting fund* is in default on a call for margin, collateral or an equivalent, resulting in a deficit that the *reporting fund* will not be able to cover or address by adding additional funds (in situations where there is a contractually agreed upon cure period an adviser would not be required to file an Item D current report until the expiration of the cure period unless the fund would not expect to be able to meet call during such cure period), provide the following information; or (2) if you determine that the *reporting fund* is unable to meet a call for increased margin, collateral or an equivalent, including in situations where there is a dispute regarding the amount or appropriateness of the margin call.

(*You are not required to file a current report in situations where you dispute the amount and appropriateness of a call for increased margin, collateral or an equivalent, provided the reporting fund has sufficient assets to meet the greatest of the disputed amounts.*)

(*If you make this determination for more than one counterparty on the same day, provide the information required by 5-15 to 5-18 for each counterparty affected.*)

5-15 Date of the notification or determination:	
5-16 Dollar amount of the call for margin, collateral or equivalent:	

5-17 Counterparty:

Legal name of the counterparty	Counterparty *LEI*, if any

5-18 Check one or more of the following to describe your current understanding of the circumstances relating to the default or your determination that the *reporting fund* is unable to meet a call for increased margin, collateral or an equivalent:

☐ A counterparty increased margin, collateral or equivalent requirements for the *reporting fund* contributed to the default or inability to meet a call for increased margin, collateral or an equivalent.

☐ Losses in the value of the *reporting fund's* portfolio or other credit trigger under applicable counterparty agreements contributed to the default or inability to meet a call for increased margin, collateral or an equivalent.

☐ A default or settlement failure of a counterparty contributed to the default or inability to meet a call for increased margin, collateral or an equivalent.

☐ Other (provide explanation in Item J).

Item E. Counterparty Default

If a counterparty to the *reporting fund* (1) does not meet a call for margin, collateral or equivalent or fails to make any other payment, in the time and form contractually required (taking into account any contractually agreed cure period), *and* (2) the amount involved is greater than 5% of the *reporting fund aggregate calculated value,* provide the following information.

(*If you make this determination for more than one counterparty on the same day, provide the information required by 5-19 to 5-21 for each counterparty affected.*)

5-19 Date of default:	
5-20 Dollar amount of default:	

5-21 Counterparty:

Legal name of the counterparty	Counterparty LEI, if any

Item F. Prime Broker Relationship Terminated or Materially Restricted

If (1) a prime broker terminates or materially restricts its relationship with the *reporting fund*, in whole or in part, in markets where that prime broker continues to be active; or (2) the relationship between the prime broker and the *reporting fund* was terminated by either the *reporting fund* or the prime broker in the last 72 hours or less in accordance with the Section 5 current reporting period, and a termination event was activated in the prime brokerage agreement or related agreements, within the last 12 months provide the following information below. (*Termination events, as specified in the prime broker agreement or related agreements, that are isolated to the financial state, activities or other conditions solely of the prime broker should not be considered for the purposes of this question.*)

5-22 Date of the termination or material restriction:	
5-23 Date of the termination event(s) if different from date in 5-22:	

5-24 Prime Broker:

Legal name of the prime broker	Prime broker LEI, if any

Note: If a prime broker changes the terms of its relationship with the *reporting fund* in a way that significantly limits the fund's ability to operate under the terms of the original agreement, or significantly impairs the fund's ability to trade, the adviser should consider it a "material restriction" that would require filing of this Item F.

Item G. Operations Event

In this Item G, an "*operations event*" means that the *reporting fund* or *private fund adviser* experiences a significant disruption or degradation of the *reporting fund's critical operations*, whether as a result of an event

at a service provider to the *reporting fund*, the *reporting fund*, or the adviser. For this purpose, "*critical operations*" means operations necessary for (i) the investment, trading, valuation, reporting, and risk management of the *reporting fund*; or (ii) the operation of the *reporting fund* in accordance with the Federal securities laws and regulations.

If there is an *operations event*, provide the following:

5-25 Date of the *operations event*, or date on which you estimate the event first occurred:	
5-26 Date *operations event* was discovered (discovery date may be same or different than the date of the event reported in 5-25):	

5-27 Check one or more of the following to describe your current understanding of circumstances relating to the *operations event* (check all that apply and provide supplementary information in Item J if desired):

- An *operations event* at a service provider to the *reporting fund* or the *private fund adviser* caused the *operations event* (in whole or in part) *(if applicable, provide the following information)*.

(a) Legal Name of Service Provider:	
(b) LEI, if any:	
(c) Identify services provided by the third party (e.g., fund accounting, administration, sub-adviser, accounting, custodial, other):	[drop-down menu]

- An *operations event* that occurred internally at the *reporting fund* or *reporting fund* adviser or a *related person.*
- An *operations event* that occurred related to a natural disaster or other *force majeure* event not within the control of the *private fund adviser.*
- Other (provide explanation in Item J).

5-28 Has the adviser initiated a disaster recovery or business continuity plan relating to the *operations event* and the continued operation of the adviser or the *reporting fund*?

☐ Yes ☐ No

5-29 Check one or more of the following to describe your current understanding of the impact of the *operations event* on the normal operations of *reporting fund (check all that apply)*:

- Disruption or degradation of trading of the *reporting fund's* portfolio assets
- Disruption or degradation of the valuation of the *reporting fund's* portfolio assets
- Disruption or degradation of your management of the *reporting fund's* investment risk
- Disruption or degradation of your ability to comply with applicable laws, rules, and regulations
- Other (provide explanation in Item J).

If technical or other difficulties resulting from the *operations event* prevent you from timely filing a *current report,* you may file as soon as practicable provided that you explain the technical or other difficulty that prevented timely filing in Item J of the *current report.*

Item H. Withdrawals and Redemptions

If the *reporting fund* receives cumulative requests for withdrawals or redemptions from the *reporting fund* equal to or more than 50% of the *most recent net asset value* (after netting against subscriptions and other contributions from investors received and contractually committed), provide the following information:

5-30 Date on which the net withdrawals or redemption requests exceeded 50% of the *most recent net asset value*:	

5-31 Net value of withdrawals or redemptions paid from the *reporting fund* between the last *data reporting date* and the date of this *current report*:	
5-32 Percentage of fund's *most recent net asset value* for which withdrawals or redemptions have been requested:	

5-33 Have you notified investors that the *reporting fund* will liquidate?

☐ Yes ☐ No

Item I. Unable to Satisfy Redemptions or Suspension of Redemptions

If the *reporting fund* (1) is unable to pay redemption requests, or (2) has suspended redemptions and the suspension lasts for more than 5 consecutive business days; provide the following information:

5-34 Date on which the *reporting fund* was unable to pay or suspended redemptions:	
5-35 Percentage of fund's *most recent net asset value* for which redemptions have been requested and not yet paid on the date of this *current report*:	

5-36 Have you notified investors that the *reporting fund* will liquidate?

☐ Yes ☐ No

Item J. Explanatory Notes

You may provide any information you believe would be helpful in understanding the information reported in response to any Item in this Section 5 of this form. Identify the related question for each comment *(use a drop-down menu so that notes are received in a structured format).*

Section 6: Quarterly report for advisers to *private equity funds*.

Upon the occurrence of any one or more of the events specified in Items B or C of this section 6, you must file a quarterly report responding to questions required by the applicable Item(s) (a "*private equity event report*"). If any of the below items occur within a particular fiscal quarter for the private equity funds you advise you will file a section 6 quarterly report within 60 calendar days after the end of your first, second, third, and fourth fiscal quarters. Do not file a section 6 quarterly report if a *private equity reporting event* did not occur during that fiscal quarter. It is not necessary to report the same instance of a reporting event again on future section 6 filings. You may provide an additional explanation of the facts and circumstances relating to the event, including the causes and/or proposed resolution in explanatory notes under Item D of this section 6.

☐ Check here if you are filing an amendment to a previously filed current report. Provide the filing date of the current report you are amending [Drop-down list of Month, Day, Year, Time].

Item A: Information about you and the reporting fund

6-1 Provide the identifying information requested below.

Full legal name	CRD Number	SEC 801-Number	NFA ID Number, if any	Large trader ID, if any	Large trader ID suffix, if any

6-2(a) Name of the *reporting fund*	
6-2(b) Private fund identification number of the *reporting fund*	
6-2(c) NFA identification number of the *reporting fund*, if any	
6-2(d) *LEI* of the *reporting fund*, if any	

6-3 Signatures of authorized representative (*see Instruction 11 to Form PF*)

I, the undersigned, sign this Section 6 on behalf of, and with the authority of, the *firm*. In addition, I sign this Section 6 on behalf of, and with the authority of, each of the *related persons* identified in Question 1(b) (other than any *related person* for which another individual has signed this Section 6 below).

Name of individual:	
Signature:	
Title:	
Email address:	
Telephone contact number (include area code and, if outside the United States, country code):	
Date:	

Signature on behalf of *related persons:*
I, the undersigned, sign this Section 6 on behalf of, and with the authority of, the *related person(s)* identified below.

Name of individual:	
Signature:	
Title:	
Email address:	
Telephone contact number (include area code and, if outside the United States, country code):	
Date:	

Item B. Adviser-Led Secondary Transactions.

If the *reporting fund* closed an *adviser-led secondary transaction*, provide the following:

6-4 Closing date of transaction:	
6-5 Description of transaction:	

Item C. General Partner Removal, Termination of the Investment Period or Termination of Fund.

Upon receipt by the *reporting fund* or its adviser or affiliate of notification that fund investors have removed the adviser or its affiliate as the general partner or similar control person of the *reporting fund*, elected to terminate the *reporting fund's* investment period, or elected to terminate the *reporting fund*, in each case, as contemplated by the *reporting fund's* governing documents (each, a "*removal event*") provide the following:

6-6 Effective date of *removal event*:	
6-7 Description of *removal event*:	

Item D. Explanatory Notes

You may provide any information you believe would be helpful in understanding the information reported in response to any Item in this Section 6 of this form. Identify the related question for each comment *(use a drop-down menu so that notes are received in a structured format).*

Section 7: Request for temporary hardship exemption.

You must complete Section 7 if you are requesting a temporary hardship exemption pursuant to *SEC* rule 204(b)-1(f).

(a) For which type of Form PF filing are you requesting a temporary hardship exemption?

i. If you are not a *large hedge fund adviser* or *large liquidity fund adviser*: Initial filing

☐ *Annual update*

☐ Final filing

ii. If you are a *large hedge fund adviser* or *large liquidity fund adviser*: Initial filing

☐ *Quarterly update*

☐ Filing to transition to annual reporting

☐ Final filing

(b) Provide the following information regarding your request for a temporary hardship exemption (attach a separate page if additional space is needed).

i. Describe the nature and extent of the temporary technical difficulties when you attempt to submit the filing to the Form PF filing system on the IARD:

ii. Describe the extent to which you previously have submitted documents in electronic format with the same hardware and software that you are unable to use to submit this filing:

iii. Describe the burden and expense of employing alternative means (e.g., a service provider) to submit the filing in electronic format in a timely manner:

iv. Provide any other reasons that a temporary hardship exemption is warranted:

GLOSSARY OF TERMS

ABCP	Asset backed commercial paper, including (but not limited to) structured investment vehicles, single-seller conduits and multi-seller conduit programs. Do not include any positions held via *CDS* (these should be recorded in the *CDS* category).
ABS	Securities derived from the pooling and repackaging of cash flow producing financial assets.
Adviser-led secondary transaction	Any transaction initiated by the adviser or any of its related persons that offers private fund investors the choice to: (i) sell all or a portion of their interests in the private fund; or (ii) convert or exchange all or a portion of their interests in the private fund for interests in another vehicle advised by the adviser or any of its related persons.
Advisers Act	U.S. Investment Advisers Act of 1940, as amended.
Affiliate	With respect to any *person*, any other *person* that directly or indirectly *controls*, is *controlled* by or is under common *control* with such person. The term *affiliated* means that two or more *persons* are *affiliates*.
Agency securities	Any security issued by a *person* controlled or supervised by and acting as an instrumentality of the government of the United States pursuant to authority granted by the Congress of the United States and guaranteed as to principal or interest by the United States. Include bond derivatives.
Annual update	An update of this Form PF with respect to any fiscal year.
Average daily reporting fund aggregate calculated value	The average of the daily *reporting fund aggregate calculated value* for the end of the business day on business days one through ten of the reporting period.
Borrowings	*Secured borrowings* and *unsecured borrowings*, collectively.
bp	Basis points.
Cash and cash equivalents	Cash (including U.S. and non-U.S. currencies), cash equivalents and government securities. For purposes of this definition: • cash equivalents are: (i) bank deposits, certificates of deposit, bankers acceptances and similar bank instruments held for investment purposes; (ii) the net cash surrender value of an insurance policy; and (iii) investments in *money market funds*; and • government securities are: (i) *U.S. treasury securities*; (ii) *agency securities*; and (iii) any certificate of deposit for any of the foregoing.
CCP	Central clearing counterparties (or central clearing houses) (for example, CME Clearing, The Depository Trust & Clearing Corporation, Fedwire and LCH Clearnet Limited).

CDO/CLO	Collateralized debt obligations and collateralized loan obligations (including, in each case, cash flow and synthetic) other than *MBS*. Do not include any positions held via *CDS* (these should be recorded in the *CDS* category).
CDS	Credit default swaps, including any *LCDS*.
CEA	U.S. Commodity Exchange Act, as amended.
CFTC	U.S. Commodity Futures Trading Commission.
Combined money market and liquidity fund assets under management	With respect to any adviser, the sum of: (i) such adviser's *liquidity fund assets under management*; and (ii) such adviser's *regulatory assets under management* that are attributable to *money market funds* that it advises.
Committed capital	Any commitment pursuant to which a *person* is obligated to acquire an interest in, or make capital contributions to, the *private fund*.
Commodities	Has the meaning provided in the *CEA*. Include *ETFs* that hold commodities. For questions regarding *commodity* derivatives, provide the *value* of all exposure to *commodities* that you do not hold physically, whether held synthetically or through derivatives (whether cash or physically settled).
Commodity pool	A "commodity pool," as defined in section 1a(10) of the *CEA*.
Conditional demand feature	Has the meaning provided in *rule 2a-7*.
Control	Has the meaning provided in *Form ADV*. The term *controlled* has a corresponding meaning.
Controlled portfolio company	With respect to any *private equity fund*, a portfolio company that is *controlled* by the *private equity fund*, either alone or together with the *private equity fund's affiliates* or other *persons* that are, as of the *data reporting date*, part of a club or consortium including the *private equity fund*.
Convertible bonds	Convertible *corporate bonds* (not yet converted into shares or cash). Include bond derivatives, but do not include any positions held via *CDS* (these should be recorded in the *CDS* category).
Corporate bonds	Bonds, debentures and notes, including commercial paper, issued by corporations and other non-governmental entities. Do not include preferred equities. Include bond derivatives, but do not include any positions held via *CDS* (these should be recorded in the *CDS* category).
CPO	A "commodity pool operator," as defined in section 1a(11) of the *CEA*.
Credit derivatives	*Single name CDS*, *index CDS* and *exotic CDS*.

Credit rating agency	Any nationally recognized statistical rating organizations, as that term is defined in section 3(a)(62) of the Securities Exchange Act of 1934
Critical operations	For purposes of responding to Sections 5, means the operations necessary for (i) the investment, trading, valuation, reporting, and risk management of the *reporting fund*; or (ii) the operation of the *reporting fund* in accordance with the Federal securities laws and regulations.
Crude oil	For questions regarding crude oil derivatives, provide the *value* of all exposure to crude oil that you do not hold physically, whether held synthetically or through derivatives (whether cash or physically settled).
CTA	A "commodity trading advisor," as defined in section 1a(12) of the *CEA*.
Current report	A *current report* provided pursuant to the items listed in Section 5 of Form PF.
Current reporting event	Any event that triggers the requirement to complete and file a *current report* pursuant to the items in Section 5 of Form PF.
Daily liquid assets	Has the meaning provided in *rule 2a-7*.
Daily rate-of-return	Is the percentage change in the *reporting fund aggregate value* from one day to the next and adjusted for subscriptions and redemptions, if necessary.
Data reporting date	In the case of an initial filing, the *data reporting date* is the last calendar day of your most recently completed fiscal year (or, if you are a *large hedge fund adviser* or *large liquidity fund adviser*, your most recently completed fiscal quarter). In the case of an *annual update*, the *data reporting date* is the last calendar day of your most recently completed fiscal year. In the case of a *quarterly update*, the *data reporting date* is the last calendar day of your most recently completed fiscal quarter.
Demand feature	Has the meaning provided in *rule 2a-7*.
Dependent parallel managed account	With respect to any *private fund*, any related *parallel managed account* other than a *parallel managed account* that individually (or together with other *parallel managed accounts* that pursue substantially the same investment objective and strategy and invest side by side in substantially the same positions) has a *gross asset value* greater than the *gross asset value* of such *private fund* (or, if such *private fund* is a *parallel fund*, the *gross asset value* of the *parallel fund structure* of which it is a part).
Derivative exposures to unlisted equities	All synthetic or derivative exposures to equities, including preferred equities, that are not listed on a regulated exchange. Include single stock futures, equity index futures, dividend swaps, total return swaps (contracts for difference), warrants and rights.

Dollar amount of loss over the 10-business-day period	Is equal to the *reporting fund aggregate value* at the end of the 10-business-day loss period less the *reporting fund aggregate value* at the beginning of the 10-business day loss period less the net of any subscriptions or redemptions during the 10-business-day period.
EEA	The European Economic Area. As of the effective date of this Form PF, the *EEA* is comprised of: (i) the European Union member states, which are Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, and Sweden; and (ii) Iceland, Liechtenstein, Norway, and the United Kingdom.
ETF	Exchange-traded fund.
Exempt reporting adviser	Has the meaning provided in *Form ADV*.
Exotic CDS	*CDS*s referencing bespoke baskets or tranches of *CDOs*, *CLOs* and other structured investment vehicles, including credit default tranches.
Feeder fund	See *master-feeder arrangement*.
Financial industry portfolio company	Any of the following: (i) a nonbank financial company, as defined in the Financial Stability Act of 2010; or (ii) any bank, savings association, bank holding company, financial holding company, savings and loan holding company, credit union or other similar company regulated by a Federal, state, or foreign banking regulator, including the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the National Credit Union Administration or the Farm Credit Administration.
Firm	The *private fund adviser* completing or amending this Form PF.
Foreign exchange derivative	Any derivative whose underlying asset is a currency other than U.S. dollars or is an exchange rate. Cross-currency interest rate swaps should be included in *foreign exchange derivatives* and excluded from *interest rate derivatives*. Only one currency side of every transaction should be counted.
Form ADV	Form ADV, as promulgated and amended by the *SEC*.
Form ADV Section 7.B.1	Section 7.B.1 of Schedule D to *Form ADV*.
General partner clawback	Any obligation of the general partner, its related persons, or their respective owners or interest holders to restore or otherwise return performance-based compensation to the fund pursuant to the fund's governing agreements.
General partner stakes investing	An investment strategy that acquires non-controlling interests in alternative investment managers and other entities that provide advisory services to, or receive compensation from, private funds.

G10	The Group of Ten. As of the effective date of this Form PF, the *G10* is comprised of: Belgium, Canada, France, Germany, Italy, Japan, the Netherlands, Sweden, Switzerland, the United Kingdom and the United States.
Gold	For questions regarding gold derivatives, provide the *value* of all exposure to gold that you do not hold physically, whether held synthetically or through derivatives (whether cash or physically settled).
Government entity	Has the meaning provided in *Form ADV*.
Gross asset value	Value of gross assets, calculated in accordance with Part 1A, Instruction 6.e(3) of *Form ADV*.
Gross notional value	The gross nominal or notional value of all transactions that have been entered into but not yet settled as of the *data reporting date*. For contracts with variable nominal or notional principal amounts, the basis for reporting is the nominal or notional principal amounts as of the *data reporting date*.
GSE bonds	Notes, bonds and debentures issued by private entities sponsored by the U.S. Federal Government but not guaranteed as to principal and interest by the U.S. Federal Government. Include bond derivatives, but do not include any positions held via *CDS* (these should be recorded in the *CDS* category).
Guarantee	For purposes of Question 63, has the meaning provided in paragraph (a)(16)(i) of *rule 2a-7*.
Guarantor	For purposes of Question 63, the provider of any *guarantee.*
Hedge fund	Any *private fund* (other than a *securitized asset fund*): (a) with respect to which one or more investment advisers (or *related persons* of investment advisers) may be paid a performance fee or allocation calculated by taking into account unrealized gains (other than a fee or allocation the calculation of which may take into account unrealized gains solely for the purpose of reducing such fee or allocation to reflect net unrealized losses); (b) that may borrow an amount in excess of one-half of its *net asset value* (including any *committed capital*) or may have gross notional exposure in excess of twice its *net asset value* (including any *committed capital*); or (c) that may sell securities or other assets short or enter into similar transactions (other than for the purpose of hedging currency exposure or managing duration). Solely for purposes of this Form PF, any *commodity pool* about which you are reporting or required to report on Form PF is categorized as a *hedge fund.* For purposes of this definition, do not net long and short positions. Include any borrowings or notional exposure of another person that

	are guaranteed by the *private fund* or that the *private fund* may otherwise be obligated to satisfy.
Hedge fund assets under management	With respect to any adviser, *hedge fund assets under management* are the portion of such adviser's *regulatory assets under management* that are attributable to *hedge funds* that it advises.
Holding period return	Means the cumulative *daily rate of return* over the holding period calculated by geometrically linking the *daily rates of return*. Holding period return (%) = $(((1 + R_1) \times (1 + R_2) \ldots (1 + R_{10})) - 1) \times 100$ where R_1, R_2 … $R1_0$ are the daily rates of return during the holding period expressed as decimals.
Illiquid security	Has the meaning provided in *rule 2a-7.*
Index CDS	*CDSs* referencing a standardized basket of credit entities, including *CDS* indices and indices referencing leveraged loans.
Investment grade	A security is *investment grade* if it is sufficiently liquid that it can be sold at or near its carrying value within a reasonably short period of time and is subject to no greater than moderate credit risk.
Interest rate derivative	Any derivative whose underlying asset is the obligation to pay or the right to receive a given amount of money accruing interest at a given rate. Cross- currency interest rate swaps should be included in foreign exchange derivatives and excluded from *interest rate derivatives*. This information must be presented in terms of 10-year bond-equivalents.
Investments in external private funds	Investments in *private funds* that neither you nor your *related persons* advise (other than cash management funds).
Investments in internal private funds	Investments in *private funds* that you or any of your *related persons* advise (other than cash management funds).
Investments in other sub-asset classes	Any investment not included in another *sub-asset class*.
Investments in registered investment companies	Investments in registered investment companies (other than cash management funds, such as money market funds, and *ETFs*). *ETFs* should be categorized based on the assets that the fund holds and should not be included in this category.
Large hedge fund adviser	Any *private fund adviser* that is required to file Section 2a of Form PF. See Instruction 3 to determine whether you are required to file this section.
Large liquidity fund adviser	Any *private fund adviser* that is required to file Section 3 of Form PF.
Large private equity fund adviser	Any *private fund adviser* that is required to file Section 4 of Form PF. See Instruction 3 to determine whether you are required to file this section.
Large private fund adviser	Any *large hedge fund adviser*, *large liquidity fund adviser* or *large private equity fund adviser*.

LEI	With respect to any company, the "legal entity identifier" assigned by or on behalf of an internationally recognized standards setting body and required for reporting purposes by the U.S. Department of the Treasury's Office of Financial Research or a financial regulator. In the case of a financial institution, if a "legal entity identifier" has not been assigned, then provide the RSSD ID assigned by the National Information Center of the Board of Governors of the Federal Reserve System, if any.
LCDS	Loan credit default swaps.
Leveraged loans	Loans that are made to entities whose senior unsecured long term indebtedness is *non-investment grade*. This may include loans made in connection with the financing structure of a leveraged buyout. Do not include any positions held via LCDS (these should be recorded in the CDS category).
Liquidity fund	Any *private fund* that seeks to generate income by investing in a portfolio of short term obligations in order to maintain a stable *net asset value* per unit or minimize principal volatility for investors.
Liquidity fund assets under management	With respect to any adviser, *liquidity fund assets under management* are the portion of such adviser's *regulatory assets under management* that are attributable to *liquidity funds* it advises (including *liquidity funds* that are also *hedge funds*).
Limited partner clawback	An obligation of a fund's investors to return all or any portion of a distribution made by the fund to satisfy a liability, obligation, or expense of the fund pursuant to the fund's governing agreements.
Listed equity	Direct beneficial ownership of equities, including preferred equities, listed on a regulated exchange. Do not include synthetic or derivative exposures to equities. *ETFs* should be categorized based on the assets that the fund holds and should only be included in *listed equities* if the fund holds *listed equities* (e.g., a commodities *ETF* should be categorized based on the commodities it holds).
Listed equity derivatives	All synthetic or derivative exposures to equities, including preferred equities, listed on a regulated exchange. Include single stock futures, equity index futures, dividend swaps, total return swaps (contracts for difference), warrants and rights.
LV	*Value* of long positions, measured as specified in Instruction 15.
Master fund	See *master-feeder arrangement*.
Master-feeder arrangement	An arrangement in which one or more funds ("*feeder funds*") invest all or substantially all of their assets in a single *private fund* ("*master fund*"). A fund would also be a *feeder fund* investing in a *master fund* for purposes of this definition if it issued multiple classes (or series) of shares or interests and each class (or series) invests substantially all of its assets in a single *master fund*.

Maturity	The maturity of the relevant asset, determined without reference to the maturity shortening provisions contained in paragraph (i) of *rule 2a-7* regarding interest rate readjustments.
MBS	Mortgage backed securities, including residential, commercial and agency. Do not include any positions held via *CDS* (these should be recorded in the *CDS* category).
Money market fund	Has the meaning provided in *rule 2a-7*.
Most recent net asset value	The *net asset value* reported as of the *data reporting date* at the end of the *reporting fund's* most recent *reporting period.*
NAICS code	With respect to any company, the six-digit North American Industry Classification System code that best describes the company's primary business activity and principal source of revenue. If the company reports a business activity code to the U.S. Internal Revenue Service, you may rely on that code for this purpose.
Natural gas	For questions regarding natural gas derivatives, provide the *value* of all exposure to natural gas that you do not hold physically, whether held synthetically or through derivatives (whether cash or physically settled).
Net assets under management	*Net assets under management* are your *regulatory assets under management* minus any outstanding indebtedness or other accrued but unpaid liabilities.
Net asset value or *NAV*	With respect to any *reporting fund*, the gross assets reported in response to Question 8 minus any outstanding indebtedness or other accrued but unpaid liabilities.
NFA	The National Futures Association.
Non-investment grade	A security is *non-investment grade* if it is not an *investment grade* security.
Non-U.S. financial institution	Any of the following: (i) a financial institution chartered outside the United States; (ii) a financial institution that is separately incorporated or otherwise organized outside the United States but has a parent that is a financial institution chartered in the United States; or (iii) a branch or agency that resides in the United States but has a parent that is a financial institution chartered outside the United States.
Operations event	Means for purposes of Section 5 that the *reporting fund* or *adviser* experiences a significant disruption or degradation of the *reporting fund's critical operations*, whether as a result of an event at a service provider to the *reporting fund*, the *reporting fund*, or the *adviser.*
OTC	With respect to any instrument, the trading of that instrument over the counter.
Other ABS	*ABS* products that are not covered by another *sub-asset class*. Do not include any positions held via *CDS* (these should be recorded in the *CDS* category).

Other commodities	*Commodities* other than *crude oil*, *natural gas*, *gold* and *power*. All types of oil and energy products (aside from *crude oil* and *natural gas*), including (but not limited to) ethanol, heating oil propane and gasoline, should be included in this category. For questions regarding *other commodity* derivatives, provide the *value* of all exposure to *other commodities* that you do not hold physically, whether held synthetically or through derivatives (whether cash or physically settled).
Other derivatives	Any derivative not included in another *sub-asset class*.
Other loans	All loans other than *leveraged loans*. *Other loans* includes (but is not limited to) bilateral or syndicated loans to corporate entities. Do not include any positions held via *LCDS* (these should be recorded in the *CDS* category) or certificates of deposit.
Other private fund	Any *private fund* that is not a *hedge fund, liquidity fund, private equity fund, real estate fund*, *securitized asset fund* or *venture capital fund*.
Other structured products	Any *structured products* not included in another *sub-asset class*. Do not include any positions held via *CDS* (these should be recorded in the *CDS* category).
Parallel fund	See *parallel fund structure*.
Parallel fund structure	A structure in which one or more *private funds* (each, a "*parallel fund*") pursues substantially the same investment objective and strategy and invests side by side in substantially the same positions as another *private fund*.
Parallel managed account	With respect to any *private fund*, a *parallel managed account* is any managed account or other pool of assets that you advise and that pursues substantially the same investment objective and strategy and invests side by side in substantially the same positions as the identified *private fund*.
Performance-based Compensation	Allocations, payments, or distributions of capital based on the *reporting fund*'s (or any of its investments') capital gains, capital appreciation and/or other profit.
Person	Has the meaning provided in *Form ADV*.
Power	For questions regarding power derivatives, provide the *value* of all exposure to power that you do not hold physically, whether held synthetically or through derivatives (whether cash or physically settled).
Principal office and place of business	Has the meaning provided in *Form ADV*.
Private equity event report	A quarterly report provided pursuant to the items listed in Section 6 of Form PF.
Private equity reporting event	Any event that triggers the requirement to complete and file a *private equity event report* pursuant to the items in Section 6 of Form PF.

Private equity fund	Any *private fund* that is not a *hedge fund, liquidity fund, real estate fund, securitized asset fund* or *venture capital fund* and does not provide investors with redemption rights in the ordinary course.
Private equity fund assets under management	With respect to any adviser, *private equity fund assets under management* are the portion of such adviser's *regulatory assets under management* that are attributable to *private equity funds* it advises.
Private fund	Any issuer that would be an investment company as defined in section 3 of the Investment Company Act of 1940 but for section 3(c)(1) or 3(c)(7) of that Act. If any *private fund* has issued two or more series (or classes) of equity interests whose values are determined with respect to separate portfolios of securities and other assets, then each such series (or class) should be regarded as a separate *private fund*. This only applies with respect to series (or classes) that you manage as if they were separate funds and not a fund's side pockets or similar arrangements.
Private fund adviser	Any investment adviser that (i) is registered or required to register with the *SEC* (including any investment adviser that is also registered or required to register with the *CFTC* as a *CPO* or *CTA*) and (ii) advises one or more *private funds*.
Private fund assets under management	With respect to any adviser, *private fund assets under management* are the portion of such adviser's *regulatory assets under management* that are attributable to *private funds* it advises.
Qualifying hedge fund	Any *hedge fund* that has a *net asset value* (individually or in combination with any *feeder funds, parallel funds* and/or *dependent parallel managed accounts*) of at least $500 million as of the last day of any month in the fiscal quarter immediately preceding your most recently completed fiscal quarter.
Quarterly update	An update of this Form PF with respect to any fiscal quarter.
Real estate fund	Any *private fund* that is not a *hedge fund*, that does not provide investors with redemption rights in the ordinary course and that invests primarily in real estate and real estate related assets.
Regulatory assets under management	Regulatory assets under management, calculated in accordance with Part 1A, Instruction 5.b of *Form ADV*.
Related person	Has the meaning provided in *Form ADV*.
Repo	Any purchase of securities coupled with an agreement to sell the same (or similar) securities at a later date at an agreed upon price. Do not include any positions held via *CDS* (these should be recorded in the *CDS* category).
Reporting period	With respect to an *annual update*, the twelve month period ending on the *data reporting date*.

	With respect to a *quarterly update*, the three month period ending on the *data reporting date*.
Reporting fund	A *private fund* as to which you must report information on Form PF. Typically, each *private fund* is a *reporting fund*. However, if you are reporting aggregate information for any *master-feeder arrangement* or *parallel fund structure*, only the *master fund* or the largest *parallel fund* in the structure (as applicable) should be identified as a *reporting fund*. See Instructions 3 and 5.
Reporting fund aggregate calculated value	Every position in the *reporting fund's* portfolio, including cash and cash equivalents, short positions, and any fund-level borrowing, with the most recent price or value applied to the position for purposes of managing the investment portfolio. The *reporting fund aggregate calculated value* is a signed value calculated on a net basis and not on a gross basis. Where one or more portfolio positions are valued less frequently than daily, the last price used should be carried forward, though a current foreign exchange rate may be applied if the position is not valued in U.S. dollars. It is not necessary to adjust the *reporting fund aggregate calculated value* for accrued fees or expenses. *Reporting fund aggregate calculated value* does not need to be subjected to fair valuation procedures. The inclusion of income accruals is recommended but not required; however, the approach should be consistent over time. The *reporting fund aggregate calculated value* may be calculated using the adviser's own internal methodologies and conventions of the adviser's service providers, provided that these are consistent with information reported internally.
Reverse repo	Any sale of securities coupled with an agreement to repurchase the same (or similar) securities at a later date at an agreed upon price.
Risk limiting conditions	The conditions specified in paragraphs (d) of *rule 2a-7*.
Rule 2a-7	Rule 2a-7 promulgated by the *SEC* under the Investment Company Act of 1940.
SEC	U.S. Securities and Exchange Commission.
Secured borrowing	Obligations for borrowed money in respect of which the borrower has posted collateral or other credit support. For purposes of this definition, *reverse repos* are *secured borrowings*.
Securities lending collateral	Cash pledged to the *reporting fund's* beneficial owners as collateral in respect of securities lending arrangements.
Securitized asset fund	Any *private fund* whose primary purpose is to issue asset backed securities and whose investors are primarily debt-holders.
Separately operated	For purposes of this Form, a *related person* is *separately operated* if you are not required to complete Section 7.A. of Schedule D to *Form ADV* with respect to that *related person*.
7-day gross yield	Based on the 7 days ended on the *data reporting date*, calculate the *liquidity fund*'s yield by determining the net change, exclusive of capital changes and income other than investment income, in the value of a hypothetical pre-existing account having a balance of one

	share at the beginning of the period and dividing the difference by the value of the account at the beginning of the base period to obtain the base period return, and then multiplying the base period return by (365/7) with the resulting yield figure carried to the nearest hundredth of one percent. The 7-day gross yield should not reflect a deduction of shareholders fees and fund operating expenses.
Single name CDS	*CDSs* referencing a single entity.
Sovereign bonds	Any notes, bonds and debentures issued by a national government (including central governments, other governments and central banks but excluding U.S. state and local governments), whether denominated in a local or foreign currency. Include bond derivatives, but do not include any positions held via *CDS* (these should be recorded in the *CDS* category).
Structured products	Pre-packaged investment products, typically based on derivatives and including structured notes.
Sub-asset class	Each sub-asset class identified in Questions 26 and 30.
SV	*Value* of short positions, measured as specified in Instruction 15.
Unlisted equity	Direct beneficial ownership of equities, including preferred equities, that are not listed on a regulated exchange. Do not include synthetic or derivative exposures to equities.
U.S. financial institution	Any of the following: (i) a financial institution chartered in the United States (whether federally chartered or state-chartered); (ii) a financial institution that is separately incorporated or otherwise organized in the United States but has a parent that is a financial institution chartered outside the United States; or (iii) a branch or agency that resides outside the United States but has a parent that is a financial institution chartered in the United States.
U.S. depository institution	Any U.S. domiciled depository institution, including any of the following: (i) a depository institution chartered in the United States, including any federally chartered or state-chartered bank, savings bank, cooperative bank, savings and loan association, or an international banking facility established by a depositary institution chartered in the United States; (ii) banking offices established in the United States by a financial institution that is not organized or chartered in the United States, including a branch or agency located in the United States and engaged in banking not incorporated separately from its financial institution parent, United States subsidiaries established to engage in international business, and international banking facilities; (iii) any bank chartered in any of the following United States affiliated areas: U.S. territories of American Samoa, Guam, and the U.S. Virgin Islands; the Commonwealth of the Northern Mariana Islands; the Commonwealth of Puerto Rico; the Republic of the Marshall Islands; the Federated States of Micronesia; and the Trust Territory of the Pacific Islands (Palau); or (iv) a credit union (including a natural person or corporate credit union).

U.S. treasury securities	Direct obligations of the U.S. Government. Include *U.S. treasury security* derivatives.
Unencumbered cash	The fund's *cash and cash equivalents* plus the *value* of overnight *repos* used for liquidity management where the assets purchased are *U.S. treasury securities* or *agency securities* minus the sum of the following (without duplication): (i) *cash and cash equivalents* transferred to a collateral taker pursuant to a title transfer arrangement; and (ii) *cash and cash equivalents* subject to a security interest, lien or other encumbrance (this could include *cash and cash equivalents* in an account subject to a control agreement).
Unfunded commitments	*Committed capital* that has not yet been contributed to the *private equity fund* by investors.
United States person	Has the meaning provided in rule 203(m)-1 under the Advisers Act, which includes any natural person that is resident in the United States.
Unsecured borrowing	Obligations for borrowed money in respect of which the borrower has not posted collateral or other credit support.
Value	See Instruction 15.
VaR	For a given portfolio, the loss over a target horizon that will not be exceeded at some specified confidence level.
Venture capital fund	Any *private fund* meeting the definition of venture capital fund in rule 203(l)-1 of the *Advisers Act*.
WAL	Weighted average portfolio maturity of a *liquidity fund* calculated taking into account the maturity shortening provisions contained in paragraph (i) of *rule 2a-7*, but determined without reference to the exceptions in paragraph (i) of *rule 2a-7* regarding interest rate readjustments.
WAM	Weighted average portfolio maturity of a *liquidity fund* calculated taking into account the maturity shortening provisions contained in paragraph (i) of *rule 2a-7*.
Weekly liquid assets	Has the meaning provided in *rule 2a-7*.

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Part III

Environmental Protection Agency

40 CFR Parts 110 and 300
National Oil and Hazardous Substances Pollution Contingency Plan; Product Schedule Listing and Authorization of Use Requirements; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 110 and 300

[EPA–HQ–OPA–2006–0090; FRL–4526–01–OLEM]

RIN 2050–AE87

National Oil and Hazardous Substances Pollution Contingency Plan; Product Schedule Listing and Authorization of Use Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is amending the requirements in Subpart J of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) that govern the use of dispersants, other chemicals and other spill mitigating substances when responding to oil discharges into jurisdictional waters of the United States. This action addresses the efficacy and toxicity of dispersants and other chemical and biological agents, as well as public, state, local, and federal officials' concerns regarding their use. Specifically, the Agency is amending the Subpart J regulatory requirements for the NCP Product Schedule in two distinct ways. First, the Agency is adding new listing criteria, revising the efficacy and toxicity testing protocols, and clarifying the evaluation criteria for removing products from the NCP Product Schedule. Second, the Agency is amending requirements for the authorities, notifications, and data reporting when using chemical or biological agents in response to oil discharges to Clean Water Act (CWA) section 311 jurisdictional waters and adjoining shorelines. These requirements are anticipated to encourage the development of safer and more effective spill mitigating products and better target the use of these products to reduce the risks of oil discharges and response technologies to human health and the environment. Further, the amendments are intended to ensure that On-Scene Coordinators (OSCs), Regional Response Teams (RRTs), and Area Committees (ACs) have sufficient information to support agent authorization of use decisions.

DATES: This final rule is effective on December 11, 2023.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OPA–2006–0090. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general information, contact the Superfund, TRI, EPCRA, RMP, and Oil Information Center at 800–424–9346 or TDD at 800–553–7672 (hearing impaired). In the Washington, DC metropolitan area, contact the Superfund, TRI, EPCRA, RMP, and Oil Information Center at 703–412–9810 or TDD 703–412–3323. For more detailed information on this final rule contact Gregory Wilson at 202–564–7989 (*wilson.gregory@epa.gov*) or Vanessa Principe at 202–564–7913 (*principe.vanessa@epa.gov*). The contact address is U.S. Environmental Protection Agency, Office of Emergency Management, Regulations Implementation Division, 1200 Pennsylvania Avenue NW, Washington, DC 20460–0002, Mail Code 5104A, or visit the Office of Emergency Management website at *http://www.epa.gov/oem/.*

SUPPLEMENTARY INFORMATION: The contents of this preamble are:

I. General Information

In April 2010, the Deepwater Horizon underwater oil well blowout discharged significant quantities of oil into the Gulf of Mexico and raised questions about efficacy, toxicity, environmental tradeoffs, and the challenges of making dispersant use decisions in response operations for certain atypical dispersant use situations.

In this final action, EPA is establishing new agent testing, listing, and authorization of use requirements under Subpart J of the NCP to address these challenges. These revisions to Subpart J address the use of dispersants and other chemical and biological agents to respond to oil discharges into jurisdictional waters and their adjoining shorelines as provided under section 311(b)(3) of the CWA. Specifically, the Agency is adding, amending, or removing certain regulatory definitions and updating requirements associated with the authorization of agent use (including preauthorization plan development, approval, and review; prohibited agents; storage; agent use; recovery; and reporting of use); testing of products (including efficacy and toxicity testing protocols); and listing on the NCP Product Schedule (including data and information requirements and the use of toxicity data to determine listing eligibility; processes for listing and delisting, including transitioning products to the new NCP Product Schedule; and proprietary business information (PBI)). The revisions include improved laboratory protocols for dispersant and bioremediation efficacy and toxicity, and will increase the overall scientific soundness of the data collected. These amendments to Subpart J will help to ensure that only

products that perform effectively in laboratory testing will be listed on the NCP Product Schedule for use in mitigating the effects of oil discharges.

EPA estimates that, to comply with the revised requirements, industry may incur a total incremental cost of approximately $283,800 to $376,500 annually. Note that the range in annualized cost reflects differences due to using 3% and 7% discount rates as well as a range (low and high) for submitter's paperwork burden. This action does not impose significant impacts on a substantial number of small entities. The Regulatory Impact Analysis, which can be found in the docket, provides more detail on the cost methodology and benefits of this action.

II. Entities Potentially Affected by This Final Rule

Entities affected by the final rule include manufacturers of bioremediation agents, dispersants, surface-washing agents, solidifiers, herding agents, and sorbents used as countermeasures against oil spills, and government entities. The universe of domestic product submitters (*i.e.,* product manufacturers) with products listed on the NCP Product Schedule provides the basis for identifying affected entities. EPA identified 89 affected domestic product manufacturers with products currently on the NCP Product Schedule and determined each manufacturer's NAICS code using Dun and Bradstreet (D&B) data.

NAICS code	Industrial category
213	Support Activities for Mining.
322	Paper Manufacturing.
325	Chemical Manufacturing.
326	Plastics and Rubber Products Manufacturing.
423	Merchant Wholesalers, Durable Goods.
424	Merchant Wholesalers, Nondurable Goods.
454	Nonstore Retailers.
493	Warehousing and Storage.
541	Professional, Scientific, and Technical Services.
561	Administrative and Support Services.
562	Waste Management and Remediation Services.
811	Repair and Maintenance.

The Agency's goal is to provide a guide for readers to consider regarding entities that potentially could be affected by this action. However, this action may affect other entities not listed in this table. If you have questions regarding the applicability of this action to a particular entity, consult the person(s) listed in the **FOR FURTHER INFORMATION CONTACT** section.

III. Statutory Authority and Delegation of Authority

Under sections 311(d) and 311(j) of the Clean Water Act (CWA), as amended by section 4201 of the Oil Pollution Act of 1990 (OPA), Public Law 101–380, the President is directed to prepare and publish the NCP for removal of oil and hazardous substances. Specifically, section 311(d)(2)(G) directs the President to include a schedule identifying ''(i) dispersants, other chemicals, and other spill mitigating devices and substances, if any, that may be used in carrying out the Plan, (ii) the waters in which such dispersants, other chemicals, and other spill mitigating devices and substances may be used, and (iii) the quantities of such dispersant, other chemicals, or other spill mitigating device or substance which can be used safely in such waters'' as part of the NCP. The Agency has promulgated the NCP, see 40 CFR 300.1 *et seq.,* including the schedule of dispersants, other chemicals, and other oil spill mitigating devices and substances (see 40 CFR 300.900 *et. seq.*) as required by section 311(d)(2)(G). The President is further authorized to revise or otherwise amend the NCP from time to time, as the President deems advisable. 33 U.S.C. 1321(d)(3). The authority of the President to implement section 311(d)(2)(G) of the CWA is delegated to EPA in Executive Order 12777 (56 FR 54757, October 22, 1991). Subpart J of the NCP establishes the framework for the use of dispersants and any other chemical agents in response to oil discharges (40 CFR part 300 series 900). The Agency is further clarifying that the statutory schedule as required by CWA section 311(d)(2)(G) includes the NCP Product Schedule, the Sorbent Product List, and the Subpart J authorization of use procedures that, when taken together, identify the waters and quantities in which such dispersants, other chemicals, or other spill mitigating devices and substances may be used safely.

IV. Background

In the United States and around the world, chemical and biological agents are among the oil spill mitigation technologies available that responders may consider. Subpart J of the NCP sets forth the regulatory requirements for the use of chemical and biological agents, which includes separate provisions for product testing and listing, and for authorization of use procedures. These requirements provide the structure for the On-Scene Coordinator (OSC) to determine in each case the waters and quantities in which dispersants or other chemical agents may be safely used in such waters, if any. This determination is based on all relevant circumstances, testing and monitoring data and information, and is to be made in accordance with the authorization of use procedures, including the appropriate concurrences and consultations, found within the regulation. When taken together, the Subpart J regulatory requirements address the types of waters and the quantities of listed agents that may be authorized for use in response to oil discharges. EPA believes that the wide variability in waters, weather conditions, organisms living in the waters, and types of oil that might be discharged requires this approach.

The Deepwater Horizon underwater oil well blowout in 2010 raised questions about the challenges of making chemical agent use decisions in response operations, particularly for certain atypical dispersant use situations. To address these and other challenges, the Agency proposed to amend Subpart J of the NCP to revise the existing product listing criteria, testing protocols, and authorization of use procedures, as well as to establish new provisions for dispersant monitoring (80 FR 3383, January 22, 2015). In July 2021, EPA published a final rule addressing the environmental monitoring of dispersant use in response to major discharges and to certain dispersant use situations.

Specifically, the Agency established monitoring requirements for any subsurface use of dispersant in response to an oil discharge, surface use of dispersant in response to oil discharges of more than 100,000 U.S. gallons occurring within a 24-hour period, and surface use of dispersant for more than 96 hours after initial application in response to an oil discharge (86 FR 40234, July 27, 2021). This final action addresses the remaining Subpart J revisions proposed in 2015, including those associated with the product listing, testing protocols, and authorization of use procedures.

V. This Action

This final action amends two distinct sets of requirements under Subpart J: (1) Those related to chemical and biological agent testing and listing, and (2) those related to authorization of use. Specifically, in this action, the Agency adds, amends, or removes certain regulatory definitions associated with Subpart J, and updates requirements for the authorization of agent use (including preauthorization plan development, approval, and review; case by case authorization of prohibited agents; storage; agent use; recovery; and reporting of use); testing of products (including efficacy and toxicity testing protocols); and listing on the NCP Product Schedule (including data and information requirements, processes for adding or removing a product to or from the NCP Product Schedule, and proprietary business information.) The discussion below explains each of the amendments. It also summarizes and provides a response to highlighted public comments received on the 2015 proposal. See the *Response to Comment Document for Listing and Testing of Chemical and Biological Agents,* and for the *Response to Comment Document on the Authorization of Use of Chemical and Biological Agents* in the rulemaking docket for a complete summary and response to public comments. Sections of the NCP not identified to be revised in the proposed rule or addressed in this final rule are outside the scope of this final action.

Revisions to Subpart J were under consideration prior to the Deepwater Horizon oil spill. The subsequent Deepwater Horizon oil spill resulted in recommendations to update Subpart J from the National Commission on the *BP Deepwater Horizon Oil Spill and Offshore Drilling Report* [1] and the EPA Inspector General report titled *Revisions Needed to the National Contingency Plan Based on Deepwater Horizon Oil Spill* (Report #11–P–0534),[2] including that EPA review and update dispersant testing protocols for product listing. The Agency's final action addresses those recommendations.

This final action reflects relevant science and research that supports the specific provisions and their intent. The Agency considered the over 81,000 comments received that offered a wide range of perspectives and scientific information. Those comments remain relevant to the rulemaking, which will modernize and enhance the Subpart J regulatory provisions.

The Agency is updating the process for listing products on the NCP Product Schedule, including expanded testing and listing thresholds. In doing so, EPA identified the relevant science to establish a national screening process for products to be listed on the NCP Product Schedule. Specifically, in amending the NCP Product Schedule listing provisions, EPA considered relevant science related to efficacy and toxicity testing and has determined it supports both establishing new protocols and updating existing protocols under Subpart J for testing chemical and biological agent products for listing on the NCP Product Schedule. These product testing protocols, along with additional requirements for data and information, serve as the basis for a national level screening of chemical and biological agent products, and include procedures that commercial laboratories are already familiar with or can readily adopt. EPA is not aware of changes to the relevant science since the proposed rulemaking and is proceeding with taking final action on the proposal. Furthermore, the final action builds upon the existing NCP framework, providing expanded opportunities for decisionmakers to consider any advancements in science beyond efficacy and toxicity valuations as part of listing, planning and response activities.

The Agency is also updating the provisions for authorization of use by building upon the existing framework, providing further opportunities to consider advancements in science as part of the planning and authorization of use processes for chemical and biological agents. This performance-based approach provides flexibility in gathering, and allowing for the consideration of, scientific information relevant to a given site or geographic location. This allows for better targeting chemical and biological agent use during a response and is consistent with the broader NCP framework.

A. Discharge of Oil

The Agency is revising the text at 40 CFR 110.4 to harmonize it with the definitions for chemical and biological agents that are also being finalized for Subpart J. The revision replaces the terms ''dispersants and emulsifiers'' in § 110.4 with the broader term ''any chemical or biological agent, or any other substance.'' The revised definition in § 300.5 for chemical agents, as finalized in this action, includes elements, compounds, or mixtures designed to facilitate the removal of oil from a contaminated environment and mitigate any deleterious effects. The new definition for biological agents, also finalized in this action, includes microorganisms (typically bacteria, fungi, or algae) or biological catalysts, such as enzymes, able to enhance the biodegradation of a contaminated environment. By revising the provision at § 110.4, the Agency is clarifying that any chemical or biological agent or any other substance added to a discharge of oil with the intent to circumvent any provision of 40 CFR part 110 is prohibited. The final action replaces the specific qualifier ''as defined in § 300.5 of this title'' with the broader ''or any other substance'' to emphasize the intent of this provision is ultimately to prohibit circumventing part 110 requirements. The Agency has also amended the section title to ''Chemical or biological agents.''

Commenters on the 2015 proposal noted that the rule change would ensure no unintended or deliberate circumvention of § 110.4 through any inconsistencies with Subpart J definitions. EPA agrees and has finalized the rule as described above to refer to the terms ''chemical and biological agents'' as opposed to specifically ''emulsifiers'' and ''dispersants.'' In the finalized provision, EPA also made some editorial changes relative to the proposed text for increased clarity.

B. Subpart A—Introduction

1. Definitions

EPA is finalizing revisions to § 300.5 to amend the definitions for bioremediation agents, burning agents, chemical agents, dispersants, sinking agents, sorbents, and surface washing agents. Additionally, the Agency is finalizing new definitions for bioaccumulation, bioconcentration, biodegradation, biological agents, bioremediation, herding agents,

[1] See *https://www.govinfo.gov/content/pkg/GPO-OILCOMMISSION/pdf/GPO-OILCOMMISSION.pdf.*

[2] See *https://www.epa.gov/office-inspector-general/report-revisions-needed-national-contingency-plan-based-deepwater-horizon.*

products, and solidifiers. Finally, the Agency is removing the definitions for miscellaneous oil spill control agents (MOSCA) and surface collecting agents.

(a) Revised Definitions

Bioremediation agents—The Agency is revising the definition of bioremediation agents as proposed, to clarify the previous definition and add examples of bioremediation agents. Specifically, the final rule defines bioremediation agents as biological agents and/or nutrient additives deliberately introduced into a contaminated environment to increase the rate of biodegradation and mitigate any deleterious effects caused by the contaminant constituents. The definition identifies microorganisms and enzymes as bioremediation agents, as well as nutrient additives such as fertilizers containing bio-available forms of nitrogen, phosphorus, and potassium. This clarification will help manufacturers of products to identify the type of product, and hence, what testing requirements they will need to comply with to have a product listed on the NCP Product Schedule.

A commenter expressed concerns about grouping all bioremediation agents in the revised definition. The commenter stated that the definition for bioremediation agent should be broken down for the three types of bioremediation because there are significant differences in applicability and appropriateness for the application of each type. EPA disagrees that the definition of bioremediation agent must explicitly include a classification for different types of bioremediation. The definition for bioremediation agents in the final action includes microorganisms, enzymes, and nutrients, to capture their different mechanisms of action (*e.g.,* amending rate limiting nutrients vs. adding microbial cultures). The final revisions do not prevent EPA from grouping similar bioremediation agents together on the NCP Product Schedule, if appropriate.

A commenter suggested that the definition of bioremediation agents should include language prohibiting the use of biological agents that could result in non-indigenous species colonization. EPA is not prohibiting the use of non-indigenous species, because the addition of cultured microorganisms, which may include non-indigenous species, may enhance biodegradation of a contaminant in certain situations. EPA notes that decisions to use bioremediation agents are subject to § 300.910, *Authorization of Use,* and expects the OSC to utilize available resources to determine the most appropriate bioremediation agent, if any, for use in a response in light of incident and site-specific factors.

Burning agents—The Agency is revising the definition of burning agents as proposed, to identify as such those additives that improve the combustibility of the materials to which they are applied. This could be achieved through either physical or chemical means.

A commenter interpreted that the proposed definition combines burning agents (materials that actually change the combustibility of the material they are added to) and ignition agents (ignition devices or materials used to start combustion). The commenter recommended that the Agency adopt separate definitions for burning and ignition agents for clarity. Some commenters suggested that the Agency should either include ignition devices within the definition of ''burning agents'' or create a separate category for ignition devices. The Agency agrees with commenters that ignition devices are distinct from burning agents. The final provisions do not include ignition devices in the definition of burning agent. The Agency believes that the intent of ignition devices is to provide the initial energy to start a burn and typically do not enter the water column. While ignition devices provide the initial energy to start a burn, these devices are incidental to burning agents, which are intended to improve the combustibility of the oil. EPA is exercising its discretionary authority and not including ignition devices on the NCP Product Schedule given their intended use. Furthermore, EPA disagrees with a commenter's statement that burning agents are necessarily applied ''prior to ignition;'' EPA believes that burning agents could be added after ignition to improve combustibility. The definition of burning agents in the final action does not specifically state when during an in situ burning cycle a burning agent is to be applied. The Agency is finalizing the definition of burning agents from the proposed rule without any changes. EPA notes that burning agents remain subject to Subpart J authorization of use requirements, even though EPA is not requiring specific product information and data about burning agents to be submitted to EPA under § 300.955.

Chemical agents—The Agency is revising the definition of chemical agents to identify as such those elements, compounds, or mixtures that are designed to facilitate the removal of oil from a contaminated environment and to mitigate deleterious effects. The chemical agent category includes burning agents, dispersants, herding agents, solidifiers, surface washing agents, and those bioremediation agents that consist of nutrient additives. This revised definition reflects the Agency's distinction between chemical and biological agents, allowing product manufacturers to better target the testing requirements and OSCs to better inform their authorization in specific situations. The finalized language also removes from the definition certain agent categories that are being eliminated, prohibited, or amended, to conform to these changes.

Several commenters expressed concern with the Agency's proposed wording ''designed to facilitate the removal of oil from a contaminated environment.'' Commenters indicated that the definition of ''chemical agent'' does not make it clear that sinking agents, along with dispersants, do not remove or detoxify oil, but rather treat it. Commenters also stated that dispersants do not facilitate the removal of oil or mitigate deleterious effects. EPA notes that the NCP incorporates into § 300.5 the CWA section 311 statutory definition of ''remove.'' Under the NCP, ''remove'' or ''removal'' refers to containment and removal of oil or hazardous substances from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare of the United States (including, but not limited to, fish, shellfish, wildlife, public and private property, and shorelines and beaches) or to the environment (40 CFR 300.5). Under the NCP, the term also includes monitoring of action to remove a discharge (40 CFR 300.5). Dispersants are substances that emulsify, disperse, or solubilize oil by promoting the formation of small droplets or particles of oil in the water column. The primary purpose of using dispersants is to facilitate dispersal of the oil into the water column, where the oil is then subject to several fate and transport processes (*e.g.,* dissolution). Thus, dispersant use may alter the behavior of oil to which it is applied and may result in an action that minimizes or mitigates damage, as described in the statutory definition of ''remove.'' In addition, depending on the oil composition, certain fractions of the dispersed oil may biodegrade over time. Dispersants are appropriately defined as chemical agents since they are designed to facilitate the removal of oil or mitigate oil's deleterious effects. Furthermore, EPA notes that the final provisions maintain the previous approach that

chemical agents ''. . . facilitate the mitigation of deleterious effects or the removal of the pollutant from the water.''

A commenter stated that the definition of chemical agents should clearly delineate between chemical agents that are intended to be removed from the environment and those that are not. EPA believes that the NCP, as revised under this amendment, sufficiently delineates between chemical agents that are intended to be recovered from the environment and those that are not. The NCP addresses recovery of agents from the environment in multiple chemical agent and substances definitions (*e.g.,* surface washing agents, sorbents) and under § 300.910(h) *Recovery of Agents from the Environment.*

Commenters recommended that sinking agents be removed from the proposed definition of chemical agents. A commenter suggested that including a definition for sinking agents in the context of other agents that may be put on the NCP Product Schedule contradicts the Agency's stated policy against the use of sinking agents to treat oil spills. EPA agrees that sinking agents do not remove oil from the environment and that sinking agents should not be included in the definition of chemical agents. The finalized definition of chemical agents has been modified relative to the proposed version to remove sinking agents.

Dispersants—The Agency is revising the definition of dispersants to identify as such those substances that emulsify, disperse, or solubilize oil by promoting the formation of small droplets or particles of oil in the water column. The Agency acknowledges that the primary purpose of dispersants is to facilitate oil transfer from one area to another (*e.g.,* oil transferred from the water surface into the water column) or to maintain entrainment within the water column (*e.g.,* oil maintained in the water column from a subsurface discharge). Dispersed oil is then subject to transport by water currents and other fate and transport processes (*e.g.,* dissolution, biodegradation), which involves many site- and incident-specific factors. Irrespective of dispersant use, oil droplets may interact with suspended particulate material in the water column. For example, oil naturally dispersed in the water column (*i.e.,* untreated dispersed oil) may also interact with suspended particulate material.

A commenter stated that the proposed definition should not identify what dispersants are ''typically'' composed of because formula components will vary by intended primary use setting. EPA agrees that the definition of dispersants should not identify the typical composition of dispersants (*e.g.,* solvents, surfactants), not necessarily because formula components will vary by intended primary use setting, but to avoid the potential misinterpretation that dispersants are necessarily comprised of these components. Thus, EPA is amending the definition of ''dispersant'' in this final rule by adding ''. . . substances that emulsify, disperse, or solubilize oil by promoting . . .'' and removing ''. . . typically mixtures comprised of solvents, surfactants, and additives that promote . . .'' The final provision maintains the general approach in the current definition to recognize that dispersants are substances ''. . . that emulsify, disperse, or solubilize oil . . .'' by promoting the formation of small droplets or particles of oil in the water column. Furthermore, based on other comments regarding oil-mineral aggregates on the proposed sorbent definition, EPA is amending the definition of dispersants to add ''. . . or particles . . .'' to indicate that certain particulate materials may also act as dispersants. EPA also removed the phrase ''. . . by reducing the oil-water interfacial tension'' in order not to identify any specific process and to recognize that other processes may also result in dispersion of oil.

Sinking agents—The Agency is revising the definition of sinking agents to identify them as those substances introduced into an oil discharge to submerge the oil to the bottom of a water body. The former definition was ambiguous in distinguishing chemical agents (*e.g.,* dispersants) that may submerge oil below the water surface from substances that would sink oil to the bottom of the water body. The revision clarifies the distinction between sinking agents and other agents, such as dispersants, that do not intend to sink oil to the bottom of a water body but may have the incidental effect of causing some of the discharged oil to settle to the bottom of a water body. The Agency believes it is critical to distinguish between sinking agents, which are intended to sink oil as the primary mechanism of response, and dispersants, which are primarily intended to promote the formation of small droplets or particles of oil in the water column. The Agency continues to prohibit the use of sinking agents in the remediation of oil discharges in water because of their potential for causing adverse effects on benthic organisms vital to the food chain of the aquatic environment.

Commenters expressed concerns with the way that the proposed definition distinguished between submersion and sinking. The commenters stated that both submersion and sinking could cause harm to benthic organisms and make oil more difficult to remove; several commenters suggested a broader definition of sinking agents to include any agent that causes oil to submerge below the water surface in a given waterbody, retains oil beneath the water surface, and/or increases aggregation of oil-sediment particles beneath the water surface, even if the treating agents also qualify for other categories (*e.g.,* dispersants, solidifiers, sorbents). The Agency disagrees with the recommendations to modify the sinking agent definition as this would conflate the definitions of dispersants and sinking agents and would effectively work to prohibit the use of dispersants. The final action balances the potential for deleterious effects from dispersant use against their potential for reducing or mitigating the environmental impacts of an oil spill, through the consideration of site-specific conditions and within the context of all response options. Adding language that characterizes sinking agents as facilitating the transfer of oil from the water surface into the water column or retention of oil below the water surface would cause confusion with the definition of dispersants.

A commenter provided specific recommended language to edit the definition of sinking agents, which included removing the proposed phrase ''. . . deliberately for the purpose of submerging . . .''. Additionally, another commenter suggested that the Agency's use of the term ''deliberately'' in the definition is unworkable because it fails to specify whose intent is relevant. EPA agrees that the term ''deliberately'' presents challenges to interpreting intent. Therefore, based on public comment, EPA is removing the term ''deliberately'' from the sinking agent definition in this final rule.

Sorbents—Under the revised definition of sorbents, EPA identifies sorbents as inert and insoluble substances that readily absorb and/or adsorb oil or hazardous substances and that are not combined with or act as a chemical agent, biological agent, or sinking agent. Sorbents may be used in their natural bulk form or as manufactured products in for example particulate form, sheets, rolls, pillows, or booms. Sorbents are generally collected and recovered from the environment. The definition also

includes a list of materials of which sorbents may consist. These revisions simplify the definition by removing the definitions of absorption and adsorption that were embedded in the former definition of sorbents; this is appropriate because absorption and adsorption are generally recognized scientific terms and sorbents are not distinguished or restricted under Subpart J based on whether they absorb or adsorb oil. The revised definition also adds the qualifier ''natural'' to organic substances, indicating that organic substances that have been treated with other substances do not necessarily fall under this category of agents and should not be considered a sorbent absent being listed on the Sorbent Product List as provided in this rule. It also expands on and simplifies the examples by removing the references to the type of birds that feathers could come from, by adding bagasse to the examples for natural organic substances, and by adding clay to the examples for inorganic/mineral compounds. While sorbents are not listed on the NCP Product Schedule, a list characterizing these materials is included in § 300.915(g) and EPA considers the Sorbent Product List in § 300.915(g) to be a part of the statutory schedule addressed in 33 U.S.C. 1321(d)(2)(G).

Commenters replied to the Agency's request for comments on the qualifier phrase, ''that are generally collected and recovered from the environment.'' Some commenters requested that EPA remove the term ''generally'' or remove the phrase that sorbents are ''generally collected and recovered from the environment.'' Other commenters requested that sorbents be used with the intent of collecting and removing them from the environment. A commenter requested that the Agency clearly require that all sorbent materials must be recovered from the environment, and that sorbent use is not authorized in the event that the sorbents cannot be removed from the environment. EPA disagrees with comments that the phrase ''generally collected and recovered from the environment'' should be removed from the definition. EPA believes that the phrase recognizes and captures the expectation that sorbents are not intended to be left in the environment. EPA recognizes that on very limited occasions an OSC may make the determination to not recover a sorbent after consideration of factors such as the safety of response personnel and potential for greater harm to the environment if the sorbent material is recovered rather than left in place. Therefore, EPA retained the sentence ''Sorbents are generally collected and recovered from the environment'' in the amended definition but did move it to later in the provision in order to improve editorial flow and clarity. The OSC retains discretion not to authorize or direct the use sorbents if the OSC believes that sorbent use is inappropriate in light of incident-specific determinations.

EPA received a range of comments regarding particulate materials (*e.g.,* clay) and the definitions of sorbent, sinking agents, and dispersants. EPA recognizes that some materials may behave differently in the environment based, in part, on the size or configuration of the substance. EPA disagrees with comments that clay necessarily behaves like a sinking agent in all cases. To address concerns regarding particulate materials, EPA is amending the definition of sorbents to recognize potentially differing behaviors and to distinguish between sorbents and sinking agents. The final revisions to the definition of sorbents includes that these substances are ''. . . not combined with or act as . . . sinking agents.'' EPA recognizes that substances such as clay may be used as a sorbent, but also agrees with commenters that they should not act as a sinking agent. EPA believes it is appropriate to continue to allow substances such as clay to be listed as sorbents and used as a sorbent during a response, provided that they are done so in manner that prevents them from acting as a sinking agent (*e.g.,* contained in a buoyant boom). The Agency expects that the Administrative Record for a response would provide the basis for continued sorbent use under OSC oversight or direction, and the Administrative Record should address any potential concerns with sorbents being used as a sinking agent. EPA also recognizes that particulate materials may be manufactured of such configuration (*e.g.,* micro- or nanosized) that they are, or are near, neutrally buoyant and remain in the water column over an extended time period. EPA recognizes comments that particulate materials may promote dispersion by forming oil-mineral aggregates (OMAs) and agrees with commenters that such substances should be addressed as dispersants rather than sorbents. Substances intended for use in a manner similar to a chemical or biological agent listed on the NCP Product Schedule (*e.g.,* dispersants) should be classified similarly and subject to the same authorization of use procedures. The final rule clarifies that dispersants are substances that emulsify, disperse, or solubilize oil by promoting the formation of small droplets or particles of oil in the water column. This revised definition clarifies that substances that emulsify, disperse, or solubilize oil include particulate materials because they promote the formation of particles of oil (*e.g.,* OMAs). Particulate materials that are used in a manner similar to chemical dispersants are appropriately categorized as dispersants on the NCP Product Schedule and are subject to the same dispersant authorization of use procedures under § 300.910.

Surface washing agents—The Agency is revising the term ''surface washing agent'' to ''surface washing agents'' and modifying the definition. EPA changed the term from singular to plural to be consistent with the other agent definitions. The revised definition identifies surface washing agents as those substances that separate oil from solid surfaces (*e.g.,* beaches, rocks, metals, or concrete) through a detergency mechanism. The revised definition specifies that detergency mechanism lifts and floats the oil. The final definition is modified slightly from the proposed phrasing to clarify that the product and oil are generally to be collected and recovered from the environment with minimal dissolution, dispersion, or transfer into the water column to be consistent with similar phrases included in the sorbents and solidifiers definitions. EPA recognizes that on occasion an OSC may make the determination to not recover a surface washing agent after consideration of factors such as the safety of response personnel and potential for greater harm to the environment if the surface washing agent material is recovered rather than left in place (see 40 CFR 300.910(h)).

A commenter suggested that surface washing agents used in fully self-contained structures (*e.g.,* tank farms, dry-dock vessels, sand-cleaning machines) or in a manner that prevents run-off to water (*e.g.,* cleaning/wiping of vessel hulls by hand) need not be listed on the NCP Product Schedule or require approvals from the OSC or RRT before use. A commenter suggested including the phrase ''that are not likely to cause additional harm, either alone or in combination with oil, to public health or welfare or to the environment'' in the definition. EPA is not revising the definition to include this phrase. EPA believes that the NCP must retain flexibility to allow for environmental tradeoffs that take into consideration incident-specific conditions when determining what actions should be taken to immediately and effectively address an oil discharge.

(b) New Definitions

The Agency is adding several new definitions for terms that are used in the amendments to Subpart J. These definitions include basic terminology and are consistent with how the terms are generally understood by the scientific community.

Bioaccumulation—The Agency is establishing the definition of bioaccumulation, as proposed, to mean the process of accumulation of chemicals in the tissue of organisms through any route, including respiration, ingestion, or direct contact with the ambient or contaminated medium. The Agency is finalizing the definition of bioaccumulation from the proposed rule without any changes.

A commenter expressed support for separate definitions of bioaccumulation and bioconcentration. The Agency appreciates and recognizes the commenter's perspective that bioaccumulation includes multiple routes of exposures to pollutants (*e.g.,* including dietary or food chain), whereas bioconcentration only includes water-borne routes of exposure (*e.g.,* absorption across the gills).

Bioconcentration—The Agency is establishing the definition of bioconcentration, as proposed, to mean the accumulation of chemicals in the tissues of organisms from water alone.

A commenter expressed support for separate definitions of bioaccumulation and bioconcentration, as described above. The Agency is finalizing the definition of bioconcentration from the proposed rule without any changes.

Biodegradation—The Agency is establishing the definition of biodegradation to mean the process by which microorganisms metabolically decompose contaminants into biomass and smaller molecular compounds such as carbon dioxide, water, and end products.

Commenters suggested expanding the definition of biodegradation to include the possibility of partial biodegradation, which can result in more toxic intermediate products. The commenters stated that partial biodegradation is likely to occur in the environment versus controlled laboratory conditions. EPA recognizes that partial biodegradation may occur in the environment. Therefore, the Agency amended the definition of biodegradation in the final rule to replace the phrase ''. . . simpler compounds . . .'' with ''. . . smaller molecular compounds . . .''. EPA also removed the term ''innocuous'' in the final action to recognize that not all end products may be innocuous.

Biological agents—The Agency is establishing the definition of biological agents to mean microorganisms (typically bacteria, fungi, or algae) or biological catalysts, such as enzymes, that can enhance the biodegradation of a contaminated environment. EPA has slightly amended the definition of biological agent in this rulemaking to replace the phrase ''. . . able to . . .'' with ''. . . that can . . .'' to better reflect the intent of the definition.

A commenter recommended that the definition of bioremediation agents include a ban on agents that may result in the colonization of non-indigenous species. While EPA understands that microorganisms capable of degrading oil are ubiquitous in nature, the Agency is maintaining its prior approach in this rulemaking to recognize the addition of microorganisms as a potential bioremediation process. In general, the addition of cultured microorganisms, which may include non-indigenous species, may enhance biodegradation of a contaminant.

Bioremediation—The Agency is establishing the definition of bioremediation to mean the process of enhancing the ability of microorganisms to convert contaminants into biomass and smaller molecular end products by the addition of materials into a contaminated environment to accelerate the natural biodegradation process.

Commenters suggested expanding the definition to include the possibility of partial bioremediation, which can result in more toxic intermediate products. The commenters stated that partial bioremediation is likely to occur in the environment versus controlled laboratory conditions. EPA recognizes that partial biodegradation may lead to the formation of intermediate products. The Agency is amending the definition of bioremediation in this final rule to replace the phrase ''. . . simpler compounds . . .'' with ''. . . smaller molecular compounds . . .''. EPA also removed the term ''innocuous'' to recognize that not all end products may be innocuous.

Herding agents—The Agency is establishing the definition of herding agents to mean substances that form a film on the water surface to control the spreading of the oil to allow for oil removal. The definition for surface collecting agent was removed and replaced with the definition for herding agent to better reflect the common terminology used in industry for these agents.

A commenter stated that the Agency should add language to the ''herding agents'' definition which includes that they are not likely to cause harm, either alone or in combination with oil, to public health or the environment and that they are intended to be collected and recovered from the environment. EPA disagrees with these suggested edits to the definition of herding agents. The NCP addresses discharges of oil to the environment and response authorities must retain flexibility to allow for environmental tradeoffs that consider incident-specific conditions when determining what actions should be taken to immediately and effectively address the discharge. EPA is amending the definition of herding agents in the final rule by replacing the proposed phrase ''. . . across the water surface.'' with the phrase ''. . . form a film on the water surface . . .'' and adding the phrase ''. . . allow for oil removal.'' to better reflect the mechanism of action of herding agents.

Products—The Agency is establishing the definition of products to mean chemical or biological agents or other substances manufactured using a unique composition or formulation.

A commenter suggested that the proposed definition of products is incomplete because it only includes agents that may be listed on the NCP Product Schedule. Other commenters suggested that the definition of products should include anything that may be used to mitigate oil spills (*e.g.,* burning agents, ignition devices, synthetic sorbents, organic or inorganic substances that may be used in bulk form, and substances that are manufactured using a unique composition or formulation). EPA's definition for products is intended to clarify the difference between a specific product and an agent type or category under the NCP Product Schedule and the Sorbent Product List. EPA agrees that the definition of a product should recognize sorbents by adding the term ''other substances.'' The finalized definition clarifies the distinction between an agent category (*e.g.,* surface washing agent) or substance (*e.g.,* sorbent) from a product for which a manufacturer submits an application to the Agency for listing on the NCP Product Schedule or the Sorbent Product List. The Agency is not revising the definition of ''product'' to specifically include burning agents since they are already included in the definition of chemical agents. Furthermore, the Agency disagrees to add ''other spill mitigating devices'' as it would not accurately reflect the applicability of the regulatory provisions for the purposes of the NCP Product Schedule or the Sorbent Product List in this final action.

Solidifiers—The Agency is establishing the definition of solidifiers to mean substances that through a chemical reaction cause oil to become a cohesive mass, preventing oil from dissolving or dispersing into the water column. Solidifiers are generally collected and recovered from the environment. Solidifiers was not previously a specific product category on the NCP Product Schedule. The final rule amends the definition to recognize that solidifiers are ''generally'' to be collected, to recognize that the OSC has flexibility to consider factors such as the safety of response personnel and harm to the environment in making recovery determinations (see 40 CFR 300.910(h)).

A commenter requested that the Agency add language to the definition to explain that solidifiers have no real advantage over sorbents or mechanical recovery and that they have limited practicality, may cross-link or react with other substances, and require immediate removal from the environment. The commenter mentioned that there has been very limited effectiveness testing or recent studies on solidifiers. The commenter requested that the definition of ''solidifiers'' include additional limitations to specify conditions under which solidifiers may be used such as proximity to shore and quantity of oil. The Agency acknowledges the commenter's concerns; however, the Agency disagrees with the suggested edits. The definition is intended to convey the mechanism of action and to distinguish solidifiers from other chemical or biological agents. Subpart J does not state or imply that chemical or biological agents are preferred over other response options such as mechanical recovery devices. EPA notes that mechanical recovery devices, including skimmers, are outside the scope of this action. EPA believes that the circumstances surrounding oil discharges and the factors influencing the choice of response methods are many. In addition, the final revisions under § 300.910(g) provide that RRTs may require supplementary toxicity and efficacy testing, or to obtain data or information to address site, area, or ecosystem-specific concerns relative to the use of any chemical or biological agent. The Agency believes that the specific conditions under which solidifiers may be used, such as proximity to shore and quantity of oil, are better addressed through the authorization of use process found at § 300.910 *Authorization of Use.*

(c) Removed Definitions

Miscellaneous Oil Spill Control Agent (MOSCA)—The Agency is removing the definition for miscellaneous oil spill control agent (MOSCA). The MOSCA category was used as a catchall for all types of products that did not meet other agent definitions; it is being replaced with a number of new and/or revised definitions for types of agents. As the Agency adds new, more stringent testing requirements for listing products on the NCP Product Schedule, there is a need for more specific category definitions to assist manufacturers in determining which of those testing requirements apply to their products. Commenters supported the removal of the definition for MOSCA. A commenter specifically expressed support for the removal of the MOSCA category provided that a subcategory is included in the ''sorbents'' definition to account for the uniqueness of certain products among the other sorbents.

The Agency agrees with comments supporting the removal of the MOSCA category and the final action removes the category and definition of MOSCAs from the NCP. The Agency has identified product categories to be listed on the NCP Product Schedule and revised it accordingly. The MOSCA category is no longer necessary or appropriate and is being removed from the NCP through this final action. EPA does not believe that removing the MOSCA definition results in listed products automatically being reassigned to fall under the definition of another chemical or biological agent, or substance. The final revisions provide for the process to transition listed products from the current NCP Product Schedule to the new NCP Product Schedule as described in § 300.955(f).

Surface collecting agents—The Agency is removing the definition for surface collecting agent and replacing it with a new herding agent definition to better reflect the common terminology used in industry for these agents.

EPA did not identify comments on the proposed amendment specific to removing the definition for surface collecting agents.

C. Subpart J—Use of Dispersants, and Other Chemical and Biological Agents

1. General

EPA is amending § 300.900 by revising the title and paragraphs (a) and (c), and by adding paragraph (d) to reserve for later use. The revisions clarify that Subpart J addresses not only chemical agents, but also those agents that now fall under the new biological agent category. The revisions reaffirm the notion that Subpart J is not only comprised of an NCP Product Schedule of chemical and biological agents, but also includes testing requirements and authorization of use procedures. Consistent with current Subpart J regulatory requirements, the Agency is reserving a section for ''Releases of Hazardous Substances'' to take place of the current placeholder in § 300.905, which is being removed.

Some commenters on the proposed rule expressed support for the update to § 300.900, which clarifies the Agency's duties under the CWA, but noted that the Agency should specify waters and quantities where products can be used safely, highlighting the importance of the word ''safely.'' The Agency recognizes support to clarify that Subpart J includes the identification of the waters and quantities in which chemical and biological agents may be safely used. In this final action, EPA is amending the last sentence of the proposed regulatory text under § 300.900 to include the term ''safely'' as provided in CWA section 311(d)(2)(G)(iii) based on the comment received.

In addition, the Agency is clarifying that the statutory schedule as required by CWA section 311(d)(2)(G) includes the NCP Product Schedule, the Sorbents Product List, and authorization of use procedures that, when taken together, identify the waters and quantities in which such dispersants, other chemicals, or other spill mitigating devices and substances may be used safely. EPA is amending the regulation text at § 300.900, and throughout Subpart J, to clarify that it is the ''NCP Product Schedule'' which EPA updates periodically, in order to avoid confusion with the statutory use of the term ''schedule'' referred to in CWA section 311(d)(2)(G).

Some commenters requested additional clarification related to Administrator authority and expressed uncertainty regarding federal authority. Specifically, these commenters indicated a need for additional clarity regarding the role of the Agency versus that of the U.S. Coast Guard or other public or private entities involved in spill response. While CWA section 311(c) provides statutory authority for certain removal actions and identifies the agencies that are to provide the federal OSC (which may include EPA or U.S. Coast Guard), it does not provide authority to revise the NCP and does not govern how the NCP regulates response actions. The authority to establish, revise, and maintain the NCP is addressed in CWA section 311(d), which has been delegated to the EPA Administrator in Executive Order 12777 (56 FR 54757, October 22, 1991). EPA will continue to exercise its authority

over the NCP, and CWA section 311(c) responses remain subject to NCP provisions as per Congressional direction at CWA section 311(c)(1), which provides that the President ''shall, *in accordance with the National Contingency Plan* and any appropriate Area Contingency Plan, ensure effective and immediate removal of a discharge . . . .'' (emphasis added).

2. Authorization for Agent Use

Section 300.910 sets forth the provisions for the authorization of use of products on the NCP Product Schedule in response to oil discharges. EPA is adding an introductory paragraph to § 300.910 that confirms, consistent with the intent of the NCP, that use of chemical or biological agents in response to oil discharges must be authorized by an OSC in accordance with Subpart J. In the final rule, EPA did not include the phrase ''. . . to waters of the U.S. or adjoining shorelines . . .'' under the opening clause to § 300.910 *Authorization for agent use* since the scope of Subpart J is already addressed under § 300.900. Unauthorized use can result in violations of sections 301 and 311 of the CWA. Section 301(a) makes unlawful ''the discharge of any pollutant by any person,'' except in compliance with certain provisions of the CWA. In addition, section 311(b) establishes penalties for persons who fail or refuse to comply with any regulation issued under section 311(j) of the CWA.

Commenters suggested that the Agency is already required by Congress to establish a list of products that may be used for response within navigable waters of the United States and EPA is therefore required to approve these products for use in response activities. EPA disagrees with the characterization that the Agency is required by Congress to establish a list of products such that those products are automatically authorized for use within the jurisdictional waters of the United States by their listing. The CWA provides the President with the authority to determine what products, if any, may be used in what waters, and in what quantities. The NCP Product Schedule addresses the chemical and biological agents that may be authorized for use upon consideration of both the appropriateness of their use in the impacted waters and the amount of product that may be used safely in response to the unique nature of each oil discharge. EPA does not believe a ''one size fits all'' approach to emergency response is appropriate or prudent. A ''one size fits all'' approach could lead to significant under- and over-use of products that could exacerbate oil discharges absent consideration of all the specific conditions of each individual discharge. The final action provides for flexibility to evaluate the specific nature of an oil discharge when considering the authorization of a chemical or biological agents.

(a) Use of Agents Identified on the NCP Product Schedule or Use of Burning Agents on Oil Discharges Addressed by a Preauthorization Plan

The Agency is revising § 300.910(a) to address the preauthorized use of chemical and biological agents identified on the NCP Product Schedule. The Agency reorganized paragraph (a) to provide greater clarity about RRT and Area Committee responsibilities. The revisions to § 300.910(a) clarify the process for preauthorization, the responsibilities of all involved parties, and the factors to consider during the preauthorization process, including the authorization for the use of agents by the OSC at the time of a discharge. The reorganized paragraph (a) also makes the regulatory text easier to read and follow. The Agency added procedure and review requirements at § 300.910(a)(3) intended to ensure preauthorization plans are maintained so they are up to date. The finalized provisions also address recommendations from the *National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling* report and EPA's Inspector General report titled *Revisions Needed to National Contingency Plan Based on Deepwater Horizon Oil Spill* (Report #11–P–0534). The final revisions do not change the NCP's fundamental policies regarding roles of Federal, state, and local representatives involved in planning for and responding to an oil discharge, but rather clarify the regulatory requirements and further explain the responsibilities for each party.

Some commenters expressed concerns that the proposed rule focused on preauthorization and suggested that the focus should instead be on consultation and concurrence. The Agency recognizes that the RRTs and/or Area Committees must consider whether preauthorization of chemical and biological agents is appropriate, while maintaining the existing concurrence and consultation roles on authorization of use. The revised preauthorization provisions provide greater clarity on the factors the RRT must address and those factors they should consider in developing a preauthorization plan. Department of the Interior (DOI) and Department of Commerce (DOC) natural resource trustees retain their concurrence role when approving preauthorization plans. DOI and DOC natural resource trustee concurrence is appropriate as preauthorization plans are developed during the contingency planning phase, when there is sufficient time to identify and resolve natural resource concerns.

A commenter advocated for clarification of ''mixed use'' products, indicating that some of the products on the NCP Product Schedule have multiple uses and that during preauthorization planning all potential uses of an agent or product should be factored into the planning decisions. EPA recognizes that a ''mixed use'' product that meets the definition of more than one chemical or biological agent category may raise authorization of use issues when (1) listed under more than one chemical or biological agent category or (2) listed under one chemical or biological agent category but still meets the definition of another product category because of an alternate mechanism of action. The listing of a product on the NCP Product Schedule should not cause confusion on how that product is authorized at the time of an incident. Noting these concerns, the final action allows for the evaluation of products on an individual basis and informs the decision on whether and under which category to list a product on the NCP Product Schedule.

Some commenters expressed concern or requested clarification on the roles and authorities of RRTs and Area Committees in preauthorization planning. Area Committees' roles and authorities under CWA section 311(j)(4) are outside the scope of this rulemaking. Nonetheless, CWA section 311(j)(4) provides the roles of the Area Committees in planning for the use of dispersants, including for Area Contingency Plans to list the equipment (including firefighting equipment), dispersants or other mitigating substances and devices, and personnel available to an owner or operator, Federal, State, and local agencies, and tribal governments, to ensure an effective and immediate removal of a discharge, and to ensure mitigation or prevention of a substantial threat of a discharge. EPA notes that not all spill mitigating equipment, substances or devices may be available or appropriate in certain planning areas. EPA believes that to create the best possible response system, it is important that the regional-level and area-level contingency planning efforts of the RRTs and Area Committees, respectively, are closely coordinated. RRTs and Area Committees

should work together to develop mutually acceptable preauthorization plans, as appropriate. The standing RRTs also have responsibilities for oil spill contingency planning on a regional basis and can facilitate consistency among Area Committees. In instances where the RRT and Area Committees exist as separate entities, several RRT representatives likely also serve on the Area Committees for that region, allowing for familiarity with the roles and responsibilities of each entity. In instances (*e.g.,* in the inland zone) where RRTs fulfill the role of the Area Committees, they are thus responsible for both regional and area-level contingency planning (see 57 FR 15197, April 24, 1992). EPA agrees that in the development of preauthorization plans, RRTs should either provide Area Committees with an opportunity to provide input or should consider relevant information in Area Contingency Plans (ACPs) (*e.g.,* Fish and Wildlife and Sensitive Environments Annex). The RRTs and Area Committees should identify all potentially affected biological resources and their habitats likely to be negatively impacted, and not only those that are expected to benefit.

Another commenter noted that not all regions have a use for preauthorization planning, suggesting that only regions with use for these plans should be required to develop planning materials. While RRTs and ACs must consider whether having a preauthorization plan is appropriate, the final action does not mandate preauthorization plans to be developed or preauthorization of any chemical or biological agents. EPA modified the proposed text to remove the phrase ''in a preauthorization plan'' to avoid a misinterpretation that § 300.910(a) requires that RRTs develop preauthorization plans. EPA also amended the final action under § 300.910(a) to further clarify the provision is to consider whether ''preauthorization of'' the use of chemical and biological agents is appropriate.

The final action provides that an OSC may authorize the use of agents listed on the NCP Product Schedule, or the use of burning agents, for the purpose for which they were specifically listed without obtaining the incident-specific concurrences and without the natural resource trustees consultations described in § 300.910(b). Some commenters supported approval of preauthorization plans by natural resource trustees. EPA amended the final provision to clarify that the OSC does not need to obtain the incident-specific natural resource trustees consultations described in paragraph (b) of this section when authorizing the use of certain agents under § 300.910(a) by adding the phrase ''. . . and without the natural resource trustees' consultations . . .'' described in paragraph (b) of this section. The final provisions provide for DOI and DOC natural resource trustees concurrence on preauthorization plans rather than consultations. EPA continues to believe that DOI and DOC natural resource trustee concurrence is more appropriate than consultation during the contingency planning phase, when there is sufficient time to identify and resolve natural resource concerns while considering whether preauthorization is appropriate. Consistent with previous preauthorization approval requirements, the final revisions provide for DOI and DOC natural resource trustee approval, approval with modification, or disapproval of preauthorization plans.

The final action provides that chemical or biological agents on the NCP Product Schedule may only be authorized for the purpose for which they were specifically listed. EPA amended the final provision to replace the phrase ''. . . intended purpose . . .'' with ''. . . for the purpose for which they were specifically listed . . .'' for greater clarity. This revision was made in response to a commenter's concern that chemical or biological agents may only be used for their intended use within a specific category (*e.g.,* an agent that is listed as a surface washing agent cannot be authorized for use as a dispersant).

In the finalized provision, EPA also made some editorial changes to the proposed text for increased clarity.

Preauthorization Plan Development. At § 300.910(a)(1), EPA is finalizing requirements for the preauthorization plan's site-specific factors. While the revisions simplify the language and clarify the requirements, the Agency kept in place the fundamental elements that were contained in the former § 300.910(a) text. The provision states that preauthorization plans must, at a minimum, specify limits for the quantities and duration of use, and use parameters for water depth, distance to shoreline, and proximity to populated areas for discharge situations identified in which agents may be used. The Agency believes that clearly stating the use parameters in a preauthorization plan will make it easier for planners to address concerns of preauthorizing agent use and in turn for responders to authorize their use. In meeting these provisions, the preauthorization plans should document how both regional and logistical factors were addressed when establishing use limits and parameters for chemical and biological agents. Regional factors include the likely sources and types of oil that might be discharged, various potential discharge scenarios, and the existence and location of environmentally sensitive resources or restricted areas that might be impacted by discharged oil. Logistical factors include inventory, storage locations and manufacturing capability of available agents, availability of equipment needed for agent use, availability of adequately trained operators, and the availability of appropriate means to monitor agent use in the environment.

Several commenters requested clarification on the need to specify limits to the quantities and duration of agent use and the proposed use parameters for water depth, distance from shoreline, and proximity to populated areas; commenters noted that it is not realistic to predict all scenarios. EPA recognizes that oil discharges may occur under various scenarios. EPA does not envision that preauthorization plans would address every scenario imaginable, but instead will only address those specific circumstances under which RRT member agencies with roles and responsibilities under the NCP agree that an OSC does not need to obtain specific concurrence and consultations under § 300.910(b) in effectuating a preauthorized action. For example, a potential oil discharge scenario may involve a response that occurs over several days. The use of a chemical or biological agent (*e.g.,* surface dispersant use) during the initial response phase may be preauthorized in a manner such that any use beyond that initial response phase would be subject to § 300.910(b) and in limited circumstances subject to § 300.910(b). While the preauthorization plan must specify limits for the quantities and the duration of use, and use parameters for water depth, distance to shoreline, and proximity to populated areas, RRTs may wish to include other criteria in defining the scope of the preauthorization plan. Based on public comments, EPA is amending the final provisions to reflect that the limits for the quantities and the duration of use, and use parameters for water depth, distance to shoreline, and proximity to populated areas are the minimum criteria that RRTs must specify by inserting the phrase ''at a minimum'' before the specific criteria in the regulatory text.

Commenters supported considering environmental tradeoffs in determining response options that provide the greatest environmental protection by

identifying the affected biological resources and their habitats likely to be negatively impacted, as well as those that are expected to benefit. For example, a commenter suggested that the Agency rely upon the Net Environmental Benefit Analysis (NEBA) framework as a foundation for preauthorization planning, as opposed to artificially setting limits on dispersant use. EPA's understanding is that ''NEBA'' is a term used by some stakeholders in the response community to engage with various interested parties to consider available response options, including mechanical recovery. EPA also acknowledges that different stakeholders have varying perspectives on what factors beyond environmental considerations (*e.g.,* economic, health, and safety) are included in a NEBA, or what response options may provide the ''greatest environmental protection.'' While there is no prohibition on the use of environmental tradeoff methodologies, the use of such methodologies must conform with all applicable statutory and regulatory authorities.

A commenter disagreed with the use of the word ''likely'' in reference to the sources and types of oil that may be spilled and suggested keeping ''potential'' instead, as a more conservative term that is more appropriate for preauthorization planning. EPA believes the phrase ''likely sources and types of oil'' better focuses on the sources and types of oil specific to the preauthorization plan for which agents may be used. While RRTs and Area Committees should consider ''likely sources and types of oil'' in developing preauthorization plans, the Agency believes they should also have the flexibility to consider other potential sources and types of oil, as appropriate, and the final revisions do not preclude RRTs and Area Committees from considering them. In considering the use of the term ''potential'' as offered by the commenter, EPA decided to clarify the phrase ''various discharge scenarios'' as used in the proposed rule. EPA recognizes that when developing a preauthorization plan, Area Committees and RRTs should not misinterpret ''various discharge scenarios'' to only mean past incidences but should also consider potential discharges scenarios. While RRTs and Area Committees should consider past discharge scenarios, the Agency believes they should also have the flexibility to consider potential discharge scenarios. In this respect, EPA agrees with the commenter that the term ''potential'' is more appropriate and is amending the phrase in the regulatory text to include ''potential''. EPA believes the revised phrase ''various potential discharge scenarios'' more accurately reflects EPA's intent.

Some commenters expressed concern or requested clarification on the roles and authorities of RRTs and Area Committees in preauthorization planning. EPA agrees that in the development of preauthorization plans, RRTs should either provide Area Committees with an opportunity to provide input or should consider relevant information in ACPs (*e.g.,* Fish and Wildlife and Sensitive Environments Annex). The RRTs and Area Committees should identify all potentially affected biological resources and their habitats likely to be negatively impacted, and not only those that are expected to benefit. EPA amended the final provision to ensure that Area Committees are involved in preauthorization plan development. EPA notes that the broader area contingency planning provisions are established under § 300.210(c) and are outside the scope of this action.

Preauthorization Plan Approval. At § 300.910(a)(2), EPA is finalizing requirements related to the roles and responsibilities involved in reviewing and approving preauthorization plans, and procedures if preauthorization plan approval is withdrawn. The final action retains the concurrence requirement for preauthorization plans from the former version of the rule; given that preauthorization plans are developed during the contingency planning phase, DOC and DOI natural resource trustee concurrence is preferred over just consultation because it provides for sufficient time to identify and resolve natural resource concerns.

Commenters suggested that the preauthorization planning process be completed under mandatory timelines, including a suggestion that plans must be reviewed within a 90-day time frame, or that the Agency otherwise stipulate that the plan cannot be blocked from being used by an Area or Region. EPA does not believe that it is appropriate to establish specific deadlines for the review and approval of preauthorization plans because both the Area Committees and RRTs coordinate their approach to reviewing and revising existing preauthorization plans and determine what information they may need to amend their preauthorization plan, as appropriate. EPA believes RRTs and ACs should begin their reviews as expeditiously as possible where preauthorization plans exist, but they also must be afforded flexibility in implementing the final revisions to ensure preauthorization plans are up-to-date when implemented in the event of a discharge.

To be consistent with terminology for preauthorization plan approvals, EPA is revising the provision in the final action to substitute the phrase ''withdrawal of approval from a preauthorization plan . . .'' for ''withdrawal of concurrence . . .'' The amended rule offers specific procedures to follow should an authorizing agency decide to withdraw their approval from a preauthorization plan: the Area Committees and RRTs must address the withdrawal of approval from the preauthorization plan within 30 days of the withdrawal, allowing an opportunity to address the concerns. Additionally, the RRT must notify the National Response Team (NRT) of the final status of the preauthorization plan within 30 days from withdrawal. The absence of an approved preauthorization plan means authorizations for agent use are to be conducted in accordance with paragraph § 300.910(b) or in limited circumstances under § 300.910(d). Therefore, the Agency believes that the phrase ''the preauthorization plan becomes invalid and the authorization of use for chemical or biological agents must be performed according to paragraph (b)'' is unnecessary and redundant and is striking it from the final provision. The Agency continues to believe that preauthorization plans serve as a valuable advanced planning tool that supports decision making, and strongly encourages the resolution of any withdrawal of approval in a manner that addresses concerns raised.

Commenters expressed concerns over the potential impact of allowing for withdrawal of preauthorization plan approval. EPA disagrees that the ability to withdraw may incentivize the development of preauthorization plans with no intent of maintaining concurrence during a response. EPA also disagrees that the withdrawal of approval from a preauthorization plan subverts the OSC's authority to use dispersants and that this provision should be removed. RRT member agencies who have responsibilities in approving preauthorization plans have always had the discretion to withdraw their approval at any time. An OSC may still authorize the use of dispersants and other agents outside of an approved preauthorization plan in accordance with § 300.910(b) or in limited circumstances under § 300.910(d). Case-by-case authorization of use under § 300.910(b) is an appropriate and timely process to authorize the use of dispersants and other agents and should not delay response operations such as

the deployment of mechanical recovery. In contrast, restricting the flexibility to withdraw approval from a preauthorization plan could serve as a disincentive to approve a preauthorization plan or result in limiting the plan's scope and lead to more frequent requests for authorization by OSCs under § 300.910(b). EPA disagrees that the preauthorization plan should stay in effect for 30 days after withdrawal of approval while allowing RRTs and Area Committees to address the withdrawal. A withdrawal likely signals concerns amongst at least one of the approving bodies with actions or activities that had been preauthorized. The final provisions provide a 30-day timeframe for the RRT to notify the NRT of the status of the preauthorization plan after any such withdrawal. EPA believes that RRTs and Area Committees are likely to be aware of concerns prior to withdrawal of approval from a preauthorization plan, can work to resolve any perceived differences prior to any withdrawal, and are not prohibited from entering into new preauthorization plans addressing the same or similar areas in the future. For an active incident where chemical and biological agents have been authorized for use under a preauthorization plan, EPA encourages RRT member agencies with approval roles to work with the RRT to promptly resolve concerns and avoid potential withdrawal of plan approval during a response.

Several commenters suggested a need for public input and notification during the preauthorization plan approval process, including a requirement for public notification following the withdrawal of concurrence. Another commenter recommended a formal public review and comment period on each preauthorization decision, recommending that the RRTs and Area Committees should be required to provide a written peer-reviewed scientific and technical study to support any preauthorization plan, and provide a 60-day public review and comment period. EPA disagrees that the RRTs and Area Committees should be required to provide a written peer-reviewed scientific and technical study to support any preauthorization plan, or that they should provide a 60-day public review and comment period or formal public review and comment period on each preauthorization decision. The Agency believes that the RRTs and Area Committees should have the flexibility to tailor preauthorization plans to their regional needs. While EPA recognizes the benefits of public feedback on preauthorization plans including independent scientific input, the Agency does not believe it should be a mandatory requirement. Subjecting preauthorization plans to an external peer-review process may limit RRTs' and Area Committees' ability to utilize preauthorization plans. Nonetheless, public and private stakeholders may provide input, such as relevant scientific data and information, in area and regional contingency planning activities that are open to public participation, and RRTs and Area Committees retain flexibility to seek public comment or input on any preauthorization plan in accordance with applicable statutes and regulations if they believe such participation is warranted. EPA notes that the amendments to Subpart J include a public notification provision under § 300.910(i) *Reporting of Agent Use* to notify the public on chemical and biological agents used during a response and to provide certain required information.

In the finalized provision, EPA also made some editorial changes to the proposed text for increased clarity in addition to the specific changes described above.

Preauthorization Plan Reviews. At § 300.910(a)(3), EPA is finalizing new requirements related to the review and revision, if needed, of preauthorization plans. The review requirement is intended to ensure that preauthorization plans are actively maintained and updated to reflect revisions to the NCP Product Schedule. A periodic review, following a regular timeframe, is expected to ensure that the preauthorization plan is consistent with any revisions to the NCP Product Schedule, and also with revisions to ACPs, facility, and vessel response plans. The provision specifically requires reviews to be conducted at a minimum, after a major discharge (a ''major discharge'' means a discharge of more than 10,000 gallons of oil to the inland waters or more than 100,000 gallons of oil to the coastal waters) [3] or after a Spill of National Significance (SONS) relevant to the preauthorization plan area; to address revisions of the NCP Product Schedule impacting chemical or biological agents that may be individually listed within a preauthorization plan; and to reflect new listings of threatened and/or endangered species applicable to the preauthorization plan area. Review is to be done by the EPA RRT representative, the DOC and DOI natural resource trustees, and the RRT representative from the state(s) with jurisdiction over the waters of the area to which a preauthorization plan applies.

Several commenters recommended that additional entities should be able to participate in the review or comment process during the preauthorization plan review cycle (*e.g.,* local and tribal governments, the Occupational Safety and Health Administration (OSHA), Department of Health and Human Services (DHHS), and the public). EPA reiterates that all members of the ACs and RRTs will be afforded an opportunity to provide input during a review of a preauthorization plan. However, only the RRT representatives from EPA, the state(s) with jurisdiction over the waters of the area to which the plan applies, and the DOC and DOI natural resource trustees will have the authority to approve, disapprove, or approve with modification any revisions to an existing preauthorization plan. This approval process is consistent with the authorization procedures contained in the former § 300.910(a) and should minimize the time necessary for RRT approval of any amendments to an existing preauthorization plan. EPA amended the final provision by adding the phrase ''The RRT in consultation with the Area Committee(s) . . .'' to provide that review of preauthorization plans are coordinated with the applicable ACs so that ACs may amend relevant ACPs, as appropriate.

The proposal would have required plans to be reviewed at least every five years. Commenters provided a range of feedback on this proposed timeframe. EPA recognizes that some commenters supported a five-year review cycle, while others suggested shorter, longer, or no timeframes. As stated in the preamble to the proposed rule, a five-year review cycle is consistent with facility response planning requirements. EPA believes the five-year review process has worked well for facility response planning and believes preauthorization plans should be reviewed and revised in a similar fashion. While EPA still believes that a five-year review cycle is a reasonable time frame, the Agency also agrees with commenters that an alternative timeframe may be appropriate based on regional circumstances. Based on comments, EPA is amending the timeframe for preauthorization plan from five years to a regular timeframe established by the RRT and documented in the plan. Under the revised provision, the Area Committees and RRTs must still periodically review, and revise as needed, preauthorization plans. However, the Area Committees and RRTs are to establish the timeframe and document that timeframe in the

[3] See 40 CFR 300.5 ''Size classes''.

plan. The Area Committees and RRTs should also provide to the public the rationale for establishing said timeframe. EPA believes the revised provision is consistent with recommendations in the *National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling* report and EPA Inspector General report: *Revisions Needed to National Contingency Plan Based on Deepwater Horizon Oil Spill* (Report No. 11–P–0534) for periodic reviews of contingency plans. The Agency recognizes that development of preauthorization plans can be resource intensive; however, once developed, a periodic review, and revision as needed, should require much less effort. EPA disagrees that it is overly burdensome for RRTs to periodically review, especially with the revised provision to provide additional flexibility to the RRTs to establish and document their own review schedule.

EPA also made other changes to the proposed text based on comments received. Several commenters suggested additional triggering events for preauthorization plan review. The Agency agrees that changes other than the trigger events specifically listed in the revised rule may impact the conditions under which the use of chemical and biological agents is preauthorized. EPA amended the final provision to clarify that the triggering events are minimum criteria by including the phrase ''Reviews must also be conducted in any affected region, at a minimum . . .''. Some other commenters stated that reviews should be required only after major NCP Product Schedule listing changes to agents that may be used in the preauthorization plan area, as opposed to smaller less significant administrative changes in the NCP Product Schedule. The final provisions provide for preauthorization plans to be reviewed to address revisions to the NCP Product Schedule ''impacting chemical or biological agents that may be individually listed within a preauthorization plan.'' The revision is intended to avoid confusion with other, non-substantive changes to the NCP Product Schedule. EPA also amended the final provision to add the phrase ''. . . relevant to the preauthorization plan area; . . .'' to clarify the provision applies to the relevant RRT. The amendment also avoids misinterpretation that an RRT not impacted by a major discharge or by a Spill of National Significance (SONS) would be required to review their preauthorization plan as a result of events outside their region. Similarly, EPA amended the final provision by adding the phrase ''. . . applicable to the preauthorization plan area'' to clarify the applicability of the provision to the relevant RRT and to avoid confusion that new listings of threatened and/or endangered species in one or more regions requires all RRTs to review their preauthorization plans.

(b) Use of Agents Identified on the NCP Product Schedule or Use of Burning Agents on Oil Discharges Not Addressed by a Preauthorization Plan

The Agency is revising § 300.910(b) to address the use of chemical or biological agents identified on the NCP Product Schedule or the use of burning agents in spill situations that have not been addressed in preauthorization plans. The revisions clarify the authorities and responsibilities of relevant parties and the factors to consider when authorizing the use of agents in these situations. The revisions also clarify that the provision applies to burning agents as well as products that are listed on the NCP Product Schedule. The revisions to Subpart J do not change, from the former rule provisions, the Agency's fundamental policies regarding the roles of Federal, state, Tribal, and local representatives involved in an oil discharge response. The revisions maintain from the former rule the OSC's authority to authorize the use of chemical or biological agents on the oil discharge; the concurrence of the EPA representative to the RRT and, as appropriate, the concurrence of the RRT representatives from jurisdictional states; and the requirement for consultation with the DOC and DOI natural resource trustees.

As with paragraph (a), the final provisions under paragraph (b) specify the parameters that must be considered by the OSC for authorizing agent use on a case-by-case basis. Similar to preauthorization plans, the scope of the case-by-case authorization may include other criteria. EPA is amending the final provisions, relative to the proposal, to reflect that the parameters for the use of agents, including the quantities requested to be authorized, the duration of use, the depth of water, the distance to shoreline and proximity to populated areas, are the *minimum* criteria OSCs must specify by inserting the phrase ''for their authorization request to the RRT, at a minimum'' in the final regulatory text. The Agency is also replacing the phrase ''. . . to be used . . .'' with ''. . . requested to be authorized . . .'' to avoid confusion that the OSC must use the entirety of the requested quantities, rather than not exceeding the quantities authorized by the RRT. The Agency also specifies that OSCs should address factors such as environmentally sensitive resources or restricted areas that might be impacted, agent inventory and storage locations, agent manufacturing capability, availability of equipment needed for agent use, availability of adequately trained operators and appropriate means to monitor agent use in the environment.

Some commenters, for various reasons, opposed the use of any agents if the agents were not approved in a preauthorization process, even if they are listed on the NCP Product Schedule. EPA disagrees with commenters that agents should not be authorized for use if they are not covered under an approved preauthorization plan. EPA also disagrees that case-by-case authorization under § 300.910(b) provides a lesser standard for authorization. EPA notes the time critical nature of oil discharge responses and that the circumstances surrounding every potential discharge situation are not foreseeable or lend themselves to pre-planning. Not having a preauthorization plan approved by relevant RRT Agencies does not preclude the RRT or OSC from considering chemical or biological agent use for response during planning discussions. However, neither an approved preauthorization plan under § 300.910(a) nor case-by-case authorization under § 300.910(b) provide for a specific authorization outcome. Authorization of use determinations regarding chemical or biological agents are made for each individual discharge with consideration of the incident specific conditions and must be consistent with CWA section 311(d)(2)(G) and the Subpart J regulations. EPA believes there are multiple opportunities through regional and area contingency planning and from provisions included in the final action that RRTs may use to support case-by-case decision making. Contingency planning processes (*e.g.,* RCPs, ACPs, and vessel and facility response plans) may inform whether the use of chemical or biological agents is appropriate, including during case-by-case authorization under § 300.910(b). Separate from the regional and area contingency planning requirements described in the NCP, EPA acknowledges the benefits from advanced planning to support expedited decision making. The Agency recognizes that incident-specific authorization (*i.e.,* case-by-case authorization) for discharge situations

not covered by preauthorization plans may benefit from planning in advance to support expedited decision making. The final action supports contingency planning efforts by establishing provisions for RRTs to gather supplementary toxicity and efficacy testing, monitoring, or to obtain available data or information relative to the use of a chemical or biological agent (see § 300.910(g)). RRTs may need additional testing or information for situations that fall under § 300.910(b).

Some commenters advocated for EPA to require concurrence from natural resource trustees rather than consultation under § 300.910(b). Section 1011 of the Oil Pollution Act (OPA) states that ''*The President shall consult with the affected trustees designated under section 1006 on the appropriate removal action to be taken in connection with any discharge of oil.*'' Executive Order 12777 delegates this responsibility to the OSC. EPA believes the consultation requirement under § 300.910(b) is consistent with statutory requirements under OPA and maintains the approach of consultations with DOI and DOC natural resource trustees in the final provisions. It is important to note that consultation with the trustees does not mean that the OSC must obtain the concurrence of the trustees. EPA recognizes the decision to use a chemical or biological agent is highly dependent upon specific circumstances, locations, and conditions which must be assessed by the OSC and relevant RRT member agencies. The EPA and the state RRT representative(s), and DOC and DOI natural resource trustees, are in a unique position to understand local conditions and to collect and coordinate quickly the necessary local information.

Several commenters addressed the proposed removal of the term ''when practicable'' from the former rule text regarding consultation with the DOC and DOI. Some supported the removal of this language, stating that consultation and concurrence should always be pursued during case-by-case response decision making, since the situations may present unique challenges. Other commenters opposed the removal of the term ''when practicable'' and recommended leaving the language as is, asserting that it has worked well for years and that continued flexibility in the approval process is warranted. Commenters suggested that delays in discharge mitigation may occur when waiting for consultations, and that EPA should establish a consultation time limit. The Agency believes that the case-by-case decision making should include consultations with natural resource trustees since these discharge situations may present unique challenges when selecting a response option that involves chemical or biological agents. EPA also notes that OPA 1011 (33 U.S.C. 2711) provides for consultations with the affected trustees on the appropriate removal action to be taken in connection with an oil discharge. Furthermore, § 300.305(e) provides that the OSC shall consult with the affected trustees on the appropriate removal action to be taken. EPA disagrees with concerns that seeking natural resource trustee input could result in delays in the use of a chemical or biological agent. While EPA supports timely decision making, it does not interpret timely decision making to necessarily mean concurring with an OSC request to authorize the use of a chemical or biological agent; consultation can allow for a more immediate exchange of information and ideas when addressing a time-critical response. EPA disagrees with establishing a consultation timeframe (*e.g.,* 36 or 48 hours) for natural resource trustees and notes that it is contrary to the intent of seeking input on a removal action (*e.g.,* chemical agent use) prior to its use. While the Agency recognizes the time-critical nature of decision making during a response, advances in communication technology (*e.g.,* smart phones, email) provide OSCs with increased capabilities to communicate quickly. The Agency believes it is reasonable to expect an OSC to be able to notify and explain the circumstances requiring use of the certain agents to natural resource trustees in a timely manner. The final revisions to § 300.910(b) include removing the phrase ''when practicable'' with respect to consultation with the DOC and DOI natural resource trustees. EPA believes that the final revisions to Subpart J better align with the statutory and regulatory provisions.

A commenter supported the provision to authorize only products that are appropriate and used for their intended purpose under § 300.910(b). To provide additional editorial clarity, the revised provision replaces ''. . . chemical or biological agents identified on the Schedule for their intended purpose . . .'' with ''. . . for the specific purpose for which they were listed . . .''

A commenter expressed opposition to the requirement in § 300.910(b) to document the parameters for use of agents when there is not a preauthorization plan, emphasizing the need for quick decision making, noting that the information is already required elsewhere (33 CFR parts 154 and 155) or unnecessary at the time when action is required. Another commenter recommended revisions to the rule text which would increase the specificity of these parameters. While EPA supports timely decision making, EPA does not interpret timely decision making to be inhibited by documentation requirements that both inform RRT Agencies with roles and responsibilities under the NRT for chemical and biological agent use and support the OSC's decision making. Furthermore, EPA recognizes the request that § 300.910(b) increase the specificity of the parameters for the use of products. EPA agrees that site-specific factors are an important consideration when authorizing the use of a chemical or biological agent. For example, environmental characteristics such as local ocean water circulation patterns may affect oil transport and therefore influence whether dispersants are authorized for use, and if so, to what extent. Even within a chemical agent category (*e.g.,* dispersants), environmental conditions may vary locally, if not seasonally. EPA agrees that such information, if available, should be documented during case-by-case authorization of use. However, there may be several site-specific factors to consider where such information may be unavailable; the fact that information is unavailable, including assumptions used in lieu of unavailable information, should also be documented. EPA believes the relevant Agencies should be afforded flexibility in considering relevant factors when authorizing chemical and biological agents and to tailor the scope of the authorization with consideration of site-specific conditions. EPA does not believe that it is appropriate or feasible to include all potential site-specific information within the regulation. Rather, relevant site-specific factors to consider during case-by-case authorization are more appropriately addressed through development of guidance materials as appropriate, as well as through informed decision making.

A commenter requested that EPA provide notification within 24 hours of spills and product use to health care providers and the public, in the language(s) spoken in the impacted region. The final action includes new provision under § 300.910(i)(2) that requires the OSC to provide notification to the public in support of §§ 300.135(n) and 300.155(a) and (b). Under §§ 300.135(n) and 300.155(a) of the NCP, the OSC should ensure all appropriate public and private interests are kept informed and that their

concerns are considered throughout a response, to the extent practicable. However, EPA did not include a specific requirement to provide the notification in the language(s) spoken in the impacted region. The reporting provision does not preclude including public notification in different languages and EPA encourages consideration of impacted communities when communicating response actions, including developing materials in languages understood by local communities. However, it is impractical to require an OSC to provide notification in all language(s) spoken in the impacted region during an emergency response where chemical or biological agents may be authorized as the Agency cannot predict where and when an oil discharge occurs. The OSC retains discretion to provide public notification in additional languages if the OSC determines it to be appropriate.

A commenter stated that changing the language in this section, from ''navigable waters threatened'' to ''waters and adjoining shorelines threatened'' creates additional barriers to use dispersants and limits OSC actions. Another commenter stated that the proposed updates conflict with E.O. 12777 and the CWA because they do not distinguish between coastal and inland zones for planning and operational decision making reserved for the area where the OSC is directing the response. EPA believes that the amended provision provides consistency with the provisions in § 300.910(a); the Agency is not limiting the jurisdictional scope of the NCP as provided under section 311(b)(3) of the CWA.

In the final rule provision, EPA also made some editorial changes to the proposed text for increased clarity in addition to the changes described above.

(c) Burning Agents

EPA proposed to replace the current authorization of use for burning agents in § 300.910(c) to provide greater flexibility to OSCs for authorizing the use of burning agents. Specifically, the Agency proposed that OSCs may authorize the use of burning agents for authorized in-situ burns. EPA received comments that supported the proposed amendments, that requested clarification of the proposed changes, and that raised concerns regarding the consultation and concurrence role of the RRT. Based on public comments received, EPA is not revising § 300.910(c) as proposed, but is instead reserving § 300.910(c) and is amending the regulatory text in § 300.910(a) and (b) to specifically clarify that § 300.910(a) and (b) apply to the authorization of use of burning agents. For preauthorization requirements under the § 300.910(a), the final provisions maintain the previous approach to address burning agents. Under § 300.910(b), the final revisions incorporate burning agents in the case-by-case authorization, along with chemical and biological agents listed on the NCP Product Schedule. This approach eliminates the need to have a separate regulatory requirement for burning agents for case-by-case authorizations. To maintain consistency with the regulation's previous structural organization familiar within the response community, EPA is reserving § 300.910(c).

Several commenters expressed general concern about or opposition to the use of burning agents and the use of in-situ burning as a spill response method. Additionally, several commenters expressed concern regarding various environmental impacts, particularly the impacts to aquatic and benthic environments and to air quality, from the use of burning agents and in-situ burns. While burning agents are used in de minimis quantities relative to the discharged oil they would be applied to, and when considering the response as a whole, EPA recognizes that the use of burning agents and in-situ burning may have environmental impacts. However, Subpart J does not state or imply that chemical or biological agents are preferred over other response options. Neither the current nor final rule mandates the use of chemical or biological agents, nor removes them from consideration as a response option. Rather, the Subpart J regulations provide a framework for authorizing their use, as appropriate. EPA believes that the circumstances surrounding oil discharges may vary and therefore there are many factors influencing the choice of response methods. During a response, in-situ burning may be considered along with other response options. Burning agents may be used as part of the in-situ burning process. Depending on incident-specific conditions, timely deployment of several response options may occur while tradeoffs are evaluated to determine which response option (or combination thereof) addresses response objectives. In-situ burning may reduce the need for collection, storage, transport, and disposal of recovered material by converting a fraction of the oil to gaseous combustion products. However, the Agency also recognizes that combustion products may include smoke or soot in addition to carbon dioxide and water. Monitoring of in-situ burns through information collection can inform decision making during a response. EPA recognizes comments regarding air quality concerns, including generation of particulates and toxic gases (specifically VOCs and PAHs) and potential impacts on communities. Beyond Subpart J, the NCP includes provisions for OSCs to address health and safety concerns of workers under § 300.150. The NCP recognizes that the OSC may call upon DHHS to assist in determining public health threats throughout any response action (see § 300.135(h)). In addition, the OSC may monitor air quality to identify potential public health concerns from air residues from in-situ burning. EPA also recognizes that in-situ burning of crude petroleum oil may result in residues that are not only emitted to the air, but are also entrained in the water column. In-situ burning that is initiated using burning agents may lead to the possibility for organisms dwelling in the water column to come in physical contact with residues from the combusted oil. While the burning agent itself is expected to be consumed through combustion, the Agency believes that the harmful impact to an organism caused by physical contact (*e.g.,* ingestion by fish) with the residue from combusted oil from an in-situ burn initiated by a burning agent is just as concerning as the effects of any residual burning agent. Subpart J does not mandate the use of burning agents. Rather, it provides a framework to consider their authorization by RRTs and OSCs. EPA recognizes the commenters' concerns regarding potential environmental impacts from in-situ burning initiated by burning agents. The final provisions under § 300.910(a) and (b) maintain the current approach that keeps RRTs, including state(s) and natural resource trustees, actively involved in the authorization of burning agents for in-situ burns. EPA believes that the fact that an in-situ burn initiated by a burning agent may cause oil to enter the water column is sufficient reason for RRTs or OSCs to consider whether supplemental monitoring of in-situ burn residue is appropriate. In-situ burning operations are subject to OSC oversight, with OSC authorization required for burning agent use.

Some commenters supported not listing burning agents on the NCP Product Schedule, and several other commenters disagreed, stating that burning agents, like other spill response agents, should be listed on the schedule and be regulated with the same efficacy, toxicity, and public ingredient

disclosure standards as other listed agents. EPA recognizes comments supporting and opposing the listing of burning agent products on the NCP Product Schedule. EPA recognizes burning agents as a type of chemical agent that must be authorized for use in accordance with the provision under § 300.910. EPA disagrees with the comment that the increasing frequency of burning agent use contradicts the argument that the small quantities make listing considerations unnecessary. The Agency believes that burning agents are used in de minimis quantities relative to the discharged oil they would be applied to, and when considering the response as a whole, and are expected to rapidly burn off during use, which serves to remove them from the water. Burning agents are generally added to an oil slick to initiate an in-situ burn after which the oil slick itself is expected to maintain the burn. Although EPA is maintaining the current approach of not specifically listing burning agent products on the NCP Product Schedule, RRTs may still gather additional information on burning agents and monitor their use under § 300.910(g) *Supplemental Testing, Monitoring, and Information.* EPA agrees with comments that an in-situ burn may raise concerns regarding environmental impacts and believes that maintaining the current approach keeps RRTs appropriately and actively involved in the decision making to authorize the use of burning agents used in in-situ burning. Furthermore, provisions within the NCP but outside the scope of this rulemaking include requirements for OSCs to address health and safety concerns of workers and the public. For example, § 300.150 provides requirements to address worker health and safety.

(d) Temporary Exception

EPA is revising § 300.910(d) to clarify the intent of the existing exception to the preauthorization and case-by-case authorization of use regulations. The Agency is including the term ''temporary'' as a qualifier to the final provision's title, to reflect that there is a time limitation for operating under this provision during a response. The temporary exception provision provides that the OSC may authorize the use of any chemical or biological agent, whether it is identified or not on the NCP Product Schedule, without obtaining the concurrence of the EPA RRT representative and, as appropriate, the RRT representatives from the state(s) with jurisdiction over the waters and adjoining shorelines threatened by the release or discharge, and without consultation with the Department of Commerce and the Department of the Interior natural resource trustees. That is, it allows OSCs to authorize the use of any agent when it is determined that the use of the agent is necessary to prevent or substantially reduce an imminent threat to human life that cannot be immediately addressed by other procedures or provisions of the NCP. The Agency believes that the protection of human life is the primary consideration in responding to an oil discharge. Accordingly, the OSC must have the ability to use any agents that would effectively and expeditiously mitigate the threat to human life, particularly in situations where chemical agents on the NCP Product Schedule are not immediately available. The final provision includes the phrase ''and without consultation with the Department of Commerce and the Department of the Interior natural resource trustees'' to further clarify the OSC authority under this provision relative to concurrences and consultations otherwise required for the authorization of chemical and biological agent use under § 300.910(a) or (b). However, this exception cannot be used as a substitute for compliance with § 300.150, including the use of personal protective equipment, or when there is sufficient time to seek authorization in accordance with § 300.910(a) or (b). EPA notes that the temporary exception does not affect other authorities available to an OSC under the NCP, separate from Subpart J, to take actions to address a threat to human life, such as ordering evacuations or repositioning equipment and personnel.

The exception provides for authorization of agent use to occur, within a limited timeframe and for the specific purpose of preventing or substantially reducing an imminent threat to human life, if there is insufficient time to obtain the required concurrences for preauthorization or authorization of use for products on the NCP Product Schedule under paragraphs (a) and (b) respectively. To more clearly describe when the exception must not be used, EPA amended the final provision to add the phrase ''. . . or when there is sufficient time to seek authorization in accordance with paragraphs (a) or (b) of this section.'' The provision is not intended for the OSC to override an authorization decision of an RRT on chemical and biological agent use for the specific incident conditions. The revision in the final action is consistent with the intent of the provision as described in previous NCP final rulemakings (see 55 FR 8808, March 8, 1990).

The Agency recognizes oil discharges generally will not pose threats to human life of an immediacy or magnitude that would warrant invoking the temporary exception provision. However, EPA believes that there may be unforeseen circumstances where an oil discharge poses an immediate life-threatening situation, and for which an OSC must have the ability to use agents that could effectively and expeditiously mitigate the imminent threat to human life. The Agency interprets a situation that poses an imminent threat to human life to be one which could reasonably be expected to cause death or serious physical harm such that a part of the body would be severely damaged. Further, the Agency also interprets that this imminent threat to human life must be immediate for this exception provision to be applicable, meaning that it is expected that death or serious physical harm could occur immediately or before any other action can be otherwise implemented. The former language in § 300.910(d) used the terms ''hazard'' and ''threat'' interchangeably. The amended regulatory language replaces ''hazard'' with ''threat'' for consistency and to establish the intent and expectation of the use of the exception more clearly.

Several commenters recommended that the Agency remove the exception provision. These commenters claimed that it is unclear what circumstances would occur requiring the OSC to decide to apply dispersants to protect human health; the exceptions are not necessary; and that the rarity of use of this exemption is evidence that most oil discharges do not pose threats to human life of an immediacy and magnitude that warrant the exception provision. Some commenters suggested that without more direction, strict guidelines, or guidance from the Agency regarding when this provision could be invoked, the proposed rule allows for potential overreach in the use of the exception authority. The Agency recognizes the comments opposing the exception provision and the selection of spill response agents to focus on human health risks. Nonetheless, the Agency reiterates that protection of human life is the primary consideration in responding to an oil discharge. EPA notes that the other authorities available to an OSC under the NCP to take actions to address a threat to human life, such as ordering evacuations or repositioning equipment and personnel, are not affected by the revisions to the temporary exception provision in this final action. The Agency is maintaining

the exception provision and is finalizing the proposed amendments with modifications to further clarify the provision's intent and address the concerns regarding potential overreach. The finalized exception provision provides the OSC this authority only in circumstances to prevent or substantially reduce an unforeseeable threat to human life that cannot be immediately addressed by other procedures or provisions of the NCP. Additionally, the Agency added the term ''individual circumstances'' to provide the OSC flexibility to address one or more separate unforeseen threats to human life at any time during a response. The intent behind this temporary exception provision is to eliminate potential delays in responding to life-threatening situations. The modifications finalized in this action do not change previous policy but rather clarify the intent and scope of the exception. While the Agency expects this temporary exception to be rarely needed, it continues to believe it is appropriate that the NCP include a temporary exception provision to capture unforeseen and immediate life-threatening situations. However, it is important to note that, while all threats to human life are health and safety issues, not all health and safety issues in turn pose an immediate threat to human life. The Agency stresses the intent is for this temporary exception to be applicable only to those imminent life-threatening situations which cannot be addressed through the implementation of other procedures or provisions in the NCP and has amended the final provision accordingly. The final provision also clarifies that the exception must not be used as a substitute for compliance with § 300.150 of this part, including the use of personal protective equipment.

Some commenters suggested that the OSC should only be allowed to use products that are listed on the NCP Product Schedule under the exception; a commenter stated that use of products not on the NCP Product Schedule negates the purpose of contingency planning, and that the OSC should only be able to authorize the use of agents listed on the NCP Product Schedule when the agent is necessary to protect human life. Some commenters expressed concerns regarding use of agents without peer-reviewed scientific or technical evidence to show that the dispersant chemical is safe for humans, wildlife, or the ecosystem. A commenter noted that if the work required to add a product to the NCP Product Schedule was not complete prior to a spill then responders should not have the option of bypassing the process by using the exception clause. The Agency shares the concern for any use of chemical or biological agent products not listed on the NCP Product Schedule. The fact that the exception applies broadly to include chemical or biological agents not identified on the NCP Product Schedule necessitates the temporary nature of the exception. The Agency reiterates that the OSC authorities provided under this temporary exception are not intended to allow bypassing or circumventing the processes established under Subpart J. Specifically, the temporary exception is not intended to bypass those provisions for testing and listing chemical and biological agent products established under § 300.915. The provisions for testing and listing chemical and biological agent products on the NCP Product Schedule are intended to ensure that these products have met baseline efficacy and toxicity requirements, promoting the use of safer and more effective spill mitigating products. The limited timeframe addresses concerns regarding the extent of the temporary exception applicability, and promptly brings back into the decision making process the required environmental considerations that are built into the authorization of use provisions under § 300.910(a) and (b), including the use of chemical and biological agent products only when they are listed in the NCP Product Schedule.

Several commenters requested a 24-hour (or shorter) timeframe instead of 48 hours for OSC product use notification and concurrence. These commenters indicated that a 48-hour window for the OSC to operate without concurrence seemed excessive, and that members of the RRT and natural resource trustees should be engaged in this type of decision making as soon as is feasible, as well as OSHA and the DHHS for human health impacts. They noted that with advances in communication technology, a 24-hour timeframe for OSC notification should be attainable. The Agency acknowledges the support for specifying a timeframe for the temporary exception to best clarify the intent that this provision is to be a temporary and limited measure. Based upon comments, the Agency is finalizing the provision's language to modify the proposed 48-hour timeframe for which the temporary exception would be applicable. The Agency is finalizing a further limited timeframe of 24 hours, recognizing that those entities with concurrence and consultation roles under Subpart J, and who bring relevant environmental expertise to these types of decision making, should indeed be engaged as soon as possible. Additionally, this change acknowledges the advances in communications since the exception provision was last revisited under the NCP in 1994. Technologies are now available that allow the OSC to notify the EPA RRT representative, the state(s), and natural resource trustees of this decision within the 24-hour timeframe, if not sooner. This 24-hour timeframe further addresses concerns regarding the extent of the temporary exception's applicability, and promptly brings back into the decision making process the required environmental considerations that are built into the authorization of use provisions under § 300.910(a) and (b). The final amendments also include the phrase ''after initial application'' to further clarify when the 24-hour timeframe begins. The timeframe in the final rule balances the need to address an unforeseen imminent threat to human life during a response with the roles and responsibilities of EPA, the state(s), and DOI and DOC natural resource trustees regarding chemical or biological agent use under § 300.910(a) or (b). EPA notes that the temporary exception provision does not affect other authorities available to an OSC under the NCP, separate from Subpart J, to take actions to address a threat to human life, such as ordering evacuations or repositioning equipment and personnel.

Many commenters expressed support for the notification requirements in § 300.910(d). A commenter stated that the notifications should be made available to the public for awareness of the imminent threat to human life and the use of products to address the threat. Some other commenters cited concern regarding the notification requirement and recommended that there should not be any limits on the OSC's ability to make decisions protecting human life. A commenter asserted that the requirements are inappropriate, and that the Agency has not adequately justified the proposed notification requirements in terms of additional benefits compared with the existing requirements. The Agency recognizes the concerns regarding the notification requirements within the temporary exception. The final regulatory language includes the requirement for the OSC to notify as soon as possible, and to document the circumstances and the reasons for use of the agent, to the EPA RRT representative and, as appropriate, the RRT representatives from the affected state(s) and the DOC and DOI natural resource

trustees. While the Agency had proposed ''immediate'' notification, it believes that requiring notification ''as soon as possible'' is adequate in conjunction with a reduction in the timeframe for which this exception is applicable from 48 hours to 24 hours. The expectation is that this information will be provided to those federal and state entities with concurrence and consultation roles within a timeframe to consider further chemical or biological agent use. While the Agency recognizes the comment regarding limitations on the OSC's ability to protect human life, it does not believe that the notification requirement to the RRT members in any way hinders the OSC's ability to make decisions to protect human life. The Agency notes the notification provision does not apply to other authorities available to an OSC under the NCP, separate from Subpart J, to take actions to address a threat to human life. The Agency modified the regulatory language by changing the ''immediate'' reporting requirement terminology to ''as soon as possible,'' which still provides for the information to promptly be provided to those entities with concurrence and consultation roles. Additionally, the regulatory language was modified to add the phrase ''authorized pursuant to this paragraph'' to clarify the documentation requirement under the temporary exception.

Some commenters suggested that exceptions may not be protective of human health and safety, expressing concern with the replacement of the term ''worker safety'' with ''human life.'' These commenters indicated that the Agency should clarify the difference between threats to worker safety and protection of human life and indicate why the proposed change was needed. Other commenters requested that the Agency revise the section to clearly include worker safety, or to clarify that ''worker safety'' is considered the same as ''the protection of human life.'' The Agency disagrees that all worker safety considerations in a response would necessarily equate to threats to human life. EPA recognizes that all responses present multiple health and safety challenges. The Agency reiterates that, while all threats to human life are worker health and safety issues, not all worker health and safety issues pose an immediate threat to human life. The temporary exception provision is intended to capture unforeseen and immediate life-threatening situations. For those rare and unexpected situations which cannot be immediately addressed by any other means, this temporary exception provision allows the OSC to consider whether the use of an agent is appropriate. The exception provision being amended by this action did not previously include the term ''worker safety,'' but rather speaks to human life. Similarly, the Agency did not include the term ''worker safety'' in the proposed rule. The Agency is clarifying the term relative to the temporary exception to mean a ''threat'' to human life. While the provision before the amendment used the terms ''hazard'' and ''threat'' interchangeably, the final action replaces ''hazard'' with ''threat'' for consistency and to clearly establish the intent not to broadly cover ''worker safety.'' Section 300.150 of the NCP establishes worker health and safety provisions to ensure these concerns are addressed during all response actions. Specifically, the provisions provide for an occupational safety and health program, in compliance with applicable worker health and safety provisions of the Occupational Safety and Health Act of 1970 (OSH Act), to be available for the protection of workers at the response site. Among the OSH Act provisions are requirements for a site-specific health and safety plan that must include, at a minimum, employee training, personal protective equipment, medical surveillance, and air monitoring. In this amendment, the Agency is clarifying the regulatory text to specifically state that the exception is not to be used as a substitute for compliance with § 300.150 of this part, including the use of personal protective equipment; § 300.150 of this part is outside the scope of this action.

In the finalized provision, EPA also made some editorial changes to the proposed text for increased clarity.

(e) Prohibited Agents or Substances

Sinking Agents. The Agency is maintaining in § 300.910(e)(1) the current prohibition for the authorization of use of sinking agents and has clarified in the regulatory text that the prohibition applies to any chemical agent, biological agent, or any substance that is used to directly sink the oil to the bottom of a water body. EPA believes that the final revisions better reflect EPA's intent and avoid potential confusion with the use of other chemical and biological agents. The Agency believes the prohibition on sinking agents is appropriate in all cases and is consistent with the existing restriction in § 300.310(b) of NCP Subpart D. EPA notes that the final provision applies to sinking agents which are defined under § 300.5 as ''substances,'' and not included in the definitions of chemical or biological agents. The final action modifies the section title to include ''substances'' to provide greater clarity to the applicability of the section.

Commenters recommended that the proposed rule language be further amended to recognize the potential for some products to behave as sinking agents depending on environmental conditions; they suggested that the description of the prohibited agents should include those with the potential to cause oil to sink based on the receiving environment. Commenters also suggested that the Agency should define the difference between ''dispersing below the surface'' and ''sinking.'' The purpose of certain chemical agents (*e.g.,* dispersants) is to entrain oil into the water column; the definition of dispersants in the previous and final rules acknowledge dispersants entrain oil ''into the water column.'' EPA recognizes that, while these products are intended to transfer oil into the water column, they are distinct from sinking agents. To reflect commenter concerns, the Agency revised the proposed text, so that the finalized amendment prohibits ''sinking agents, or any other chemical agent, biological agent, or any substance that is used to directly sink the oil to the bottom of a water body.'' Refer to the section on definition of sinking agents in this preamble for further discussion.

Some commenters requested a requirement for a screening test or standard functional approach to determine if an agent is a sinking agent. A commenter noted that the prohibition of sinking agents is undermined if a product's propensity to act as a sinking agent is only discovered after the product has been used in a discharge event. The commenter further suggests that a test is needed to identify products that are otherwise categorized as dispersants or other agents, but which have the effect of submerging and sinking oil, because these products should also be recognized as sinking agents and be prohibited. EPA acknowledges the commenters' request for a screening test or standard functional approach to determine if an agent is a sinking agent. While the Agency is not including such a test or functional approach in this final action, the provisions finalized under § 300.915(a)(12) include that product manufacturers must provide physical and chemical properties such as specific gravity as part of the product submission package for listing on the NCP Product Schedule. In addition, the final rule at § 300.910(g) provides that the RRT may require available data or

information about agents be provided during planning or at the time of a response, allowing for modifications to the response as necessary. EPA believes responses to oil discharges are site-specific, and this approach provides flexibility to consider site-specific conditions.

Nonylphenol (NP) or nonylphenol ethoxylates (NPEs). The Agency had also proposed to add a prohibition from listing on the NCP Product Schedule and from authorizing use of any chemical or biological agents that contain nonylphenol (NP) or nonylphenol ethoxylates (NPEs) as components. However, the Agency has determined that chemical agents that have either NP and NPEs as components will not be prohibited from use under this final rule.

EPA proposed prohibiting NP and NPE to reflect the Agency's concerns for these substances as presented in EPA's Nonylphenol and Nonylphenol Ethoxylates Action Plan. The Agency proposed a Significant New Use Rule (SNUR) in September of 2014, which has not been finalized to date. The Agency is not finalizing the 2015 Subpart J proposed amendment on NP and NPE since final action has not been taken on the SNUR. EPA is reserving § 300.910(e)(2) in lieu of finalizing the proposed amendments. However, EPA notes that the final provisions of this rulemaking limit the scope of information that can be claimed as Proprietary Business Information (PBI) as part of a product submission. Information of product components will be available for RRTs and OSCs to consider as appropriate when reviewing authorization of use scenarios, including whether those products contain NP or NPE substances.

Other agents. Commenters on the proposed rule requested prohibitions on the use of chemical or biological agents that are formulated with any endocrine disrupting compounds (EDCs); that degrade in a manner such that its byproducts contain prohibited substances; that contain known or suspected human health hazards as listed on the material safety data sheet (MSDS) or safety data sheet (SDS); or that contain known or suspected carcinogens, hemolytic chemicals, mutagens, neurotoxins, teratogens, and that demonstrate human and aquatic toxicity. The Agency recognizes that there may be other substances that, given their use circumstances, may be of concern. The Agency has focused this final action on maintaining the existing prohibition of sinking agents. The Agency recognizes that there may be environmental and health concerns associated with any response. While the final action includes product information requirements focused on environmental impacts, the information may also be used by OSCs to address broader health and welfare concerns. For example, the final rule contains a provision to include the SDS for the product as part of the submission package (see § 300.915(a)(5)). The final rule also includes a requirement under § 300.915(a)(11) for the submitter to provide for environmental fate information on the persistence, bioconcentration factor, bioaccumulation factor, and biodegradability of the product and all of its components in the environment. Further, the final provisions at § 300.950 limit the information that can be claimed as Proprietary Business Information (PBI) as part of a product submission for listing on the NCP Product Schedule, so that product manufacturers will not be allowed to withhold information on product components. Thus, product component information will be available for RRTs and OSCs to consider as appropriate, for planning and authorization of use within the respective Area or Regional Contingency Plans. These considerations may include, for example, whether products contain substances of concern to human health or aquatic hazards. The final provision also includes updated ecotoxicity testing protocols and the listing thresholds for ecotoxicity.

A commenter expressed opposition to the proposal's opening language which they believed would allow the exception clause in § 300.910(d) to apply to § 300.910(e) and allow the OSC to use a prohibited product. The Agency disagrees with the commenter's interpretation of the proposed regulatory text in § 300.910(e). The temporary exception under § 300.910(d) applies to a ''chemical or biological agent.'' While subject to the provisions under Subpart J, the definitions of chemical or biological agents do not include sinking agents. Therefore, sinking agents are not included in the temporary exception under § 300.910(d). Nevertheless, in the final action, EPA is not including the proposed opening clause to the provision, ''Notwithstanding paragraph (d) of this section . . .'' because it is unnecessary and to avoid the misunderstanding described by the commenter.

(f) Storage and Use of Agents Listed on the NCP Product Schedule

The Agency is adding a new provision, § 300.910(f), to complement the existing information requirements for the person or entity submitting a product for listing (''submitter'') in § 300.915. The new requirements focus on the use of this information by the responder and the OSC. EPA has organized the final provisions into subsections (f)(1) and (f)(2) for greater clarity. Specifically, the provision at § 300.910(f)(1) requires the OSC to only authorize for use those products listed on the NCP Product Schedule that are documented and certified by the responsible party or its representative to have been stored under the conditions specified by the submitter of the product for listing, including the maximum, minimum and optimum temperatures, humidity and any other relevant conditions, and whose date of use does not exceed the expiration date listed on the container's label, unless otherwise specified for expired products as provided in § 300.910(f)(2), at the time of the incident. Under § 300.910(f)(2), the OSC may authorize for use products listed on the NCP Product Schedule that exceed their expiration date after the responsible party or its representative documents and certifies that the expired product has been stored under the conditions provided by the submitter under § 300.915(a)(6) and still meets the applicable efficacy and toxicity-listing provisions under § 300.915 based on testing of representative samples within the previous 12 months. The title of the provision has been changed from the proposed ''Storage and Use of Agents'' to ''Storage and Use of Agents Listed on the NCP Product Schedule'' to provide more clarity on its scope.

Some commenters recommended that the shelf life for biological agents and bioremediation agents be limited to one year since living products will degrade more quickly than chemical agents. The Agency notes that the product shelf life provision does not provide separate consideration for biological and bioremediation agents from chemical agents. However, the final rule amended the proposed five-year testing timeframe to recognize products may have shorter shelf lives as evidenced by some products currently on the NCP Product Schedule. The shelf life is provided by the product manufacturer based on the inherent properties of the product. The product manufacturer is required to submit documentation supporting the shelf life determination. Furthermore, the final provisions include a requirement for the responsible party or its representative to document and certify that an expired product still meets the applicable efficacy and toxicity provisions for listing under

§ 300.915 based on testing of representative samples within the previous 12 months for an OSC to consider authorizing products beyond their expiration dates.

Commenters suggested that other oil spill mitigating devices and substances should be included in this provision for consistency with other sections. The Agency disagrees the provisions under § 300.910(f) should include other oil spill mitigating devices and substances, other than the specific product categories of chemical and biological agents already identified for listing on the NCP Product Schedule. The final rule amends the section title and regulatory paragraph to clarify that the provision is applicable to agent products ''Listed on the NCP Product Schedule.''

Commenters also suggested that the rule require disposal of expired chemical agents. Some commenters suggested that the Agency should require the disposal of all products once the expiration date has passed, regardless of any testing. The Agency disagrees with the request to include provisions addressing the disposal of expired chemical agents in the final rule. Disposal of oil and contaminated materials recovered in cleanup operations is addressed in § 300.310 of the NCP. While the final provisions provide for the retesting of expired products, the disposal of products, including expired products, is outside the scope of this action.

Some commenters recommended that no additional requirements be put in place for product shelf life, other than what is recommended by the manufacturer. However, EPA is finalizing re-testing provisions to provide flexibility for chemical or biological agents to be considered for use past their designated shelf life provided they still meet efficacy and toxicity testing requirements. The provision under § 300.910(f)(2) is voluntary in that it does not require expired products to be retested but is an option for the responsible party if they want an OSC to be able to authorize their use.

Commenters suggested that there is no justification for mandating a shelf life that could limit the use of stockpiles that remain viable and effective. EPA did not mandate a specific shelf life for products listed on the NCP Product Schedule. However, EPA believes that users of products should follow the manufacturer's storage conditions and shelf life recommendations, as submitted according to § 300.915(a)(6) and (a)(7). Based on public comments, EPA made changes to the proposed re-testing provisions in the final amendments. The final provisions provide the OSC with the discretion to authorize products listed on the NCP Product Schedule that exceed their expiration date. However, this discretion is only available after the responsible party or its representative documents and certifies that the expired product still meets the applicable efficacy and toxicity provisions for listing under § 300.915, based on testing of representative samples within the previous 12 months.

Some commenters expressed support for retesting requirements but indicated that efficacy of the product is the only relevant endpoint for testing regardless of age. The commenters recommended that there is no scientific justification for toxicity re-testing, and that only effectiveness testing should be conducted rather than all of the tests described in Appendix C. A commenter stated that testing requirements should allow for acceptable levels of variability in efficacy results, recommending an allowable 10% variance in effectiveness test results. The Agency disagrees with the commenters' concerns that effectiveness testing is the only retesting that should be considered and that the efficacy testing requirements need to allow for acceptable levels of variability in efficacy results. The Agency recognizes that some products stored over time may not obtain the same efficacy or toxicity testing results for the product's original listing submission yet may still meet the applicable threshold(s) that were required to list the product on the NCP Product Schedule. However, EPA also recognizes that some products stored over time may not meet the applicable threshold requirements. EPA believes that products stored beyond the expiration date listed on the container's label and that, upon retesting, do not meet the applicable threshold(s) that were required to list the product on the NCP Product Schedule, no longer represent the product approved for listing on the NCP Product Schedule. A variance could allow expired products that do not meet the applicable threshold requirements for listing on the NCP Product Schedule to be available for authorization upon retesting, while other products with similar results would be denied listing on the NCP Product Schedule.

(g) Supplemental Testing, Monitoring, and Information

The Agency is finalizing at § 300.910(g) an amended provision that maintains the RRT's authority to require supplementary toxicity and efficacy testing, or to request available data or information that addresses site-, area-, or ecosystem-specific concerns relative to the use of product for both planning and authorization of use. The amendment adds flexibility to the former requirement by removing ''When developing preauthorization plans . . .'' and by including ''or submission of available data and information'' to recognize that existing data or information that addresses site-, area-, or ecosystem-specific concerns relative to the use of a product may be available. Additionally, in the final action, EPA modified the proposed language to specify that this supplemental testing, monitoring, and information may be required ''for both planning and response, including authorization of use'' to emphasize the broad potential use of this data. As proposed, the Agency is including the term ''ecosystem'' with area and site-specific concerns, as RRTs may want to gather additional information on the use of certain products when assessing the biological communities specific to their area. In the final amendment, EPA has modified the proposed regulatory text to streamline it to specify that ''The product manufacturer or responsible party shall provide, upon request of the RRT or OSC, additional monitoring or testing data and information to inform chemical or biological agent use decisions specific to a response.''

Some commenters expressed opposition to the RRT's authority to require supplemental testing, monitoring, and information, as provided in the proposed rule. Commenters provided several reasons for the opposition, including stating that the standard efficacy and toxicity tests already required are more than adequate, additional testing would cause a delay in the spill response; the current testing requirements in the rule and/or NCP are adequate and additional data is unlikely to provide valuable information for decision making; additional data may create confusion; additional data collection would increase costs for facilities; and unnecessary animal testing should be avoided. One commenter stated that no information is provided in the rule as to what circumstances might trigger an RRT's request for supplemental testing, monitoring, or information. The Agency disagrees with the commenters' opposition to recognizing that RRTs may require supplemental testing, monitoring, and information. In addition to planning, this provision aims to provide discharge-specific information that may assist in decision

making during a response. The Agency notes this is a discretionary provision for the RRT to require supplemental information, and that the RRT may coordinate with the OSC to address any concerns related to requiring additional information. Standard toxicity tests required in the final rule encompass only a few species and are not necessarily intended to be protective of site-, area- or ecosystem-specific concerns. Decades of research show that species can vary substantially in sensitivity, and that ecosystems contain a diversity of species of mostly unknown sensitivity. The Agency believes retaining the option for the RRT to require supplemental testing, monitoring, and information that addresses incident-specific concerns for planning and response relative to product use is reasonable and prudent. For example, the provision provides flexibility in gathering scientific information relevant to a given site or geographic location and allows for better targeting chemical and biological agent use during a response. The absence of the final provision for the RRTs to require supplemental testing, monitoring, and information may adversely impact the RRT's ability to provide informed concurrence and consultation determinations. EPA also notes that the provision under § 300.910(a) for preauthorizing an OSC to authorize the use of a chemical or biological agent does not preclude the RRT from requiring additional monitoring and information.

A commenter opposed this provision because they asserted that the required tests would not inform operational decision making during the response, but rather would develop data for the Natural Resource Damage Assessment (NRDA) process. EPA agrees with the comment that ''operational monitoring and NRDA are two different things''. This provision is separate from NRDA monitoring, testing, and data collection; NRDA monitoring, testing, and data collection is outside the scope of this provision. To clarify this point, EPA has modified the provision from the proposed language. The finalized, streamlined provision states that the RRT or OSC may request additional monitoring or testing data and information to ''inform chemical or biological agent use decisions specific to a response.'' EPA notes the purpose of the provision is to provide the OSC and RRT, if necessary, supplemental data, including monitoring data which may not be already derived from required monitoring plans included within ACPs.

Some commenters opposed the RRT authority to request additional monitoring associated with the use of a product during a discharge and expressed concern that this provision could be potentially used during a discharge situation to prevent or delay the use of chemical or biological agents for non-technical reasons and thus potentially reduce the effectiveness of the response. The Agency disagrees. This provision aims to provide incident-specific information that may assist in decision making during a response, not to hinder the overall response time. The Agency does not believe these requirements would delay or impede response actions such as the deployment of mechanical recovery or other response related equipment. EPA disagrees with the commenters' concern that giving the RRT authority to request additional monitoring associated with the use of a product during a discharge could specifically delay the use of a chemical or biological agent and reduce the effectiveness of a response. This provision is not intended to delay the use of an agent, but rather to inform and reduce the uncertainties associated with a chemical or biological agent during the response. The Agency notes this is a discretionary provision for the RRT to request supplemental information, and that the RRT may coordinate with the OSC to address any concerns related to the request.

A commenter suggested that the regulation should provide that Area Committees, in addition to RRTs, are authorized to request that the OSC require additional monitoring, and that the OSC may independently require this additional monitoring absent a particular request from the RRT or Area Committee. The Agency disagrees with the commenter's suggestion. The NCP establishes the roles and responsibilities for RRTs and Area Committees. The Area Committees are responsible for preparing ACPs for their designated areas as described in § 300.210(c). The RRT responsibilities under the NCP include the development and coordination of preparedness activities before a response action is taken, as well as coordination of assistance and advice to the OSC during response actions, as described in § 300.115. The Agency believes it is appropriate to focus this provision on the RRTs given their operational roles, including the role of certain RRT members in authorizing the use of chemical or biological agents. Thus, the final rule states the product manufacturer or responsible party shall provide, upon request of the RRT or OSC, additional monitoring or testing data and information to support chemical or biological agent use decisions specific to a response.

(h) Recovery of Chemical Agents and Other Substances From the Environment

The Agency is adding a new provision at § 300.910(h) to require the responsible party to recover solidifiers, sorbents, and surface washing agents from the environment following their use. The provision requires that the responsible party shall ensure that removal actions adequately contain, collect, store, and dispose of solidifiers, surface washing agents, and sorbents, unless otherwise directed by the OSC. EPA identifies each of these agents or other substances, in their respective finalized definitions in § 300.5, as needing to be recovered from the environment to minimize any potential adverse impact. The Agency recognizes there may be situations where the safety of response personnel is threatened, or where additional harm to the environment could occur during recovery operations, so the final provision provides that the OSC should, at a minimum, consider factors such as the safety of response personnel and harm to the environment in making recovery-related determinations. Furthermore, the Agency has modified the title of the section as ''Recovery of Chemical Agents and Other Substances from the Environment'' to recognize that sorbents are covered under § 300.910(h).

Commenters expressed support for the identification of the agent categories and substances intended to be removed from the environment following their use as described in the preamble to the proposed rule: solidifiers, sorbents, and surface washing agents. However, other commenters requested clarification in the regulatory text as to which substances or agents are covered, noting that it should apply to solidifiers, sorbents, and surface washing agents as well as other oil spill mitigating devices, oil-product combinations, and weathered oil. A commenter stated that the phrase ''agents that are intended to be recovered from the environment'' is ambiguous and suggested that EPA change the language to clarify that this provision applies to ''substances'' including sorbents, rather than solely agents. EPA recognizes the request to clarify in the regulatory text as to which substances or agents are covered. Based on comments, EPA amended the final provisions in § 300.910(h) relative to the proposal to address chemical agents and other substances to be recovered from the environment to specifically include solidifiers, surface washing agents, and sorbents.

Some commenters suggested additions to the proposed language to further specify requirements. EPA recognizes a commenter's request for additional language that would serve to quantify the term ''adequately,'' a commenter's suggestion that the language should be modified to clarify that recovery of substances should be completed ''to the extent possible,'' and the suggestion that removal action agents should always be recovered from the environment. Under § 300.120, the OSC directs response efforts and coordinates all other efforts at the scene of a discharge. EPA believes that it is the OSC who will make the determination of when the recovery of agents from the environment is adequate for the specific response. These activities are to be done in accordance with applicable federal, state, Tribal and local requirements. Thus, the Agency maintains in the final rule the requirements for the responsible party to ensure that removal actions adequately contain, collect, store, and dispose of chemical agents and other substances that are to be recovered from the environment, unless otherwise directed by the OSC. The Agency does not believe the final provision should be modified to include ''to the extent possible'' since it already provides for that expectation, subject to the direction of the OSC. The OSC should, at a minimum, consider factors such as the safety of response personnel and harm to the environment in making such determinations. EPA amended the final provision with the phrase ''at a minimum'' to recognize that factors other than the examples provided may be considered.

The Agency acknowledges a commenter's suggestion to make it explicitly clear in the regulatory text that the OSC has the authority to utilize the NEBA framework. The Agency is not taking action on this comment. The NCP continues not to require nor preclude the use of any specific environmental tradeoff methodology to identify protective strategies that may minimize the potential environmental impact of hazardous substance releases or oil discharges. In addition, the NCP continues not to define NEBA. While EPA recognizes the need to establish specific criteria and monitoring for removal actions overall, this section specifically focuses on actions when chemical or biological agents are used.

The Agency acknowledges the comment that the ability to use a given substance in a response should be dependent on the development of a removal/recovery plan, as well as the comment that removal action agents should not be considered for use if safety or environmental concerns regarding recovery of these agents exist prior to deployment. The Agency notes that there are certain chemical agents and other substances that are intended to be recovered from the environment; EPA amended the final provision to acknowledge that chemical agents and other substances to be recovered include solidifiers, surface washing agents, and sorbents, and revised the title accordingly. EPA believes RRTs and OSCs may consider these factors when determining under what conditions to authorize their use, as applicable. EPA also believes that the final provision provides stakeholders the opportunity to develop removal/recovery plans for these agents and substances. It is important to note that removal actions that consider the use of chemical or biological agents and other substances must do so in accordance with Subpart J.

Some commenters suggested that recovered materials should be treated as a hazardous waste so that they are not disposed of in public landfills, as a matter of public health. Under the NCP, oil and contaminated materials recovered in cleanup operations are to be disposed of in accordance with the Regional Contingency Plan (RCP), ACP, and any applicable laws, regulations, or requirements, as stated in § 300.310(c). The applicability of hazardous waste regulations is outside the scope of this final action.

(i) Reporting of Agent Use

The Agency is adding a new provision at § 300.910(i)(1), to require the OSC to provide to the RRT certain information for the use of a chemical or biological agent within 30 days of completion of agent use. The information required for any chemical or biological agent used in response to an oil discharge includes product name, product category, the quantity and concentration used, and the duration of use, the locations where the agent was used, any available data collected, and any available analyses of efficacy and environmental effects. This information may be submitted in accordance with the OSC reporting provisions under § 300.165 of this part, as applicable, subject to the 30-day timing requirement. While other existing notification requirements serve to activate an immediate response to an event, this requirement gathers information that will be useful in specifically evaluating the use of chemical or biological agents in the response, informing the review of preauthorization plans, and providing a basis for any necessary changes to improve environmental protection. Additionally, § 300.910(i)(2) requires that the authorizing OSC provide for notification to the public, to be updated during a response as appropriate, the following information on chemical and biological agents used in response to an oil discharge: product name, product category, quantity and concentrations used, duration of use, and location(s) of use.

Several commenters recommended that timely public notification of product use be required and that reports should be accessible to the public. A commenter recommended initial notification of product use within 24 hours and daily public notification thereafter, stating that accessibility is a matter of health and government accountability. This commenter also requested simultaneous notification of Tribal governments, Area Committees, and Citizens' Advisory Councils. A commenter recommended adding language requiring the responsible party to inform nearby landowners of dispersant use impacts that may affect natural or cultural resources. The Agency generally agrees with commenters' recommendations of providing timely public reporting of product use and is finalizing a new provision that will require the OSC to provide notification to the public. Under §§ 300.135(n) and 300.155(a), both of which are provisions outside the scope of this action, the NCP already provides that the OSC should ensure all appropriate public and private interests are kept informed and that their concerns are considered throughout a response, to the extent practicable. Based upon comments received requesting public notification of chemical and biological agent use, the Agency is including a new notification provision at § 300.910(i)(2) that requires the OSC to provide for public notification, updated during a response as appropriate, regarding information on chemical and biological agents used in response to an oil discharge to include the following: product name, quantity and concentrations used, duration of use, and location(s) of use. The new provision requires the OSC to provide notification to the public in support of §§ 300.135(n) and 300.155(a) and (b). While EPA agrees that the OSC should provide timely public notification, the Agency disagrees that the initial notification should be required to be within 24 hours of product use. EPA believes the OSC should have the flexibility to establish the initial timeframe to avoid potential delays in addressing roles and responsibilities under the NCP, such as obtaining the

necessary concurrences and consultations from certain RRT member agencies on chemical and biological agent use. EPA believes that the OSC, as the entity with overall responsibility to direct the response, is the appropriate party to provide the public notification. Public notification may occur, for example, through coordination with the RRT and posting on their website, as appropriate. EPA also believes that the public notification provision in the final rule also addresses commenter's request that reporting include notification of Tribal governments, Area Committees, Citizens' Advisory Councils, and landowners.

Some commenters suggested changes to the proposed reporting requirements. A commenter recommended that the regulatory text clarify that reporting is required in the case of sorbent use. Commenters suggested that reports should include an overview of the incident, description of how the agent applications were conducted, description of all monitoring conducted and the results, a description of any adverse environmental effects, water depth and proximity to shoreline, and the amount of product and oil-product recovered. This commenter suggested that the rule may need to include reference to consultations under section 7 of the Endangered Species Act (ESA), depending on the nature of environmental impacts from a given spill, and that the reporting requirements should be mandatory, not just if requested by the RRT or the natural resource trustee. EPA disagrees with expanding the scope of the Reporting of Agent Use provision to include other spill mitigating devices and substances including sorbents and other aspects of the removal operation. The purpose of the requirement is to gather information that will be useful in evaluating the use of chemical or biological agents in the response. Sorbents are not included in the definition of chemical or biological agents under Subpart J and are not subject to the authorization of use provisions under § 300.910(a) or (b); therefore, the Agency disagrees that reporting should be required in the case of sorbent use. The information reported through this reporting provision is also intended to inform the review of preauthorization plans and provide a basis for any necessary changes to improve environmental protection. The RRT has existing authority to require the OSC to submit a complete report under § 300.165 to obtain information that more broadly covers the removal operation and the actions taken, which may include the information suggested by the commenters (*e.g.,* overview of the incident). While the Agency recognizes that consultations under ESA section 7 may be warranted, it is important to clarify that a purpose of this reporting requirement is for the RRT and EPA to gather information specific to the use of a product in a response.

3. Data and Information Requirements for Listing on the NCP Product Schedule or Sorbent Product List

The Agency is revising the data and information requirements in § 300.915 of Subpart J for listing products on the NCP Product Schedule or Sorbent Product List, identifying the relevant science to establish a national screening process for products to be listed. The amendments revise the efficacy and toxicity testing protocols and listing criteria for all chemical and biological agents on the NCP Product Schedule, and requirements for listing on the Sorbent Product List. Additionally, the Agency is revising the requirements for general product information, Proprietary Business Information (PBI) claims, submission package contents, EPA review and listing procedures, requests for decision review, changes to products, transitioning products from the current NCP Product Schedule to the new NCP Product Schedule and for listing on the new Sorbent Product List, mandatory product disclaimer, and removal of products from the NCP Product Schedule or Sorbent Product List. The final action specifically includes references to the new Sorbent Product List as clarifying edits.

The Agency recognizes comments that asserted that burning agents should be added to the NCP Product Schedule and that the Agency should require toxicity testing of burning agents, of combustion products (*e.g.,* smoke plumes), and of the burn residue that results from application of burning agents to oil slicks. The Agency continues to believe that because of the nature of burning agents and the revisions to the authorization of use for burning agents in the final rule, it is not necessary to require product submissions for burning agents. See section V.C.2.c of this preamble for more information on burning agents.

(a) General Product Information

EPA is consolidating in paragraph (a) of § 300.915 the general submission requirements applicable to all types of agents that may be listed on the NCP Product Schedule or Sorbent Product List. The revisions group together and simplify the general submission requirements applicable to all product types. EPA believes that reorganizing the general requirements in a central location will clarify which requirements are applicable to all submissions, and which are specific to each product type by including them in separate sections. The general information requirements for products are as follows:

Submitter. Under § 300.915(a)(1), EPA is requiring the name, physical address, email, and telephone number of the submitter. Under § 300.915(a)(2), EPA is requiring the identity of the submitter (*i.e.,* manufacturer, vendor, importer, distributor, designated agent for the manufacturer), and documentation of such identity. This requirement is intended to clearly establish the point of contact responsible for the submission, and to avoid any conflicts or claims from unauthorized entities on products listed or submitted for consideration. No comments on these provisions were identified. EPA reorganized the provision under § 300.915(a)(2) to provide greater clarity by moving the documentation requirement forward and by making editorial changes.

General product information. Under § 300.915(a)(3), EPA is requiring the submitter to provide all name(s), brand(s), and/or trademark(s) under which the product is to be sold. No comments on § 300.915(a)(3) were identified.

Supplier. Under § 300.915(a)(4), EPA is requiring the names, physical addresses, emails, and telephone numbers of the primary distributors, vendors, importers, and/or designated agent acting on behalf of the manufacturer. No comments on § 300.915(a)(4) were identified. EPA made editorial changes from the proposed text to provide greater clarity.

Safety Data Sheet. The provision at § 300.915(a)(5) requires the submitter to provide a Safety Data Sheet (SDS). EPA recognizes that chemical and biological agents may contain substances that could potentially cause harm to oil spill responders who, if unaware of the product's composition, may not wear the proper personal protective equipment. SDSs describe the hazards that may be involved with the product and recommend safety measures that would minimize or avoid adverse consequences that may result from exposures. The Agency believes SDS information will be useful to both OSCs and responders when authorizing and using the product respectively. Several commenters suggested that the Agency should require that SDS information be submitted for each individual product component. Agency disagrees that that SDS information needs to be submitted for each individual product component.

EPA believes that the SDS for the product, rather than for each component, is more appropriate for responders to use during a response. EPA believes that requiring an SDS for each product component would add unnecessary burden to the submitter. The information that is required to be included in an SDS is the responsibility of the Occupational Safety and Health Administration (OSHA) and is outside the scope of this rulemaking. The Hazard Communication Standard (HCS) (29 CFR 1910.1200(g)) requires that the chemical manufacturer, distributor, or importer provide Safety Data Sheets (SDSs) for each hazardous chemical to downstream users to communicate information on these hazards. The SDS includes information such as the properties of each chemical; the physical, health, and environmental health hazards; protective measures; and safety precautions for handling, storing, and transporting the chemical. In addition, OSHA requires that SDS preparers provide specific minimum information as detailed in Appendix D of 29 CFR 1910.1200. The Agency believes the SDS along with the NCP Subpart J Technical Notebook [4] provides useful information to OSCs, RRTs, and responders when authorizing and using the product respectively. EPA notes the final revisions to § 300.950, *Submission of Proprietary Business Information (PBI),* provide greater awareness of product components to OSCs, other stakeholders, and the public.

Product Storage and Shelf Life. Under § 300.915(a)(6), EPA is requiring the submitter to provide the maximum, minimum, and optimum temperature, humidity, and other relevant conditions for product storage and a brief description of the consequences to performance if the product is not stored within these limits. Under § 300.915(a)(7), EPA is requiring the anticipated shelf life of the product at the storage conditions noted in paragraph (a)(6) and documentation for this determination.

A commenter suggested requiring the submitter to identify the method of product storage (*e.g.,* 55-gallon drum, 200-gallon plastic tote, etc.) and provide information on the storage container materials. The Agency does not believe it necessary to amend the regulatory text for this purpose. EPA notes that § 300.915(a)(7) requires documentation to support a manufacturer's determination of the anticipated shelf life of the product at the storage conditions. EPA believes this provision satisfies the commenter's concern regarding information on the storage container materials and methods that are likely to affect the product shelf life.

Product Labels. The provision at § 300.915(a)(8) requires sample product labels for all name(s), brand(s), and/or trademark(s) under which the product is to be sold that includes manufacture and expiration dates, and conditions for storage, and notes that the submitter may use an existing label provided it already contains the required dates and storage information. This requirement is not intended in any way to supersede any other federal labeling requirement in place (*e.g.,* OSHA's HAZCOM). The requirement is intended to assist the OSC in ensuring that the product used to respond to an incident is still viable and effective, and the oil spill removal organizations or any other responder that is storing the product to ensure that their stockpile is viable and available to be authorized for use. No comments on § 300.915(a)(8) were identified.

Chemical or Biological Agent Category. The provision at § 300.915(a)(9) requires the chemical or biological agent category under which the product is to be considered for listing on the NCP Product Schedule, including detailed information on the specific process(es) through which the product affects the oil, and the specific environment(s) on which it is intended to be used (*e.g.,* waters and/or adjoining shorelines). If the product meets the definition of more than one chemical or biological agent category, submitters must identify all applicable categories and provide the test data to meet the listing criteria appropriate to each category. A commenter suggested revising § 300.915(a)(9) to allow the manufacturer to indicate the primary and other non-primary functions to help the response team determine whether a product is best suited for a given response situation. Another commenter suggested that bioremediation agent formulas should be restricted to only those components necessary for the proposed primary use of any listed product, noting, for example, that bioremediation agents formulated for land-based settings may not need components such as surfactants to be effective, whereas the product may not need other components such as sugars and nutrients to be effective for use in or near water. EPA does not believe such a revision is necessary in § 300.915(a)(9) because the final rule includes a requirement under § 300.915(a)(13) for the product submitter to provide information on the intended function of each component. The Agency believes these provisions will help OSCs determine whether a product is appropriate for any given response situation. EPA notes that some components other than those components necessary for the primary use may still serve to support the product's function. However, EPA also recognizes concerns that a product (*e.g.,* bioremediation agents) may contain components that may support an alternate mechanism of action (*e.g.,* surfactants) and could potentially meet the definition of another product category (*e.g.,* dispersants). Based on comments, EPA amended the final provision under § 300.915(a)(9) to remove the phrase ''. . . and you want it considered for listing on the NCP Product Schedule in more than one category . . .'' to ensure that product manufacturers identify all applicable chemical or biological agent categories. If a product meets the definition of more than one chemical or biological agent category, the product manufacturers must provide the test data appropriate to each category. The final provision ensures that the Agency will receive the information necessary to evaluate the product for listing on the NCP Product Schedule in all categories in which the product may be listed, regardless of whether the submitter requests it to be listed in a specific product category.

In these finalized provisions, EPA also made some editorial changes to the proposed text for increased clarity and consistency.

Recommended Product Use Procedures. Under § 300.915(a)(10), EPA is requiring the submission of recommended product use procedures, including product concentrations, use ratios, types of application equipment, conditions for use, any application restrictions; and, as applicable, for product and oil containment, collection, recovery, and disposal procedures. These procedures must address, as appropriate, variables such as weather, water salinity, water temperature, types and weathering states of oils or other pollutants. The procedures must include supporting documentation and current applicable standard methods used to determine them. EPA believes that providing detailed information on the recommended product use procedures is necessary to inform the OSC when authorizing these products. This supporting documentation and specific information on the methods and standards used to establish them will inform OSCs and other response personnel in selecting products that can be effectively used under the operating

[4] The NCP Subpart J Technical Notebook presents manufacturer's summary information on the conditions under which each of the products is recommended to be used.

conditions encountered for any given incident.

The Agency recognizes the commenter that recommended that EPA require turbidity measurement in § 300.915(a)(10); however, EPA did not make this change because the regulatory text in § 300.915(a)(10) for variables (*e.g.,* weather, water salinity, water temperature, types and weathering states of oils or other pollutants, and product and oil containment, collection) that the product use procedures must address is not an exhaustive set of variables. In addition, the provisions under § 300.915(a) apply to all product categories, unless otherwise specified, such as bioremediation agents that are typically used on shorelines. The provisions under § 300.915(a)(10) provide flexibility for product manufacturers to submit information relevant to their product and this final action does not preclude the submitter from measuring turbidity of its product or including turbidity measurements in its submission for listing on the NCP Product Schedule, where appropriate. Furthermore, the monitoring requirements for dispersant use in response to major oil discharges include a requirement at § 300.913 to measure ambient background, baseline, and dispersed oil plume water column samples for turbidity.

EPA also acknowledges the commenter who suggested that EPA require the following in a submission: training and personal protective equipment (PPE) needs of the workers applying the product, health monitoring for the workers, whether the product requires special waste disposal, and whether the product is safe to use in sensitive areas such as near communities or water supplies. EPA believes that various NCP provisions already address this request. This final action includes the requirement at § 300.915(a)(5) to provide a SDS for the product, which includes PPE information. Furthermore, EPA notes that the NCP addresses worker health and safety under § 300.150, including compliance with applicable OSHA regulations and addresses availability of adequately trained operators under § 300.910(a) and (b), respectively. Additionally, § 300.915(a)(10) requires recommended product use procedures, including product concentrations, use ratios, types of application equipment, conditions for use, and any application restrictions; and, as applicable, for product and oil containment, collection, recovery, and disposal procedures. The NCP addresses the disposal of oil and contaminated materials recovered in cleanup operations in accordance with the RCP, ACP, and any applicable laws, regulations, or requirements under § 300.310(c). Waste disposal is outside the scope of this final action.

In the final action, EPA reorganized the provision under § 300.915(a)(10) including moving forward the phrase regarding procedures for product and oil containment, collection, recovery, and disposal procedures to provide greater clarity and adding the term ''as applicable,'' to recognize that not all products may be collected and recovered. EPA also made other editorial changes for greater clarity.

Environmental Fate. Under § 300.915(a)(11), EPA is requiring environmental fate information, including any known measured data, methodologies, and supporting documentation, on the persistence, bioconcentration factor, bioaccumulation factor, and biodegradability of the product and all of its components in the environment. EPA believes environmental fate information is necessary to inform the OSCs when authorizing these products for use, given the potential for their extended use in significant quantities. However, given that these factors can be estimated, the final action is only requiring that available information or data be submitted on the product rather than specific product testing, as specific product testing for these factors can add significantly to the testing cost for each product.

Regarding the Agency's request for comment on whether testing for products' bioconcentration, bioaccumulation, and biodegradation should be required for listing purposes, some commenters stated that testing should be required, and one expressed concern that reliance on existing data, rather than specifying a core required data package, may result in variable and incomplete understanding of these key factors which in turn influence chemical fate and biological effects of the product. EPA notes that the final provision provides flexibility to submit the required information with supporting documentation and also does not preclude submitting results from product-specific testing of these parameters. The submitter may use estimation techniques/models, such as the EPA model EPI Suite™, to estimate environmental fate properties. Based on comments, EPA amended § 300.915(a)(11) for product submissions to include the test methodologies used to obtain the environmental fate information, providing additional context on the data. EPA notes that the Agency reserves the right to request clarification or additional information, as necessary (see § 300.955(c)(1)).

Regarding the Agency's request for comment on whether thresholds for bioconcentration factors and bioaccumulation factors should be established for listing a product on the NCP Product Schedule, some commenters recommended that EPA should set thresholds for a product's persistence, bioaccumulation, and biodegradability for listing a product on the NCP Product Schedule, and to assist the OSC in authorizing use and establishing safe application rates. Another commenter suggested having minimum ''pass or fail requirements'' with added optional information fields for NCP listing. EPA recognizes that environmental fate information informs OSCs when authorizing these products for use, given the potential for their extended use in significant quantities. The new provisions will assist EPA in evaluating a product's persistence, bioaccumulation, and biodegradability. However, for oil spill response products, the Agency does not have sufficient information to establish thresholds for all environmental conditions that may be potentially encountered. The Agency did not propose, nor did it identify any relevant information to establish, thresholds beyond those already included in the final action. While EPA is not establishing thresholds for environmental fate information of chemical and biological agents, the final provisions require the submission of available environmental fate information to the Agency for listing a product on the NCP Product Schedule. The Agency intends to make the submitted information available to the public and other interested stakeholders (*e.g.,* natural resource trustees).

The Agency amended the final provision to replace the phrase ''Environmental fate information . . .'' with ''Available information on environmental fate . . .'' to address the comment that environmental fate data should be reported only if it is already available and included the phrase ''current applicable'' to avoid the submission of data based on test methodologies that have been superseded by later updates. EPA also reorganized the paragraph to clarify the requirements.

Physical and Chemical Properties. Under § 300.915(a)(12), EPA is requiring that the submitter provide the physical and chemical properties of the product, as appropriate, and a citation for the current applicable standard methods used to determine them, including: (i) Physical state and appearance; (ii) vapor

pressure; (iii) flash point; (iv) pour point; (v) viscosity; (vi) specific gravity; (vii) particle size for solid components; and (viii) pH. Three of these elements are new physical or chemical property requirements under this final rule: physical state and appearance; vapor pressure; and particle size for solid components. The Agency believes these basic data requirements will provide added context when evaluating the products for listing determinations. These, in combination with the other general product information requirements, will assist the Agency in evaluating the expected product behavior, and the process through which it would affect the oil when used in the intended water and/or shoreline environment.

Additionally, the Agency has removed the incorporation by reference of specific standards to determine physical and chemical properties and replaced this with a requirement for a citation of the current applicable standard methodology used to determine these values. EPA believes that citing the current applicable standard methodology used to determine the required values is sufficient in lieu of specifying commonly recognized standard methodologies. Furthermore, EPA did not incorporate by reference specific test methodologies in the regulation to avoid the administrative burden of updating the NCP every time a test methodology is updated to a newer version. The Agency believes it is appropriate to make this change given the added requirement for accredited laboratories to conduct the testing (§ 300.915(a)(17)). EPA amended this provision relative to the proposed text to qualify ''standard methods'' by adding the term ''current applicable'' to address comments regarding additional specificity about the standard methods used to derive physical and chemical properties. EPA included the qualifier ''current applicable'' to provide for updates to test methodologies and avoid the submission of data based on test methodologies that have been superseded by later updates. EPA also made other editorial changes to the paragraph relative to the proposed text for greater clarity.

Under § 300.915(a)(13), EPA is requiring that the submitter provide the identity and concentration of all components in the product, including each specific component name; corresponding Chemical Abstract Service (CAS) Registry Number; the maximum, minimum, and average weight percent of each component in the product; and the intended function of each component (*e.g.,* solvent, surfactant).

A commenter suggested that product vendors should not be required to report the concentration of product components to the Agency, noting that this reporting requirement may threaten a proprietary advantage. EPA notes that the requirement to submit the identity and concentration of all components in the product is consistent with the previous rule. EPA believes that when chemical and biological agents are used on oil discharges, it is important for OSCs, RRTs, and the public to have information regarding the chemicals being added to the environment. EPA also believes that the concentration of the product components provides EPA with an understanding of how the product is intended to function that cannot be provided by the submission of the identity of the product components only. In addition, information on the concentration of product components assists EPA in evaluating on the listing of product on the NCP Product Schedule and under which category. The final rule specifies what information submitters are allowed to claim as PBI to balance public access to information with proprietary business needs. When a company submits a product for listing on the NCP Product Schedule, then it will be allowed to claim certain information identified in § 300.915(a)(13) or (14) as PBI.

Microorganisms, enzymes, and/or nutrients. For products that contain microorganisms, enzymes, and/or nutrients under § 300.915(a)(14), EPA is requiring that the submitter provide the following along with a citation or a description of the methodology used to determine: (i) The name of all microorganisms by current genus and species, including any reclassifications, and any physical, chemical, or biological manipulation of the genetic composition and the weight percent of each genus in the product; (ii) the name of all enzymes and their International Union of Biochemistry (I.U.B.) number(s); Enzyme Classification (EC) code numbers; the source of each enzyme; units; and specific oil-degrading activity; (iii) the name(s), maximum, minimum, and average weight percent of the nutrients contained in the product; and (iv) data, methodology, and supporting documentation for the levels of bacterial, fungal, or viral pathogens or opportunistic pathogens including, but not limited to: enteric bacteria such as *Salmonella,* fecal coliforms, *Shigella,* coagulase positive *Staphylococci,* and beta hemolytic *Streptococci* and enterococci. As noted above, the final rule specifies what information submitters are allowed to claim as PBI to balance public access to information with proprietary business needs. When a company submits a product for listing on the NCP Product Schedule, then it will be allowed to claim certain information identified in § 300.915(a)(13) or (14) as PBI.

To support product screening, this final rule includes a provision under § 300.915(a)(14)(iv) to address whether products that contain microorganisms, enzymes, and/or nutrients also contain bacterial, fungal, or viral pathogens or opportunistic pathogens to compare to existing applicable criteria. The Agency reconsidered, based on comments, whether it should establish listing thresholds for products based on National Ambient Water Quality Criteria, and whether the levels selected for certification are appropriate for this purpose. Comments received noted that states may develop standards that may be more stringent than national criteria. EPA recommends that states and authorized tribes consider the Agency's national recommended water quality criteria when developing their criteria. However, states and authorized tribes may adopt, where appropriate, other scientifically defensible criteria that differ from the EPA's recommendations. In addition, both national recommended water quality criteria and state water quality standards may be revised from time to time. The final provision under § 300.915(a)(14)(iv) requires that products submitters provide data, methodology, and supporting documentation for these pathogen levels to provide relevant information, but the provision does not require a certification that they do not exceed recommended National Ambient Water Quality Criteria, as applicable. The final provisions for listing products on the NCP Product Schedule or Sorbent Product List under § 300.955 allow the Agency to make listing determinations based on a technical evaluation of all data and information submitted in accordance with the requirements for each product category and the relevant information on impacts or potential impacts of the product. The Agency believes that this information is necessary to determine if a product is suitable for listing, particularly for bioremediation agents, which could potentially be used at recreational beaches. EPA amended the final provision to better reflect this approach. EPA may include information related to national recommended ambient water quality criteria, applicable state water quality standards, and other relevant

environmental screening information (*e.g.,* aquatic life benchmarks) in the NCP Product Schedule Technical Notebook for the RRTs, Area Committees, and OSCs to consider when planning for and responding to oil discharges.

A commenter suggested that § 300.915(a)(14)(iv) should only apply to bioremediation agents that fall into the microbiological cultures category, because categories of bioremediation agents that do not contain live cultures have completely different mechanisms of action. The Agency disagrees that the submission requirements in § 300.915(a)(14)(iv) should only apply to microbiological cultures. This provision applies to all bioremediation agents, which include microorganisms, enzymes, and nutrient additives, irrespective of a classification, to ensure all bioremediation agents (not just those that the product submitters characterize as microbiological cultures) are subject to the requirements under § 300.915(a)(14)(iv).

National Water Quality Standard Contaminants (NWQS). Under § 300.915(a)(15), EPA is requiring that the submitter provide data, methodology, and supporting documentation for the levels of the following: (i) Arsenic, cadmium, chromium, copper, lead, mercury, nickel, vanadium, zinc, and any other heavy metal reasonably expected to be in the product; (ii) cyanide; (iii) chlorinated hydrocarbons; (iv) pesticides; (v) polychlorinated biphenyls (PCBs); and (vi) polycyclic aromatic hydrocarbons (PAHs). The Agency may consider how these levels compare to recommended National Ambient Water Quality Standards, as applicable. Providing information (*i.e.,* upper limit/concentration, detailed analytical methods, and sample preparation) on most of these contaminants was previously required for all products, but with no established threshold levels for product listing. The Agency will continue to require information on the methodology and the data and supporting documentation used to determine the levels of these contaminants in a product. The Agency, however, is not specifying what analytical testing method the submitter should use to make these determinations, as it did for chlorinated hydrocarbons, allowing the submitter flexibility in testing their product. Additionally, the Agency is now requiring data on several additional contaminants: pesticides, PCBs, and PAHs. The Agency's concern with pesticides as contaminants is mostly due to their potential use on organic sorbents (*e.g.,* peat moss, corn cobs, and cellulose fibers). The concern for PCBs is for their toxicity and classification as persistent organic pollutants, having toxic effects such as endocrine disruption. PAHs are potent atmospheric pollutants, of concern because some compounds have been identified as carcinogenic, mutagenic, and teratogenic. The requirements for these contaminants are intended to provide information for listing decisions that ensure the use of any product considers established these recommended levels.

Some commenters suggested that the proposed requirement in § 300.915(a)(15) to certify that the product does not exceed NWQS standards is not appropriate for this use because NWQS are defined as concentrations in the water column, not in formulated products. Commenters argue that the requirement assumes exposure to full-strength product, but due to the dilution that occurs when a product is used in an oil spill situation, the requirements are unnecessary. Commenters also assert that the existing requirements to communicate hazardous impurities on product SDSs are sufficient. A commenter suggested that the Agency should establish a listing threshold for products based on the National Water Quality Criteria for both acute and chronic standards and should rank products based on their ability to not add additional contaminants to the water. A commenter also suggested that the Agency consider whether there are any state water quality standards that are more stringent than the national recommended water quality criteria. After considering comments, EPA amended the regulatory text in § 300.915(a)(15) to require the submitter to include data, methodology, and supporting documentation on the levels of substances identified in § 300.915(a)(15). The Agency recognizes that states may develop water quality standards that may be more or less stringent than national criteria and that those standards may vary from state to state. EPA recommends that states and authorized tribes consider the Agency's national recommended water quality criteria when developing their criteria. However, states and authorized tribes may adopt, where appropriate, other scientifically defensible criteria that differ from the EPA's recommendations. In addition, both national recommended water quality criteria and state water quality standards may be revised from time to time. While EPA is maintaining the requirements for product submitters to include data, methodology, and supporting documentation on the levels of substances identified in § 300.915(a)(15) in their product, the final provision does not require a certification related to National Recommended Water Quality Criteria or applicable State water quality standards. EPA may include information related to national recommended ambient water quality criteria, applicable state water quality standards, and other relevant environmental screening information (*e.g.,* aquatic life benchmarks) in the NCP Product Schedule Technical Notebook for the RRTs, Area Committees, and OSCs to consider when planning for and responding to oil discharges. To allow the submitter flexibility in testing their product, the Agency does not specify which analytical testing method the submitter should use to make these contaminant level determinations for purposes of product submission for listing on the NCP Product Schedule. The Agency notes that the previous rule does not specify thresholds for contaminants. Gathering data, methodology, and supporting documentation for substances identified in § 300.915(a)(15) provides a reasonable approach to inform RRTs, Area Committees, and OSCs on the potential addition of these substances into the environment and to address concerns on the potential detection of these substances during a response. EPA also notes that the final provisions include thresholds for listing on the NCP Product Schedule based on subchronic toxicity for dispersants. EPA included subchronic toxicity testing for dispersants because of EPA's experience with dispersant use, including the quantities and duration, and because dispersants are designed to transfer oil into the water column and are not intended to be recovered from the environment. The fact that dispersants cause oil to enter the water column is sufficient reason to test for the subchronic toxicological effects of dispersed oil. Based on past spill response activities, dispersants have the potential for use over extended durations and in larger quantities relative to other chemical and biological agents.

No prohibited agents or substances. Under § 300.915(a)(16), EPA is requiring that the submitter provide certification, including data, methodology, and supporting documentation, indicating that the product does not contain any of the prohibited agents or substances identified in § 300.910(e). No comments on this provision were identified. EPA is finalizing the provision with changes

to reflect the updated title to § 300.910(e) ''Prohibited Agents or Substances.''

Testing Laboratory Information and Data. Under § 300.915(a)(17), EPA is requiring that the submitter provide information about the laboratory that conducted the required tests, including: (i) Name of the laboratory, address, contact name, email, and phone number; and (ii) the national and/or international accreditations held by the laboratory. At § 300.915(a)(18), EPA provides the list of all test data and calculations that are required to be submitted, including: (i) Raw data and replicates, including positive controls; (ii) notes and observations collected during tests; (iii) calculated mean values and standard deviations; (iv) reports, including a summary of stock solution preparation; (v) source and preparation of test organisms; (vi) test conditions; and (vii) chain of custody forms.

In this final action, EPA is removing the previous requirement for laboratories performing the efficacy and toxicity testing to have prior experience specific to the required methodology. The Agency believes that it is more appropriate to require that laboratories be nationally or internationally accredited. Accredited laboratories are expected to be capable of following a prescribed testing protocol and good general practices, providing assurance that the test results will be reliable. National and international accreditation organizations include, for example, the International Organization for Standardization (ISO), and the Laboratory Accreditation Bureau (recognized in the U.S. through the National Cooperation for Laboratory Accreditation (NACLA) and the International Laboratory Accreditation Cooperation (ILAC)). Commenters expressed both support and opposition for this change. Various commenters noted that qualified laboratories should not be barred from conducting these analytical tests due to lack of prior experience with a specific methodology if it has been accredited by an appropriate authoritative body, and on the other hand that the removal of this requirement may lead to inaccurate results being submitted to the Agency because conducting these tests requires skilled and knowledgeable technical resources, and that by themselves, general accreditations do not guarantee a particular institution would have the resources and/or expertise to conduct the necessary efficacy and toxicity testing. The Agency believes that having no prior experience with a specific methodology should not disqualify a laboratory that has been accredited by an appropriate authoritative body. Therefore, the final provisions do not include a requirement to have prior experience specific to the required methodology. However, the Agency reserves the right to not accept data from a laboratory should EPA find cause to doubt the quality and integrity of the work. EPA also reserves the right to conduct its own testing of any product.

A commenter requested that the Agency be more specific regarding laboratory accreditation requirements. For example, a laboratory that is accredited to perform chemical analyses may not have a similar accreditation to conduct toxicity testing. The Agency understands that a laboratory may be accredited to perform some of the required testing but may not have accreditation to conduct all the required tests. A primary laboratory selected to conduct efficacy and/or toxicity testing may subcontract that test out to another laboratory with the required accreditation for testing if they do not have the requisite accreditation or capability. The final provisions require laboratories to have accreditation applicable to the test(s) they perform. EPA is finalizing these provisions with clarifying edits.

Production Capacity. Under § 300.915(a)(19), EPA is requiring that the submitter provide an estimate of the annual product production volume, the average and maximum amount that could be produced per day, and the time frame needed to reach that maximum production rate in days. In the final provision, EPA made editorial changes to provide greater clarity by specifying the time frame needed to reach maximum production rate ''in days'' in lieu of ''(days).'' There was previously no requirement for production capability information, and the Agency believes it is important for the OSCs and responders to have this information. The availability of a product may impact decisions of authorization of use, depending on inventory or production capabilities. This would prove to be of key importance, for example, in the event of a major environmental disaster (*e.g.,* a SONS event).

A commenter suggested that this requirement should be removed because production capacity is not fixed, but varies with available blending tankage, existing business demands, other product orders, and component supplies/shipping constraints, so the information provided at the time of the application would not be relevant to a future time when product manufacturing could be required during a response. The commenter suggested that the Agency alternatively modify the language to require product manufacturers to provide production capability within 24 hours of a request from an OSC. The Agency disagrees. It is important to have an estimate of product capacity in the event of a spill of any size to better understand product availability to inform OSCs and RRTs. EPA has no previous record of product capacity for the dispersants, or any other product, on the NCP Product Schedule. The EPA Inspector General Report entitled *Revisions Needed to National Contingency Plan Based on Deepwater Horizon Oil Spill* recommended the need to capture and maintain dispersant manufacturer production capacities.

Finally, EPA made editorial changes to this provision to provide greater clarity.

Recognition Received from EPA's Design for the Environment/Safer Choice Program. Under § 300.915(a)(20), EPA is requiring that the submitter provide recognition received from EPA's Design for the Environment (DfE) or Safer Choice programs, as applicable. In 2015, the Safer Choice label replaced the DfE product label. Therefore, in the finalized provision, EPA has added reference to the Safer Choice program. (The ''DfE'' certification is still used in some cases. Specifically, it is used on antimicrobial products (disinfectants and sanitizers) registered under FIFRA.) A manufacturer's participation in the Safer Choice program is voluntary. The Safer Choice label means that EPA scientists have evaluated all chemical ingredients, regardless of their percentage in the product. Every ingredient must meet strict safety criteria for both human health and the environment, including carcinogenicity, reproductive/developmental toxicity, toxicity to aquatic life, and persistence in the environment. For more information on the EPA's Safer Choice program, see: *https://www.epa.gov/saferchoice.*

A commenter suggested that submitting this information should not be required because the DfE certification is a voluntary program and therefore not required. EPA disagrees; the Agency provides the submitter with the opportunity to identify products that have met and are labeled DfE or Safer Choice certified as part of the general information submission, as applicable. This information may be included in the NCP Product Schedule Technical Notebook.

International product testing, data, or certifications. Under § 300.915(a)(21), EPA is requiring that the submitter provide international product testing or use data or certifications, if available,

informing the performance capabilities or environmental impacts of the product.

A commenter suggested that the Agency clarify the ability to use results from laboratories outside of the United States. The commenter also requested that the Agency clarify its statements regarding ''International Product Certifications, testing or use data informing the performance capabilities or environmental benefits of the product;'' the commenter stated that it is not clear whether the Agency would accept this information or whether it would be used to waive certain efficacy or toxicity requirements. Another commenter suggested that decision makers may benefit from knowing which products have been denied registrations in other countries, or been banned for use in other counties, including the reason(s) why the product was denied registration. The Agency believes that any additional data available from other countries may help identify the benefits or concerns for the listing and/or the authorization of use of a product. The Agency, however, is not associating any specific listing criterion or threshold with this broad information request, as some products may not have data available. The international product certifications data provision supplements but does not waive or replace toxicity and efficacy requirements in the listing requirements of the Subpart J final rule.

A commenter suggested that the Agency revise the use of the term ''environmental benefits'' in this section related to product information to a discussion of potential ''benefits and drawbacks.'' The commenter noted that their revised language would allow responders to make more informed decisions. The Agency agrees with the comment to revise the term ''environmental benefits.'' EPA amended the final provisions by replacing ''environmental benefits'' with ''environmental impacts'' to provide a neutral characterization. EPA believes the amended terminology avoids the potential misinterpretation associated with the term ''benefits.''

(b) Dispersant Testing and Listing Requirements

The Agency is revising the efficacy and toxicity testing protocols, as well as establishing new thresholds for listing dispersants on the NCP Product Schedule in § 300.915(b). As defined in § 300.5 of the final rule, dispersants are substances that emulsify, disperse, or solubilize oil by promoting the formation of small droplets or particles of oil in the water column. These droplets are typically driven into the water column by wave action. Emergency response personnel need to know whether a dispersant or any other type of chemical or biological agent on the NCP Product Schedule could have negative environmental impacts relative to the oil before decisions are made about its use in a particular oil discharge situation. Consequently, it is essential to consider comparative information about the efficacy and the toxicity of these products. The finalized revisions are in response to concerns not only for an increase in the frequency of planning for the use of these agents, but also for their potential use in large quantities, such as when responding to oil discharges from oil tanker accidents and offshore well blowouts, as evidenced during the Deepwater Horizon incident in 2010.

A commenter stated that there is no need for additional testing of chemical dispersants because it is well known that they contain toxic constituents. Another commenter asserted that the toxicity and effectiveness test requirements in the previous rule already allow for discrimination between good products and poorly performing dispersants, and it is not clear that the proposed revisions provide significant value with respect to protecting the environment in the event of an oil spill. EPA disagrees that there is no need for additional dispersant testing. Subpart J not only includes an NCP Product Schedule identifying chemical and biological agents, but also authorization of use procedures that, when taken together, identify the waters and quantities in which such chemical and biological agents may be used safely. The toxicity testing and listing threshold requirements for dispersant alone for listing on the NCP Product Schedule serve to screen dispersant products for hazard, while the authorization of use procedures provide for consideration of the conditions surrounding the specific oil discharge situation. In addition, the provisions under § 300.910(g) in this final action allow for new information, including specific to environmental toxicity, to be considered for planning and response activities. EPA believes that when chemical and biological agents are used on oil discharges, it is important for the OSCs and RRTs to have information regarding the chemicals being added to the environment, along with information about their toxicity. The NCP provides a framework for efficient, coordinated, and effective response to discharges of oil. This final action is consistent with that approach.

A commenter urged the Agency to consider regional differences in testing requirements for NCP Product Schedule listings. The commenter specified that some issues are better addressed at the regional level including dispersant effects in varying environmental contexts, such as colder versus warmer waters, changing water depths and distance, differing sensitive species and/or habitats and shoreline characteristics. The Agency recognizes regional differences in requirements and that some issues may be addressed at a regional level. EPA notes that the NCP Product Schedule is established on a national level, and that regional considerations are integrated into Subpart J through the authorization of use process during response activities, and also through the RRT's and Area Committee's regional and area planning activities. This final action provides for regional-level consideration opportunities under the authorization of use provisions codified at 40 CFR 300.910. For example, § 300.910(a)(1) provides for RRT and Area Committee consideration of the existence and location of environmentally sensitive resources during preauthorization planning development. Further, § 300.910(g), *Supplemental Testing, Monitoring, and Information,* provides for supplemental toxicity and efficacy testing and information to address site, area, and ecosystem-specific concerns. Finally, the NCP provides for national, regional and area contingency planning under § 300.210.

A commenter stated that it is unclear whether the thresholds for efficacy and toxicity will limit dispersant stockpiles to such a small level as to essentially eliminate their use and suggested that this potential issue be addressed in the analysis of the rule to provide supporting information for the Agency in making regulatory decisions for this rule. Another commenter also stated that the proposed revision of the rule under § 300.915(b)(1) *Dispersant Testing and Listing Requirements; Dispersant Efficacy Test and Listing Criteria* that increase the dispersant efficacy requirements for listing on the NCP Product Schedule will make it unlikely that any dispersants currently stockpiled in the United States would pass both the proposed efficacy and toxicity tests. Neither the previous nor final rule requires stakeholders to stockpile dispersants or other chemical or biological agents, nor removes them from consideration as a response option. The Agency notes that dispersants are not the only response option available during a response; there are other

response options (*e.g.,* mechanical recovery) available to consider that may lower overall environmental damage depending on the incident-specific nature of the response. Decisions on the authorization of use of dispersants and other agents during a response are to be made in accordance with the NCP and all applicable statutes and regulations. This final action includes provisions to transition products currently on the NCP Product Schedule through the revised listing process. This final action allows a grace period of 24 months for any product currently listed on the NCP Product Schedule to be authorized for use (see § 300.955(f) *Transitioning Listed Products to the New NCP Product Schedule or Sorbent Product List.*) Products on the NCP Product Schedule for which a new submission is not received or that do not meet the revised listing criteria will be removed from the NCP Product Schedule at the end of the 24-month transition period. This transition period provides time for retesting, production of additional products, and the continued ability of currently listed products to be offered and available in the event of a response.

(1) Dispersant Efficacy

The Agency is changing the testing protocol for measuring efficacy and revising the efficacy listing criteria for dispersants to be listed. Specifically, a dispersant must demonstrate that the Dispersant Effectiveness at the 95% lower confidence level (LCL_{95}) meets the new proposed efficacy listing criteria at two test temperatures. EPA is also replacing the reference oil with a new test oil: Strategic Petroleum Reserve (SPR) Bryan Mound.

Testing Protocol. Under § 300.915(b)(1), the Agency is adopting the Baffled Flask Test (BFT) method as the testing protocol for dispersant efficacy and providing this method in AppendixC to part 300. This testing protocol replaces the Swirling Flask Test (SFT) that was formerly listed in Appendix C to part 300 of the NCP. The BFT procedure incorporates a redesign of the testing flask by eliminating the side arm, incorporating baffles in the wall of the flask, and adding a stopcock at the bottom, which improves reproducibility in the hands of different operators. This protocol has undergone peer review [5] and has been tested in several laboratories, providing reproducible and repeatable results.

Some commenters opposed switching from the SFT to the BFT. A commenter stated that the Agency should not replace the accepted standard Swirling Flask Test, developed by the EPA Canada, and that the BFT is a non-standard test designed by industry. Another commenter expressed concerns with EPA proposing a non-standard method in lieu of one well accepted and used around the world (ASTM F2059–06; 2012). The Agency's decision to adopt the test in the final rule is based on the BFT method's attributes; the Agency could not identify other potentially applicable standards that would incorporate the considerations of the BFT. The BFT is designed to be more representative of the moderately turbulent sea conditions where dispersants are more likely to be successful when used. The new BFT procedure incorporates a redesign of the testing flask by eliminating the side arm, incorporating baffles in the wall of the flask, and adding a stopcock at the bottom, which improves reproducibility in the hands of different operators. Specifically, the new baffled trypsinizing flask design, fitted with a glass stopcock positioned at the bottom side, promotes less manipulation that could result in erroneous re-suspension of non-dispersed oil. Additionally, the BFT provides higher, consistent turbulent mixing energy within the flask, resulting in the possibility of better dispersion and more repeatable and reproducible dispersant effectiveness testing results. The BFT was tested extensively in an iterative inter-laboratory calibration test using commercially available dispersant products.

Reference oils. The provision at § 300.915(b)(1) specifies the type of oil that the efficacy testing must use, SPR Bryan Mound. The use of reference oils was proposed, in part, to ensure that testing of the effectiveness of a dispersant product is done in a uniform manner, across manufacturers, and is performed in a way to ensure that EPA can be confident in the results of that testing before a dispersant product is listed on the NCP Product Schedule for subsequent consideration for use in a response under the NCP. The Agency proposed requiring product manufacturers to test their dispersant products against two new reference oils, ANS and IFO–120, or similar oils, to provide representative information on the potential efficacy of products when used on different types of oils. These two oils were proposed to replace the previously required reference oils. In the proposal, EPA considered testing requirements for dispersant products against two reference oils; however, the final action provides for dispersant efficacy and toxicity testing to be performed using one reference oil: SPR Bryan Mound. The Agency and the Strategic Petroleum Reserve (SPR) successfully identified multiple potential oil blends stored at the SPR. After multiple rounds of testing, EPA has selected one oil, the Bryan Mound oil blend, from the SPR, to serve as the selected reference oil for the final action.

While the proposal considered testing requirements for dispersant products against two reference oils, this final action provides for dispersant efficacy and toxicity testing to be performed using one reference oil: SPR Bryan Mound. After confirmatory testing, the Agency has determined that the use of SPR Bryan Mound as the sole screening reference oil is sufficient and appropriate for use in establishing a baseline comparison of products considered for listing on the NCP Product Schedule. This final rule establishing a sole screening reference oil is consistent with the purpose of product testing for NCP Product Schedule listing. The NCP Product Schedule was created to allow for consideration of comparative information about the efficacy and the toxicity of products by establishing a national level screening baseline of products that can be considered for use. The reference oil used in Appendix C is not intended to be representative of every type of oil or condition that may be encountered during a response where a product may be considered for authorization of use. The reference oil is used to establish a nationally consistent testing regime for product listing on the NCP Product Schedule, which informs authorization of use and planning decisions when applied to regional planning and site-specific responses.

Commenters had concerns and suggestions about the proposed reference oils. A commenter noted that if only two types of oils are tested (as under the proposal), it is unclear how results will be extrapolated to other untested oils, particularly for those oil types which exceed the tested range, *e.g.,* those oils that are heavier than IFO–120 or lighter than ANS crude oil. A commenter suggested testing dispersants' efficacy on blended alcohol-hydrocarbon fuel, given that alcohol-based biofuel spills are an emerging research priority. Some commenters expressed concern about the lack of reference oils for Unconventional Oil and Gas (UOG) and

[5] Venosa, Albert D., National Risk Management Research Laboratory, US EPA; Sorial, George A., Department of Civil & Environmental Engineering, University of Cincinnati; King, Dennis W., Statking Consulting; *Round-Robin Testing of a New EPA Dispersant Effectiveness Protocol,* International Oil Spill Conference, 2001.

that the use of conventional reference oils for products intended for use on UOG will lead to erroneous and misleading information about product toxicity and efficacy. The Agency's intent with proposing the use of ANS and IFO–120, or similar oils that represent a wider range of oil gravities, was that it would provide information on the efficacy of the products that could represent their use on different types of oils. The final action updates the reference oil used for dispersant efficacy and toxicity testing to SPR Bryan Mound in lieu of ANS and IFO–120. The Agency believes SPR Bryan Mound meets the needs as a screening reference oil for a baseline comparison of products to establish the NCP Product Schedule listing. The required reference oil is not intended to be representative of every type of oil or condition that may be encountered during a response where a product may be considered for authorization. Rather, the final rule recognizes different types of oil under the authorization of use provisions. For example, § 300.910(a)(1) provides that preauthorization plans should address likely sources and types of oil that might be discharged when developing a preauthorization plan. The provision under § 300.910(a)(1) provide RRTs with the flexibility to tailor the scope of the preauthorization plan to account for different types of oil, including unconventional oils. In addition, § 300.910(g) provides for, among other provisions, the supplementary efficacy testing to provide greater flexibility to tailor testing conditions to address area- and site-specific concerns relative to the use of a product for planning and authorization of use. This provision provides RRTs with the flexibility to gather additional information for different types of oil, including unconventional oils.

Temperature. The provision at § 300.915(b)(1) requires that efficacy testing be conducted at two different temperatures, 5 and 25 degrees Celsius (°C), rather than at an ambient temperature range of 20 to 23 °C as previously required. The Agency recognizes the current and future interest in arctic and deep water drilling, and the continued oil production in the southern areas of the country. Given the potential range of locations where dispersants may be used, the Agency believes it is appropriate to have products tested at temperatures that would reflect that range. These temperatures are intended to capture dispersant use scenarios in a wide range of geographic locations and under different temperatures that may occur in the same geographical location (such as, for example, the deep sea and surface water in the Gulf of Mexico, where the temperatures are typically between 5 °C and 25 °C, respectively).

Some commenters suggested that testing at different temperatures will not add value for relative comparison between dispersants. A commenter mentioned that dispersants can be effective at a range of ambient temperatures and the requirement to perform multiple tests on two oils at two temperatures does not provide significantly more information than would otherwise be obtained by testing oils at a single temperature. The commenter stated that the use of a single temperature should be adequate for determining relative ranking of different dispersants. A commenter recommended that a dispersant's efficacy should only need to be tested within the temperature range of 20 +/− 3 °C and this range would account for the variances in testing that will occur when the BFT is conducted by different laboratories and different technicians. A commenter suggested that requiring an effectiveness test at 5 °C is unnecessary, mentioning that it is of greater importance to determine that the dispersant itself maintains desirable rheology at cold temperatures and that it is able to be used with the existing spray systems. Another commenter recommended testing be conducted at 1 °C instead of 5 °C for the lower test range because the Arctic waters typically range between 0 °C and 4 °C. Another commenter suggested that for dispersants proposed for use in the Arctic, the Agency should consider requiring efficacy testing under even colder water conditions, as marine waters do not typically freeze until they reach approximately −1.8 °C (roughly 29 degrees Fahrenheit).

The Agency acknowledges comments opposing testing at different temperatures. The Agency recognizes the current and future interest in crude petroleum oil exploration and production throughout the United States. The Agency believes it is appropriate to have dispersant products tested on a national level at temperatures that would reflect a range of water temperatures in which dispersants might be used. The efficacy testing criteria for temperature are intended to capture dispersant use scenarios in a wide range of geographic locations and under different temperatures that may occur in the same geographical location. Water temperature may vary seasonally or with water depth even within the same geographical location. For example, the temperatures specified in the dispersant efficacy testing protocol span the range of temperatures of the deep sea and surface water in the Gulf of Mexico. Even within a geographical region, there may be seasonal variations in temperature that could affect the dispersant use considerations. This final rule screens dispersant products for efficacy at two different temperatures to ensure the dispersant products meet the efficacy thresholds provided for in the final action and avoid uncertainty associated with listing a dispersant product tested at only one temperature. Even if oil remains dispersible at lower temperatures, the efficacy testing at a lower temperature screens dispersants that may become ineffective due to changes in their temperature-dependent physical or chemical properties (*e.g.,* increased viscosity). Efficacy testing at two different temperatures also avoids potential confusion of listing dispersant products for use at specific temperatures.

The Agency also recognizes comments to extend the temperature testing range below 5 °C. This final rule provides for consideration of geographically specific temperatures within the general listing requirements under § 300.915(a) and authorization of use procedures under § 300.910. For example, the final provisions require product submissions (*e.g.,* dispersant submission) to provide the recommended product use procedures under § 300.915(a)(10). These procedures must address, as appropriate, variables such as water temperature, and must include supporting documentation. The information required to be submitted to support the listing, including testing results from multiple temperatures, provides the OSC and RRT with relevant information that may be used to inform authorization of use determinations. The final rule also allows for supplemental efficacy testing under § 300.910(g), *Supplemental Testing, Monitoring, and Information.* The OSCs and RRTs may require these tests to be conducted, due to site- or area-specific concerns, using parameters other than those specified in Appendix C, including dispersant efficacy test at different temperatures than that specified in Appendix C. In conjunction with the required product listing information, these supplemental testing provisions also provide OSCs and RRTs with flexibility to gather more detailed information as needed for authorization of use determinations.

Confidence Level (LCL_{95}). The provision at § 300.915(b)(1) requires dispersant effectiveness testing results

to be reported in terms of 95% lower confidence level (LCL_{95}). This accounts for between- and within laboratory error variability and the inherent error of the method.

A commenter expressed support for this requirement because the LCL_{95} is a lower threshold value than the average dispersant effectiveness criteria that was previously used. Another commenter suggested that reporting only the LCL_{95} reduces the amount of information available on a product and recommended that the test average and standard deviation also be provided for additional information on the precision of the testing. The Agency disagrees with the comment suggesting reporting the LCL_{95} reduces the information available. As described in the **Federal Register** notice for the proposed rule, only one number is reported compared to reporting a mean and standard deviation, as the variation has already been subtracted in the reported number (80 FR 3403–3404, January 22, 2015). Furthermore, the final provisions require under § 300.915(a)(18) that product submission for listing on the NCP Product Schedule provide all test data and calculations, including raw data and replicates (including positive controls), notes and observations collected during tests, calculated mean values and standard deviations, reports, including a summary of stock solution preparation, source and preparation of test organisms, test conditions, and chain of custody forms.

Dispersant Efficacy Thresholds. The Agency is revising the efficacy criteria for dispersants to be listed on the NCP Product Schedule. Specifically, the dispersant must demonstrate a Dispersant Effectiveness (DE) at the 95% lower confidence level (LCL_{95}) greater than or equal to: (i) 70% for SPR Bryan Mound at 5 °C; and (ii) 75% for SPR Bryan Mound at 25 °C.

Commenters suggested that the efficacy thresholds as proposed in § 300.915(b)(1) were high, even for highly effective dispersants; a commenter cited a BFT study suggesting that a certain dispersant product may not be listed based on its percent effectiveness results of 69% and 61% on different oils. Other commenters suggested that the proposed thresholds are too restrictive and do not sufficiently take into account the variability of the BFT. A commenter stated that it would be better to set a minimum threshold for efficacy tests of 65% at any temperature as a minimum requirement for listing. Another commenter recommended that the requirements for percent effectiveness at various temperatures and oils should be changed to a single value of 45% effectiveness. The Agency recognizes that the final provisions update the SFT efficacy testing protocols to the new BFT efficacy testing protocol, which is designed to be more representative of moderately turbulent sea conditions where dispersants are more likely to be successful when used. The revised testing protocol improves test repeatability and reproducibility within and between laboratories, as well as greatly reduces both the inherent error of the method and the human error associated with the SFT protocol. In addition, reporting the test results in terms of the product's LCL_{95} accounts for between- and within laboratory error variability and the inherent error of the method. The BFT provides higher, consistent turbulent mixing and better enables more reproducible and repeatable dispersant. The BFT provides such mixing and better enables more repeatable and reproducible dispersant effectiveness than the SFT. The mixing energy within the baffled flask is higher than the mixing energy within the swirling flask, and, as a result of this increased mixing energy, better dispersion is possible. The efficacy thresholds in the final provisions are higher than the previous efficacy threshold and reflect improvements from the BFT protocols. These higher thresholds also reflect the Agency's intent to strengthen the requirements for listing dispersant products on the NCP Product Schedule that are more efficacious. The Agency believes the final action provides reasonable thresholds for the purposes of listing a dispersant on the NCP Product Schedule without being overly restrictive.

(2) Dispersant Toxicity

The Agency is revising the toxicity testing requirements for dispersants, including the testing protocols and the use of the test results. The provision at § 300.915(b)(2) requires acute toxicity testing for the dispersant alone, and the dispersant mixed with SPR Bryan Mound. It also requires developmental toxicity and subchronic testing on the dispersant alone. These tests must be performed using the methods specified in Appendix C. While the toxicity testing results were previously used by the OSC to assist in authorization of use determinations, the Agency will now use the testing results for the dispersant tested alone to determine eligibility for listing on the NCP Product Schedule.

Commenters asserted that the Agency needs to clearly distinguish between the requirements of the toxicity testing required to assess which dispersants should be listed on the NCP Product Schedule, and toxicological studies with appropriate oils, test organisms, and exposure conditions that will inform discussions about how the listed dispersants might cause impacts in U.S. waters under the specific circumstances of an oil spill or release. Specifically, a commenter suggested that the Agency clarify the objective and rationale of the proposed acute exposure toxicity testing of dispersant-oil mixtures and explain how this relates to the listing of a product on the NCP Product Schedule. The Agency seeks to clarify that the toxicity testing and listing threshold requirements for the dispersant alone, serve to screen dispersant products for hazard. EPA is unaware of any single toxicity testing protocol that represents every potential exposure situation that may be encountered during an oil spill. There are numerous factors that come into play and affect an organism's exposure under the wide range of field conditions, which are not necessarily represented by the commenters suggestion to use short-term exposure durations under spiked exposure concentrations. In addition, even short-term exposure to dispersed oil can have harmful effects to certain species and life stages. The exposure to individual organisms during an incident depends on many factors including, but not limited to, the type of oil discharge (*e.g.,* continuous discharge), proximity of the organisms to the oil discharge, and organism mobility. The Agency believes the protocols provide for a conservative decision approach and establish an adequate safety margin without being overly restrictive. The Agency also believes that testing the oil alone, as well as the oil and dispersant mixture, will provide useful data on the relative toxicity of the oil and the potential hazards associated with dispersant use (*i.e.,* data derived from the oil and dispersant mixture test) relative to the hazards associated with non-treatment of the oil (*i.e.,* data derived from the oil only test). EPA believes that the comparative nature of the data will benefit the OSCs, RRTs, and Area Committees in their decision making and planning activities.

Dispersant Tested Alone and/or Mixed with Reference Oil. The provision at § 300.915(b)(2) requires acute toxicity testing for the dispersant alone, and the dispersant mixed with SPR Bryan Mound. It also requires developmental toxicity and subchronic testing on the dispersant alone.

Commenters had varied opinions about whether a dispersant should be tested alone or mixed with the reference oil. Some commenters recommended

that toxicity testing should focus only on the dispersant alone, and that the Agency should eliminate testing requirements for dispersant mixed with reference oil. Another commenter stated that toxicity testing of dispersant plus oil is more relevant than testing with the dispersant alone because the dispersant would not be used if no spilled oil was present and because the potential for toxic effects when dispersants are used on spilled oil at sea is caused by the dispersed oil, not by the dispersant. A commenter noted that screening tests conducted in the absence of reference oils give no indication of whether product-oil combinations are more toxic than the dispersant alone, and a commenter stated that it is important to know whether chemically dispersing the oil would increase or decrease toxicity of the oil itself. Commenters noted that the relative toxicity of any dispersant and oil mix will largely be a function of how much oil is dispersed into the water sample being analyzed, with the greater the quantity of oil dispersed, the more toxic the resultant oil and dispersant mix will be. A commenter specifically opposed the proposed dispersant-oil acute toxicity testing requirement because any concerns about the potential for toxic effects on marine organisms resulting from the use of modern dispersants should consider the potential effects of dispersed oil, not the dispersant itself.

In response to these comments, the Agency is not eliminating toxicity testing for dispersed oil from the rule. To clarify the intent of such testing, the Agency described the rationale for the dispersed oil toxicity test in previous preambles published in the **Federal Register**. For example, EPA notes that the current regulation includes acute toxicity testing of dispersant-oil mixtures and provided a rationale in the 1994 NCP final rule (59 FR 47411–47412, September 15, 1994). Dispersants are intended to increase the rate at which an oil slick is dispersed into the water column. This dispersed oil is, by definition, a mixture of the dispersant and the spilled oil. As a result of this dispersion of oil, the possibility exists for organisms dwelling in the water column to come in physical contact with the dispersed oil. The Agency believes that it should not make any difference whether the mortality of an organism was caused by the effects of a dispersant in the water or due to physical contact with the dispersed oil (*e.g.,* dispersed oil covering the gills of a fish, thereby inhibiting respiration). EPA believes that the fact that dispersants cause oil to enter the water column is sufficient reason to test for the toxicological effects of dispersed oil. The Agency also believes that testing the oil alone, as well as the oil and dispersant mixture, will provide useful data on the relative toxicity of the oil and the potential hazards associated with dispersant use (*i.e.,* data derived from the oil and dispersant mixture test) relative to the hazards associated with non-treatment of the oil (*i.e.,* data derived from the oil only test). EPA believes that the comparative nature of the data will benefit the OSCs, RRTs, and Area Committees in their decision making and planning activities. The final action maintains the approach used in the previous rule for acute toxicity testing on dispersant mixed with oil.

Oil-only acute toxicity testing. In the **Federal Register** notice for the proposed rule, the Agency requested comment on whether the submitter should be required to conduct the oil-only acute toxicity testing for the test oil (80 FR 3405, January 22, 2015). In response to the Agency's request for comment, commenters stated that there should be a requirement to conduct oil-only acute toxicity testing (in addition to the dispersant alone and the dispersant-oil combination) to give the Agency the opportunity to detect anomalies in the submitted data and to provide a comparison to assist in evaluating whether a net environmental benefit is achieved with the proposed dispersant. A commenter also stated that the Agency should calculate toxicity thresholds with oil alone, oil-dispersant mixed together, and dispersant alone to assist in comparing the relative toxicity. The Agency considered requiring submitters to conduct the oil acute toxicity testing as it would provide an opportunity to detect anomalies in the submitted data. However, EPA decided to conduct the oil-only acute toxicity tests itself for the reference oil with both *Americamysis bahia* (*A. bahia*) and *Menidia. beryllina* (*M. beryllina*) and provide this data for comparisons to dispersant and dispersant-oil mixture acute toxicity tests. EPA intends to make the reference oil toxicity test results available to the public on its website, including calculated median LC_{50} values. By providing this information, the Agency is reducing the number of required toxicity tests that the submitter would need to conduct in relation to the previous requirement. To address concerns about detecting anomalies in the submitted data, EPA notes that the final provisions under § 300.915(a)(17) and § 300.915(a)(18) require the product submission for listing on the NCP Product Schedule to provide information about the laboratory that conducted the required tests and to provide all test data and calculations.

Test species. The finalized provision at § 300.915(b)(2) requires acute toxicity testing and testing for subchronic effects using the crustacean species *A. bahia* and the fish species *M. beryllina,* as well as developmental toxicity testing using a sea urchin species, either *Strongylocentrotus purpuratus* (*S. purpuratus*) or *Arbacia punctulata* (*A. punctulata*) to facilitate further flexibility to laboratories conducting the developmental assay based on test guidance and organism availability. Protocols are detailed in Appendix C to part 300. The finalized provision specifies the sea urchin species to be used for developmental toxicity, to be consistent with specifying species in the acute and subchronic toxicity tests (*A. bahia* and *M. beryllina*) and to provide greater clarity by replacing the proposal's more general reference to the ''a sea urchin assay.''

Commenters requested that the Agency consider including more geographically or ecologically representative species in the testing protocol. Commenters specifically suggested that the Agency select test species that would be representative of those found in California and Arctic/Alaskan waters. A commenter noted that anadromous or marine fish would be ecologically relevant to arctic waters since dispersants are only effective (and used) in marine waters. The commenter recommended the use of Pacific herring (*Ciupea pallasiz*) as a model species, since they are known to be quite sensitive to chemical disturbance and are an ecologically and economically important species to Alaska. Another commenter recommended testing on Arctic species, specifically in vitro cell line studies to assess acute and chronic effects on important Arctic species including ice seals, walrus, beluga whales, bowhead whales, phytoplankton and zoo plankton, benthic invertebrates, and Arctic fish species. Another commenter recommended that the Agency require product testing on Arctic species such as Arctic copepods and algae. The Agency notes that the required toxicity testing protocols in Appendix C use standard test species to screen dispersant products for hazard for listing on the NCP Product Schedule at a national level. While the toxicity testing requirements use test species commonly used in EPA toxicity testing methods, EPA recognizes that other species may be more sensitive to

dispersed oil under the same test conditions. This final action provides for consideration of regional conditions under the authorization of use provisions under § 300.910. For example, § 300.910(a)(1) provides for consideration of the existence and location of environmentally sensitive resources when developing a preauthorization plan. In addition, § 300.910(g) provides for supplemental testing and information to address site, area, and ecosystem-specific concerns.

A few commenters expressed concerns about the proposed updates to § 300.915(b)(2) regarding developmental toxicity testing, stating that the use of the purple urchin assay is arbitrary and capricious given that this species' habitat is the shallow nearshore, tidal environment, which is unlikely to be exposed to dispersants during a response effort. Commenters also expressed concerns related to the lack of experience in conducting this type of assay and the potential difficulty in interpreting results between multiple laboratories. EPA disagrees that the use of the purple urchin assay is arbitrary and capricious. EPA notes that, along with the other toxicity test, the sea urchin developmental assay and listing threshold requirements screen dispersant products for hazard. The sea urchin developmental assay established as part of the final rule serve as a sensitive surrogate test for echinoderm early life stages. This test organism is intended to expand the taxonomic diversity of species used in product hazard assessment and is not intended to represent any particular species or habitat in affected environments. EPA adapted an existing toxicity testing approach to allow inclusion of this species in product hazard assessment. To facilitate further flexibility to laboratories conducting the developmental assay, the Agency amended the final provisions to include the option to use the purple sea urchin *A. punctulata* in lieu of *S. purpuratus* for the developmental assay. In addition, EPA amended the final provision under § 300.915(b)(2) to replace the phrase ''. . . using a sea urchin assay . . .'' with the phrase ''. . . using *Strongylocentrotus purpuratus* or *Arbacia punctulata* . . .'' to recognize the additional species flexibility for laboratories conducting the developmental assay based on guidance and organism availability, and to be consistent with regulatory text for the other toxicity tests where the organisms are identified.

Toxicity Thresholds. In the finalized provisions at § 300.915(b)(2)(i)–(iii), EPA is providing thresholds to determine eligibility for listing on the NCP Product Schedule. Specifically, to be listed on the NCP Product Schedule, the dispersant tested alone must demonstrate: (i) A median lethal concentration (LC_{50}) at the lower 95% confidence interval greater than 10 ppm; (ii) an inhibition concentration for 50% of the test species (IC_{50}) at the lower 95% confidence interval greater than 1 ppm; and (iii) a subchronic No Observed Effect Concentration (NOEC) greater than 1 ppm. The finalized regulatory text has been modified from that proposed to list these requirements in subsections (i) through (iii), to provide greater clarity.

Commenters expressed concern that the proposed dispersed oil toxicity test and its threshold could result in the elimination of many dispersants (and potential future dispersants) from the NCP Product Schedule. A commenter stated that it might be difficult for any effective dispersant, mixed with crude oil, to meet the Agency's 10 ppm LC_{50} concentration requirement. The commenter noted that a significant fraction of the toxicity reported from these tests can be attributed to the crude oil alone, masking the dispersant toxicity. Another commenter explained that, based on a toxicity study, a specific product would not pass the proposed toxicity limit, and that given the reported LC_{50} of ANS oil alone, it is unlikely that any of the current dispersants on the NCP Product Schedule would meet the proposed toxicity limit. The commenter notes that this is consistent with the results of a study using Louisiana sweet crude oil in which all of the nine investigated dispersants currently included on the NCP Product Schedule failed a toxicity threshold requirement of 10 ppm. Furthermore, commenters suggested it is not clear whether any dispersant will be approved for the NCP Product Schedule when both toxicity and effectiveness tests are required, and that the standard static acute toxicity testing of dispersant-oil mixtures do not represent real world exposures. The Agency recognizes comments regarding establishing a listing threshold for the dispersant-oil mixture toxicity test for the purposes of being listed on the NCP Product Schedule. The final provisions establish that the listing threshold for acute toxicity testing applies to the results from the dispersant-only toxicity test and not the results from the dispersant-oil mixture toxicity test. Nonetheless, the results from toxicity testing for dispersant alone and dispersant-oil mixture as required under § 300.915 are to be made available in the NCP Product Schedule Technical Notebook for OSCs, ACs, and RRTs to consider in planning for and responding to an oil discharge.

(3) Limitations

In the finalized provision at § 300.915(b)(3), EPA specifies that a dispersant may only be listed on the NCP Product Schedule for use in saltwater environments for which it meets the efficacy and toxicity listing criteria. Dispersants are typically designed and traditionally used for responding to oil discharges in saltwater in the United States. In general, the effectiveness of dispersants decreases as the salinity of the water decreases. In waters with no salinity, many dispersants have shown a very low effectiveness or are sometimes completely ineffective.[6] The Agency is also concerned with using dispersants in freshwater environments because of the limited dilution typically available as compared with the open sea and because of the existence of water intakes in rivers, streams, and lakes for use in drinking water supplies. Using dispersants in freshwater has the potential for compounding the impacts caused by already discharged petroleum products, particularly near potable and non-potable subsurface water intakes.

Several commenters suggested explicit temperature and salinity limits for dispersant use. A commenter noted that it is not clear whether dispersants could be used in estuaries, or other saltwater/freshwater mixing zones, and therefore a salinity threshold is needed. Commenters suggested that dispersant use should be restricted to saltwater with a salinity of greater than 20 ppt and temperatures greater than 10 °C or 50 °F. The Agency is not amending the rule to require specific salinity or temperature limits for dispersant use. The Agency believes it is more appropriate to address water salinities regionally rather than in a definition applicable at a national level and is not including a definition of ''saltwater'' in the final rule. Dispersants are typically designed and traditionally used for responding to oil discharges in saltwater in the United States. In general, the effectiveness of dispersants used in marine waters decreases as the salinity of the water decreases. EPA agrees that dispersants may be effective in brackish waters that have salinities lower than typical ocean water (*e.g.,* 35 ppt). EPA also believes that dispersants may be effective in water with salinities greater

[6] Fingas, M., (Ed.), 2011, *Oil Spill Science and Technology,* Gulf Professional Publishing, pp. 513–518.

than typical ocean water. However, dispersant effectiveness may vary depending upon factors such as product formulation and mixing energy. Water temperature is also an important variable that may influence the effectiveness of dispersant applications. For example, cold temperatures may, among other environmental factors, impact the effectiveness of dispersants as it affects certain oil properties (*e.g.,* viscosity). Colder temperatures also may affect the degree of oil weathering (*e.g.,* evaporation), and the amount of dispersant-oil mixing energy (wave action) needed to effectively disperse oil relative to warmer temperatures. The final provisions require product submissions (*e.g.,* dispersant submission) to provide the recommended product use procedures under § 300.915(a)(10). These procedures must address, as appropriate, variables such as water salinity, water temperature, types and weathering states of oils or other pollutants, and must include supporting documentation. EPA believes that the information on salinity and water temperature from the product submission provides flexibility to OSCs, RRTs, and other interested parties when considering dispersant products for use on an oil discharge.

In the finalized provisions, EPA made some editorial changes to the proposed text for increased clarity. EPA also added the phrase ''for which it meets the efficacy and toxicity listing criteria'' to be consistent with the requirements in § 300.915(b)(1) and (2).

(c) Surface Washing Agent Testing and Listing Requirements

In § 300.915(c), the Agency is revising the toxicity testing protocols for surface washing agents (SWAs), establishing efficacy testing protocols, and establishing both toxicity and efficacy listing thresholds. As defined in § 300.5 in the final action, surface washing agents are substances that separate oil from solid surfaces, such as beaches, rocks, metals, or concrete, through a detergency mechanism that lifts and floats oil. Product and oil are generally to be collected and recovered from the environment with minimal dissolution, dispersion, or transfer into the water column. The finalized revisions in § 300.915(c) respond to concerns regarding surface washing agents' frequent use and the potential for residual impacts after their use.

(1) Surface Washing Agent Efficacy

Under § 300.915(c)(1), the Agency is establishing a surface washing agent efficacy testing requirement. Specifically, EPA is requiring that to be listed on the NCP Product Schedule, the surface washing agent must meet an efficacy of greater than or equal to 30% in either freshwater or saltwater, or both, depending on the intended product use. The Agency is allowing the use of standard recognized efficacy testing methodologies for surface washing agents. An example of such a standard recognized methodology is the American Society for Testing and Materials (ASTM) Standard Test Method for Evaluating the Effectiveness of Cleaning Agents.[7] Another methodology is Environment Canada's Test Method.[8] The capability of a particular surface washing agent depends upon the application procedures and the characteristics of the surface being cleaned, such as size, shape, and material. The ASTM test method in particular covers a procedure for evaluating the capability of the agents, providing a relatively rough surface to which the oil can adhere. The Environment Canada method uses a stainless-steel 'trough' which is placed at a specified angle. The target oil is placed on an area on the trough. The treating agent is then applied in droplets to the surface of the oil and after 10 minutes at 5-minute intervals, rinses of water are applied to the trough. After drying, the trough is weighed, and the removal calculated from the weight loss. Repeatability is within 5 percent.

Commenters expressed support for the use of the Environment Canada efficacy protocol, which EPA provided as an example of a standard recognized efficacy testing methodology in the preamble to the proposed rule. Commenters recommending the use of the Environment Canada efficacy protocol cited the availability of a large database of testing results from this protocol and indications that test results are thoroughly reviewed and thought to be highly reliable. EPA acknowledges the commenters' support for the proposed requirements at § 300.915(c) and the use of the Environment Canada efficacy protocol. There are no requirements for the submitter to use a specific efficacy testing methodology in the NCP Subpart J for surface washing agents to determine listing eligibility on the NCP Product Schedule. The final rule requires that the submitter use an applicable standard methodology to meet the surface washing agent efficacy testing and listing requirements. The Agency continues to develop a laboratory testing protocol to evaluate the efficacy of surface washing agents.

A commenter suggested that the Agency should not require efficacy testing until a standard protocol is developed. The commenter expressed concern that the results from the ASTM and Environment Canada tests may not be comparable and suggested that within-test variability is already large. The commenter also noted that in the published data, Environment Canada tests were performed only on a Canadian oil using only one test. While the Agency's goal is to develop a standard bench-scale testing protocol for surface washing agent product evaluation, the Agency believes that using existing applicable protocols provides useful information that would otherwise be unavailable to screen products. The Agency continues to develop a laboratory testing protocol to evaluate the efficacy of surface washing agents and would propose this protocol in the **Federal Register** through notice and comment before adopting it as part of the Subpart J requirements. The EPA surface washing agent protocol is outside the scope of this rulemaking. Nonetheless, the final rule provides for the use of standard efficacy testing methodologies for surface washing agents. To clarify the provision, EPA amended the final provision to replace the term ''. . . recognized standard methodology . . .'' with ''. . . applicable standard methodology . . .'' to better reflect the applicability of the methodology to surface washing agents. While EPA recognizes the potential for test variability, the Agency agrees that there may be other potential benefits to these methodologies. The Agency believes that general surface washing agent efficacy tests that are currently available will develop efficacy results that can be measured against the efficacy threshold of 30% in either freshwater or saltwater or both, depending on the intended product use.

EPA also made some editorial changes to the proposed text for increased clarity.

(2) Surface Washing Agent Toxicity

Under § 300.915(c)(2), the Agency is revising the toxicity testing requirements for surface washing agents, including the testing protocol. While the toxicity testing results were previously used by the OSC to assist in authorization of use determinations, the Agency will now use these toxicity

[7] ASTM Standard Test Method for Evaluating the Effectiveness of Cleaning Agents. Designation: G122—96 (Reapproved 2008). ASTM International, 100 Barr Harbour Dr., P.O. Box C–700 West Conshohocken, Pennsylvania 19428–2959, United States.

[8] Fingas, Merv and Fieldhouse, Ben; ''Surface Washing Agents or Beach Cleaners'' (2010). Chapter 21 Surface-Washing Agents or Beach Cleaners. In Oil Spill Science and Technology (p716). London: Gulf Professional Publishing.

testing results to determine listing eligibility on the NCP Product Schedule. The Agency requires the use of the toxicity test methodology in Appendix C to part 300 to test the surface washing agent for acute toxicity against freshwater species *Ceriodaphnia dubia* and *Pimephales promelas,* or saltwater species *Americamysis bahia* and *Menidia beryllina,* or both, depending on the intended product use. The revisions to the testing protocols for surface washing agents are detailed in Appendix C to part 300. The protocol is based on EPA's *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters for Freshwater and Marine Organisms.*[9] To be listed on the NCP Product Schedule, the surface washing agent must demonstrate an LC_{50} at the lower 95% confidence interval of greater than 10 ppm in either freshwater or saltwater for all tested species. EPA believes that with this threshold level, the Agency is establishing an adequate safety margin without being overly restrictive.

In addition to testing the surface washing agent alone, some commenters suggested that the Agency require toxicity testing with surface washing agent-oil mixtures, to determine whether the addition of the surface washing agent may enhance or alter toxicity of the oil. Commenters asserted that this would better approximate conditions that organisms may encounter in the natural environment. EPA believes the final rule provisions for acute toxicity testing for surface washing agents is adequate given these products are not likely to be used in the same quantities or durations as dispersants. EPA notes surface washing agents are intended to be recovered from the environment, unlike dispersants. In addition, while the Agency requested comment on a protocol for preparation of product/oil mixtures for toxicity testing, the Agency did not identify comments or sufficient information to tailor the exposure solutions for oil-SWA mixtures. Nonetheless, EPA believes the final provisions will help the Agency gather additional technical information specific to the product category. In addition, EPA may request clarification or additional information as necessary under § 300.955(c)(1) to inform the Agency's evaluation of a product.

In the finalized provisions, EPA made only editorial changes to the proposed text for increased clarity.

[9] *http://water.epa.gov/scitech/methods/cwa/wet/upload/2007_07_10_methods_wet_disk2_atx1-6.pdf.*

(3) Limitations

At § 300.915(c)(3), the Agency specifies that surface washing agents may only be used in those water environments (freshwater and/or saltwater) for which the product was tested and for which it met the efficacy and toxicity listing threshold criteria. The Agency recognizes that products may yield effective results in certain environments and not in others. Products that may be effective in freshwater environments may not necessarily be so in saltwater environments, and vice versa. Product manufacturers maintain flexibility to select which environment the product is to be tested and authorized for use within these limitations.

No comments on this provision were identified. EPA made editorial changes to the final provisions to provide greater clarity.

(d) Bioremediation Agent Testing and Listing Requirements

The Agency is establishing toxicity testing protocols, revising the efficacy testing protocols, and establishing both efficacy and toxicity listing thresholds for bioremediation agents in § 300.915(d). As now defined in § 300.5, bioremediation agents are biological agents and/or nutrient additives deliberately introduced into a contaminated environment to increase the rate of biodegradation and mitigate any deleterious effects caused by the contaminant constituents. Bioremediation agents include microorganisms, enzymes, and nutrient additives such as fertilizers containing bioavailable forms of nitrogen, phosphorus, and potassium.

A commenter suggested that bioremediation agent formulas should be restricted to only those components necessary for the proposed primary use of any listed product, noting, for example, that bioremediation agents formulated for land-based settings may not need components such as surfactants to be effective, whereas the product may not need other components such as sugars and nutrients to be effective for use in or near water. This final rule requires product listing submissions to provide information on the intended function of each component (*e.g.,* solvent, surfactant) under § 300.915(a)(13). EPA notes that some components other than those components necessary for the primary use may still serve to support the product's function. However, EPA also recognizes concerns that a product (*e.g.,* bioremediation agents) may contain components that may support an alternate mechanism of action (*e.g.,* surfactants) and could potentially meet the definition of another product category (*e.g.,* dispersants). EPA amended the final provision under § 300.915(a)(9) to remove the phrase ''. . . and you want it considered for listing on the NCP Product Schedule in more than one category . . .'' to ensure that product manufacturers identify all applicable chemical or biological agent categories. If a product meets the definition of more than one chemical or biological agent category, the product manufacturer must provide the test data appropriate to each category. The final provision ensures that the Agency has the information necessary to evaluate the product for listing on the NCP Product Schedule regardless of whether the submitter requests it to be listed in a specific product category.

A commenter expressed concern related to the use of nonindigenous or genetically modified bioremediation agents, stating that they may colonize areas where they are being applied. The commenter suggested that the Agency should not allow use of genetically modified agents in response activities. The Agency disagrees that the NCP should completely prohibit the use of nonindigenous or genetically modified agents in response activities. The final action establishes requirements for submitters to disclose bioremediation agent product information under § 300.915(a)(13) and (14), including components and any physical, chemical, or biological manipulation of the genetic composition. In addition, § 300.950, *Submission of Proprietary Business Information (PBI),* specifies that only certain information as identified in § 300.915(a)(13) and (14) may be claimed as PBI. All other information submitted to EPA for listing on the NCP Product Schedule as required under § 300.915 and § 300.955 cannot be claimed as PBI and will be available for public disclosure upon submission without further notice to the submitter. The Agency believes that the final provisions afford OSCs, Area Committees, and RRTs with the flexibility to establish the appropriate agent to use during response and response planning activities.

(1) Bioremediation Agent Efficacy

The final provisions reflect a series of changes from the previous requirements for the efficacy testing protocol for bioremediation agents. The new protocol includes freshwater testing in addition to the updated saltwater-based test and uses artificial water for both freshwater and saltwater testing, replacing the natural seawater

previously used. The protocol also eliminates several gravimetric and microbiological analyses and testing endpoints not used in the proposed listing determinations. Additionally, the protocol limits the levels at which external nutrients may be added, which allows the addition for product formulations without nutrients, or for product formulations that have nutrient concentrations at insufficient levels for the experimental setup. Finally, the methodology streamlines the statistical analysis. The revisions address concerns with the existing methodology (as discussed in detail in the **Federal Register** notice for the proposed rule, 80 FR 3408, January 22, 2015), expanding its application to include freshwater environments, improving the consistency and comparability of the test results, and generally streamlining the protocol.

Bioremediation Efficacy Threshold. Under § 300.915(d)(1), to be listed on the NCP Product Schedule, a bioremediation agent must successfully degrade both alkanes and aromatics as determined by gas chromatography/mass spectrometry (GC/MS) in freshwater or saltwater, or both, depending on the intended product use, following the test method specified in Appendix C to part 300. The percentage reduction of total alkanes (aliphatic fraction) from the GC/MS analysis must be greater than or equal to 85% at day 28, based on the ninety-fifth (95th) percentile Upper Confidence Limit (UCL_{95}) for both freshwater and saltwater. The percentage reduction of total aromatics (aromatic fraction) must be greater than or equal to 35% at day 28 for both saltwater and freshwater based on the UCL_{95}.

Some commenters suggested that the proposed efficacy threshold requirements are unattainably high (originally proposed as a 95% reduction of aliphatic and 70% reduction in aromatics for saltwater) and are significantly higher than the efficacy standards for dispersants. The commenters were concerned that these thresholds would essentially exclude bioremediation products. Commenters suggested amending the efficacy standard to 50% reduction in 28 days of both aliphatics and aromatics in both freshwater and saltwater. The Agency disagrees with these comments. EPA did not receive information to conclude that the revised thresholds would exclude a large portion of bioremediation products currently available. While the Agency disagrees with these comments, it recognizes that a reduction in percent thresholds would appropriately address the inherent variability of microbial consortium to degrade oil, also accounting for the different types of bioremediation agents.

After review of the proposed bioremediation agent thresholds and protocol, the Agency is amending the efficacy thresholds at 28 days to be greater than or equal to 85% for total alkanes and 35% for total aromatics in both saltwater and freshwater. While maintaining the efficacy protocol's approach as proposed, the Agency believes the final action provides reasonable thresholds for the purposes of listing a bioremediation agents on the NCP Product Schedule without being overly restrictive. The efficacy criteria finalized in this action demonstrate that the product can cause a substantial degradation of the alkane and aromatic fractions of weathered crude oil compared to a control, as determined by GC/MS analysis. The Agency disagrees that an equally high efficacy threshold is needed for dispersants. The efficacy thresholds for bioremediation agents are unrelated to and established separately from dispersants. EPA based the efficacy thresholds on individual assessments of the bioremediation agents and dispersant product categories, including consideration of their modes of action. Furthermore, efficacy for dispersant and bioremediation agents are evaluated using different analytical techniques. For example, the bioremediation agent efficacy test protocol described efficacy in terms of reduction in total alkanes and total aromatics of a weathered crude oil, ANS 521, using high-resolution gas chromatograph/mass spectrometer (GC/MS) over a 28-day period. Of note, the total alkanes and total aromatics described in the bioremediation agent efficacy testing protocol do not represent all of the components in crude petroleum oil. Dispersant efficacy is evaluated using a different test oil, non-weathered SPR Bryan Mound, using a UV-visible spectrophotometer. In the finalized provisions, EPA made only editorial changes to the proposed text for increased clarity.

Protocol Specific to Products Containing Enzymes Only. Regarding EPA's request for comment on whether an additional protocol specific to products containing enzymes only would be appropriate, commenters suggested that a testing protocol specific to products containing enzymes would be useful, because effectiveness data would help determine whether the technology would be beneficial during a response. Commenters recommended that testing of these products should consist of water exposure, weathered oil, and enzymatic product in the concentrations specified by the manufacturer. The intent of the protocol including specified concentrations is to provide a consistent, standardized approach that will allow the Agency to screen products for listing on the NCP Product Schedule; having each manufacturer specifying their own test parameters is contrary to this. EPA notes the final action does not restrict products with enzymes to testing under only one bioremediation agent procedure. The final rule includes a specific procedure within the bioremediation efficacy protocol in Appendix C that captures bioremediation agent products containing enzymes. Table 15 in Appendix C describes the summary of experimental setup for the bioremediation efficacy test and includes the treatment for products (such as an enzyme) containing no live microorganisms and no nutrients. (See: Test Type 3 in Table 15 in Appendix C). In addition, section 5.4.9 of Appendix C provides the entry for the experimental setup and procedure for non-living products (*e.g.,* enzymes) other than nutrients.

(2) Bioremediation Agent Toxicity

Prior to this amendment, there were no bioremediation agent toxicity testing requirements for purposes of listing these agents on the NCP Product Schedule. The Agency is finalizing an acute toxicity testing protocol for bioremediation agents to include both freshwater and saltwater. The Agency will use these testing results to determine listing eligibility on the NCP Product Schedule. The required testing protocols for bioremediation agents, detailed in Appendix C, are based on EPA's protocol, *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters for Freshwater and Marine Organisms.*

Toxicity Threshold. Under § 300.915(d)(2), the bioremediation agent must be tested for acute toxicity in freshwater or saltwater, or both, depending on the intended product use, following the method specified in Appendix C to part 300. To be listed on the NCP Product Schedule, the bioremediation agent must demonstrate an LC_{50} at the lower 95% confidence interval of greater than 10 ppm in either freshwater or saltwater for all tested species.

A commenter suggested that it is unclear why the proposed toxicity testing appears to be more stringent for bioremediation products than for chemical dispersants. The commenter asserted that all agents, no matter their type, should be required to meet toxicity standards before being listed on the NCP

Schedule and suggested a threshold of 100 ppm, rather than the Agency's proposed threshold of 10 ppm. The Agency notes that all chemical and biological agent categories have acute toxicity testing and associated threshold criteria to be considered for listing on the NCP Product Schedule. The Agency disagrees that the listing threshold for acute toxicity tests should be set to 100 ppm. The final provisions establish a listing threshold for 10 ppm for acute toxicity testing under § 300.915(d) for bioremediation agents, which is the same threshold as for other product categories. EPA's toxicity classification scheme classifies LC_{50} values ranging from 10 ppm to 100 ppm as slightly toxic and values above 100 ppm substances are considered practically nontoxic to aquatic organisms. This threshold level establishes an adequate safety margin without being overly restrictive.

A commenter stated that the Agency should establish thresholds where agents that contain known pathogens, bacteria, or fungi, that are harmful to humans or the environment, should be ineligible for listing. To support product screening, this final rule includes a provision under § 300.915(a)(14)(iv) to address whether products that contain microorganisms, enzymes, and/or nutrients also contain bacterial, fungal, or viral pathogens or opportunistic pathogens to compare to existing applicable criteria. The Agency reconsidered, based on comments, whether it should establish listing thresholds for products based on National Ambient Water Quality Criteria, and whether the levels selected for certification are appropriate for this purpose. The final provision under § 300.915(a)(14)(iv) requires that product submitters provide data, methodology, and supporting documentation for the levels of these pathogens, to provide relevant information. The Agency may consider how these levels compare against recommended National Ambient Water Quality Criteria, as applicable. The final provisions for listing products on the NCP Product Schedule under § 300.955 allow the Agency to make listing determinations based on a technical evaluation of all data and information submitted in accordance with the requirements for each product category and the relevant information on impacts or potential impacts of the product. Thus, the Agency can determine not to list the product on the NCP Product Schedule based on information received on contaminants that may raise concerns.

Bioremediation agent-oil mixtures. Regarding EPA's request for comment on the need for acute toxicity tests conducted with bioremediation agents-reference oil mixtures, commenters stated that toxicity testing should be conducted with mixtures of oil and products. Commenters expressed concern about the potential for toxicity from the partial degradation products of bioremediation and the potential for toxicity from agent-oil combinations that may not be captured if products are tested alone. The final action balances gathering the information necessary to support responses and response planning against the burden to conduct additional tests to list a product on the NCP Product Schedule, with the understanding that additional information may be incorporated at the regional level. Unlike dispersants that emulsify, disperse, or solubilize oil by promoting the formation of small droplets or particles of oil in the water column, bioremediation agents are introduced into a contaminated environment to increase the rate of biodegradation and mitigate any deleterious effects caused by the contaminant constituents. EPA believes the final rule provisions for acute toxicity testing for bioremediation agents are adequate, given these products are not likely to have the potential to be used in the same quantities or durations as dispersants based on past experience with spill response activities.

Subchronic toxicity testing. A commenter suggested that EPA require subchronic toxicity testing in addition to the proposed acute testing, because bioremediation products are expected to remain in the environment for at least 28 days. EPA did not take this suggestion. EPA believes the final rule balances the information necessary against the burden to conduct additional tests to list a product on the NCP Product Schedule at a national level, with the understanding that additional information may be incorporated at the regional level. According to the finalized provisions of § 300.910(g), RRTs may require supplementary toxicity and efficacy testing to address site, area, or ecosystem-specific concerns relative to the use of a product for planning and authorization of use.

In the finalized provisions, EPA made only editorial changes to the proposed text for increased clarity.

(3) Limitations

At § 300.915(c)(3), the Agency specifies that bioremediation agent listing would be for use only in the freshwater and/or saltwater environments for which the product was tested and for which it met the efficacy and toxicity listing criteria.

No comments on the provision were identified. EPA made only editorial changes to the final provision for greater clarity. EPA removed the phrase ''Based on testing . . .'' because it was unnecessary. EPA also replaced the term ''product'' with ''Bioremediation agents'' and the term ''fresh'' with ''freshwater'' for clarity.

(4) Generic Listing

The Agency recognizes that there may be oil discharge situations where it is determined that the addition of nutrients in the form of salts of nitrogen, phosphorus and potassium (*i.e.,* fertilizers) to stimulate or enhance bioremediation may be an effective and environmentally favorable mitigation method. However, nonproprietary commercially available formulations of nutrients are not specifically listed on the NCP Product Schedule, even though as nutrient additives they are subject to Subpart J requirements. Therefore, the Agency is finalizing at § 300.915(d)(4) a provision providing that if the product consists solely of: ammonium nitrate, ammonium phosphate, ammonium sulfate, calcium ammonium nitrate, sodium nitrate, potassium nitrate, synthetically-derived urea, sodium triphosphate (or tripolyphosphate), sodium phosphate, potassium phosphate (mono- or dibasic), triple super phosphate, potassium sulphate, or any combination thereof, then no technical product data are required. The product will be generically listed as non-proprietary nutrients on the NCP Product Schedule, and no further action is necessary under § 300.955. For these nonproprietary commercial nutrients, the Agency believes there is no need for submission of readily available information. In the proposal, this provision was titled ''Exceptions.'' EPA changed the name in the final amendment to ''Generic Listing'' to better describe the purpose of the provision and to avoid confusion with the provision under § 300.910(d).

Commenters recommended that products that require nutrient additions and additional proprietary components should have to follow toxicity and efficacy testing protocols. A commenter suggested that few if any of the listed fertilizers would pass the 10 ppm acute toxicity threshold that is proposed for other bioremediation agents, and that the requirement should be that the commercial formulations be no more toxic than their inorganic components. For these non-proprietary commercial nutrients, the Agency believes there is

no need for submission of readily available information. The Agency notes that the generic listing applies to substances comprised solely of those specifically identified in § 300.915(d)(4). The generic listing applies only to products commonly formulated entirely of those mineral nutrients and synthetically derived urea listed. The final action requires no technical product data submission or further action on the part of a manufacturer prior for the purposes of listing products commonly formulated of said materials on the NCP Product Schedule. However, the Agency notes that the use of such substances remain subject to the authorization of use provisions under § 300.910. For products that may contain components not specifically identified in § 300.915(d)(4), the requirements under § 300.955 *Addition of a Product to the NCP Product Schedule or Sorbent Product List* apply, including the bioremediation agents testing and listing provisions under § 300.915(d).

In the finalized provisions, EPA made only editorial changes to the proposed text for increased clarity.

(e) Solidifier Testing and Listing Requirements

The Agency is revising the toxicity testing protocol and establishing a toxicity listing threshold for solidifiers in § 300.915(e). As now defined in § 300.5, solidifiers are substances that through a chemical reaction cause oil to become a cohesive mass, preventing oil from dissolving or dispersing into the water column, and which are collected and recovered from the environment. Although solidifiers are intended to be recovered from the environment, the revisions and new toxicity listing threshold respond to concerns regarding the general increase in the use of chemical and biological agents as tools available for oil discharge responses.

Commenters recommended removing solidifiers from the NCP Product Schedule because they preclude the use of other mechanical countermeasures, noting that once a solidifier is applied to the slick, it becomes too heavy and viscous for mechanical recovery. A commenter asserted that solidifiers offer no measurable advantage over sorbents or mechanical recovery, have limited practicality, may cross-link or react with other substances, and require immediate removal from the environment. The commenter stated that there has been relatively few studies and tests on the effectiveness of solidifiers and referenced several reports supporting their position. The Agency disagrees that solidifiers should be removed from the NCP Product Schedule. The final action under § 300.915(a)(10) requires that information be provided on solidifier use procedures, including application equipment, conditions for use, any application restrictions, and as applicable, procedures for product and oil containment, collection, recovery, and disposal. This information will be available to the OSC and the RRT when making agent authorization of use determinations; agent authorization of use determinations are subject to OSC direction under the NCP. Further, the final action provides requirements under § 300.910(h) for the recovery of chemical agents and other substances from the environment. The final action provisions establish that the responsible party shall ensure that removal actions adequately contain, collect, store, and dispose of chemical agents and of other substances that are to be recovered from the environment, unless otherwise directed by the OSC. The requirements in § 300.910(h) apply to solidifiers. Finally, these requirements are reinforced by the definition provided for under § 300.5 for solidifiers, which specifies these agents are generally collected and recovered from the environment. The Agency believes these provisions sufficiently address solidifier recovery from the environment.

(1) Solidifier Efficacy

The Agency did not propose nor is it finalizing an efficacy testing requirement for solidifiers. EPA's focus has been on reviewing the protocols for dispersants and bioremediation agents, given that their specific process for affecting the oil allows them to be left in the environment, whereas solidifiers are intended for removal from the environment.

A commenter expressed support for the adoption of efficacy testing requirements, suggesting that the Agency should rely on recommendations from the experts. Another commenter suggested that while they did not have a specific methodology to propose, the Agency should consider performance criteria when adopting an efficacy standard including buoyancy of the product (to ensure that the oil-solidifier mixture does not sink) and ease of collection and removal from the environment. The Agency acknowledges the comments supporting efficacy testing requirements for solidifiers, and it notes that no specific methodology was suggested. EPA does not have sufficient information to establish an efficacy protocol for solidifiers at this time. While the final action does not establish efficacy testing requirements for solidifiers for the purposes of listing products on the NCP Product Schedule, these agents are subject to the data and information provisions under § 300.915(a), which specifically includes specific gravity as one of the data points for physical and chemical properties of the product, and the toxicity testing provisions under § 300.915(e). The new data and information provisions, including the new classification of solidifiers as chemical agents, will assist EPA in evaluating solidifier agent products and gather additional technical information specific to the product category. Additionally, EPA may request clarification or additional information as necessary under § 300.955(c)(1) to inform the Agency's evaluation.

(2) Solidifier Toxicity

EPA is revising the acute toxicity testing requirements for solidifiers, including the testing protocol. While the Agency previously provided the acute toxicity testing results to the OSC to assist in authorization of use determinations, it will now use these results to determine listing eligibility on the NCP Product Schedule. The revisions to the testing protocols for solidifiers are detailed in Appendix C to part 300. The acute toxicity test protocol for solidifiers is based on EPA's protocol, *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters for Freshwater and Marine Organisms.* According to § 300.915(e)(1), solidifiers must now be tested for acute toxicity in freshwater or saltwater, or both, depending on the intended product use, following the method specified in Appendix C to part 300. To be listed on the NCP Product Schedule, the solidifier must demonstrate an LC_{50} at the lower 95% confidence interval of greater than 10 ppm in either freshwater or saltwater for all tested species.

Similar to surface washing agents, the Agency is not requiring submitters to conduct acute toxicity tests with solidifier-oil mixtures. Regarding the Agency's request for comment on the need for acute toxicity tests conducted with solidifier-oil mixtures, a commenter noted that toxicity tests with oil may help to evaluate the efficiency of solidifiers in retaining water soluble hydrocarbons and preventing them from leaching into water, whereas simple efficiency tests may not provide such data. However, the Agency is unaware of information to tailor the acute toxicity protocol for the exposure solution for oil-product mixtures for solidifiers for the purpose of listing a product on the NCP Product Schedule.

EPA has experience with preparing oil-product combination for certain product categories and the final rule incorporates these updates where applicable. For solidifier products, the Agency does not have sufficient information to tailor the acute toxicity protocol for oil-solidifier mixtures, and the final action requires toxicity testing of solidifier products in conjunction with new toxicity thresholds for listing on the NCP Product Schedule. The final action also provides for the Agency to request clarification or additional information as necessary under § 300.955(c)(1) to inform the product submission evaluation.

In the finalized provision at § 300.915(e)(1), EPA made only editorial changes to the proposed text for increased clarity.

(3) Limitations

The Agency recognizes that products may yield effective results in certain environments and not in others. Products that may be effective in freshwater may not necessarily be so in saltwater, and vice versa. The Agency is specifying at § 300.915(e)(2) that the listing of solidifiers is limited to use only in those water environments (freshwater and/or saltwater) for which the product was tested and for which it met the listing threshold criteria. Product manufacturers maintain the flexibility to select which environment the product is to be tested and could be authorized for use, either saltwater, freshwater, or both within these limitations.

EPA made editorial changes to this provision to provide greater clarity.

(f) Herding Agent Testing and Listing Requirements

The Agency is revising the toxicity testing protocol and establishing a listing threshold for toxicity for herding agents in § 300.915(f). As defined in § 300.5 in the final rule, herding agents are substances that are used to control the spreading of oil across the water surface. The revisions and new toxicity listing threshold respond to concerns regarding the general increase in the use of chemical and biological agents as tools available for responses to oil discharges.

Because the final action eliminates surface collecting agents as a category and redefines herding agents to better reflect their specific process for affecting the oil, and because the agents will need to be identified in order for the required testing to be submitted, the Agency has eliminated the test requirement for distinguishing surface collecting agents from other chemical agents.

(1) Herding Agent Efficacy

There were previously no efficacy testing requirements for herding agents to determine listing eligibility on the NCP Product Schedule. These agents would have been included in the former surface collecting agent category, which had no efficacy testing requirements, and which the rule amendment eliminates. The Agency did not propose, nor is it finalizing, an efficacy testing methodology for herding agents.

Commenters expressed general support to establish a herding agent efficacy threshold. One commenter suggested that EPA rely on expert guidance and recommendations related to the adoption of efficacy protocols. Another commenter suggested considering performance criteria, including buoyancy of the product (to ensure oil-herder agent mixtures do not sink) and some measure of the ease of collection and removal from the environment. The commenter also indicated concern related to how OSCs will evaluate the utility of the agents without the use of efficacy testing. The Agency does not have sufficient information to establish an efficacy protocol for herding agents at this time. While the final action does not establish efficacy testing requirements for herding agents for listing on the NCP Product Schedule, herding agents are subject to the data and information provisions under § 300.915(a) and the toxicity testing provisions under § 300.915(f). The revised classification will assist EPA in evaluating herding agent products and gather additional technical information specific to the product category.

(2) Herding Agent Toxicity

EPA is revising the acute toxicity testing requirements for herding agents, including the testing protocol. While the Agency previously provided the acute toxicity testing results to the OSC to assist in authorization of use determinations, these results will now be used to determine listing eligibility on the NCP Product Schedule. According to § 300.915(f)(1), herding agents must now be tested for acute toxicity in freshwater or saltwater, or both, depending on the intended product use, following the method specified in Appendix C to part 300. Furthermore, to be listed on the NCP Product Schedule, the herding agent must demonstrate an LC_{50} at the lower 95% confidence interval greater than 10 ppm in either freshwater or saltwater for all tested species.

A commenter expressed opposition to toxicity testing as an NCP Product Schedule listing criteria for herding agents, stating that since herding agents are used in very limited quantities, they should not be held to the same toxicity standards as dispersants. The commenter stated that during actual response activities, dilution and mixing in the natural environment would decrease concentrations of herding agents immediately following application to levels below 0.15 ppm, which is below the toxic threshold. The Agency disagrees with this comment. Toxicity testing results assist in determining listing eligibility on the NCP Product Schedule. Toxicity testing results may also be used by RRTs and OSCs for comparative purposes between products when authorizing their use.

In the finalized provisions, EPA made editorial changes to the proposed text for increased clarity. EPA added the qualifier ''To be listed on the NCP Product Schedule'' for clarity and consistency with other provisions.

(3) Limitations

The Agency recognizes that herding agent products may yield effective results in certain environments and not in others. Products that may be effective in freshwater may not necessarily be so in saltwater, and vice versa. The Agency is specifying at § 300.915(f)(2) that the listing of herding agents is limited to use only in those water environments (freshwater and/or saltwater) for which the product was tested and for which it met the listing threshold criteria. Product manufacturers maintain the flexibility to select which environment the product is to be tested and could be authorized for use, either saltwater, freshwater, or both within these limitations.

In the finalized provisions, EPA made only editorial changes to the proposed text for increased clarity.

(g) Sorbent Requirements

The statutory schedule as required by CWA section 311(d)(2)(G) includes the NCP Product Schedule, the Sorbent Product List, and authorization of use procedures that, when taken together, identify the waters and quantities in which such dispersants, other chemicals, or other spill mitigating devices and substances may be used safely. Sorbents are not listed on the NCP Product Schedule. Rather, the Agency proposed to establish a separate Sorbent Product List from the NCP Product Schedule and to include sorbent materials and products on Sorbent Product List that meets the definition of a sorbent. Previously, a list that characterized sorbent materials was included in § 300.915(g). Under the

finalized revisions to § 300.915(g), EPA is establishing a publicly available Sorbent Product List identifying known sorbent materials and products for emergency responders to use when responding to an oil discharge. The Sorbent Product List is separate from the NCP Product Schedule. Sorbents, as now defined in § 300.5, are inert and insoluble substances that readily absorb and/or adsorb oil or hazardous substances, and that are not combined with or act as a chemical agent, biological agent, or sinking agent. Sorbents may be used in their natural bulk form or as manufactured products in particulate form, sheets, rolls, pillows, or booms. Sorbents are generally collected and recovered from the environment. The list of sorbent materials provided in the definition includes natural organic substances (*e.g.,* feathers, cork, peat moss, and cellulose fibers such as bagasse, corncobs, and straw); inorganic/mineral compounds (*e.g.,* volcanic ash, perlite, vermiculite, zeolite, clay); and synthetic compounds (*e.g.,* polypropylene, polyethylene, polyurethane, polyester).

According to § 300.915(g)(1), if a sorbent product that consists solely of a material or any combination of the materials found in the definition of sorbent (also listed in § 300.915(g)(1)(i)–(iii)), then no technical data are required to be submitted for listing on the Sorbent Products List, and no further action is necessary for use as a sorbent. EPA added the phrase ''to be submitted on the Sorbent Products List'' in the final action, for clarity.

The Agency recognizes that a sorbent material may consist of one or more substances not specifically identified in the non-proprietary list in § 300.915(g)(1)(i)–(iii). The final action includes a process for submitters to request to include other products as sorbents if they can certify they meet the inert, insoluble criteria. For sorbent products consisting of one or more substances not specifically identified in § 300.915(g)(1)(i)–(iii), a manufacturer may submit information for consideration for listing it as a sorbent on the Sorbent Product List. The required information includes: the information required under § 300.915 (a)(1) through (8), and (a)(13) through (a)(15); the certification required under § 300.915(a)(16); and information, including data, to support the claim that the product meets the sorbent definition under § 300.5.

A commenter opposed the establishment of a separate list for sorbents and indicated that these products should be added to the NCP Product Schedule with all of the other potential agents used in spill responses activities. Along similar lines, another commenter suggested that NCP Product Schedule listing should be required for all synthetically manufactured sorbent products. EPA disagrees that sorbents should be added to the NCP Product Schedule. For the purposes of Subpart J, EPA's 1994 final rule noted that the use of sorbents, by themselves, will not create deleterious effects on the environment because sorbent materials are essentially inert and insoluble in water and because the basic components of sorbents are non-toxic. (59 FR 47407; September 15, 1994). The rule previously provided that, prior to deciding on the use of a particular sorbent material, an OSC could request a written certification from the manufacturers that their sorbent product is comprised solely of those sorbent materials identified in the rule. Furthermore, for sorbents that consist of materials that are not specifically listed in the rule, the Agency issued written notification of its decision to add the product to the NCP Product Schedule under the miscellaneous oil spill control agent category if it met the definition of a sorbent. In this final rule, the Agency is maintaining the same overarching approach but offering an alternative administrative structure by establishing a publicly available Sorbent Product List in lieu of providing written certifications to sorbent manufacturers. EPA notes that the sorbent definition under § 300.5 specifically includes synthetic compounds (*e.g.,* polypropylene, polyethylene, polyurethane, polyester).

A commenter stated that EPA should require certain General Information listing requirements for sorbents, including the requirements in § 300.915(a)(1)–(8), (10), (11), (12)(i), (iv), and (vii), (19), and (20). The final action requires under § 300.915(g)(2) sorbent product submissions to include information required under § 300.915(a)(1) through (8), and (a)(13) through (a)(15), the certification required under § 300.915(a)(16), and information, including data, to support the claim the product meets the definition of sorbent under § 300.5. EPA does not believe that the information under § 300.915(a)(10) *Recommended product use procedures,* (11) *Environmental fate information,* (12) *The physical and chemical properties,* (19) *Annual product production volume,* and (20) *Design for the Environment* is necessary to determine whether the product meets the definitions of a sorbent to be placed on the Sorbent Product List. The Agency believes the Sorbent Product List will be helpful during preparedness planning and response to assist stakeholders, OSCs, and other responders in understanding what sorbents have been reviewed by EPA and are available for oil spills. EPA notes that the Sorbent Product List is separate from the NCP Product Schedule and is not subject to the preauthorization process under § 300.910(a). However, response actions, including the use of sorbents, are subject to OSC oversight under the NCP.

A commenter suggested that the Agency develop efficacy tests for sorbents based on expert recommendations that include parameters such as absorption amounts and rates. Another commenter expressed concerns related to the use of synthetic sorbent products and suggested that additional discussion of known toxicity of these compounds should be added to determine whether or not additional toxicity testing is warranted. The final provisions do not include sorbent efficacy or toxicity testing requirements. Under § 300.5, sorbents are defined as inert and insoluble substances that readily absorb and/or adsorb oil or hazardous substances, and that are not combined with or act as a chemical agent, biological agent, or sinking agent. Therefore, the Agency believes that sorbents are inert and insoluble substances that are removed from the environment, so the submission requirements for inclusion on the Sorbent Product List is a reasonable approach. Nonetheless, EPA notes that their use is subject to OSC oversight under the NCP. The definition also states that sorbents are generally collected and recovered from the environment. As noted above, for the purposes of Subpart J, EPA's 1994 final rule noted that the use of sorbents, by themselves, will not create deleterious effects on the environment because sorbent materials are essentially inert and insoluble in water and because the basic components of sorbents are non-toxic (59 FR 47407; September 15, 1994).

4. Submission of Proprietary Business Information (PBI)

EPA notes that the Agency has updated the terminology from ''Confidential Business Information (CBI)'' to ''Proprietary Business Information (PBI)'' in the title and throughout the provision. The final provisions reflect EPA policy to implement Executive Order 13556 (November 4, 2010) on the terminology used for certain types of information. The final action addresses the PBI

provisions for product submission under Subpart J in § 300.950.

Previously, manufacturers were able to assert a claim of confidential business information (CBI) for any information in their product package submissions to EPA. Typically, manufacturers claimed as CBI the chemical identity (*e.g.,* chemical name and chemical abstracts number [CASRN]), the chemical components, and the concentration (weight percent) of each chemical component in the product. However, EPA believes that when chemical and biological agents are used on oil discharges, it is critically important for the public and all other stakeholders to have information regarding the components, including the chemicals, being added to the environment, along with information about their toxicity and fate. This is particularly true for major discharge events where larger quantities of chemical or biological agents may be authorized for use. Prompt and accurate information will allow the public to evaluate and understand the potential human and environmental effects of these chemical agents. The Agency is establishing limitations to what submitters are allowed to claim as PBI in an effort to balance public access to information with proprietary business needs. The final action provides that product manufacturers submitting a product for listing on the NCP Product Schedule or the Sorbent Product List may only assert, and the Agency will only consider, PBI claims covering the following information contained in product submissions: concentration, maximum, minimum, and average weight percent, and units of each component in the product as identified in § 300.915(a)(13) and (14). All other information submitted to EPA for listing a product on the NCP Product Schedule or the Sorbent Product List as required under § 300.915 and § 300.955 will not be considered PBI and will be available for public disclosure upon submission without further notice to the submitter. The final rule provides public access to the identity of components and relevant health and environmental effects information submitted by the product manufacturer while providing confidential treatment for the concentrations of product components.

In the final action, EPA modified the proposed language in § 300.950(a) to replace the term ''disclosed to the public'' with ''available for public disclosure upon submission without further notice to the submitter'' to maintain the focus of information in the NCP Product Schedule Technical Notebook by providing OSCs and RRTs the most relevant information to consider for planning and response. EPA also amended the final provision by replacing the phrase ''You may only claim the concentration and the maximum, minimum, and average weight percent of each chemical component or microorganism in your product, as identified in § 300.915(a)(13) or (14), to be CBI'' with ''You may only claim as PBI the concentration; the maximum, minimum, and average weight percent; and the units of each component as identified in § 300.915(a)(13) and (14) and as applicable.'' EPA included the phrase ''. . . as applicable'' to recognize that product reporting requirements may vary depending on the type of component (*e.g.,* chemical, microorganism). EPA modified the regulatory text in § 300.950(b)(1) to include the term ''or Sorbent Product List'' to clarify this requirement also applies to submissions for listing sorbent products. Finally, EPA modified the language in § 300.950(b)(2) from that proposed, to more clearly explain the process for submitting PBI; the information does not need to be redacted but included in a separate marked inner envelope in the submission package.

Some commenters expressed concerns related to the public disclosure of proprietary information. A commenter suggested that while EPA may require disclosures of product formulas, this information does not need to be made public. The commenter noted that this disclosure could put the manufacturer at a competitive disadvantage. The commenter also suggested that this rule may have the unintended consequence of discouraging companies from listing products which in turn could decrease the number of products available for response activities in the United States. Another commenter suggested that the disclosure requirement would allow competitors to develop ''copycats'' of existing products with the release of proprietary trade secrets. Other commenters expressed concerns related to the potential impacts of the proposed rule on innovation for manufacturers, with some emphasizing impacts to small businesses. The Agency acknowledges the opposition to the final rule amendments relating to those elements identified in § 300.915(a)(13) and (14) in the product to be claimed as PBI. While providing submitters the ability to claim the concentrations, weight percentages, and units of all chemical components, microbiological cultures, enzymes, or nutrients as identified in § 300.915(a)(13) and (14) as PBI, the final rule allows greater public access to other information (that is, all the information required under § 300.915 and § 300.955 except for specific data as per § 300.950) submitted by the product manufacturer to EPA for listing on the NCP Product Schedule, including the identity of chemical components and relevant health and environmental effects information. EPA recognizes the need to balance a product manufacturer's interest in keeping as much information about a product confidential as possible with the general public's interest to be informed about products that may be used during a response under CWA section 311 authorities. As such, EPA believes the approach in the final action provides the appropriate balance between the public interest in knowing the constituents of products being used during a response and a product manufacturer's interest in protecting the product's formulation. The Agency also recognizes the concern with disclosure of product formulas, which some commenters argue would allow the development of ''copycats'' of existing products, thereby impacting manufacturers and small businesses, their incentive to develop products, and the ability of small, disadvantaged businesses to compete and innovate. The final action balances public access to information with proprietary business needs. The final rule allows product manufacturers to assert a claim of PBI for the concentrations, weight percentages, and units of all chemical components, microbiological cultures, enzymes, or nutrients as identified in § 300.915(a)(13) when submitting a product for listing on the NCP Products Schedule. The remainder of the information submitted as required under § 300.915 and § 300.955 will be available for public disclosure upon submission without further notice to the submitter.

Another commenter suggested that the EPA's duty under the Clean Water Act mandates that all ingredients for products listed on the NCP Product Schedule be disclosed, including precise formulations, in order to assess potential exposure and toxicity. Some commenters suggested that applications for agents that have claimed specific ingredients as CBI should not be listed on the NCP Product Schedule, and thus precluded from use. The Agency does not agree that mandatory disclosure of ingredients is required by the Clean Water Act and has chosen a balanced approach to ensure that relevant information is available to the public while maintaining important

confidentiality protections for product manufacturers. This final action allows only for the concentrations, weight percentages, and units of all chemical components, microbiological cultures, enzymes, or nutrients as identified in § 300.915(a)(13) and (14) to be claimed as PBI. All other information submitted to EPA for listing on the NCP Product Schedule as required under §§ 300.915 and 300.955 cannot be claimed PBI and will be available for public disclosure upon submission without further notice to the submitter.

A commenter requested clarification on what and how product components or confidential business information would be disclosed publicly. PBI claims associated with a product for listing on the NCP Product Schedule are limited to the concentrations, weight percentages, and units of all chemical components, microbiological cultures, enzymes, or nutrients as identified in § 300.915(a)(13) and (14); all other information submitted to EPA for listing a product on the NCP Product Schedule as required under § 300.915 and § 300.955 will not be considered PBI and will be available for public disclosure upon submission without further notice to the submitter. EPA does not disclose PBI to the public; EPA safeguards this information under the requirements in 40 CFR part 2, subpart B. EPA intends to publish non-PBI product component information in the NCP Product Schedule Technical Notebook, which is publicly available on EPA's NCP Product Schedule web page.

5. Addition of a Product to the NCP Product Schedule or Sorbent Product List

The final action at § 300.955 establishes the requirements for submitters to request a product to be listed on the NCP Product Schedule or the Sorbent Product List. These provisions provide administrative information, such as the address where to submit the package, as well as details of the requirements for a complete submission package. Additionally, they address how a submitter may request a listing determination review and the requirements when there are changes in a listed product. Finally, these provisions address the process the Agency will follow to review all new submissions, requests for review of decisions and product changes, as well as how it will transition from the current NCP Product Schedule to a new one that reflects the new and amended testing and data requirement.

EPA revised the title for § 300.955 relative to the proposal from ''Addition of a Product to the Schedule'' to ''Addition of a Product to the NCP Product Schedule or Sorbent Product List'' to clarify the applicability under § 300.955(a) and (b) of requirements as described in § 300.915(g), *Sorbent Requirements,* for adding sorbents to the Sorbent Product List.

(a) Submission

At § 300.955(a), the Agency has updated the address where the package is to be submitted. No comments on the proposed changes at § 300.955(a) were identified. EPA is finalizing this provision as proposed.

(b) Package Contents

The provision at § 300.955(b) specifies what a complete package must include. Because of their intended function in responding to oil discharges, products listed on the NCP Product Schedule will certainly impact the environment. It is important that the information provided by the submitter is true and accurate, as it serves as the basis for evaluating those potential environmental impacts. The Agency believes that it is appropriate for the submitter to be held accountable for the technical data and information provided to make these listing determinations. The final action requires the submitter to certify the accuracy of the information submitted, and EPA will reject any submission that is determined to be incomplete or noncompliant, misleading, or inaccurate.

No comments on the proposal at § 300.955(b) were identified. EPA amended the proposed phrase ''Your package shall include in this order:'' to include the term ''as applicable'' to recognize that those provisions under § 300.955 apply to sorbents submission as described in § 300.915(g), *Sorbent Requirements.* The term ''as applicable'' was also added to § 300.955(b)(2) for the same reason. Finally, EPA also made other editorial changes to provide greater clarity.

(c) EPA Review

The final action maintains most of the previous Agency process for reviewing product submissions. The final action increases the number of days allowed for the Agency to complete its product review from 60 days to 90 days from the date of receipt. This change, as described in the proposal, considers the additional amount of technical data and information required under the revised rule, as well as the Agency's past experience with submission packages.

As described in § 300.955(c), EPA will first review the package for completeness and compliance with all data and information requirements. EPA will contact the submitter to verify information, or to request clarification or additional information, including a product sample, as necessary. The Agency will make product listing determinations based on a technical evaluation of all data and information submitted in accordance with the requirements for each product category, any relevant information on impacts or potential impacts of the product or any of its components on human health or the environment, and on the intended use of the product. Within the 90-day timeframe, the Agency will notify the submitter, in writing, of its decision to either list the product on the NCP Product Schedule, or of its decision and supporting rationale to reject the submission. Submitters may revise submission packages to address test results, data, or information deficiencies and resubmit them. Because the Agency will need a complete set of data and technical information to make a listing determination, the 90-day review time period will start anew once a complete package is resubmitted.

A commenter stated that the listing process should be as transparent as possible, and that the Agency does not explain the standard that a dispersant must meet to be listed. The commenter suggested that the Agency clearly explain how it will evaluate studies that show sub-lethal impacts to humans and wildlife—particularly, information other than toxicity and efficacy tests. EPA reiterates that for a dispersant to be listed on the NCP Product Schedule, it must meet the specific dispersant testing and listing requirements in § 300.915(b), in addition to the general information requirements under § 300.915(a). The Agency will evaluate a submission package in accordance with the provisions under § 300.955(c) of this final rule. The Agency's product listing determination will be based on a technical evaluation of all data and information submitted, in accordance with the requirements for each product category, relevant information on impacts or potential impacts of the product or any of its components on human health or the environment, and the intended use of the product. EPA amended the provision to include the phrase ''. . . in accordance with the requirements for each product category . . .'' to clarify the applicability for each product category.

In the final action, EPA removed the proposed sentence ''EPA reserves the right to make a determination on whether the product will be listed, and under which category'' because it is unnecessary. Likewise, the final action

under § 300.955(c)(3) does not include the phrase ''. . . and in which category or categories. . .'' because it too is unnecessary. The provision under § 300.955(c)(3) already states that EPA will provide notification of the Agency's decision to list (or not) a product on the NCP Product Schedule, which will include how the product is listed, as applicable. EPA reorganized the sentence under § 300.955(c)(3)(i) for greater clarity to read ''You may revise and resubmit a complete package to . . .''. Finally, EPA also made other editorial changes to provide greater clarity.

(d) Request for Review of Decision

The final action does not substantively change the process for a submitter to request that the Agency review its determination on a product. If the Agency rejects a product for listing on the NCP Product Schedule, the rule at § 300.955(d) continues to allow for a submitter to appeal to the EPA Administrator to review its determination to reject the product listing. Such a request must be made in writing, within 30 days of receipt of the written notification of EPA's decision. The request to review the Agency's determination must include a clear and concise statement with supporting facts and technical analysis that demonstrates why the submitter believes the product meets the listing requirements. The Administrator or designee may request additional information or a meeting opportunity. Within 60 days of receipt of any such request, or within 60 days of receipt of any requested additional information, the Administrator or designee must notify the submitter in writing of the review decision.

No comments on the proposed provision at § 300.955(d) were identified. In the final provision, EPA replaces the phrase ''. . . why you believe EPA's decision was incorrect.'' with ''. . . why the product meets the listing requirements.'' to better reflect the intent of the provision. EPA also made other editorial changes to provide greater clarity and consistency.

(e) Changes to a Product Listing

The Agency is revising the provisions for notification of changes to a product listing. Under the final action at § 300.955(e), submitters must notify EPA in writing within 30 days of any changes to the general product information submitted for listing on the NCP Product Schedule so the OSCs have timely updated information. Changes applicable to this provision are any changes to information submitted under § 300.915(a)(1) through (8), and (a)(19) through (21), for a product on the NCP Product Schedule. Submitters must provide the reasons for such changes and the supporting data and information. EPA maintains the ability to request additional information and clarification regarding these changes. For any changes to the components and/or their concentrations, the final action requires retesting of the reformulated product according to the requirements for the product category, and the resubmission of a new complete package in accordance with § 300.955(b) for review and consideration for a listing determination by the Agency. In the final action, EPA split the proposed paragraph into two subparagraphs, that is § 300.955(e)(1) and (2), to distinguish requirements for administrative changes from those for when a listed product is reformulated.

Some commenters expressed support of the 30-day written notification requirement for changes to listed product information. The commenters suggested expanding the requirement to provide a mechanism for the RRT to request retesting where field performance falls short of expectations. EPA acknowledges that there may be instances when a product performs differently in the field than when it was tested. The final rule contains provisions at § 300.910(g) that allow the RRT or OSC, during a discharge response, to require a responsible party to conduct additional monitoring associated with the use of a product. For any changes to the components and/or their concentrations, the final rule requires retesting of the product according to the requirements for the product category, and the resubmission of a new, complete package for review and consideration for a listing determination of the reformulated product by the Agency. The Agency believes that when the components or concentrations of a product change, an automatic retesting requirement is merited.

EPA modified the final provision by deleting the proposed term ''chemical'' to clarify that the provision applies to changes to non-chemical components in biological agents, such as microorganisms and enzymes. EPA also added the qualifier ''in accordance with § 300.955(b)'' to clarify the procedure for submission of a new package for review and consideration for reformulated products. Finally, EPA amended the final provision by adding the phrase ''. . . a new complete package under a new, distinct name . . .'' to clarify the submission requirements for reformulated products. Providing a new, distinct name for the reformulated product avoids potential confusion with existing products listed on the NCP Product Schedule and helps to distinguish products with the previous formulation that may be stockpiled. EPA also made additional editorial changes to this provision from the proposed text to provide greater clarity.

(f) Transitioning Listed Products to the New NCP Product Schedule or Sorbent Product List

The Agency believes it important that products on the current NCP Product Schedule continue to be available during the transition period to a new NCP Product Schedule that reflects the amended requirements. Therefore, according to § 300.955(f), during this transition period, all products on the current NCP Product Schedule as of December 11, 2023 will remain conditionally listed and available for planning and response activities. Because of the finalized revisions to test protocols and listing criteria, and because of the additional test requirements, all products currently on the NCP Product Schedule must be retested, and the new data and information be submitted to the Agency for reevaluation of the current listings by December 12, 2025. The Agency believes that this 24-month transition period starting on the effective date of the final action provides adequate time for submitters to prepare and submit new packages to EPA and for the Agency to review and make decisions on these products. For a product to be transitioned to the new NCP Product Schedule, manufacturers would be required to submit a new, complete package according to the amended test and listing criteria, and EPA would need to make a favorable finding to list the product on the new NCP Product Schedule, either as currently listed or with modifications. Products on the current NCP Product Schedule for which a new submission is not received, or that upon review of their submissions do not meet the revised listing criteria, will be removed from the NCP Product Schedule at the end of the 24-month transition period. Likewise, it is important that all products that have previously received EPA letters identifying them as sorbents remain available for use until December 12, 2025. Similar to the 24-month transition period allowed for products listed on the NCP Product Schedule, the Agency believes this provides an adequate timeframe for sorbent product manufacturers, as appropriate, to prepare and submit new packages to EPA and for the Agency to review and

make decisions on listing these products on the Sorbent Product List. Under the new § 300.955(f) provisions, all sorbent products must have submitted information as applicable under § 300.955(a) and (b) and be listed in the new Sorbent Product List at the end of the 24-month transition period to be considered for use. Known sorbent materials identified under § 300.915(g)(1), or any combination thereof, for which no technical data are required to be submitted for listing on the Sorbent Product List, are not subject to relisting review.

Some commenters suggested that the transition period should be shortened from two years to one, due to an increased risk of harm from products listed on the old Schedule. A commenter noted that a one-year timeframe would be adequate for manufacturers to perform all required product retesting and recertification. Some commenters expressed concern that the proposed transition timeframe is too short. A few commenters stated that the 24-month transition period is inadequate to allow for the depth of technical work required for the recertification and relisting of products on the new NCP Product Schedule. Another commenter suggested extending the transition period to the lesser of five years, the product expiration date, or until a suitable replacement is available and listed on the Schedule. Another commenter suggested that the proposed transition timeframe is unreasonable because the Agency is overestimating the number of laboratories capable of performing the required testing (specifically, bioremediation testing). The Agency believes that the 24-month transition period provides adequate time for submitters to prepare and submit new, complete packages to EPA and for the Agency to review and make decisions on these products. EPA updates the NCP Product Schedule when new products are listed. EPA has identified laboratories with sufficient capability to conduct testing for bioremediation agents to meet the expected demand under the revised rule.

Several commenters provided suggestions related to keeping products that are currently on the NCP Product Schedule, without requiring further retesting or recertification. Several commenters expressed concern that the updates to the rule would invalidate the significant amount of time and effort previously spent to obtain Schedule listing and suggested that products on the existing Schedule should be grandfathered into the new listing. Some commenters expressed concern related to potential impacts on small businesses, including advocating for additional transition time for small businesses to complete testing and for short-term extensions for small businesses with products that have been recently added to the Schedule. On the other hand, a commenter expressed concern that grandfathering products on the current NCP Product Schedule would undermine efforts to ensure all listed products meet the most up-to-date toxicity and efficacy standards. EPA acknowledges the comments requesting both shorter and longer timeframes for the transition period. EPA believes the 24-month transition period provides adequate time for retesting, production of additional products, and the continued ability of currently listed products to be offered and available in the event of a response. Furthermore, the Agency believes that the 24-month transition period provides adequate time for submitters to prepare and submit new, complete packages to EPA and for the Agency to review and make decisions on these products regardless of entity size. Finally, EPA agrees with commenters that opposed grandfathering of existing products on the Product Schedule. The final provisions ensure that all products transitioned to the new NCP Product Schedule meet the updated efficacy and toxicity listing criteria, follow the amended testing protocols, and have submitted updated data and information to the Agency.

In the final provision, EPA replaced ''. . . according to the amended test and listing criteria . . .'' with ''in accordance with § 300.955(b)'' to avoid confusion by clarifying the procedure for submission of a new, complete package for review and consideration. EPA also added specific regulatory language clarifying the transition period is applicable to listing products on the Sorbent Product List. Finally, EPA made additional editorial changes to the provisions in § 300.955(f) relative to the proposed text to provide greater clarity, and to specifically address the transition period for sorbent products.

6. Mandatory Product Disclaimer

It remains the Agency's position that listing a product on the NCP Product Schedule does not constitute approval or endorsement of that product, nor a recommendation of its use. The Agency continues to believe that it is important to avoid any possible misinterpretation or misrepresentation of this policy. Thus, the requirement for a disclaimer to be included on any label, advertisement, or technical literature for the product is maintained at § 300.965. As proposed, the final action removes the alternative to reproduce in its entirety EPA's written notification that it will add the product to the NCP Product Schedule. The Agency believes it will be able to update the NCP Product Schedule list within a reasonable timeframe given the advances in information technology, and thus the option of producing the EPA letter of notification for a product listing should no longer be necessary. The Agency is modifying the previously required disclaimer language to include the sentence ''Only a Federal On-Scene Coordinator (OSC) may authorize use of this product in accordance with Subpart J of the NCP in response to an oil discharge.'' This revision is intended to clarify that the use of these products is conditional to OSC authorization following the requirements set forth under the NCP regulations. The disclaimer language must continue to be conspicuously displayed in its entirety, and must be fully reproduced on all product literatures, labels, and electronic media, including website pages.

A commenter suggested a change to the last sentence in the disclaimer language related to decision authority as follows, ''Only a Federal On-Scene Coordinator, using pre-authorizations or incident-specific approvals issued by the Regional Response Team (RRT), may authorize . . .'' Another commenter suggested further clarification to the disclaimer language to indicate that NCP Product Schedule listing is only approval to be on the NCP Product Schedule, not approval for use or application during a response. EPA did not adopt the commenter's recommended disclaimer language because authorization of use is already addressed under Subpart J. However, the Agency did modify the last sentence of the proposed regulatory text in § 300.965 to clarify an OSC's authority to authorize a product for use in accordance with Subpart J of the NCP. The amended disclaimer language clarifies that only a Federal On-Scene Coordinator (OSC) may authorize use of this product by replacing the phrase ''according to the NCP'' with ''in accordance with Subpart J of the NCP in response to an oil discharge.'' The Agency acknowledges the commenter's suggestion to add further clarification to indicate that the NCP Product Schedule listing is only approval to be on the NCP Product Schedule but disagrees that this clarification is necessary. The Agency believes the mandatory product disclaimer language in this final action already clearly indicates that a product's

listing on the NCP Product Schedule does not constitute approval or recommendation of the product. However, the final provision under § 300.965 includes the phrase ''. . . listed on the NCP Product Schedule . . .'' to read ''To avoid possible misinterpretation or misrepresentation, any label, advertisement, or technical literature for products listed on the NCP Product Schedule must display in its entirety the disclaimer shown below.'' for greater clarity.

EPA also made additional editorial changes to the provisions in § 300.965 relative to the proposed text to provide greater clarity.

7. Removal of a Product From the NCP Product Schedule or the Sorbent Product List

Products that are not properly used in the field may cause harm to human health and the environment, and may constitute violations of the CWA, and other federal, state, Tribal, or local laws. Misleading, inaccurate, or incorrect statements within a product submittal package or within language that refers to the listing of a product on the NCP Product Schedule or the Sorbent Product List may result in their improper or incorrect use. Falsification of federal documents, unsupported toxicity or efficacy claims, submission of incorrect product composition or use information, or withholding technical product data are some examples of these acts. For these reasons, EPA is providing explicit criteria and process for the removal of a product from the NCP Product Schedule or the Sorbent Product List at § 300.970. In the final action, EPA is modifying the title from that which was proposed, to include ''or the Sorbent Product List'' to clarify that sorbents placed on the Sorbents Product List may also be removed. EPA made similar modifications throughout the paragraph of § 300.970.

(a) Removal Reasons

To minimize potential misuse of listed products, the Agency believes it is appropriate to clarify the criteria for the removal of a product from the NCP Product Schedule or Sorbent Product List. In § 300.970(a), EPA specifically includes, but does not limit, as causes for removal from the NCP Product Schedule or Sorbent Product List: statements or information that are misleading, inaccurate, outdated, or incorrect regarding the composition or use of the product to remove or control oil discharges made to any person, or private or public entity, including on labels, advertisements, technical literature, or electronic media, or within the product submission to EPA; any alterations to the components, concentrations, or use conditions of the product without proper notification to EPA as required by § 300.955(e); failure to print the disclaimer provided in § 300.965 on all labels, advertisements, technical literature, or electronic media; or any new or relevant information not previously considered concerning the impacts or potential impacts of the product to human health or the environment.

Commenters suggested the need for public input in the removal process, *e.g.,* for the public to request product removal from the NCP Product Schedule, such as following a decrease in rating of Tribe or community acceptance criteria for product use. The final provisions provide that misleading, inaccurate, or incorrect information provided to any private or public entity is a reason for removal from the NCP Product Schedule. However, the Agency disagrees that the listing of products on the NCP Product Schedule on a national level should include criteria developed by outside entities. Section 311(d)(2)(G) of the CWA solely delegates authority to EPA to prepare a schedule identifying dispersants, other chemicals, other spill mitigating devices and substances if any, that may be used in carrying out the NCP; and the waters and quantities in which they may be used safely. Thus, the final action does not allow for entities other than EPA to remove a product from the NCP Product Schedule, nor is the removal of a product based on ratings from a non-EPA entity. The final rule does not preclude any person or private or public entity to bring to EPA's attention information, including relevant scientific data, that they believe may warrant consideration for EPA to remove a product from the NCP Product Schedule.

Other commenters requested explicit clarification that changes to product chemical components or reformulation would result in removal from the NCP Product Schedule and would require product retesting and recertification, since changes to the composition can change impacts on human health or the environment. As provided in § 300.970 of the final rule, the EPA Administrator or designee may remove a listed product from the NCP Product Schedule for alterations to the components, concentrations, or use conditions of the product without proper notification to EPA as required by § 300.955(e). If the manufacturer changes the components and/or concentrations, then the manufacturer must retest the reformulated product according to the requirements for the product category and submit a new, complete package for a review and EPA's consideration for listing on the NCP Product Schedule.

A commenter suggested that the Agency should set a threshold for product impact levels that would necessitate list removal. The final action includes thresholds in the testing and listing protocols for each product category in § 300.915, as applicable, to screen products at a national level. However, EPA believes potential impacts from chemical and biological agent use is situational and more appropriately considered when authorizing their use and overseen by the OSC. The final action includes authorization of use provisions that provide for consideration of potential impacts. Further, the final action also includes provisions for RRTs to consider supplemental testing, monitoring and information under § 300.910(g) to address site, area, and/or ecosystem-specific concerns relative to the potential impact from the use of a chemical or biological agent.

In the final action, EPA has included ''information'' and added ''outdated'' to the list of types of statements and information that could be reasons for removal from the NCP Product Schedule. EPA has also updated the proposed text by including ''electronic media'' to the methods by which statements or information and disclaimers may be disseminated. The final action removes the qualifier ''chemical'' before the term ''component'' to clarify that the provision applies to ''non-chemical'' components (*e.g.,* microorganisms) and to be consistent with similar changes under § 300.955(e). The final action also replaces the term ''previously unknown'' with ''not previously considered'' to clarify what information the Agency may consider when removing a product from the NCP Product Schedule. EPA also made additional editorial changes to the provisions in § 300.970(a) relative to the proposed text to provide greater clarity.

(b) Notification and Appeals

The final action also establishes a process for removal if the Agency obtains evidence of cause for removal. As per § 300.970(b), EPA will notify the submitter in writing, at the address of record, of its reasons for removal of the product from the NCP Product Schedule. The provision at § 300.970(c) allows for an appeals process similar to the one set forth for listing determinations. Appeals must be received within 30 days of receipt of

EPA's removal notification and must contain a clear and concise statement with supporting facts and technical analysis demonstrating why the product should not be removed. Written notification from the Administrator or designee will be sent to the submitter within 60 days of any appeal, or within 60 days of receipt of any requested additional information. If no appeal is received within the 30 days of receipt of EPA's removal notification, the product will be delisted without further notice.

EPA did not identify any comments specifically related to the provisions at § 300.970(b) and (c). In the final action, EPA revised § 300.970(c) to replace the phrase ''. . . demonstrating why you believe EPA's decision was incorrect.'' This phrase is replaced with ''. . . demonstrating why the product should not be removed'' to better describe the appeal process. EPA also made other editorial changes to these provisions from the proposed text to provide greater clarity.

8. Appendix C to Part 300

The Agency is revising Appendix C to change its title to Appendix C—*Requirements for Product Testing Protocols and Summary Test Data: Dispersant Baffled Flask Efficacy and Toxicity Tests; Standard Acute Toxicity Test for Bioremediation Agents, Surface Washing Agents, Herding Agents, and Solidifiers; and Bioremediation Agent Efficacy Test.* Revisions to this appendix reflect the new and revised testing protocols for listing agents on the NCP Product Schedule as finalized in this action. A description of the technical changes and rationale are discussed for each agent in section V.C.3 of this preamble—Data and Information Requirements for NCP Product Schedule Listing. The appendix reflects the technical considerations and listing requirements.

Commenters expressed general concern regarding the potential limitations of screening tests relative to field performance, and specifically to product performance in marine environments. EPA reiterates that the product efficacy and toxicity testing protocols provide essential information for listing chemical and biological agent products on the NCP Product Schedule. These laboratory testing protocols provide testing procedures for evaluating product efficacy for dispersant and bioremediation agents and product toxicity for all chemical and biological agent product categories, allowing for a comparative screening of products to be listed. The Agency acknowledges that tests like the BFT, under the parameters set in the protocol, cannot simulate the range of parameters and processes that may potentially influence dispersant effectiveness under actual spill discharge conditions. The Agency reiterates that the testing protocols are to provide data and information in support of screening for product listing at the national level. Nonetheless, the final action still adopts the BFT for screening products for the NCP Product Schedule because the BFT screening process not only improves test repeatability and reproducibility within and between laboratories, but also reduces both inherent and human error associated with the SFT. The Agency recognizes field performance may not be directly reflected for each product and spill situation by the testing results based on the protocols used for listing products on the NCP Product Schedule. Nonetheless, the testing protocols finalized in this action account for relevant oil spill parameters, including salinity, mixing energy, and temperature. These protocols provide a measure of efficacy for products that serves to establish a comparative screening baseline for a national level listing on the NCP Product Schedule. For example, the revised BFT testing protocol for dispersant effectiveness is designed to be more representative of moderately turbulent sea conditions where dispersants are more likely to be successfully used. Additionally, the final action provides for testing products at temperatures reflective of the potential range of locations where dispersants may be used. The final action also provides for product listing on the NCP Product Schedule to reflect testing for the specific salinity environments where the product could be considered for use.

Commenters requested that the Agency audit or independently vet all tests with third-party scientists or peer review to ensure fairness and transparency, as well as recommended using independent science as opposed to government or industry, to review all studies conducted by the spiller, product vendor, or manufacturer. Commenters recommended that toxicity tests and efficacy tests be required to be conducted with certified chemists and scientists working in certified laboratories using certified procedures and best available technology. The Agency acknowledges the comments regarding laboratory certification. The final rule specifies in Appendix C the procedures for efficacy and toxicity tests that all laboratories must follow for each product category to maintain consistency and provide comparative information and data. The Appendix C procedures include a quality assurance (QA) provision. For example, the dispersant toxicity test under section 3 of Appendix C includes verification of laboratory accreditation, including subcontractor facilities (see Appendix C section 3.8.8) and analytical method summary including Limit of Detection (LOD)/Limit of Quantitation (LOQ) and QA summary (including calibration curves, method blank and surrogate recovery, analytical results summary) (see Appendix C section 3.8.10). Furthermore, the final provisions under § 300.915(a)(17) require the product submission for listing on the NCP Product Schedule to provide information about the laboratory that conducted the required tests, including the name of the laboratory, address, contact name, email, and phone number and the national and/or international accreditations held by the laboratory. The final provisions under § 300.915(a)(18) require the submission to provide all test data and calculations including raw data and replicates (including positive controls), notes and observations collected during tests, calculated mean values and standard deviations, reports, (including a summary of stock solution preparation), source and preparation of test organisms, test conditions, and chain of custody forms. The final provisions under § 300.915(a)(21) provide for the submission of international product testing or use data or certifications, if available, informing the performance capabilities or environmental impacts of the product. EPA believes these requirements sufficiently address informational needs concerning laboratory certification and independent science.

Dispersant Baffled Flask Efficacy Tests. A commenter questioned how realistic the turbulent mixing associated with *the Baffled Flask Test* would be, relative to the range of ambient conditions and sea-states that might be expected during operational use of dispersants. The commenter recommended that the Agency explore other methods that would replicate mixing of oil and dispersants under moderate to low-energy sea conditions. The commenter stated that dispersion is much less effective in nonbreaking wave conditions relative to breaking wave conditions, citing a study. While the BFT is designed to be more representative of moderately turbulent sea conditions where dispersants are more likely to be successful when used, the Agency reiterates that laboratory efficacy and toxicity testing protocols provide relatively rapid and simple

testing procedures for evaluating product efficacy and toxicity, allowing for a comparative screening of products at a national level to be listed on the NCP Product Schedule. The final BFT methodology is modified to remove the step to test a dispersant as a positive control as the final action includes sufficient quality assurance and quality control procedures specific to the updated dispersant efficacy protocol, as well as the submittal of raw data and information for product testing, that make this requirement unnecessary.

Dispersant Toxicity Tests. A commenter recommended that wherever practicable, dispersant toxicity test species should either be indigenous to the spill area or have been shown to be appropriate surrogates for species from the area. EPA selected the final rule test species because of their general acceptability in applicable toxicity testing methods. To facilitate further flexibility to laboratories conducting the developmental assay, the Agency amended the final provisions to include the option to use the purple sea urchin *Arbacia punctulata* (*A. punctulata*) in lieu of *Strongylocentrotus purpuratus* (*S. purpuratus*) for the developmental assay. Separately, the final rule allows for species- or region-specific toxicity testing to be required by the RRT and/or OSC under § 300.910(g). EPA considers the toxicity tests being finalized in this rule to be the most practical for judging product hazard. Additional comments on specific protocol considerations were summarized and answered in the Response to Comments document. EPA also updated the reference oil used for the acute toxicity testing of the dispersant product-oil mixture. Finally, the final action does not include phrase ''. . . (iii) egg production must occur in 50% of female *Americamysis bahia* in the replicate control treatments.'' under section 3.7.5. EPA determined that excluding the fecundity endpoint was unlikely to influence the sensitivity of the test, while having the practical advantage of simplifying the test method.

Standard Acute Toxicity Test for Bioremediation Agents, Surface Washing Agents, Herding Agents, and Solidifiers. Prior to this amendment, the rule did not include any requirements for toxicity testing for bioremediation agents. The final provisions establish acute toxicity testing requirements for all product categories, including bioremediation agents. The acute toxicity testing protocols for all product categories use the same test species for saltwater environments. Likewise, the acute toxicity testing protocols for all product categories, except for dispersants, use the same test species for freshwater environments; a dispersant may only be listed on the NCP Product Schedule for use in saltwater environments and therefore do not have acute toxicity testing requirements for freshwater. Finally, dispersant toxicity testing requirements include a developmental toxicity test and a subchronic toxicity test that are not required for bioremediation agents.

No substantive changes were made to the proposed text to this section of the Appendix. A commenter recommended including toxicity testing for species that are representative of in-shore and/or nearshore environments as well as longer term monitoring that reflects toxicity during continuous/long term application. A commenter noted that toxicity testing involving intertidal and estuarine species would be particularly appropriate for surface washing agents. A commenter asked for clarification regarding why the Agency test species required for bioremediation agents have changed from previous requirements and are different than those required for dispersant tests. The Agency recognizes the comments regarding the specific test species the Agency specifies for use in the protocols included in the final action. The laboratory efficacy and toxicity testing protocols in the final action provide relatively rapid and simple testing procedures for evaluating product efficacy and toxicity, allowing for a comparative screening of products at a national level; this applies to the selection of test species. Test species are generally chosen because they are easily cultured in the laboratory and tend to be sensitive to a wide variety of pollutants, serving as good indicators of chemical hazards. These species are also small enough to be easily tested in groups in relatively small containers under laboratory conditions. The species included in the protocols have been identified to be aquatic species commonly used in laboratory tests, and consistent with EPA standard methods. While the data and information from laboratory testing results in the final action may broadly inform potential field performance or impacts, they are intended for the Agency's screening of agent products for listing on the NCP Product Schedule.

Bioremediation Agent Efficacy Test. No substantive changes were made to the proposed text to this section of the Appendix. A commenter stated that all testing should be conducted with the original medium (*i.e.,* seawater and/or freshwater), and that all bioremediation types should be tested in aqueous solutions closest to the original environment in which these products were intended for use. They recommended that test procedures involving bioremediation agents should allow for microbes or nutrients, which are naturally occurring in nature, to be added at the manufacturer's discretion. The protocol required by the final action uses a standardized artificial saltwater formula called GP2, whose components and concentrations are generally recognized, and which is easily made. Requiring standardized artificial saltwater avoids the potential for variable results due to the compositional variability of natural seawater both chemically and microbiologically, resulting in better test reproducibility. Additionally, the protocol also provides for efficacy testing in freshwater, which allows for a better screening of the use of these agents in this environment.

9. Appendix E to Part 300

The 1994 revisions to the NCP established Appendix E, *Oil Spill Response,* which separates the oil spill response requirements of the NCP from the hazardous substance release requirements (59 FR 47414). The purpose of creating this appendix was to compile general oil discharge response requirements into one document to aid responsible parties and responders with their duties under the national response system. The Agency's intent was to provide guidance, and not to alter in any way the meaning or policy stated in other sections or subparts of the NCP. However, some minor variations between the Appendix E provisions and the analogous provisions of the NCP rule language were necessary to ensure that the appendix addressed only oil discharges; hazardous substance releases continue to be addressed in the NCP rule but were not addressed in Appendix E. The Agency is removing Appendix E in this final action. While having all of the information pertaining to oil discharges compiled in one location may offer useful guidance, it is not necessary that this guidance be codified as a regulatory appendix to the NCP. Because all requirements in Appendix E are part of the NCP, any revisions to the NCP necessitate revisions to this appendix. This adds burden not only for the Agency in revising and ensuring consistency, but also for the regulated community in reviewing redundant and duplicative requirements.

A commenter suggested that the Agency continue to provide guidance on response activities through other formats. EPA agrees that it is more appropriate to provide guidance on

response activities through other formats. In this action, EPA is finalizing revisions to remove Appendix E. EPA will consider what additional guidance, if any, may be appropriate.

VI. Summary of Final Rule Provisions

This section summarizes the final changes to 40 CFR parts 110 and 300. Subpart J has been renumbered to include new, consolidated, and revised sections. Some of the rule sections have been retained, removed, or moved in their entirety. The Table below provides an overview of the formerly existing rule and final rule citations for a quick reference of the final changes.

Section 110.4 was revised to reflect the new and amended regulatory definitions for Subpart J product categories.

Section 300.5, Definitions, was revised to include new, amended, and deleted definitions.

Subpart J—heading was revised as Use of Dispersants, and Other Chemical and Biological Agents, to reflect new and amended regulatory definitions for product categories.

Section 300.900, General, paragraphs (a) and (c) were revised to reflect new and amended regulatory definitions for product categories. Paragraph (d) has been added to reserve for later use.

Section 300.905, NCP Product Schedule, was removed.

Section 300.910 was renamed Authorization for Agent Use, was revised, and new paragraphs were added to clarify the provisions for the authorization of use of products on the NCP Product Schedule.

- Paragraph (a) was revised to clarify the process for preauthorization, the responsibilities of all involved parties, and the factors to consider during the preauthorization process. Subparagraphs (1) through (3) were added to clarify the development, approval, and review of a preauthorization plan.
- Paragraph (b) was revised to clarify the requirements for using a listed product or a burning agent on an oil discharge not addressed by a preauthorization plan and add new parameters for use considerations.
- Paragraph (c) was deleted and reserved for later use.
- Paragraph (d) was revised to clarify the exception requirements, emphasize its temporary nature, and add specific time frames for notification of continued agent use.
- Paragraph (e) was revised to maintain the prohibition on the authorization of use of sinking agents and reorganized to clarify and specifically include substances.
- Paragraph (f) was revised to add new regulatory requirements for agent storage and use. Former paragraph (f) requirements were moved to new paragraph (g), Supplemental Testing, Monitoring, and Information.
- New paragraph (g) Supplemental Testing, Monitoring, and Information, was added to clarify the requirements for supplemental testing, monitoring and information and their applicability.
- New paragraph (h), Recovery of Chemical Agents and other Substances from the Environment, adds regulatory requirements for recovery of agents and other substances during removal actions.
- New Paragraph (i), Reporting of Agent Use, adds regulatory requirements for notification of agent use on an oil discharge to both the RRT and to the public.

Section 300.915 was renamed Data and information requirements for listing on the NCP Product Schedule or Sorbent Product List. This section was revised to consolidate general submission requirements applicable to all product categories and was restructured to include new testing and listing requirements for specific product categories.

- Paragraph (a) was revised to consolidate general information requirements from former paragraphs (a), (b), (d), and (f). The paragraph includes revisions and new requirements for the identification of and testing for all product categories designated for listing. Former paragraph (a) requirements specific to dispersants were moved to new section 300.915(b), Dispersant Testing and Listing Requirements. The paragraph was also revised to add new toxicity and efficacy testing requirements, limitations for use, and new criteria for listing a dispersant on the NCP Product Schedule.
- Former paragraph (b) was moved to new paragraph (c), Surface Washing Agent Testing and Listing Requirements. The paragraph was revised to add new toxicity and efficacy testing requirements, limitations for use, and new criteria for listing a surface washing agent on the NCP Product Schedule.
- Former paragraph (c), Surface Collecting Agents, was deleted.
- Paragraph (d) was renamed Bioremediation Agent Testing and Listing Requirements. The paragraph was revised to add new toxicity and efficacy testing requirements, limitations for use, and new criteria for listing a bioremediation agent to the NCP Product Schedule. Former paragraphs (d)(9) and (10) were moved to new paragraph (a), General Product Information.
- Former paragraph (e), Burning Agents, was deleted.
- New paragraph (e), Solidifier Testing and Listing Requirements, was added to provide new regulatory requirements for submission and listing of a solidifier.
- Former paragraph (f), Miscellaneous Oil Spill Control Agents, was deleted.
- New paragraph (f), Herding Agent Testing and Listing Requirements, adds new toxicity testing requirements, limitations of use, and criteria for listing a herding agent on the NCP Product Schedule.
- Paragraph (g) was renamed Sorbent Requirements and revised to add new provisions for listing a sorbent to the Sorbent Product List.

Section 300.920, Addition of Products to Schedule, was moved to new § 300.955, Addition of a Product to the NCP Product Schedule or Sorbent Product List.

- Paragraph (a) was revised to include submission instructions for all product categories. Former paragraphs (a)(1) through (3), regulatory text specific to dispersant applications, was moved to new §§ 300.915(b) and 300.955(c) and (d).
- Paragraph (b) was revised to add new regulatory text for preparation of complete submission packages. Former paragraph (b) regulatory text was moved to new § 300.955(c) and (d).
- Paragraph (c) was revised to add regulatory text for EPA's review of submission packages and decision criteria for listing. Former paragraph (c) was moved to new § 300.950, Submission of Proprietary Business Information (PBI). The term Confidential was changed to Proprietary to reflect updated nomenclature.
- Paragraph (d) was revised to add regulatory text for requesting a listing decision review. Former paragraph (d) was moved to new § 300.955(e), Changes to a Listed Product.
- Paragraph (e) was revised to add new regulatory text for notification of changes to a listed product. Former paragraph (e) was moved to new § 300.965, Mandatory Product Disclaimer.
- New paragraph (f) adds new regulatory requirements for transitioning products to the new NCP Product Schedule or Sorbent Product List.

New § 300.950, Proprietary Business Information (PBI), revises and clarifies the allowable PBI claims in a submission package.

New § 300.965, Mandatory Product Disclaimer, clarifies the regulatory text

for including a disclaimer statement on all product labels and literature for products listed on the NCP Product Schedule.

New § 300.970, Removal of a Product from the NCP Product Schedule or Sorbent Product List, adds basis for removal of products from the NCP Product Schedule or Sorbent Product List, EPA notification of decision, and appeals process.

Appendix C to Part 300—Requirements for Product Testing Protocols and Summary Test Data: Dispersant Baffled Flask Efficacy and Toxicity Tests; Standard Acute Toxicity Test for Bioremediation Agents, Surface Washing Agents, Herding Agents, and Solidifiers; and Bioremediation Agent Efficacy Test was revised to update and add test methodology.

Appendix E to Part 300—Oil Spill Response was removed.

40 CFR Part 100 Discharge of Oil—Distribution Table

Current citation	Final rule citation
110.4 Dispersants ...	110.4 Chemical or biological agents.

40 CFR Part 300—National Oil and Hazardous Substances Pollution Contingency Plan—Distribution Table

Current citations	Final rule citations
300.5 Definitions	300.5 Definitions.
Subpart J—Use of Dispersants and Other Chemicals	Subpart J—Use of Dispersants, and Other Chemical and Biological Agents.
300.900 General	300.900 General.
300.900(a)	300.900(a).
300.900(c)	300.900(c).
[new]	300.900(d) Reserved.
300.905 NCP Product Schedule	Deleted.
300.910 Authorization of use	300.910 Authorization for agent use.
300.910(a)	300.910(a) Use of Agents Identified on the NCP Product Schedule or Use of Burning Agents on Oil Discharges Addressed by a Preauthorization Plan.
300.910(b)	300.910(b) Use of Agents Identified on the NCP Product Schedule or Use of Burning Agents on Oil Discharges Not Addressed by a Preauthorization Plan.
300.910(c)	300.910(c) Reserved.
300.910(d)	300.910(d) Temporary Exception.
300.910(e)	300.910(e) Prohibited Agents or Substances.
300.910(f)	300.910(g) Supplemental Testing, Monitoring, and Information.
[new]	300.910(f) Storage and Use of Agents Listed on the NCP Product Schedule.
[new]	300.910(h) Recovery of Chemical Agents and Other Substances from the Environment.
[new]	300.910(i) Reporting of Agent Use.
300.915 Data requirements	300.915 Data and information requirements for listing on the NCP Product Schedule or Sorbent Product List.
300.915(a) Dispersants	300.915(a)(1) through (21) General Information for any Product Category; and 300.915(b) Dispersant Testing and Listing Requirements.
300.915(b) Surface washing agents	300.915(a)(1) through (21) General Information for any Product Category; and 300.915(c) Surface Washing Agent Testing and Listing Requirements.
300.915(c) Surface collecting agents	Deleted.
300.915(d) Bioremediation Agents	300.915(a)(1) through (21) General Information for any Product Category; and 300.915(d) Bioremediation Agent Testing and Listing Requirements.
300.915(e) Burning Agents	Deleted.
300.915(f) Miscellaneous Oil Spill Control Agents	Deleted.
300.915(g) Sorbents	300.915(g) Sorbent Requirements.
300.915(h) Mixed products	Deleted.
[new]	300.915(e) Solidifier Testing and Listing Requirements; 300.915(a)(1) through (21) General Information for any Product Category.
[new]	300.915(f) Herding Agent Testing and Listing Requirements; 300.915(a)(1) through (21) General Information for any Product Category.
300.920 Addition of products to Schedule	300.955 Addition of a Product to the NCP Product Schedule or Sorbent Product List.
300.920(a)(1) Dispersants	300.955(a) Submission.
300.920(a)(2)	300.955(c) EPA Review.
300.920(a)(3)	300.955(d) Request for review of decision.
300.920(b)(1) Surface washing agents, surface collecting Agents, bioremediation agents, and miscellaneous oil spill control agents.	300.955(a) Submission.
300.920(b)(2)	300.955(c) EPA Review.
[new]	300.955(b) Package contents.
300.920(c)	300.950 Submission of Proprietary Business Information (PBI).
300.920(d)	300.955(e) Changes to a product listing.
[new]	300.955(f) Transitioning Listed Products to the New NCP Product Schedule or Sorbent Product List.
300.920(e)	300.965 Mandatory Product Disclaimer.

40 CFR PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN—DISTRIBUTION TABLE—Continued

Current citations	Final rule citations
[new]	300.970 Removal of a Product from the NCP Product Schedule or Sorbent Product List.

VII. Statutory and Executive Order Reviews

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

A. Executive Order 12866: Regulatory Planning and Review; Executive Order 13563: Improving Regulation and Regulatory Review; and Executive Order 14094: Modernizing Regulatory Review

This action is a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to OMB recommendations have been documented in the docket for this action. In addition, EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis, *Regulatory Impact Analysis, Final Revisions to the National Oil and Hazardous Substances Pollution Contingency Plan Regulations (40 CFR part 300 Subpart J),* is available in the docket for this action.

B. Paperwork Reduction Act

The information collection activities in this final action will be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). The Information Collection Request (ICR) document prepared by EPA has been assigned EPA ICR No. 1664.14. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

The NCP Product Schedule listing and authorization of use provisions of the final rule include requirements for submission of general product information and documentation of information related to product testing. For this ICR, EPA has estimated an average annual total burden for respondents of 487 to 1,165 hours per year in the first three years, and average annual labor and O&M costs of $1,040,969 to $1,088,123. EPA has carefully considered the burden imposed upon the regulated community by the regulations. EPA believes that the activities required are necessary and, to the extent possible, has attempted to minimize the burden imposed. The minimum requirements specified in the final rule are intended to encourage the development of safer and more effective spill mitigating products, and to better target the use of these products to reduce the risks to human health and the environment.

Respondents/affected entities: Manufacturers of dispersants, other chemical and biological agents, other spill mitigating devices and substances.

Respondent's obligation to respond: Mandatory if manufacturer wishes to have a product listed on the NCP Product Schedule (40 CFR part 300, subpart J).

Estimated number of respondents: 109 responses by 89 existing product respondents during year one and two of the ICR period; in addition, 5 new product responses per year, and 10 sorbent submissions per year. The overall average number of responses during the ICR period is 51.

Frequency of response: Occasional.

Total estimated burden: 487 to 1,165 hours per year. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $1,040,969 to $1,088,123 per year.

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's 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. The small entities subject to the requirements of this action are 88 potentially small businesses in the following industries: Support Activities for Mining; Specialty Trade Contractors; Paper Manufacturing; Petroleum and Coal Products Manufacturing; Chemical Manufacturing; Plastics and Rubber Products Manufacturing; Durable Goods Merchant Wholesalers; Nondurable Goods Merchant Wholesalers; Non-store Retailers; Warehousing and Storage; Professional, Scientific, and Technical Services; Administrative and Support Services; Waste Management and Remediation Services; Repair and Maintenance; and Religious, Grantmaking, Civic, Professional, and Similar Organizations. The Agency has determined that up to five of the affected small entities may experience an impact of 1% to 3% of revenues and up to five of the affected small entities may experience an impact of greater than 3% of revenues. Details of this analysis are presented in EPA's *Regulatory Impact Analysis, Final Revisions to the National Oil and Hazardous Substances Pollution Contingency Plan Regulations (40 CFR part 300 Subpart J),* which is available in the docket for this action.

D. Unfunded Mandates Reform Act

This action does not contain any unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This final rule imposes no new 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. 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 has Tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized Tribal governments, nor preempt Tribal law. EPA has concluded that this action may have Tribal implications because all Tribes can be affected by oil spills and the subsequent use of oil spill mitigating agents, such as dispersants and bioremediation agents. Furthermore, CWA section 311(j)(4)(A)(ii) provides for qualified members of federally

recognized Indian Tribes, where applicable, to be members of Area Committees. Additionally, E.O. 12777 provides that RRTs may include representatives from Tribal governments.

EPA consulted with Tribal officials under EPA Policy on Consultation and Coordination with Indian Tribes early in the process of developing this regulation to enable them to have meaningful and timely input into its development. A summary of that consultation is provided in *Regulatory Impact Analysis, Final Revisions to the National Oil and Hazardous Substances Pollution Contingency Plan Regulations (40 CFR part 300 Subpart J),* which is available in the docket for this action.

As required by section 7(a), EPA's Tribal Consultation Official has certified that the requirements of the executive order have been met in a meaningful and timely manner. A copy of the certification is included in the docket for this action.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The Agency has concluded that the effect of the requirements codified in this final rule will mitigate the adverse effects of environmental and socio-economic damage that could otherwise result from major oil spills. This final action will therefore not have a disproportionate adverse effect on children.

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

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The requirements specified in the final rule are intended to encourage the development of safer and more effective spill mitigating products, and to better target the use of these products to reduce the risks to human health and the environment; thus, the rule will result in greater overall environmental protection. The final rule will not cause reductions in the supply or production of oil, fuel, coal, or electricity; nor will it result in increased energy prices, increased cost of energy distribution, or an increased dependence on foreign supplies of energy.

I. National Technology Transfer and Advancement Act

This rulemaking involves technical standards. Therefore, the Agency conducted a search to identify potentially applicable voluntary consensus standards. However, EPA identified no such standards for efficacy and toxicity testing, and none were brought to the Agency's attention in comments. Therefore, EPA developed the Baffled Flask Efficacy Test; the Dispersant Toxicity Test; the Standard Acute Toxicity Testing for Surface Washing Agents, Bioremediation Agents, Herding Agents, and Solidifiers; and the Bioremediation Efficacy Test provided in Appendix C of this final rule.

Additionally, EPA has decided to use voluntary consensus standards for several product property data points, such as pH, flash point, and pour point. The product toxicity testing relies on existing protocols that are universally accepted. The Agency has removed the incorporation by reference of specific standards to determine physical and chemical properties and replaced this with a requirement for a citation of the current applicable standard methodology used to determine these values. EPA believes that citing the current applicable standard methodology used to determine the required values is sufficient in lieu of specifying commonly recognized standard methodologies. Furthermore, EPA did not incorporate by reference specific test methodologies in the regulation to avoid the administrative burden of updating the NCP every time a test methodology is updated to a newer version.

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.

The EPA believes that the human health or environmental conditions that exist prior to this action result in or have the potential to result in disproportionate and adverse human health or environmental effects on people of color, low-income populations and/or indigenous peoples. Discharges of oil from facilities regulated by this action likely pose disproportionate risks to historically marginalized communities.

The EPA believes that this action is likely to reduce existing disproportionate and adverse effects on people of color, low-income populations and/or indigenous peoples. EPA has concluded that the regulatory requirements will advance fair treatment of those populations by reducing the disproportionate damages that oil discharges might otherwise inflict on those populations. EPA has concluded that the requirements codified in this final rule will mitigate the adverse effects of environmental and socio-economic damage that could otherwise result from major oil spills and are likely to reduce existing disproportionate and adverse effects on people of color, low-income populations and/or indigenous peoples. EPA has concluded that the regulatory requirements will advance fair treatment of those populations by reducing the disproportionate damages that major oil spills might otherwise inflict on those historically marginalized populations.

The focus of this action is to modernize and update Subpart J of the NCP. Nonetheless, the EPA identified environmental justice concerns associated with the final rule and qualitatively assessed whether the requirements codified in this final rule will mitigate the adverse effects of environmental and socioeconomic damage that could otherwise result from oil spills. EPA has concluded that, while the changes in this rule were independent of environmental justice considerations, the regulatory requirements will advance fair treatment of those populations by reducing the disproportionate damages that discharges might otherwise inflict on those historically marginalized populations. Specifically, EPA has concluded that:

- The amended requirements to add new listing criteria and revise efficacy and toxicity testing protocols emphasize development and listing of ''greener'' oil spill mitigating products and will increases public transparency on chemical and biological agent composition.
- The amended requirements for authorization of use, notifications, and data reporting better target agent use to reduce risks to human health and the environment. The amended requirements will increase both public awareness on chemical and biological

agent preparedness planning and response activities, including potential engagement opportunities, and access to information on the components for any chemical and biological agent listed on the NCP Product Schedule. EPA expects the final rule requirements will also enhance EPA's ability to address area- and regional-specific concerns and provide greater public awareness of chemical and biological agent use during a response through public notification.

• EPA expects that the final action's emphasis on developing safer and more effective spill mitigating products, and on better targeting their use, will reduce the risks to human health and the environment when chemical and biological agents are used during oil spill responses in these newly developed areas.

The information supporting Executive Order 12898 review is contained in the *Regulatory Impact Analysis, Final Revisions to the National Oil and Hazardous Substances Pollution Contingency Plan Regulations (40 CFR part 300 Subpart J),* which includes an environmental justice analysis and is available in the docket for this action.

K. Congressional Review Act

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 110

Environmental protection, Oil pollution, and Reporting and recordkeeping requirements.

40 CFR Part 300

Air pollution control, Area contingency planning, Bioremediation, Chemicals, Dispersants, Environmental protection, Hazardous materials, Hazardous substances, Intergovernmental relations, Natural resources, Oil spills, Oil spill mitigating devices, Regional response teams, Sorbents, and Surface washing agents.

Michael S. Regan,

Administrator.

For the reasons set out in the preamble, the Environmental Protection Agency amends 40 CFR parts 110 and 300 as follows:

PART 110—DISCHARGE OF OIL

■ 1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.,* 33 U.S.C. 1321(b)(3) and (b)(4) and 1361(a); E.O. 11735, 38 FR 21243, 3 CFR parts 1971–1975 Comp., p. 793.

■ 2. Revise § 110.4 to read as follows:

§ 110.4 Chemical or biological agents.

The addition of any chemical or biological agent, or any other substance, to oil to be discharged that would circumvent the provisions of this part is prohibited.

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

■ 3. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.;* 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR, 2013 Comp., p. 306; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Subpart A—Introduction

■ 4. Amend § 300.5 by:
■ a. Adding in alphabetical order definitions of ''Bioaccumulation'', ''Bioconcentration'', ''Biodegradation'', ''Biological agents'', and ''Bioremediation'';
■ b. Revising the definitions of ''Bioremediation agents'', ''Burning agents'', ''Chemical agents'', ''Dispersants'';
■ c. Adding in alphabetical order the definition of ''Herding agents'';
■ d. Removing the definition of ''Miscellaneous Oil Spill Control Agents (MOSCA)'';
■ e. Adding in alphabetical order the definition of ''Products'';
■ f. Revising the definition of ''Sinking agents'';
■ g. Adding in alphabetical order the definition of ''Solidifiers'';
■ h. Revising the definition of ''Sorbents'';
■ i. Removing the definitions for ''Surface collecting agents'' and ''Surface washing agent''; and
■ j. Adding in alphabetical order the definition of ''Surface washing agents''.

§ 300.5 Definitions.

* * * * *

Bioaccumulation is the process of accumulation of chemicals in the tissue of organisms through any route, including respiration, ingestion, or direct contact with the ambient or contaminated medium.

Bioconcentration is the accumulation of chemicals in the tissues of organisms from water alone.

Biodegradation is a process by which microorganisms metabolically decompose contaminants into biomass and smaller molecular compounds such as carbon dioxide, water, and end products.

Biological agents are microorganisms (typically bacteria, fungi, or algae) or biological catalysts, such as enzymes, that can enhance the biodegradation of a contaminated environment.

Bioremediation is the process of enhancing the ability of microorganisms to convert contaminants into biomass and smaller molecular end products by the addition of materials into a contaminated environment to accelerate the natural biodegradation process.

Bioremediation agents are biological agents and/or nutrient additives deliberately introduced into a contaminated environment to increase the rate of biodegradation and mitigate any deleterious effects caused by the contaminant constituents. Bioremediation agents include microorganisms, enzymes, and nutrient additives such as fertilizers containing bioavailable forms of nitrogen, phosphorus, and potassium.

Burning agents are additives that, through physical or chemical means, improve the combustibility of the materials to which they are applied.

* * * * *

Chemical agents are elements, compounds, or mixtures designed to facilitate the removal of oil from a contaminated environment and to mitigate any deleterious effects. Chemical agent categories include burning agents, dispersants, herding agents, solidifiers, surface washing agents, and bioremediation agents that consist of nutrient additives.

* * * * *

Dispersants are substances that emulsify, disperse, or solubilize oil by promoting the formation of small droplets or particles of oil in the water column.

* * * * *

Herding agents are substances that form a film on the water surface to control the spreading of the oil to allow for oil removal.

* * * * *

Products are chemical or biological agents or other substances manufactured using a unique composition or formulation.

* * * * *

Sinking agents are substances introduced into an oil discharge for the purpose of submerging the oil to the bottom of a water body.

* * * * *

Solidifiers are substances that through a chemical reaction cause oil to become

a cohesive mass, preventing oil from dissolving or dispersing into the water column. Solidifiers are generally collected and recovered from the environment.

Sorbents are inert and insoluble substances that readily absorb and/or adsorb oil or hazardous substances, and that are not combined with or act as a chemical agent, biological agent, or sinking agent. Sorbents may be used in their natural bulk form or as manufactured products in particulate form, sheets, rolls, pillows, or booms. Sorbents are generally collected and recovered from the environment. Sorbents consist of:

(1) Natural organic substances (*e.g.,* feathers, cork, peat moss, and cellulose fibers such as bagasse, corncobs, and straw);

(2) Inorganic/mineral compounds (*e.g.,* volcanic ash, perlite, vermiculite, zeolite, clay); and

(3) Synthetic compounds (*e.g.,* polypropylene, polyethylene, polyurethane, polyester).

* * * * *

Surface washing agents are substances that separate oil from solid surfaces, such as beaches, rocks, metals, or concrete, through a detergency mechanism that lifts and floats oil. Product and oil are generally to be collected and recovered from the environment with minimal dissolution, dispersion, or transfer into the water column.

* * * * *

Subpart J—Use of Dispersants, and Other Chemical and Biological Agents

■ 5. Revise the heading of Subpart J as set out above.

■ 6. Amend § 300.900 by revising paragraphs (a) and (c), and by adding paragraph (d) to read as follows:

§ 300.900 General.

(a) Section 311(d)(2)(G) of the Clean Water Act (CWA) requires EPA to prepare a schedule identifying dispersants, other chemicals, other spill mitigating devices and substances, if any, that may be used in carrying out the NCP; and the waters and quantities in which they may be used safely. This subpart establishes a schedule that includes the NCP Product Schedule identifying chemical and biological agents, the Sorbents Product List, and the authorization of use procedures that, when taken together, identify the waters and quantities in which such dispersants, other chemicals, or other spill mitigating devices and substances may be used safely.

* * * * *

(c) This subpart applies to the use of chemical and biological agents as defined in Subpart A of this part, or other substances that may be used to remove, control, or otherwise mitigate oil discharges.

(d) [Reserved]

§ 300.905 [Removed]

■ 7. Remove § 300.905.

■ 8. Revise § 300.910 to read as follows:

§ 300.910 Authorization for agent use.

Use of chemical or biological agents in response to oil discharges must be authorized by the OSC in accordance with the provisions of this section.

(a) *Use of agents identified on the NCP Product Schedule or use of burning agents on oil discharges addressed by a preauthorization plan.* Area Committees and RRTs shall address, as part of their planning activities, whether preauthorization of the use of chemical and biological agents listed on the NCP Product Schedule or the use of burning agents on certain oil discharges is appropriate. Area Committees and RRTs shall, as appropriate, include applicable approved preauthorization plans in ACPs and RCPs. When a preauthorization plan is approved in advance for the use of certain agents under specified discharge situations, then the OSC may authorize the use of agents listed on the NCP Product Schedule, or the use of burning agents, for the purpose for which they were specifically listed without obtaining the incident-specific concurrences and without the natural resource trustees consultations described in paragraph (b) of this section.

(1) *Preauthorization plan development.* For discharge situations identified where such agents may be used, the preauthorization plan must, at a minimum, specify limits for the quantities and the duration of use, and use parameters for water depth, distance to shoreline, and proximity to populated areas. In meeting the provisions of this paragraph, preauthorization plans should document how regional factors are addressed including likely sources and types of oil that might be discharged, various potential discharge scenarios, the existence and location of environmentally sensitive resources or restricted areas that might be impacted by discharged oil, and logistical factors including inventory, storage locations and manufacturing capability of available agents, availability of equipment needed for agent use, availability of adequately trained operators, and means to monitor agent use in the environment. Preauthorization plans are to be developed by the Area Committees or the RRT in consultation with the Area Committee(s).

(2) *Preauthorization plan approval.* The EPA representative to the RRT, the Department of Commerce and the Department of the Interior natural resource trustees and, as appropriate the RRT representative from the state(s) with jurisdiction over waters and adjoining shorelines within the preauthorization plan area shall review and either approve, approve with modification, or disapprove the preauthorization plans. The Area Committees and RRTs shall address the withdrawal of approval from a preauthorization plan, and the RRT shall notify the NRT of the status of the preauthorization plan within 30 days from any such withdrawal.

(3) *Preauthorization plan reviews.* The RRT in consultation with the Area Committee(s) must review, and revise, as needed, approved preauthorization plans. These reviews must be conducted following a regular timeframe, established by the RRT and documented in the plan, to address changes that may impact the conditions under which the use of chemical and biological agents have been preauthorized. Reviews must also be conducted in any affected region, at a minimum, after a major discharge or after a Spill of National Significance (SONS) relevant to the preauthorization plan area; to address revisions of the NCP Product Schedule impacting chemical or biological agents that may be individually listed within a preauthorization plan; and to reflect new listings of threatened and/or endangered species applicable to the preauthorization plan area. The EPA RRT representative, the Department of Commerce and Department of the Interior natural resource trustees, and the RRT representative from the state(s) with jurisdiction over the waters of the area to which a preauthorization plan applies shall review and either approve, approve with modification, or disapprove any revisions to the preauthorization plans.

(b) *Use of agents identified on the NCP Product Schedule or use of burning agents on oil discharges not addressed by a preauthorization plan.* For discharge situations that are not addressed by a preauthorization plan developed pursuant to paragraph (a) of this section, the OSC may authorize the use of chemical or biological agents identified on the NCP Product Schedule on an oil discharge, or the use of burning agents, for the specific purpose for which they were listed with the concurrence of the EPA RRT representative and, as appropriate, the

concurrence of the RRT representatives from the state(s) with jurisdiction over the waters and adjoining shorelines threatened by the release or discharge, and in consultation with the Department of Commerce and Department of the Interior natural resource trustees. In meeting the provisions of this paragraph, the OSC must consider and document for their authorization request to the RRT, at a minimum, the parameters for the use of agents including the quantities requested to be authorized, the duration of use, the depth of water, the distance to shoreline and proximity to populated areas, and should consider and document factors such as environmentally sensitive resources or restricted areas that might be impacted, agent inventory and storage locations, agent manufacturing capability, availability of equipment needed for agent use, availability of adequately trained operators and appropriate means to monitor agent use in the environment.

(c) [Reserved]

(d) *Temporary exception.* In circumstances to prevent or substantially reduce an imminent threat to human life that cannot be immediately addressed by other procedures or provisions of the NCP, the OSC may authorize the provisional use of any chemical or biological agent, whether it is identified or not on the NCP Product Schedule, without obtaining the concurrence of the EPA RRT representative and, as appropriate, the RRT representatives from the state(s) with jurisdiction over the waters and adjoining shorelines threatened by the release or discharge, and without consultation with the Department of Commerce and the Department of the Interior natural resource trustees. This exception shall not be used as a substitute for compliance with § 300.150 of this part, including the use of personal protective equipment, or when there is sufficient time to seek authorization in accordance with paragraphs (a) or (b) of this section. If an agent is authorized for use pursuant to this paragraph, the OSC shall notify as soon as possible the EPA RRT representative and as appropriate, the RRT representatives from the affected state(s) and the Department of Commerce and Department of the Interior natural resource trustees. The OSC shall document the circumstances and the reasons for use of the agent authorized pursuant to this paragraph. Agent use for individual circumstances under this exception shall be in accordance with paragraphs (a) or (b) of this section no later than 24 hours after initial application.

(e) *Prohibited agents or substances.* The OSC may not authorize the use of the following:

(1) Sinking agents, or any other chemical agent, biological agent, or any substance that is used to directly sink the oil to the bottom of a water body.

(2) [Reserved]

(f) *Storage and use of agents listed on the NCP Product Schedule.* (1) The OSC may authorize for use only products listed on the NCP Product Schedule that are documented and certified by the responsible party or its representative to have been stored under the conditions provided by the submitter under § 300.915(a)(6), and whose date of use does not exceed the expiration date listed on the container's label unless otherwise specified for expired products as provided in § 300.910(f)(2), at the time of the incident.

(2) The OSC may authorize for use products listed on the NCP Product Schedule that exceed their expiration date after the responsible party or its representative documents and certifies that the expired product has been stored under the conditions provided by the submitter under § 300.915(a)(6) and still meets the applicable efficacy and toxicity listing provisions under § 300.915, based on testing of representative samples within the previous 12 months.

(g) *Supplemental testing, monitoring, and information.* The RRT may require, for both planning and response, including authorization of use, supplemental toxicity and efficacy testing, or submission of available data and information that addresses site, area, and ecosystem-specific concerns relative to the use of any chemical or biological agent. The product manufacturer or responsible party shall provide, upon request of the RRT or OSC, additional monitoring or testing data and information to inform chemical or biological agent use decisions specific to a response.

(h) *Recovery of chemical agents and other substances from the environment.* The responsible party shall ensure that removal actions adequately contain, collect, store, and dispose of chemical agents and other substances that are to be recovered from the environment, unless otherwise directed by the OSC. Chemical agents and other substances to be recovered include solidifiers, surface washing agents, and sorbents. The OSC should, at a minimum, consider factors such as the safety of response personnel and harm to the environment in making determinations pursuant to this paragraph.

(i) *Reporting of agent use.* (1) The authorizing OSC shall provide the RRT the following information on chemical and biological agents used in response to an oil discharge: product name, product category, quantity and concentrations used, duration of use, location(s) of use, any available data collected, and any available analyses of efficacy and environmental effects. This information must be provided within 30 days of completion of agent use. This information may be submitted in accordance with the OSC reporting provisions under § 300.165 of this part, as applicable, subject to the 30-day timing requirement.

(2) In support of sections 300.135(n) and 300.155(a) and (b) of this part, the authorizing OSC shall provide for notification to the public, updated during a response as appropriate, the following information on chemical and biological agents used in response to an oil discharge: product name, product category, quantity and concentrations used, duration of use, and location(s) of use.

■ 9. Revise § 300.915 to read as follows:

§ 300.915 Data and information requirements for listing on the NCP Product Schedule or Sorbent Product List.

If you are submitting an application for listing a product to the NCP Product Schedule or Sorbent Product List, you must provide EPA the information required under § 300.955. Technical product data submissions are not required for burning agents. Your submission for each product must contain:

(a) *General information for any product category.* (1) Your name, physical address, email, and telephone number;

(2) Your identity and documentation of that identity, as the manufacturer of the product, vendor, importer, distributor of the product, and/or a designated agent acting on behalf of the manufacturer.

(3) All name(s), brand(s), and/or trademark(s) under which the product is to be sold;

(4) Names, physical addresses, emails, and telephone numbers of the primary distributors, vendors, importers and/or designated agent acting on behalf of the manufacturer;

(5) The Safety Data Sheet (SDS) for the product;

(6) The maximum, minimum, and optimum temperature, humidity, and other relevant conditions for product storage and a brief description of the consequences to performance if the product is not stored within these limits;

(7) The anticipated shelf life of the product at the storage conditions noted in paragraph (a)(6) of this section and documentation for this determination;

(8) A sample product label for all name(s), brand(s), and/or trademark(s) under which the product is to be sold that includes manufacture and expiration dates, and conditions for storage. You may use an existing label provided it already contains the required dates and storage information;

(9) The chemical or biological agent category under which you want the product to be considered for listing on the NCP Product Schedule, including detailed information on the specific process(es) through which the product affects the oil, and the specific environment(s) on which it is intended to be used (*e.g.,* waters and/or adjoining shorelines). If your product meets the definition of more than one chemical or biological agent category, you must identify all applicable categories and provide the test data to meet the listing criteria appropriate to each;

(10) Recommended product use procedures, including product concentrations, use ratios, types of application equipment, conditions for use, any application restrictions; and, as applicable, procedures for product and oil containment, collection, recovery, and disposal. These procedures must address, as appropriate, variables such as weather, water salinity, water temperature, types and weathering states of oils or other pollutants. The procedures must include supporting documentation and current applicable standard methods used to determine them;

(11) Available information on environmental fate, including any known measured data, methodologies, and supporting documentation, on the persistence, bioconcentration factor, bioaccumulation factor, and biodegradability of the product and all of its components in the environment;

(12) The physical and chemical properties of the product, as appropriate, and a citation for the current applicable standard methods used to determine them, including:

(i) Physical state and appearance;

(ii) Vapor pressure;

(iii) Flash point;

(iv) Pour point;

(v) Viscosity;

(vi) Specific gravity;

(vii) Particle size for solid components; and

(viii) pH;

(13) The identity and concentration of all components in the product, including each specific component name; corresponding Chemical Abstract Service (CAS) Registry Number; the maximum, minimum, and average weight percent of each component in the product; and the intended function of each component (*e.g.,* solvent, surfactant);

(14) For products that also contain microorganisms, enzymes, and/or nutrients, provide the following along with a citation or a description of the methodology used to determine:

(i) The name of all microorganisms by current genus and species, including any reclassifications, and any physical, chemical, or biological manipulation of the genetic composition and the weight percent of each genus in the product;

(ii) The name of all enzymes and their International Union of Biochemistry (I.U.B.) number(s); Enzyme Classification (EC) code numbers; the source of each enzyme; units; and specific oil-degrading activity;

(iii) The name(s), maximum, minimum, and average weight percent of the nutrients contained in the product; and

(iv) Data, methodology, and supporting documentation, for the levels of bacterial, fungal, or viral pathogens or opportunistic pathogens including, but not limited to: enteric bacteria such as *Salmonella,* fecal coliforms, *Shigella,* coagulase positive *Staphylococci,* and beta hemolytic *Streptococci* and enterococci;

(15) Data, methodology, and supporting documentation for the levels of the following:

(i) Arsenic, cadmium, chromium, copper, lead, mercury, nickel, vanadium, zinc, and any other heavy metal reasonably expected to be in the product;

(ii) Cyanide;

(iii) Chlorinated hydrocarbons;

(iv) Pesticides;

(v) Polychlorinated Biphenyls (PCBs); and

(vi) Polycyclic aromatic hydrocarbons (PAHs).

(16) Certification, including data, methodology, and supporting documentation, indicating that the product does not contain any of the prohibited agents or substances identified in § 300.910(e);

(17) Information about the accredited laboratory that conducted the required tests, including:

(i) Name of the laboratory, address, contact name, email, and phone number; and

(ii) The national and/or international accreditations held by the laboratory that are applicable to the test(s) performed;

(18) All test data and calculations, including:

(i) Raw data and replicates, including positive controls;

(ii) Notes and observations collected during tests;

(iii) Calculated mean values and standard deviations;

(iv) Reports, including a summary of stock solution preparation;

(v) Source and preparation of test organisms;

(vi) Test conditions; and

(vii) Chain of custody forms;

(19) An estimate of the annual product production volume, the average and maximum amount that could be produced per day, and the time frame needed to reach that maximum production rate in days;

(20) Recognition received from EPA's Design for the Environment (DfE) or Safer Choice programs, as applicable; and

(21) International product testing or use data or certifications, if available, informing the performance capabilities or environmental impacts of the product.

(b) *Dispersant testing and listing requirements*—(1) *Dispersant efficacy test and listing criteria.* Test the dispersant product for efficacy using the Baffled Flask Test (BFT) method in Appendix C to part 300. To be listed on the NCP Product Schedule, the dispersant must demonstrate for each temperature a Dispersant Effectiveness (DE) at the 95% lower confidence level (LCL_{95}) greater than or equal to:

(i) ≥70% for Strategic Petroleum Reserve Bryan Mound at 5 °C;

(ii) ≥75% for Strategic Petroleum Reserve Bryan Mound at 25 °C;

(2) *Dispersant toxicity tests and listing criteria.* Use the methods specified in Appendix C to part 300 to test the dispersant alone, and the dispersant mixed with Strategic Petroleum Reserve Bryan Mound for acute toxicity, using *Americamysis bahia* and *Menidia beryllina.* Use the methods specified in Appendix C to part 300 to test the dispersant alone for developmental toxicity using *Strongylocentrotus purpuratus* or *Arbacia punctulata* and for subchronic effects using *Americamysis bahia* and *Menidia beryllina.* To be listed on the NCP Product Schedule, the dispersant alone must demonstrate:

(i) A median lethal concentration (LC_{50}) at the lower 95% confidence interval greater than 10 ppm;

(ii) An inhibition concentration for 50% of the test species (IC_{50}) at the lower 95% confidence interval greater than 1 ppm; and

(iii) A subchronic No Observed Effect Concentration (NOEC) greater than 1 ppm.

(3) *Limitations.* A dispersant may only be listed on the NCP Product Schedule for use in saltwater environments for which it meets the efficacy and toxicity listing criteria.

(c) *Surface washing agent testing and listing requirements*—(1) *Surface washing agent efficacy test and listing criteria.* To be listed on the NCP Product Schedule, using an applicable standard methodology, the surface washing agent must meet an efficacy of greater than or equal to 30% in either freshwater or saltwater, or both, depending on the intended product use.

(2) *Surface washing agent toxicity test and listing criteria.* Using the toxicity test methodology in Appendix C to part 300, test the surface washing agent for acute toxicity against freshwater species *Ceriodaphnia dubia* and *Pimephales promelas,* or saltwater species *Americamysis bahia* and *Menidia beryllina,* or both, depending on the intended product use. To be listed on the NCP Product Schedule, the surface washing agent must demonstrate an LC_{50} at the lower 95% confidence interval greater than 10 ppm in either freshwater or saltwater for all tested species.

(3) *Limitations.* Surface washing agent listing would be for use only in freshwater and/or saltwater environments for which it was tested and for which it met the efficacy and toxicity listing criteria.

(d) *Bioremediation agent testing and listing requirements*—(1) *Bioremediation agent efficacy test and listing criteria.* To be listed on the NCP Product Schedule, a bioremediation agent must successfully degrade both alkanes and aromatics as determined by gas chromatography/mass spectrometry (GC/MS) in freshwater or saltwater, or both, depending on the intended product use, following the test method specified in Appendix C to part 300. The percentage reduction of total alkanes (aliphatic fraction) from the GC/MS analysis must be greater than or equal to 85% at day 28, based on the ninety-fifth (95th) percentile Upper Confidence Limit (UCL_{95}) for both freshwater and saltwater. The percentage reduction of total aromatics (aromatic fraction) must be greater than or equal to 35% at day 28 for both saltwater and freshwater based on the UCL95.

(2) *Bioremediation agent toxicity test and listing criteria.* The bioremediation agent must be tested for acute toxicity in freshwater or saltwater, or both, depending on the intended product use, following the method specified in Appendix C to part 300. To be listed on the NCP Product Schedule, the bioremediation agent must demonstrate an LC_{50} at the lower 95% confidence interval greater than 10 ppm in either freshwater or saltwater for all tested species.

(3) *Limitations.* Bioremediation agent listing would be for use only in the freshwater and/or saltwater environments for which it was tested and for which it met the efficacy and toxicity listing criteria.

(4) *Generic listing.* If the product consists solely of: ammonium nitrate, ammonium phosphate, ammonium sulfate, calcium ammonium nitrate, sodium nitrate, potassium nitrate, synthetically-derived urea, sodium triphosphate (or tripolyphosphate), sodium phosphate, potassium phosphate (mono- or dibasic), triple super phosphate, potassium sulphate, or any combination thereof, no technical product data are required. The product will be generically listed as non-proprietary nutrients on the NCP Product Schedule, and no further action is necessary.

(e) *Solidifier testing and listing requirements.* (1) Solidifiers must be tested for acute toxicity in freshwater or saltwater, or both, depending on the intended product use, following the method specified in Appendix C to part 300. To be listed on the NCP Product Schedule, the solidifier must demonstrate an LC_{50} at the lower 95% confidence interval greater than 10 ppm in either freshwater or saltwater for all tested species.

(2) *Limitations.* Solidifier listing would be for use only in the freshwater and/or saltwater environments for which it was tested and for which it met the toxicity listing criteria.

(f) *Herding agent testing and listing requirements.* (1) Herding agents must be tested for acute toxicity in freshwater or saltwater, or both, depending on the intended product use, following the method specified in Appendix C to part 300. To be listed on the NCP Product Schedule, the herding agent must demonstrate an LC_{50} at the lower 95% confidence interval greater than 10 ppm in either freshwater or saltwater for all tested species.

(2) *Limitations.* Herding agent listing would be for use only in freshwater and/or saltwater environments for which it was tested and for which it met the toxicity listing criteria.

(g) *Sorbent requirements.* Known sorbent materials and products will be identified on a publicly available Sorbent Product List for the use of such products when responding to an oil discharge as follows:

(1) For sorbent products that consist solely of the following materials, or any combination thereof, no technical data are required to be submitted for listing on the Sorbent Product List, and no further action is necessary for use as a sorbent:

(i) Feathers, cork, peat moss, and cellulose fibers such as bagasse, corncobs, and straw;

(ii) Volcanic ash, perlite, vermiculite, zeolite, and clay; and

(iii) Polypropylene, polyethylene, polyurethane, and polyester.

(2) If the product consists of one or more natural organic substances, inorganic/mineral compounds, and/or synthetic compounds not specifically identified in paragraph (g)(1) of this section but you believe the product meets the definition of a sorbent then, as applicable under § 300.955(a) and (b), you must submit the following information for consideration for listing it as a sorbent on the Sorbent Product List:

(i) The information required under paragraphs (a)(1) through (a)(8), and paragraph (a)(13) through (a)(15) of this section;

(ii) The certification required under paragraph (a)(16) of this section; and

(iii) Information, including data, to support the claim your product meets the sorbent definition under § 300.5.

§ 300.920 [Removed]

■ 10. Remove § 300.920.

■ 11. Add § 300.950 to read as follows:

§ 300.950 Submission of Proprietary Business Information (PBI).

(a) Except as provided in paragraph (b) of this section, all product information submitted to EPA as required under § 300.915 and § 300.955 will be available for public disclosure upon submission, without further notice to the submitter.

(b) You may only claim as PBI the concentration; the maximum, minimum, and average weight percent; and the units of each component as identified in § 300.915(a)(13) and (14) and as applicable. EPA will handle such claims in accordance with 40 CFR part 2, subpart B Confidentiality of Business Information.

(1) You must make your PBI claim at the time you submit your information to EPA to be listed on the NCP Product Schedule or Sorbent Product List.

(2) You must separate the PBI from all other submitted information. Include all PBI separately with your submission package, marking it as ''Proprietary Business Information'' and placing it in a separate inner envelope labeled with ''PROPRIETARY BUSINESS INFORMATION—TO BE OPENED BY

THE PRODUCT SCHEDULE MANAGER ONLY.''

■ 12. Add § 300.955 to read as follows:

§ 300.955 Addition of a product to the NCP Product Schedule or Sorbent ProductLlist.

(a) *Submission.* Submit your complete package to: U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Mail Code: 5104A, Room 1448, William J. Clinton North, Washington, DC 20460, Attention: Product Schedule Manager.

(b) *Package contents.* Your package shall include, as applicable, in this order:

(1) A cover letter on company letterhead signed and dated by you certifying that:

(i) All testing was conducted on representative product samples;

(ii) Testing was conducted at a nationally or internationally accredited laboratory in accordance with the methods specified in Appendix C to part 300, and other applicable methods as appropriate; and

(iii) All test results and product technical data and information are true and accurate.

(2) A page numbered Table of Contents showing the information and data submitted under § 300.915(a) through (g), as applicable;

(3) All required data and information arranged in the same order as specified in § 300.915(a) through (g); and

(4) A separate envelope containing and labeled Proprietary Business Information as specified in § 300.950(b), if applicable.

(c) *EPA Review.* EPA shall, within 90 days of receiving a submission package:

(1) Review the package for completeness and compliance with all data and information requirements in §§ 300.915, 300.950, and this section; verify information; and request clarification or additional information, including testing as necessary;

(2) Make a product listing determination based on a technical evaluation of all data and information submitted in accordance with the requirements for each product category, relevant information on impacts or potential impacts of the product or any of its components on human health or the environment, and the intended use of the product; and

(3) Notify you in writing of its decision to list the product on the NCP Product Schedule or the Sorbent Product List, or of its decision and supporting rationale to reject the submission. If your submission is rejected:

(i) You may revise and resubmit a complete package to address test results, data, or information deficiencies.

(ii) EPA's 90-day review will not start until a complete package is resubmitted.

(d) *Request for review of decision.* If your product is rejected for listing on the NCP Product Schedule or the Sorbent Product List, you may request that the EPA Administrator or designee review the determination. Your request must be in writing within 30 days of receipt of notification of EPA's decision not to list the product on the NCP Product Schedule or the Sorbent Product List. Your request must contain a clear and concise statement with supporting facts and technical analysis demonstrating why the product meets the listing requirements.

(1) The EPA Administrator or designee may request additional information from you and may offer an opportunity for you to meet with EPA.

(2) The EPA Administrator or designee will notify you in writing of the decision within 60 days of receipt of your request, or within 60 days of receipt of requested additional information.

(e) *Changes to a product listing*—(1) *Administrative change.* You must notify EPA in writing within 30 days of any changes to information submitted under § 300.915(a)(1) through (8) and § 300.915(a)(19) through (21) for a product on the NCP Product Schedule. In the notification, you must detail the specific changes, the reasons for such changes and supporting data and information. EPA may request additional information and clarification regarding these changes.

(2) *Reformulation.* If you change the components and/or concentrations, you must retest the reformulated product according to the requirements for the product category and submit a new complete package under a new, distinct name in accordance with § 300.955(b) for review and consideration for listing on the NCP Product Schedule or Sorbent Product List by EPA.

(f) *Transitioning Listed Products to the New NCP Product Schedule or Sorbent Product List.* All products on the current NCP Product Schedule as of December 11, 2023 will remain conditionally listed until December 12, 2025 at which time all products that have not been submitted and listed in the new NCP Product Schedule based on the amended test and listing criteria will be removed. Your product will be transitioned from the current NCP Product Schedule to the new NCP Product Schedule prior to December 12, 2025 after you submit a new complete package in accordance with § 300.955(b), and EPA makes a determination to list the product on the new NCP Product Schedule. All products previously identified as sorbents by EPA will remain available for use until December 12, 2025, at which time all sorbent products must have submitted information as applicable under § 300.955(a) and (b) and be listed in the new Sorbent Product List.

■ 13. Add § 300.965 to read as follows:

§ 300.965 Mandatory Product Disclaimer.

The listing of a product on the NCP Product Schedule does not constitute approval or recommendation of the product. To avoid possible misinterpretation or misrepresentation, any label, advertisement, or technical literature for products listed on the NCP Product Schedule must display in its entirety the disclaimer shown below. The disclaimer must be conspicuous and must be fully reproduced on all product literatures, labels, and electronic media including website pages.

Disclaimer

[PRODUCT NAME] is listed on the National Contingency Plan (NCP) Product Schedule. This listing does NOT mean that EPA approves, recommends, licenses, or certifies the use of [PRODUCT NAME] on an oil discharge. This listing means only that data have been submitted to EPA as required by Subpart J of the NCP. Only a Federal On-Scene Coordinator (OSC) may authorize use of this product in accordance with Subpart J of the NCP in response to an oil discharge.

■ 14. Add § 300.970 to read as follows:

§ 300.970 Removal of a product from the NCP Product Schedule or Sorbent Product List.

(a) The EPA Administrator or designee may remove your product from the NCP Product Schedule or the Sorbent Product List for reasons including, but not limited to:

(1) Statements or information that are misleading, inaccurate, outdated, or incorrect regarding the composition or use of the product to remove or control oil discharges made to any person, or private or public entity, including on labels, advertisements, technical literature, electronic media, or within the product submission to EPA; or

(2) Alterations to the components, concentrations, or use conditions of the product without proper notification to EPA as required by § 300.955(e); or

(3) Failure to print the disclaimer provided in § 300.965 on all labels, advertisements, technical literature, or electronic media for products listed on the NCP Product Schedule; or

(4) New or relevant information not previously considered concerning the impacts or potential impacts of the product to human health or the environment.

(b) EPA will notify you in writing, at your address of record, of its reasons for deciding to remove the product from the NCP Product Schedule. If EPA receives no appeal from you in 30 days, the product will be removed from the NCP Product Schedule without further notice to you.

(c) You may appeal the decision to remove your product from the NCP Product Schedule within 30 days of receipt of EPA's notification. Your appeal must contain a clear and concise statement with supporting facts and technical analysis demonstrating why the product should not be removed. The EPA Administrator or designee will notify you in writing of the decision within 60 days of your appeal, or within 60 days of receipt of any requested additional information.

■ 15. Revise Appendix C to Part 300 to read as follows:

Appendix C to Part 300—Requirements for Product Testing Protocols and Summary Test Data: Dispersant Baffled Flask Efficacy and Toxicity Tests; Standard Acute Toxicity Test for Bioremediation Agents, Surface Washing Agents, Herding Agents, and Solidifiers; and Bioremediation Agent Efficacy Test

Table of Contents

1.0 *Applicability and Scope.* This Appendix establishes laboratory protocols required under Subpart J (Use of Dispersants and Other Chemical and Biological Agents) of 40 CFR part 300 (National Oil and Hazardous Substances Pollution Contingency Plan) to make listing determinations for the Product Schedule. The protocols apply, based on product type, to dispersants, bioremediation agents, surface washing agents, herding agents, and solidifiers as defined in Subpart A (Introduction) of 40 CFR part 300.

2.0 *Baffled Flask Dispersant Efficacy Test (BFT)*

2.1 *Summary.* This laboratory protocol establishes procedures to evaluate the degree to which a product effectively disperses oil spilled on the surface of seawater, using a modified 150-mL screw-cap trypsinizing flask (an Erlenmeyer flask with baffles) with a glass and Teflon® stopcock near the bottom to allow removal of subsurface water samples without disturbing the surface oil layer. The efficacy of a dispersant is measured using one reference oil, Strategic Petroleum Oil Reserve Bryan Mound at two temperatures (5 °C and 25 °C). Six replicates and one method blank are required at each temperature. A layer of oil is placed on the surface of artificial seawater, and the dispersant is added to the slick at a dispersant:oil ratio (DOR) of 1:25 (4%) by volume. A standard orbital shaker table provides turbulent mixing at a speed of 250 revolutions per minute (rpm) for 10 minutes, immediately after which it is maintained stationary for 10 minutes to allow non-dispersed oil to rise to the water's surface. An undisturbed water sample is removed from the bottom of the flask through the stopcock, extracted with dichloromethane (DCM), and analyzed for oil content by UV-visible absorption spectrophotometry at wavelengths ranging between 340 and 400 nm.

2.2 *Apparatus.* All equipment must be maintained and calibrated per standard laboratory procedures.

2.2.1 *Modified Trypsinizing Flask.* A modified 150 mL glass screw-capped Erlenmeyer flasks with baffles (*e.g.,* Wheaton No. 355394 or equivalent) fitted with a 2 mm bore Teflon® stopcock and glass tubing, the center of which is no more than 1.3 cm from the bottom, as shown in Figure 1.

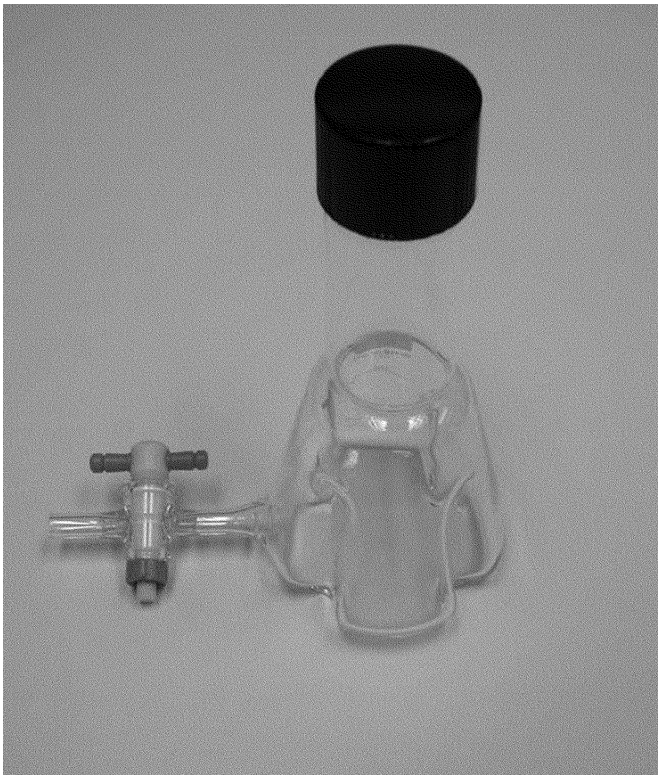

Figure 1. A Baffled Trypsinizing Flask

2.2.2 *Orbital Shaker Table.* An orbital shaker table with a variable speed control unit capable of maintaining 250 rpm. The orbital diameter must be approximately 1.0 inch (2.5 cm) +/−0.1 inch (0.25 cm).

2.2.3 *Spectrophotometer.* A UV-visible spectrophotometer capable of measuring absorbance between 340 and 400 nm (*e.g.,* Shimadzu UV–1800, Agilent 8453, or equivalent). Use standard transmission-matched quartz 10-mm path length rectangular cells with PTFE cover for absorbance measurements.

2.2.4 *Glassware.* Including: 25-ml graduated mixing cylinders (a graduated cylinder with a ground glass stopper); 50- and 100-ml graduated cylinders; 125-mL separatory funnels with Teflon stopcocks; 10-ml volumetric flasks; 30-ml crimp style glass serum bottles; 1-, 2-, 5-mL pipettes; other miscellaneous laboratory items.

2.2.5 *Micropipettor.* Use a micropipettor capable of dispensing 4 µL of dispersant and 100 µL of oil (*e.g.,* Brinkmann Eppendorf repeater pipettor with 100 µL and 5 mL syringe tip attachments or equivalent).

2.2.6 *Syringes.* 25-, 100-, 250-, 1,000-, 2,500-, 5,000-µl gas-tight syringes.

2.2.7 *Constant temperature rooms or incubators to hold the shaker at* 5 °C and 25 °C.

2.2.8 *Analytical Balance.*

2.2.9 *Chemical fume hood.*

2.3 *Reagents.*

2.3.1 *Artificial seawater.* Use the artificial seawater GP2 formulation shown in Table 1 of this Appendix.

2.3.2 *Test oil.* Use the EPA standard reference oil Strategic Petroleum Reserve Bryan Mound. To obtain this oil at no charge (except for a minimal shipping fee), see the instructions at *http://www.epa.gov/emergencies/content/ncp/index.htm.* Selected properties are summarized in Table 2 of this Appendix.

2.3.3 *Dichloromethane (DCM) (also known as methylene chloride), pesticide quality.*

2.4 *Container Handling and Storage.*

2.4.1 *Glassware.* If the glassware has been used with oil before, rinse with DCM to remove as much of the oil adhering to the sides of the flask as possible; waste DCM may be used. Soak in warm water with detergent and individually wash with bristled brushes. First rinse with tap water, then follow with two de-ionized water rinses. Dry either on a rack or in a 110 °C drying oven. After drying, rinse with fresh DCM (use sparingly).

2.4.2 *Serum bottles and other non-volumetric glassware.* Bake for at least 4 hours in a muffle furnace at 450 °C.

2.5 *Calibration Curve for the UV-visible spectrophotometer.*

2.5.1 *Stock Standard Solution Preparation.* Stock standard solution concentrations are based on the mass measurements after each addition and density determinations of the oil/dispersant/DCM solution using a density bottle or a 1-mL gas tight syringe. An example calculation is given in Table 3 of this Appendix according to the following equation:

$$\text{theoreticalconcentration},\frac{\text{mg}}{\text{mL}}=\frac{\text{massofoil,g*1000mg/g}}{\text{totalmass,g}/\rho_{\text{solution,g/mL}}}\ theoretical\ concentration,\frac{mg}{mL}=$$

$$\frac{mass\ of\ oil,\ \ g*1000\,mg/g}{total\ mass,\ \ g/\rho_{solution,\,g/mL}} \qquad \text{(Equation 1)}$$

Use the reference oil and the specific dispersant being tested for a particular set of experimental test runs. Prepare the stock standard solution of dispersant-oil mixture in DCM, starting with 2 ml of the oil, then adding 80 µl of the dispersant followed by 18 ml of DCM.

2.5.2 Six-*point Calibration Curve.* For the reference oil, add specific volumes of its stock standard solution (given in Table 4 of this Appendix) to 30 ml of artificial seawater in a 125 ml separatory funnel. Extract the oil/dispersant water mixture with triplicate 5 ml volumes of DCM. Follow each DCM addition by 15 seconds of vigorous shaking, carefully releasing the initial pressure inside the separatory funnel by partially removing the

glass stopper inside a fume hood after the first few shakes. Then, allow a 2-minute stationary period for phase separation for each extraction. Drain the extracts into a 25-mL graduated mixing cylinder. Release any entrained bubbles of DCM from the water layer by sideways shaking of the funnel. Use precaution not to drain water into the DCM extract as it can affect the absorbance readings. Adjust the final volume of the collected extracts to 25 mL in the mixing cylinder using DCM. Determine specific masses for oil concentrations in the standards as volumes of oil/dispersant solution multiplied by the concentration of the stock solution. An example calculation is given in Table 4 of this Appendix. One calibration curve is needed for the reference oil and dispersant combination.

2.6 *Sample Preparation and Testing.* See section 2.7 of this Appendix for a detailed description of the spectrophotometer's linear calibration procedure.

2.6.1 Six replicates of the oil and test dispersant are required at each temperature plus two additional tests of method blanks (artificial seawater without oil and dispersant), one at each temperature. A completed test consists of 14 baffled flask tests (a total of six replicates for the reference oil/test dispersant combination at two temperatures (5 °C and 25 °C), plus two method blanks).

2.6.2 Attach a 3-inch length of Teflon tubing to the stopcock of each of the 150-mL baffled flasks. Add 120 mL of artificial seawater to each flask. Put screw cap on flasks and place them at the appropriate temperature (either 5 °C or 25 °C) for equilibration.

2.6.3 Calibrate and adjust the shaker table to 250 ± 10 rpm.

2.6.4 Prepare and time separately each baffled flask. Sequentially add 100 µL of oil and 4 µL of dispersant to the flask layering them onto the center of the seawater to give a dispersant-to-oil ratio (DOR) of 1:25. Avoid any oil or dispersant splashing on the flask walls, as it may reduce efficacy or cause errors in the calculated results. Discard the sample and repeat the setup if: (1) any oil or dispersant splashing occurs during the additions, or (2) the dispersant contacts the water first rather than the oil. This is especially important for 5 °C work because of increased oil viscosity.

2.6.5 For the oil, fill the tip of the pipettor, using a wipe to remove any oil from the sides of the tip. Holding the pipettor vertically, dispense several times back into the reservoir to ensure that the oil flows smoothly. Insert the syringe tip vertically into the baffled flask and let the bottom of the pipettor rest on the neck of the flask. Slowly and carefully dispense the oil one time onto the center of the water's surface. The remainder of the oil can either be returned to the oil bottle or set aside for use in the next test flask.

Note to 2.6.5: If a Brinkmann Eppendorf repeater pipettor is used for dispensing the oil, attach a 5-mL syringe tip, and set the dial to 1.

2.6.6 For the dispersant, use the same procedure as for the oil to dispense onto the center of the oil slick surface. As the dispersant first contacts the oil, it will usually push the oil to the sides of the flask. Replace the screw cap onto the flask.

Note to 2.6.6: If a Brinkmann Eppendorf repeater pipettor is used for dispensing the dispersant, attach a 100-µL syringe tip, and set the dial to 2.

2.6.7 Carefully place flask securely onto the shaker and agitate for 10 ± 0.25 minutes at 250 ± 10 rpm.

2.6.8 Remove the flask from the shaker table and allow a stationary, quiescent period of 10 ± 0.25 minutes to allow undispersed and/or recoalesced oil droplets to refloat to the surface.

2.6.9 Carefully open the screw cap, then the stopcock at the bottom, and discard the first several mL of seawater into a waste beaker to remove non-mixed water-oil initially trapped in the stopcock tubing. Collect a volume slightly greater than 30-mL into a 50-mL graduated cylinder. Adjust the collected volume to the 30-mL mark by removing excess with a disposable glass Pasteur pipette. A web-like emulsion may form at the solvent/water interface during the water sample extraction. Avoid pulling any emulsion phase into the DCM extract as it may cloud the DCM-extract, leading to error.

2.6.10 Transfer the water-oil sample from the graduated cylinder into a 125-mL glass separatory funnel fitted with a Teflon stopcock.

2.6.11 Add 5 mL DCM to the separatory funnel. Start shaking, releasing pressure into the fume hood by loosening the glass stopper. Shake vigorously at least 20 times for 15 seconds.

2.6.12 Allow the funnel to remain in a stationary position for 2 minutes to allow phase separation of the water and DCM.

2.6.13 Drain the DCM layer from the separatory funnel into a 25 mL mixing cylinder. Avoid pulling any emulsion phase into the DCM extract as it may cloud the DCM extract.

2.6.14 Repeat the DCM-extraction process two or three additional times until the DCM is clear. Collect each extract in the graduated cylinder. After the final extraction, lightly shake the separatory funnel sideways once or twice to dislodge entrained bubbles of DCM and drain.

2.6.15 Adjust the final volume to a known quantity, 25 mL, in the mixing cylinder. Using a syringe, dispense 2.5 mL or 5.0 mL of a reference oil sample into a 10-mL volumetric flask, and fill with DCM to make either a 1:4 or 1:2 dilution, respectively.

2.6.16 If analysis cannot be conducted immediately, store the extracted DCM samples at 4 ± 2 °C until time of analysis. Glass-stoppered mixing cylinders may be used for short-term storage or prior to bringing the extracts up to volume. After bringing to volume, transfer the DCM extracts to 25–30 ml crimp-style serum vials with aluminum/Teflon seals.

2.6.17 Complete all analysis within 10 consecutive days from when the sample was collected.

2.7 *UV-Visible Spectrophotometer Linear Stability Calibration*

2.7.1 A six-point calibration of the UV-visible spectrophotometer is required at least once per day for each oil. The stability calibration criterion is determined with the six oil standards identified in Table 4 of this Appendix.

2.7.2 Turn on spectrophotometer and allow it to warm up for at least 30 minutes before beginning analysis. Blank the instrument for the wavelengths between 340 and 400 nm with DCM.

2.7.3 If refrigerated, allow all extracts, standards, and samples to warm to room temperature.

2.7.4 Determine the absorbance of the six standards between the wavelengths of 340 and 400 nm. This can be done by either one of the following methods:

2.7.4.1 *Trapezoidal Rule.* Program the spectrophotometer to take readings every 5λ or 10λ and calculate the area under the curve using the Trapezoidal rule:

$$\acute{R}\int_{340\lambda}^{400\lambda} f(x)dx \approx \frac{H}{2}\sum_{k=1}^{N}\left(f(x_{k+1})+f(x_k)\right) \qquad \text{(Equation 2)}$$

where N + 1 = number of absorbance measurements to delineate N equally spaced sections of the curve, and H = the distance (λ) between each reading. For H = 5, N + 1 = 13 measurements, for H = 10, N + 1 = 7.

The following formula illustrates readings taken every 10λ.

$$\text{Area} = \frac{(\text{Abs}_{340}+\text{Abs}_{350})*10}{2} + \frac{(\text{Abs}_{350}+\text{Abs}_{360})*10}{2} + \cdots \frac{(\text{Abs}_{390}+\text{Abs}_{400})*10}{2} Area =$$

$$\frac{(Abs_{340}+Abs_{350})*10}{2} + \frac{(Abs_{350}+Abs_{360})*10}{2} + \cdots \frac{(Abs_{390}+Abs_{400})*10}{2} \qquad \text{(Equation 3)}$$

When using readings taken every 5λ, each absorbance sum is multiplied by 5.

2.7.4.2 Automatic *Integration*. Program the spectrophotometer to automatically integrate the area under the curve between 340 nm and 400 nm.

2.7.4.3 If the wavelengths must be manually set on the spectrophotometer, the older method of only measuring at 340λ, 370λ, and 400λ may be used. Then calculate using the trapezoidal rule for N + 1 = 3, H = 30. While the resulting area count with the older method is less accurate, the final results are similar since the inaccuracy is systematic.

2.7.5 After determining the area count for each standard, determine the response factor (RF) for the oil at each concentration using the following equation:

$$\mathrm{RF} = \frac{\mathrm{TheoreticalConcentration}, \frac{\mathrm{g}}{\mathrm{mL}}(\mathrm{Eq.1})}{\mathrm{area(Eq.3)}} \quad RF = \frac{Theoretical\ Concentration, \frac{g}{mL}(Eq.1)}{area\ (Eq.3)}$$

(Equation 4)

2.7.6 Spectrophotometer stability for the initial calibration is acceptable when the RFs of the six standard extracts are less than 10% different from the overall mean value for the six standards, as calculated in Equation 5 of this Appendix and depicted in the example in Table 4 of this Appendix.

$$\%\mathrm{difference} = \frac{|\mathrm{RF}\text{-}\overline{\mathrm{RF}}|}{\overline{\mathrm{RF}}} * 100\% \quad difference = \frac{|RF - \overline{RF}|}{\overline{RF}} * 100$$

(Equation 5)

2.7.7 If this criterion is satisfied, begin analysis of sample extracts. Absorbances greater than or equal to 3.5 are not included because absorbance saturation occurs at and above this value. If any of the standard oil extracts fails to satisfy the initial-stability criterion, the source of the problem (*e.g.,* preparation protocol for the oil standards, spectrophotometer stability, etc.) must be corrected before analysis of the sample extracts begins.

2.7.8 Determine the slope of the calibration points by using linear regression forced zero intercept:

$$\mathrm{Y(areaunderabsorbancecurve)} = \mathrm{m(slope)}*\mathrm{x(concentrationofoil)} \quad Y(area\ under\ absorbance\ curve) = m(slope) * x(concentration\ of\ oil)$$

(Equation 6)

2.8 Spectrophotometric *Analysis and Calculations*

2.8.1 Once a successful calibration curve for the reference oil has been created and verified, measure experimental replicates for the reference oil at each temperature followed by a standard check sample.

2.8.2 Determine the area for the absorbance values obtained for the experimental samples by using Equation 2 of this Appendix and illustrated by Equation 3 of this Appendix.

2.8.3 Calculate the Total Oil dispersed and the percentage of oil dispersed (%OD) based on the ratio of oil dispersed in the test system to the total oil added to the system, as follows:

$$\mathrm{TotalOilDispersed, mg} = \frac{\mathrm{Area(Eq.2)}}{\mathrm{CalibrationCurveSlope}} * \mathrm{V_{DCM}} * \frac{\mathrm{V_{tw}}}{\mathrm{V_{ew}}} \quad Total\ Oil\ Dispersed, mg = \frac{Area\ (Eq.2)}{Calibration\ Curve\ Slope} * V_{DCM} * \frac{V_{tw}}{V_{ew}}$$

(Equation 7)

where:

V_{DCM} = final volume of the DCM extract (mL)

V_{tw} = total seawater in Baffled Flask (120 mL)

V_{ew} = volume seawater extracted (30 mL)

$$\%\mathrm{OD} = \frac{\mathrm{TotalOilDispersed}}{\rho_{\mathrm{Oil}} * \mathrm{V_{Oil}}} * 100\% \quad OD = \frac{Total\ Oil\ Dispersed}{\rho_{Oil} * V_{Oil}} * 100$$

(Equation 8)

where:

r_{Oil} = density of the specific test oil, mg/mL and

V_{Oil} = Volume (mL of oil added to test flask (100 µL = 0.1 mL))

2.8.4 The %ODs for the six replicates within a particular treatment are then subjected to an outlier test, the Grubb's Test

or Maximum Normal Residual test (6). A convenient internet-based calculator of a Grubbs outlier may be found at: *http://www.graphpad.com/quickcalcs/Grubbs1.cfm.* If an outlier is detected ($p < 0.05$), analyze an additional replicate to obtain the required six replicates.

2.8.5 Report the Dispersion Efficacy value for each oil and each temperature, which is the lower 95% confidence level of the 6 independent replicates (DE_{LCL95}) for each oil/temperature combination. Error bars are not needed as reporting the lower confidence level computationally takes the variability of the replicates into account as shown in Equation 9 of this Appendix.

$$DE_{LCL95} = \overline{\%OD} - \left(\frac{t_{(n-1,1-\alpha)} * s}{\sqrt{n}}\right) DE_{LCL95} = \overline{\%OD} - \left(\frac{t_{(n-1,1-\alpha)} * s}{\sqrt{n}}\right)$$

(Equation 9)

where $\overline{\%OD}\overline{\%OD}$ = mean percentage oil dispersed for the n = 6 replicates, S = standard deviation, and $t_{(n-1,1-\alpha)}$ = 100 * (1-α)th percentile from the t-distribution with n-1 degrees of freedom. For 6 replicates, $t_{n-1,1-\alpha}$ = 2.015, where α = 0.05. An example of the calculations is given in Table 5 of this Appendix.

2.9 *Performance Criterion*

The dispersant product tested will remain in consideration for listing on the NCP Product Schedule if the dispersant efficacy (DE_{LCL95}), as calculated in section 2.8.6 of this Appendix, is:

Oil	Temp (°C)	DE_{LCL95} (%)
Bryan Mound	5	≥70
Bryan Mound	25	≥75

2.10 *Quality Control (QC) Procedures for Oil Concentration Measurements*

2.10.1 *Absorbance readings.* Perform at least 5% of all UV-visible spectrophotometric measurements in duplicate as a QC check on the analytical measurement method. The absorbance values for the duplicates must agree within ±5% of their mean value.

2.10.2 *Method blanks.* Analytical method blanks involve an analysis of artificial seawater blanks (artificial seawater without oil or dispersant in a baffled flask) through testing and analytical procedures. Analyze method blanks with a frequency of at least two per completed test. Oil concentrations in method blanks must be less than detectable limits.

2.10.3 *Accuracy.* Determine accuracy by using a mid-point standard calibration check after each set of replicate samples analyzed. The acceptance criterion is based on a percent recovery of 90–110% using the following equation:

$$\%recovery = 100 * \frac{measuredconcentrationofcheckstandard}{theoreticalconcentrationofcheckstandard} \%recovery = 100 *$$

$$\frac{measured\ concentration\ of\ check\ standard}{theoretical\ concentration\ of\ check\ standard}$$

(Equation 10)

2.10.4 Calibration *QC checks.* Before analyzing samples, the spectrophotometer must meet an instrument stability calibration criterion using the oil standards. The instrument stability for initial calibration is acceptable when the RFs (Equation 5 of this Appendix) for each of the six standard concentration levels are less than 10% different from the overall mean value.

TABLE 1—CONSTITUENT CONCENTRATIONS FOR GP2 ARTIFICIAL SEAWATER

[Based on Spotte et al., 1984]

Constituent	Concentration (g/L)
NaCl	21.03
Na_2SO_4	3.52
KCl	0.61
KBr*	0.088
$Na_2B_4O_7 \times 10H_2O$*	0.034
$MgCl_2 \times 6H_2O$	9.50
$CaCl_2 \times 2H_2O$	1.32
$SrCl_2 \times 6H_2O$*	0.02
$NaHCO_2$*	0.17

* Use Stock Solution, 1 mL/L GP2 for 100X stock solution for Bromide, Borate, and Strontium. 10 mL/L GP2 for bicarbonate—10X stock solution as it is not soluble in a 100X solution. Adjust to pH 8.0 prior to autoclaving.

TABLE 2—TEST OIL CHARACTERISTICS

[April 2023 oil assay]

Oil	Density, mg/mL @15 °C	API gravity @15 °C	Viscosity @25 °C, (cSt)	Category by API gravity
SPR Bryan Mound	0.8320	38.6	4.721	Light Oil.

TABLE 3—SAMPLE CALCULATION FOR PREPARATION OF OIL + DISPERSANT STOCK STANDARD SOLUTION

Item	Identifier	Amount
Mass of Bottle, g	A	29.498
Mass of Bottle + oil, g	B	31.225
Mass of bottle + disp + oil + DCM, g	C	54.380
Mass of oil, g (*derived*)	F = B − A	1.727
Mass of disp + oil + DCM, g (*derived*)	G = C − A	24.882
Mass of 1 mL syringe, g	D	14.556
Mass of 1 mL syringe + solution, g	E	15.820
Density of solution, g/mL (*derived*)	H = E − D	1.264
Volume of solution, mL (*derived*)	I = G/H	19.687
Conc. of stock solution, mg/mL (*derived*)	J = F*1000/I	87.704

TABLE 4—SAMPLE CALCULATIONS FOR OIL + DISPERSANT SIX POINT CALIBRATION

Oil + Dispersant Stock Standard Solution Concentration = 87.7 mg/mL (*Table 3*)

Standard—stock vol. (uL)	Theoretical conc., mg/mL	Area *(340–400 nm)*	RF	Avg. RF	Dev. from avg. RF	Slope
25	0.088	4.126	0.021	0.021	2.931	48.759
50	0.175	8.757	0.020	.....	3.017	.....
100	0.351	16.559	0.021	.....	2.577	.....
150	0.526	25.666	0.021	.....	0.731	.....
200	0.702	34.142	0.021	.....	0.500	.....
250	0.877	43.006	0.020	.....	1.260	.....

TABLE 5—LCL95 SAMPLE CALCULATION WITH TEST OIL AND EXAMPLE DISPERSANT 'A'

Rep	Area (340–400 nm)	Dilution factor	Extract volume (ml) *	Conc, mg/mL.	Mass in 30 mL, mg	Total oil dispersed, mg	Efficiency, %	Average	Std. dev.	Variance	Coef. of variation	LCL95
1	32.197	1	25	0.66	16.51	66.03	79.76	81.30	4.46	19.85	5.48	81.30
2	35.470	1	25	0.73	18.19	72.75	87.87	.....	.....	.....	.....	.....
3	30.260	1	25	0.62	15.52	62.06	74.96	.....	.....	.....	.....	.....
4	31.831	1	25	0.65	16.32	65.28	78.85	.....	.....	.....	.....	.....
5	33.355	1	25	0.68	17.10	68.41	82.63	.....	.....	.....	.....	.....
6	33.791	1	25	0.69	17.33	69.30	83.71	.....	.....	.....	.....	.....

*= 25 ml of DCM extract captured oil from 30 ml of aqueous DE test.

2.11 References for Section 2.0

(1) U.S. Environmental Protection Agency (1994), ''Swirling Flask Dispersant Effectiveness Test,'' *Title 40 Code of Federal Regulations,* Pt. 300, Appendix C, pp 47458–47461.

(2) Sorial, G.A., A.D. Venosa, K.M, Koran, E. Holder, and D.W. King. 2004. ''Oil spill dispersant effectiveness protocol: I. Impact of operational variables.'' ASCE J. Env. Eng. 130(10):1073–1084.

(3) Sorial, G.A., A.D. Venosa, K.M, Koran, E. Holder, and D.W. King. 2004. ''Oil spill dispersant effectiveness protocol: II. Performance of revised protocol.'' ASCE J. Env. Eng. 130(10):1085–1093.

(4) Venosa, A.D., D.W. King, and G.A. Sorial. 2002. ''The baffled flask test for dispersant effectiveness: a round robin evaluation of reproducibility and repeatability.'' Spill Sci. & Technol. Bulletin 7(5–6):299–308.

(5) Spotte, S., G. Adams, and P.M. Bubucis. 1984. ''GP2 medium is an synthetic seawater for culture or maintenance of marine organisms,'' Zoo Biol, 3:229–240.

(6) Grubbs, F. 1969. ''Sample Criteria for Testing Outlying Observations,'' Annals of Mathematical Statistics, pp. 27–58.

3.0 Dispersant Toxicity Testing

3.1 *Summary.* This laboratory protocol includes testing for: (1) dispersant standard static acute toxicity tests for the mysid shrimp, *Americamysis bahia* (48-hr duration) and the inland silverside, *Menidia beryllina* (96-hr duration); (2) dispersant-oil mixture static acute toxicity tests for *Americamysis bahia* and *Menidia beryllina* (48-hr and 96-hr duration, respectively); (3) dispersant developmental assay for *Strongylocentrotus purpuratus* or *Arbacia punctulata,* (72-hr duration); and (4) dispersant 7-day static subchronic tests with *Americamysis bahia* and *Menidia beryllina* (Table 6 of this Appendix).

TABLE 6—TOXICITY TESTING REQUIREMENTS FOR DISPERSANTS

Test substance	Test procedure			
	96-Hr static acute: *Menidia beryllina*	48-Hr static acute: *Americamysis Bahia*	72-Hr sea urchin *developmental assay*	7-Day subchronic: *M. beryllina & A. bahia*
Dispersant only	*yes*	*yes*	*yes*	*yes.*
Dispersant—Reference Oil Mixture	*yes*	*yes*	*no*	*no.*

3.2 *Preparation of Stock Solutions*

3.2.1 *Dispersant.* Prepare a 1000 µL/L primary stock solution prior to test initiation by adding 1.1 mL of dispersant to 1100 mL of dilution water consisting of salinity

adjusted uncontaminated natural or artificial seawater, in a glass vessel. Using a laboratory top stirrer equipped with a stainless-steel blade, center the stirrer blade in the mixing vessel one inch off the bottom. Initially mix the resulting stock solution for approximately five seconds at speeds of <10,000 rpm to avoid foaming. Thereafter, set the speed to provide a 70% vortex. Using a glass pipette, remove appropriate aliquots of stock solution from between the mixing vessel wall and edge of the vortex and place directly into the dilution water within an exposure vessel. Suspend mixing of the stock solution after the removal of each aliquot. Base the preparation of exposure solutions on the nominal concentration of the stock solution and follow procedures outlined in sections 3.5 and 3.6 of this Appendix.

3.2.2 *Dispersant-Reference Oil(s) Mixtures.* Use Strategic Petroleum Reserve Bryan Mound reference oil. To obtain this oil at no charge (except for a minimal shipping fee) see *https://www.epa.gov/emergency-response/national-contingency-plan-subpart-j#howto.* Assessment of dispersant-reference oil mixture (DOM) toxicity is determined for each reference oil using the aqueous phase of a chemically enhanced-water accommodated fraction (CE–WAF). Fit a glass aspirator bottle (approximately 23 L) equipped with a hose bib at the base with a length of silicon tubing containing a hose clamp. Fill the bottle with 19L of seawater leaving a 20% headspace above the liquid, place on a magnetic stir plate then add and center a stir bar. Add the reference oil at 25 g/L using a silicon tube attached to a glass funnel that reaches just below the water surface. Using this method reduces the production of air bubbles on the oil surface slick. Adjust the stir plate to obtain an oil vortex of 25% of the total volume of the seawater, then add the dispersant to be tested at a ratio of 1:10 dispersant:oil (2.5 g/L). Securely seal the bottle to reduce the loss of volatiles using a silicon stopper and wraps of Parafilm and stir for 18 hours, then allow the solution to settle for 6 hours. Maintain the temperature at 25 °C during stirring and settling. Purge the hose at the base of the bottle of any material followed by removal of the CE–WAF (aqueous phase) into a clean glass container without disturbing the surface oil slick. The CE–WAF should be remixed and 1 to 2 L removed for chemical analysis of total petroleum hydrocarbons (TPH) following the procedures outlined in section 3.4 of this Appendix. The remaining volume will be used for the preparation of exposure solutions following procedures outlined in section 3.3 of this Appendix. To reduce time and cost, mix sufficient amounts of dispersant product-reference oil mixture CE–WAF to allow preparation of exposure solutions for conducting simultaneous acute tests with both *Americamysis bahia* and *Menidia beryllina.*

3.3 *Preparation of Exposure Concentrations.*

3.3.1 *Concentration Selection.* Preliminary rangefinder tests may be necessary using a series of logarithmic concentrations (*e.g.* 0.1, 1, 10, 100 µl dispersant product/L or mg TPH/L) to determine the appropriate exposure concentration range necessary to determine LC_{50} values and 95% confidence intervals. For definitive tests, conduct a minimum of five test concentrations using a geometric ratio between 1.5 and 2.0 (*e.g.* 2, 4, 8, 16, and 32). Note that when testing only the dispersant product, the highest test concentration must not exceed the dispersant's self-dispersibility limit.

3.3.2 *Exposure Concentrations.* Exposure solutions are prepared by adding the appropriate amount of stock solution directly to dilution water in each test chamber. Mix each exposure solution using five rotations in one direction followed by five rotations in the opposite direction using a solid glass stir rod.

3.3.3 *Reference Toxicants.* Separate toxicity tests must be performed with a reference toxicant for each species tested. Conduct additional reference toxicity tests any time a change in the population or source of a test species occurs. Use sodium dodecyl sulfate (SDS), also known as dodecyl sodium sulfate (DSS), and sodium lauryl sulfate (SLS) as the reference toxicant for exposures conducted with *Menidia beryllina* and *Americamysis bahia.* Use copper chloride as the reference toxicant for exposures conducted with the sea urchin developmental test. Use reagent grade quality SDS and copper chloride for tests. Information on procedures for conducting reference toxicant tests with these species can be found in the specific EPA methods documents cited in sections 3.5.1, 3.6.1, and 3.7.1 of this Appendix.

3.4 *Chemical Analysis of Stock Solutions.* Add the 1 L sample of CE–WAF (Section 3.2.2 of this Appendix) solutions directly to amber glass bottles with Teflon®-lined cap. Collect a replicate sample in the event of accidental loss or if reanalysis of the stock solution becomes necessary. Adjust sample to a pH=2 using 50% hydrochloric acid, immediately refrigerate and analyze within 48 hours of collection. Analyze samples for C9–C32 TPH by gas chromatography-flame ionization detection (GC–FID) following EPA SW–846, Method 8015B–DRO (4). Report TPH concentration of stock solutions as milligrams TPH/L and use in the calculation of exposure concentrations for all toxicity tests conducted with CE–WAF.

3.5 *Static Acute Tests with M. beryllina and A. bahia*

3.5.1 *General.* Use EPA's *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms* (EPA–821–R–02–012) (1) for testing each species separately with dispersant product or a mixture of dispersant product and reference oil (DOM).

3.5.2 *Test Solutions.* Modify procedures in EPA–821–R–02–012 specifically dealing with the handling and toxicity testing of effluents or receiving water samples as follows: Prepare stock solutions following section 3.2 of this Appendix and exposure concentrations following section 3.3 of this Appendix.

3.5.3 *Number of Treatments, Replicates and Organisms.* Conduct a minimum of three replicates of at least five exposure treatments plus a minimum of three replicate dilution water controls. Expose ten organisms per replicate treatment.

3.5.4 *Exposure Period.* Test duration is 48-hr for *Americamysis bahia* and 96-hr for *Menidia beryllina.* Mortality must be recorded at each 24-hour period of each test.

3.5.5 *Test Acceptability.* For each test performed, survival of control animals must be >90% and test results must allow determination of statistically valid LC_{50} and 95% confidence interval values except in cases where the LC_{50} is >1000 µl/L or is determined to be greater than the limits of water solubility of dispersibility.

3.5.6 *Static Acute Test Summary.* A summary of required test conditions is provided in Table 7 of this Appendix.

3.6 *Sea Urchin Developmental Test with Dispersant Product*

3.6.1 *General.* Use Section 15, ''Purple Urchin, *Strongylocentrotus purpuratus* and Sand Dollar, *Dendraster excentricus* Larval Development Test Method'' of EPA's *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to West Coast Marine and Estuarine Organisms* (EPA/600/R–95–136) (2). Alternatively, the development of the urchin *Arbacia punctulata* may be tested (see Table 7).

3.6.2 *Test Organism.* Tests of dispersant products are to follow methods for the purple urchin only. Tests with the sand dollar are not required.

3.6.3 *Test Solutions.* Modify procedures in EPA/600/R–95–136, Section 15 specifically dealing with the handling and toxicity testing of effluents or receiving water samples as follows: Prepare stock solutions following section 3.2.1 of this Appendix and exposure concentrations following section 3.3 of this Appendix.

3.6.4 *Number of Treatments and Replicates.* Conduct a minimum of four replicates of five exposure treatments plus a minimum of four replicate dilution water controls.

3.6.5 *Exposure Duration and Test Endpoint.* Examine the effects of the dispersant product on normal development of sea urchin embryos over a period of 72 hours. An IC_{50} (the exposure concentration at which normal development is inhibited in 50% of the embryos) with 95% confidence intervals are to be determined in place of an $IC_{25.}$ The concentration of dispersant causing inhibition of development in 50% of exposed embryos (IC_{50}) with the lower and upper 95% confidence intervals (LCI_{95} and $ULCI_{95}$) must be calculated at the end of the exposure period. Mortality determinations are not required.

3.6.6 *Test Acceptability.* Requirements of the assay are: (i) ≥80% normal larval development in the control treatment, (ii) the minimum significant difference (MSD) that can be statically detected relative to the control is ≤25%, iii) test results which support the determination of a statistically valid IC_{50} and 95% confidence interval unless the LC_{50} is >1000 µl/L or is greater than the limits of water solubility of dispersibility.

3.6.7 *Urchin Developmental Test Summary.* A summary of required test conditions is provided in Table 7 of this Appendix.

3.7 *Seven-day Subchronic Tests with M. beryllina and A. bahia*

3.7.1 *General.* Use Section 13, Method 1006.0, ''Inland Silverside (*Menidia beryllina*) Larval Survival and Growth Method,'' and Section 14, Method 1007.0, ''Mysid (*Mysidopsis* [renamed *Americamysis*] *bahia*) Survival, Growth, and Fecundity Method'' of EPA's *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms* (EPA–821–R–02–014) (3) for testing of dispersant product.

3.7.2 *Test Solutions.* Modify procedures in EPA–821–R–02–014, sections 13 and 14 specifically dealing with the handling and toxicity testing of effluents or receiving water samples as follows: Prepare stock solutions following section 3.2.1 of this Appendix and exposure concentrations following section 3.3 of this Appendix. Exposure solutions should be renewed every 24 hours for the duration of the test.

3.7.3 *Number of Treatments, Replicates and Organisms.* (i) *Menidia beryllina:* Conduct a minimum of four replicates of at least five exposure treatments plus a minimum of four replicate dilution water controls. Expose ten *M. beryllina* per replicate treatment. (ii) *Americamysis bahia:* Conduct a minimum of eight replicates of at least five exposure treatments plus a minimum of eight replicate dilution water controls. Expose five *A. bahia* per replicate treatment.

3.7.4 *Exposure Duration and Test Endpoint.* The test duration is seven days for both species. Test endpoints for *Menidia beryllina* are survival and growth (dry weight) and for *Americamysis bahia* is survival, growth (dry weight) and fecundity. Calculate an LC_{50} and 95% confidence interval for survival and IC_{25} and IC_{50} with 95% confidence intervals for growth (and fecundity for *A. bahia* only). Report the lowest observed effect concentration (LOEC) and no observed effect concentration (NOEC) for each endpoint.

3.7.5 *Test Acceptability.* Requirements of the assay are: (i) ≥80% survival in the control treatment for each species, (ii) dry weights must meet the specific requirements as stipulated in Method 1006.0 for *Menidia beryllina* and Method 1007.0 for *Americamysis bahia.*

3.7.6 *Subchronic Test Summary.* A summary of required test conditions for each species is provided in Table 7 of this Appendix.

3.8 *Laboratory Report.* The laboratory must include, for each toxicity test report, all applicable information, data and analyses as follows:

3.8.1 *Test Objective:* protocol title and source, endpoint(s);

3.8.2 *Product Information:* product name, manufacturer contact information, lot number, production date, date received/chain of custody;

3.8.3 *Contract Facility:* contact information;

3.8.4 *Dilution Water:* source, pretreatment, physical and chemical characteristics (pH, salinity);

3.8.5 *Test Conditions:* date and time of test (start and end), test chambers type and volume, volume of solution per chamber, number of organisms per chamber, number of replicate chambers per treatment, feeding frequency, amount and type of food, test concentrations, test temperature (mean and range), test salinity (mean and range);

3.8.6 *Test Organisms:* common and scientific name, source contact information, age and date purchased, acclimation conditions (*e.g.,* temperature, salinity, both mean and range), age at test start;

3.8.7 *Reference toxicant:* date received, lot number, date of most recent test, results and current Cumulative Sum Chart, dilution water used, physical and chemical methods used;

3.8.8 *Quality Assurance:* verification of laboratory accreditation, including subcontractor facilities;

3.8.9 *Test Results:* raw data in tabular and graphical form, daily records of affected organisms in each concentration replicate and controls, table of required endpoints (*i.e.,* LC_{50} with 95% confidence interval (CI), IC_{25} and IC_{50} with 95% CI, LOEC and NOEC), statistical methods used to calculate endpoints, summary tables of test conditions and QA data;

3.8.10 *Analytical Results:* method summary including Limit of Detection (LOD)/Limit of Quantitation (LOQ), deviations and reasons if any, sample summary, results including chromatograms and data qualifiers, QA summary including calibration curves, method blank and surrogate recovery, analytical results summary; and

3.8.11 *Conclusions:* Relationship between test endpoints and threshold limit.

TABLE 7—SUMMARY OF TEST CONDITIONS—DISPERSANT TOXICITY

	Acute *M. beryllina*	Acute *A. bahia*	Subchronic *M. beryllina*	Subchronic *A. bahia*	Development *S. purpuratus/A. punctulata*
Test type	Static non-renewal.	Static non-renewal.	Static renewal (daily)	Static renewal (daily)	Static non-renewal.
Test duration	96 hours	48 hours	7 days	7 days	72 ± 2 hours.
Salinity	20 ± 2‰	20 ± 2‰	20 ± 2‰	20 ± 2‰	34 ± 2‰.
Temperature	25 ± 1 °C. Test temperatures must not deviate (maximum minus minimum temperature) by for than 3 °C during the test.				15 ± 1 °C.
Light quality	Ambient laboratory illumination.				
Light intensity	10–20 µE/m²/s.				
Photoperiod	16 h light, 8 h darkness, with phase in/out period recommended.				
Test chamber size [1]	250 mL	250 mL	600 mL–1 L	400 mL	30 mL.
Test solution volume [1]	200 mL	200 mL	500–750 mL	150 mL	10 mL.
Age of test organism [2]	9–14 days	1–5 days	7–11 days	7 days	1 hr old fertilized eggs.
No. organisms per test chamber	10	10	10	5	25 embryos per mL.
No. of replicate chambers per concentration	3	3	4	8	4.
Feeding regime	Refer to specific feeding procedures provided in each test method.				None.
Aeration	None, unless DO falls below 4.0 mg/L, then aerate all chambers. Rate: <100 bubbles/minute.				
Test concentrations	5 exposure concentrations and a control (minimum required).				
Test acceptability (required)	≥90% survival in controls.	≥90% survival in controls.	For controls: ≥80% survival; average dry weight ≥0.5mg where test starts with 7 day old larvae, or ≥0.43 mg for larvae preserved for ≤7days.	For controls: ≥80% survival; average dry weight ≥0.20 mg.	≥80% normal shell development in controls.

[1] Recommended minimum value.
[2] Less than or equal to 24-hr range in age.

3.9 *References for Section 3.0*

(1) U.S. EPA. 2002. *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms.* Fifth Edition. U.S.

Environmental Protection Agency, Washington, DC (EPA–821–R–02–012).
(2) U.S. EPA. 1995. *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to West Coast Marine and Estuarine Organisms.* First Edition. U.S. Environmental Protection Agency, Washington, DC (EPA/600/R–95–136)
(3) U.S. EPA. 2002. *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms.* Third Edition. U.S. Environmental Protection Agency, Washington, DC (EPA–821–R–02–014).
(4) U.S. EPA. 2008. *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods* U.S. Environmental Protection Agency, Washington, DC (SW–846) *http://www.epa.gov/osw/hazard/testmethods/sw846/online/index.htm.*

4.0 *Standard Acute Toxicity Testing of Surface Washing Agents, Bioremediation Agents, Herding Agents, and Solidifiers.*

4.1 *Summary.* This laboratory protocol includes testing for: (1) saltwater standard static acute toxicity tests for test products with the mysid shrimp, *Americamysis bahia* (48-hr duration) and the inland silverside, *Menidia beryllina* (96-hr duration); and (2) freshwater standard static acute toxicity tests for test products with the daphnid, *Ceriodaphnia dubia* (48-hr duration) and the fathead minnow, *Pimephales promelas* (96-hr duration) (see Table 8 of this Appendix).

TABLE 8—TOXICITY TESTING REQUIREMENTS FOR SURFACE WASHING AGENTS, HERDING AGENTS, BIOREMEDIATION AGENTS AND SOLIDIFIERS

Application environment	Test procedure			
	96-hr Static acute: *Menidia beryllina*	48-hr Static acute: *Americamysis bahia*	96-hr Static acute: *Pimephales promelas*	48-hr Static acute: *Ceriodaphnia dubia*
Saltwater only	yes	yes	no	no.
Freshwater only	no	no	yes	yes.
Freshwater and saltwater use.	yes	yes	yes	yes.

4.2 *Dilution Water.* Use Section 7 of EPA's *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms* (EPA–821–R–02–012) [1] for preparation of the appropriate dilution water for each species tested. Use of clean natural or synthetic seawater for tests conducted with saltwater species is acceptable.

4.3 *Preparation of Stock Solutions.*

4.3.1 Liquid *Surface Washing Agents and/or Herding Agents.* Prepare a 1000 µL/L stock solution prior to test initiation by adding 1.1 mL of test product to 1100 mL of dilution water in a glass vessel. Place on a magnetic stir plate then add and center a stir bar and adjust the stir plate to obtain a vortex of 25% of the total volume of the liquid. Mix the resulting stock solution for approximately five minutes at room temperature. Using a glass pipette, remove appropriate aliquots of stock solution from between the mixing vessel wall and edge of the vortex and place directly into the dilution water within an exposure vessel. Base the preparation of exposure solutions on the nominal concentration of the stock solution and follow procedures outlined in sections 4.6 and/or 4.7 of this Appendix, as appropriate.

4.3.2 *Bioremediation Agents.* For products consisting of two or more liquid and/or solid components, prepare the product following the manufacturers recommended procedure and ensure the test product mixture is completely blended. Prepare a 1000 µL/L stock solution prior to test initiation by adding 1.1 mL of the test product mixture to 1100 mL of dilution water in a glass vessel. Place on a magnetic stir plate then add and center a stir bar and adjust the stir plate to obtain a vortex of 25% of the total volume of the liquid. Mix the resulting stock solution for approximately five minutes at room temperature. Using a glass pipette, remove appropriate aliquots of stock solution from between the mixing vessel wall and edge of the vortex and place directly into the dilution water within an exposure vessel. Base the preparation of exposure solutions on the nominal concentration of the stock solution and follow procedures outlined in sections 4.5 and/or 4.6 of this Appendix, as appropriate.

4.3.3 *Solid Phase Products.* Assessment of the toxicity of solidifiers and other solid phase products are determined using the aqueous phase of water-accommodated fractions (WAFs) of the test product. Fit a glass aspirator bottle (approximately 23L) equipped with a hose bib at the base with a length of silicon tubing containing a hose clamp. Fill the bottle with 19L of dilution water leaving a 20% headspace above the liquid, place on a magnetic stir plate then add and center a stir bar. Add the test product at 25 g/L and securely seal the bottle using a silicon stopper and wraps of parafilm. Adjust the stir plate to obtain a vortex of 25% of the total fluid volume, stir for 18 hours then settle for 6 hours. Maintain the temperature at 25 °C during stirring and settling. Purge the hose at the base of the bottle of any material followed by removal of the WAF (aqueous phase) into a clean glass container without disturbing the product on the surface. The WAF should be remixed and used for the preparation of exposure solutions following procedures outlined in section 4.4 of this Appendix.

4.4 *Preparation of Exposure Concentrations.*

4.4.1 *Concentration Selection.* Preliminary rangefinder tests may be necessary using a series of logarithmic concentrations (*e.g.* 0.1, 1, 10, 100 µl test product/L) to determine the appropriate exposure concentration range necessary to determine LC_{50} values and 95% confidence intervals. For definitive tests, conduct a minimum of five test concentrations using a geometric ratio between 1.5 and 2.0 (*e.g.* 2, 4, 8, 16, and 32). Note that when testing the product, the highest test concentration should not exceed the test product's self-dispersibility limit.

4.4.2 *Exposure Concentrations.* Exposure solutions are prepared by adding the appropriate amount of stock solution directly to dilution water in each test chamber. Mix each exposure solution using five rotations in one direction followed by five rotations in the opposite direction using a solid glass stir rod.

4.4.3 *Reference Toxicants.* Separate toxicity tests must be performed with a reference toxicant for each species tested. Conduct additional reference toxicity tests any time a change in the culture population or source of a test species occurs. Use reagent grade quality sodium dodecyl sulfate (SDS), also known as dodecyl sodium sulfate (DSS), and sodium lauryl sulfate (SLS) as the reference toxicant. Information on procedures for conducting reference toxicant tests with these species can be found in section 4 of EPA's *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms* (EPA–821–R–02–012) (3).

4.5 *Saltwater Static Acute Tests with Menidia beryllina and Americamysis bahia*

4.5.1 *General.* Use EPA's *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms* (EPA–821–R–02–012) (1) for testing each species separately with the test product.

4.5.2 *Test Solutions.* Modify procedures in EPA–821–R–02–012 specifically dealing with the handling and toxicity testing of effluents or receiving water samples as follows: Prepare stock solutions following the appropriate sections (4.3.1, 4.3.2, or 4.3.3) of this Appendix and exposure concentrations following section 4.4 of this Appendix.

4.5.3 *Number of Treatments, Replicates and Organisms.* Conduct a minimum of three replicates of at least five exposure treatments plus a minimum of three replicate dilution water controls. Expose ten organisms per replicate treatment.

4.5.4 *Exposure Period.* Test duration is 48-hr for *A. bahia* and 96-hr for *M. beryllina.*

Mortality must be recorded at each 24 hour period of each test.

4.5.5 *Test Acceptability.* For each test performed, survival of control animals must be >90% and test results must allow determination of statistically valid LC_{50} and 95% confidence interval values except in cases where the LC_{50} is >1000 µl/L or is determined to be greater than the limits of water solubility or dispersibility.

4.5.6 *Static Acute Test Summary.* A summary of required test conditions is provided in Table 9 of this Appendix.

4.6 *Freshwater Static Acute Tests with Pimephales promelas and Ceriodaphnia dubia*

4.6.1 *General.* Use EPA's *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms* (EPA–821–R–02–012) (1) for testing each species separately with the test product.

4.6.2 *Test Solutions.* Modify procedures in EPA–821–R–02–012 specifically dealing with the handling and toxicity testing of effluents or receiving water samples as follows: Prepare stock solutions following the appropriate sections (4.3.1, 4.3.2, or 4.3.3) of this Appendix and exposure concentrations following section 4.4 of this Appendix.

4.6.3 *Number of Treatments, Replicates and Organisms. P. promelas:* Conduct a minimum of three replicates of at least five exposure treatments plus a minimum of three replicate dilution water controls. Expose ten organisms per replicate treatment. *C. dubia:* Conduct a minimum of four replicates of at least five exposure treatments plus a minimum of four replicate dilution water controls. Expose five organisms per replicate treatment.

4.6.4 *Exposure Period.* Test duration is 48-hr for *C. dubia* and 96-hr for *P. promelas.* Mortality must be recorded at each 24 hour period of each test.

4.6.5 *Test Acceptability.* For each test performed, survival of control animals must be >90% and test results must allow determination of statistically valid LC_{50} and 95% confidence interval values except in cases where the LC_{50} is >1000 µl/L or is determined to be greater than the limits of water solubility of dispersibility.

4.6.6 *Static Acute Test Summary.* A summary of required test conditions is provided in Table 9 of this Appendix.

4.7 *Laboratory Report.* The laboratory must include, for each toxicity test report, all applicable information, data and analyses as follows:

4.7.1 *Test Objective:* protocol title and source, endpoint(s);

4.7.2 *Product Information:* product name, manufacturer contact information, lot number, production date, date received/ chain of custody;

4.7.3 *Contract Facility:* contact information;

4.7.4 *Dilution Water:* source, pretreatment, physical and chemical characteristics (pH, salinity);

4.7.5 *Test Conditions:* date and time of test (start and end), test chambers type and volume, volume of solution per chamber, number of organisms per chamber, number of replicate chambers per treatment, feeding frequency, amount and type of food, test concentrations, test temperature (mean and range), test salinity (mean and range);

4.7.6 *Test Organisms:* common and scientific name, source contact information, age and date purchased, acclimation conditions (*e.g.,* temperature, salinity, both mean and range), age at test start;

4.7.7 *Reference toxicant:* date received, lot number, date of most recent test, results and current Cumulative Sum Chart, dilution water used, physical and chemical methods used;

4.7.8 *Quality Assurance:* verification of laboratory accreditation, including subcontractor facilities;

4.7.9 *Test Results:* raw data in tabular and graphical form, daily records of affected organisms in each concentration replicate and controls, table of required endpoints (*i.e.,* LC_{50}, 95% CI, inhibited concentration for 50% of the species (IC_{50}), lower observed effect concentration (LOEC) and no observed effect concentration (NOEC)), statistical methods used to calculate endpoints, summary tables of test conditions and QA data; and

4.7.10 *Conclusions:* Relationship between test endpoints and threshold limit.

TABLE 9—SUMMARY OF TEST CONDITIONS—SURFACE WASHING AGENTS, HERDING AGENTS, BIOREMEDIATION AGENTS AND SOLIDIFIERS TOXICITY

	Saltwater acute *M. beryllina*	Saltwater acute *A. bahia*	Freshwater acute *P. promelas*	Freshwater acute *C. dubia*
Test type	Static non-renewal	Static non-renewal	Static non-renewal	Static non-renewal.
Test duration	96 hours	48 hours	96 hours	48 hours.
Salinity	20 ± 2‰	20 ± 2‰	NA	NA.
Temperature	25 ± 1 °C. Test temperatures must not deviate (maximum minus minimum temperature) by more than 3 °C during the test.			
Light quality	Ambient laboratory illumination.			
Light intensity	10–20 µE/m²/s.			
Photoperiod	16 h light, 8 h darkness, with phase in/out period recommended.			
Test chamber size [1]	250 mL	250 mL	250 mL	30 mL.
Test solution volume [1]	200 mL	200 mL	200 mL	15 mL.
Age of test organism [2]	9–14 days	1–5 days	1–14 days	<24 hours.
No. organisms per test chamber.	10	10	10	5.
No. of replicate chambers per concentration (minimum).	3	3	3	4.
Feeding regime	Refer to specific feeding procedures provided in each test method.			
Aeration	None, unless DO falls below 4.0 mg/L, then aerate all chambers. Rate: <100 bubbles/minute.			
Test concentrations	5 exposure concentrations and a control (minimum required).			
Test acceptability (required).	≥90% survival in controls.			

[1] Recommended minimum value.
[2] Less than or equal to 24-hr range in age.

4.8 *References for Section 4*

(1) U.S. EPA. 2002. *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms.* Fifth Edition. U.S. Environmental Protection Agency, Washington, DC (EPA–821–R–02–012).

5.0 *Bioremediation Agent Efficacy Test Protocol*

5.1 *Summary.* This protocol quantifies changes in weathered Alaska North Slope (ANS) crude oil composition of alkanes and

aromatics resulting from the use of a bioremediation agent in either artificial seawater or freshwater. The manufacturer may test either one or both freshwater or saltwater, depending on the product's intended use. Biodegradation of the alkanes and aromatics is monitored for 28 days at 20–23 °C. Product flasks at Day 28 are compared to Day 0 flasks to determine reductions in alkanes and aromatics. A positive control of a known oil-degrading bacterial consortium supplied by EPA is tested. A negative, sterile control is also set up containing exposure water, weathered crude oil, product, and a sterilant, sodium azide. The purpose of the negative, killed control is to make sure the disappearance of the oil constituents at day 28 is due to biodegradation and not some physical loss such as volatilization. The day 28 GC/MS results from the killed control must not be less than 90% of the day 0 results. The sample preparation procedure extracts the oil phase into the solvent dichloromethane (DCM) (also known as methylene chloride) with a subsequent solvent exchange into hexane. The hexane extracts are analyzed by a high-resolution gas chromatograph/mass spectrometer (GC/MS) operated in the selected ion monitoring mode (SIM) at a scan rate of >5 scans per second.

Note to 5.1: Alaska North Slope (ANS) crude oil is artificially weathered by distillation at 521 °F (272 °C) to remove the low molecular weight hydrocarbons to approximate natural weathering processes that occur after a spill.

5.2 *Apparatus.* All equipment must be maintained and calibrated per standard laboratory procedures.

5.2.1 Assorted flasks and other glassware;

5.2.2 Graduated cylinders (100 mL);

5.2.3 Deionized water;

5.2.4 250 mL borosilicate glass Erlenmeyer flasks;

5.2.5 250 mL separatory funnels with stopcocks

5.2.6 Pasteur pipettes;

5.2.7 Multichannel pipettor (5–50 mL and 50–200 mL);

5.2.8 Autoclave; environmental room or incubator;

5.2.9 Balance accurate to 0.1 mg;

5.2.10 Orbital shaker table with clamps sized to hold flasks securely;

5.2.11 GC/MS instrument equipped with a DB–5 capillary column (30 m, 0.25 mm ID, and 0.25 mm film thickness) or equivalent, and a split/splitless injection port operating in the splitless mode, such as an Agilent 6890 GC/5973 MS (or equivalent) equipped with an auto-sampler for testing multiple samples; and

5.2.12 Fixed Rotor Centrifuge.

5.3 *Reagents and consortium medium.*

5.3.1 *Stock Seawater Preparation.* Prepare the artificial seawater GP2 (modified from Spotte *et al.,* 1984) following the procedures in section 2.3 of this Appendix, to obtain the final concentration of the salts listed in Table 1 of this Appendix, except for the sodium bicarbonate ($NaHCO_3$) which is prepared separately. Autoclave the artificial seawater. Filter sterilize the concentrated solution of sodium bicarbonate through a 0.45 µm membrane filter and add to the autoclaved and cooled artificial seawater GP2 to obtain the final concentration listed in Table 1 of this Appendix.

5.3.2 *Seawater for the positive control flasks.* Prepare sodium triphosphate (a.k.a., sodium tripolyphosphate) ($Na_5P_3O_{10}$), potassium nitrate (KNO_3), and ferric chloride hexahydrate ($FeCl_3 \cdot 6H_2O$) as a concentrated solution. Filter sterilize through a 0.45 µm membrane filter and add to autoclaved artificial seawater to obtain the final nutrient concentrations listed in Table 10 of this Appendix. Calibrate the pH meter at room temperature (approximately 20–23 °C) using commercial buffers of pH 4.0, 7.0, and 10.0, as appropriate, prior to use. Adjust the pH of the artificial seawater with concentrated hydrochloric acid (HCl) or 10 normality sodium hydroxide (10 N NaOH), as appropriate.

TABLE 10—ARTIFICIAL SEAWATER NUTRIENT CONCENTRATIONS

Constituent	Final concentration, g/L
* $FeCl_3 \cdot 6H_2O$	0.050
KNO_3	2.890
* $Na_5P_3O_{10}$	0.297

* Added aseptically after the GP2 has been autoclaved to limit phosphorus and iron precipitation.

5.3.3 Seawater for bioremediation agents that do not include nutrients. If a bioremediation agent contains living microorganisms but not nutrients (or limiting concentrations of nutrients), then nutrients may be added by the manufacturer. However, the total concentration of the nutrients added to the bioremediation agent must not exceed the final concentrations listed in Table 11 of this Appendix.

TABLE 11—ARTIFICIAL SEAWATER NUTRIENT CONCENTRATIONS FOR BIOREMEDIATION AGENTS HAVING NO NUTRIENTS INCLUDED

Constituent	Final concentration, g/L
as Iron (Fe)	0.010
as Nitrogen (N)	0.400
as Phosphorus (P)	0.075

If nutrients are supplied by the product manufacturer, the specific composition and concentration used in the efficacy testing must be submitted.

5.3.4 *Freshwater Preparation.* The artificial freshwater, which is a modification of Bushnell-Haas medium (Haines *et al.,* 2005), is prepared following the concentrations listed in Table 12 of this Appendix and then autoclaved. The pH is adjusted to 7.4 before autoclaving. Constituents removed from the original formulation are KNO_3, K_2HPO4 and KH_2PO_4.

TABLE 12—CONSTITUENT CONCENTRATIONS FOR ARTIFICIAL FRESHWATER

[Bushnell-Haas]

Constituent	Final concentration (mg/L)
$MgSO_4 \cdot 7H_2O$	200
$CaCl_2 \cdot 2H_2O$	20
$FeCl_3 \cdot 6H_2O$	50
$MnSO_4 \times H_2O$	0.0302
H_3BO_3	0.0572
$ZnSO_4 \times 7H_2O$	0.0428
$(NH_4)_6Mo_7O_2$	0.0347

5.3.5 *Freshwater for the positive control.* To prepare the freshwater for the positive controls, prepare the nutrients potassium phosphate monobasic (KH2PO4), potassium phosphate dibasic (K2HPO4) and potassium nitrate (KNO3) as a concentrated solution. Filter sterilize and add to autoclaved artificial freshwater to obtain the final concentrations given in Table 13 of this Appendix. Calibrate the pH meter at room temperature (approximately 20–23 °C) using commercial buffers of pH 4.0, 7.0, and 10.0, as appropriate, prior to use. Adjust the pH of the artificial freshwater to 7.4 with 1 N HCl or 1 N NaOH, as appropriate.

TABLE 13—FRESHWATER NUTRIENT CONCENTRATIONS

Constituent	Final concentration (g/L) [1]
KNO_3	2.89
KH_2PO_4	1.00
K_2HPO_4	1.00

[1] Adjust pH to 7.4 prior to autoclaving.

5.3.6 *Freshwater for bioremediation agents that contain living microorganisms but not nutrients or limiting concentrations of nutrients.* If a bioremediation agent does not include nutrients, then nutrients may be added. However, the total concentration of the nutrients added to the bioremediation agent must not exceed the final concentrations provided in Table 14 of this Appendix.

TABLE 14—ARTIFICIAL FRESHWATER NUTRIENT CONCENTRATIONS FOR BIOREMEDIATION AGENTS HAVING NO NUTRIENTS INCLUDED

Constituent	Final concentration, g/L [1]
as Iron (Fe)	not added since iron is already in the freshwater solution.
as Nitrogen (N)	0.400.
as Phosphorus (P).	0.400.

[1] Adjust to pH 7.4 prior to autoclaving.

If nutrients are supplied by the product vendor, the specific composition and concentration used in the efficacy testing must be submitted.

5.3.7 *Oil Preparation.* The test oil, weathered ANS521 crude oil, can be obtained from EPA at no charge (except for a minimal shipping fee). See *https://www.epa.gov/emergency-response/national-contingency-plan-subpart-j#howto* for more information.

5.3.8 *Sodium azide sterilant.* Prepare a stock solution of NaN_3 for addition to the negative killed control. The final concentration in the killed controls will be 0.5 g/L.

5.4 *Experimental Setup and Procedure*

5.4.1 Autoclave clean borosilicate glass Erlenmeyer flasks (250 mL) for 20 minutes at 121 °C at 15 psig.

5.4.2 Label flasks with the appropriate code (negative control, positive control, or product; day to be sampled (0 or 28); letter indicating replicate number) to reflect the following treatment design in Table 15 of this Appendix:

TABLE 15—BIOREMEDIATION EFFICACY TEST—SUMMARY OF EXPERIMENTAL SETUP

Treatment	Number of replicates at sampling times		Analysis
	Day 0	Day 28	
Negative (killed) Control (oil + exposure water + product + EPA consortium + NaN_3 sterilant)	0	3	GC/MS
*Positive control (oil + exposure water + nutrients + EPA consortium)	6	6	GC/MS
Test Type 1: Product containing living microorganisms (oil + exposure water + living product + supplemented nutrients (if necessary))	6	6	GC/MS
Test Type 2: Product containing proprietary nutrients but no live microorganisms (oil + exposure water + product + EPA consortium)	6	6	GC/MS
Test Type 3: Product (such as an enzyme) containing no live microorganisms and no nutrients (oil + exposure water + product)	6	6	GC/MS

*The laboratory must report positive control test results conducted within the year of any test results for bioremediation products, for one or both types of water as applicable.

5.4.3 Aseptically dispense 100 mL of pre-sterilized artificial exposure water (seawater or freshwater) into each sterile flask. For the positive control flasks, use exposure water containing nutrients.

5.4.4 Tare the labeled flasks containing exposure water and other additions, as necessary, on the balance with a minimum accuracy of 0.01 g. Add drop-wise 0.50 g oil (this results in a final oil concentration of 5 g/L) using a sterile Pasteur pipette to the center of the flask taking care to avoid splashing the oil onto the sides of the flasks. Record the precise weight. ANS521 may be previously warmed in a hot water bath at 60 °C for 40–60 minutes to facilitate its flow. Take precautions when handling and charging the flasks to minimize the likelihood of contamination by exogenous microbes, including using a new sterile pipette for each series of flasks.

5.4.5 Preparation of the EPA consortium for both the positive control flasks and the flasks containing non-living bio-stimulation products. Use the supplied vials containing approximately 5 mL of the known EPA consortium frozen in glycerol. Thaw the supplied vials at room temperature (*do not allow cultures preserved in glycerol to sit at room temperature past thawing*), transfer the contents of the thawed vials to a single sterile centrifuge tube, rinse tubes with two volumes each of sterile exposure water, centrifuge at between 6,000- and 7,000-times gravity (6,000–7,000 × *g*) for 15 minutes using a fixed rotor to fully pellet the cells. Carefully resuspend the cell pellet in sterile exposure water using the appropriate volume to achieve the desired seeding density, which will be provided by EPA upon shipment of the consortium.

5.4.6 Positive control flasks contain exposure water, oil, nutrients, and the EPA consortium.

5.4.7 Negative killed control flasks for all products shall contain exposure water, oil, product, the EPA consortium for products not containing a living culture, and the sodium azide sterilant at a final concentration of 0.5 g/L. Add the sodium azide sterilant prior to adding any product or EPA consortium. For the negative killed control flasks and product flasks, prepare and add the product to the flasks in a concentration specified by the manufacturer or vendor.

5.4.8 For non-living products that contain nutrient only, use the EPA consortium as the inoculum.

5.4.9 For other non-living products (*e.g.,* enzymes), do not add nutrients or the EPA consortium as the inoculum as they are not needed.

5.4.10 For products containing living microorganisms, prepare 6 flasks the same way as in Steps a–d, but without the EPA consortium. A product that contains its own nutrients must not be amended with nutrients, unless the product contains insufficient nutrients. Since this is a closed flask test, nutrients could be limiting if they are at the same concentration as used in the field. This could cause the product to fail the test. Thus, the manufacturer has the option to supplement its product with a higher concentration of nutrients than that contained in the product. Any nutrient supplements to a product must be reported and must not exceed the concentration limits in Table 10 (for seawater) and 13 (for freshwater) of this Appendix, as applicable.

5.4.11 Cap all flasks either with sterile cotton stoppers or loosely applied aluminum foil to allow gas exchange with the atmosphere. Set aside the T = 0 flasks for immediate extraction and analysis. Place the rest of the flasks onto the orbital shaker table. Do not tip the flasks excessively to avoid stranding oil above the mixing area of the flask. Set the orbital shaker to 200 rpm and shake the flasks for 28 days at 20–23 °C in the dark.

5.4.12 Submit all information on added microorganisms and nutrients for testing in the data report.

5.5 *Sampling and Chemical Analysis.*

5.5.1 *Summary.* At each sampling event (Days 0 and 28), product and control flasks are sacrificed for analysis of residual oil concentrations (SOP 4 of this Appendix). Record all physical observations for each flask (such as degree of emulsification, whether the oil has congealed into tar balls, wall growth, color, etc.) at each sampling. The analytical procedure is summarized in Table 16 of this Appendix. Dichloromethane (DCM) is the solvent used for the initial extraction. Solvent-exchange the extract into hexane prior to injection into the gas chromatograph. The solvent exchange is done to prevent asphaltenes from contaminating the column.

TABLE 16—BIOREMEDIATION EFFICACY—SUMMARY OF ANALYTICAL PROCEDURES

Matrix	Measurement	Sampling/ measurement method	Analysis method	Sample container/quantity of sample	Preservation/ storage (°C)	Holding times (months)
DCM	N/A	Solvent Exchange to Hexane	N/A	Capped Vial with Teflon septa, 30 mL.	4	6

TABLE 16—BIOREMEDIATION EFFICACY—SUMMARY OF ANALYTICAL PROCEDURES—Continued

Matrix	Measurement	Sampling/ measurement method	Analysis method	Sample container/quantity of sample	Preservation/ storage (°C)	Holding times (months)
Hexane	Hydrocarbon Concentration	SOP 4	GC/MS	Capped Vial with Teflon septa, 10 mL.	4	6

5.5.2 *Hydrocarbon Extraction.* To measure extraction efficiency, 200 µL of the 400 mg/L surrogate recovery standard (compounds and concentrations described in SOP 1 in this Appendix) is added to each flask. Add 50 mL DCM to each flask. Transfer the contents to a 250 mL separatory funnel and shake for 2 minutes; allow the phases to separate for 2 minutes. If an emulsion remains after 2 minutes, centrifuge the emulsion in Teflon® centrifuge tubes for at least ten minutes in a low-speed centrifuge at 3,000 times gravity (3,000 × *g*) to break the emulsion and recover the DCM phase. Pass the DCM extract through a funnel plugged with glass wool and containing approximately 20 g anhydrous, granular sodium sulfate (Na_2SO_4) to remove water. Repeat the steps above two more times with 25 mL DCM each (100 mL DCM used in total). Add 10 mL DCM on to the sodium sulfate after the third extraction to rinse off any oil residue. Collect the extract in 125 mL serum vials, capped with Teflon lined septa and aluminum crimp seals, and store at 4 °C for up to 6 months.

5.5.3 *Solvent Exchange.* Perform a solvent exchange (DCM to hexane) prior to GC/MS analysis to prevent injection of asphaltenes into the GC/MS column. Transfer the DCM extract to concentration tubes. Place the tubes in a 29 °C water bath under a stream of dry nitrogen gas. Reduce the sample to 1 mL and transfer the extract to a 10 mL volumetric flask. Rinse the concentration tube with hexane and add it to the volumetric flask 2 times. Adjust the final volume with hexane to 10 mL.

5.5.4 *Hydrocarbon Analysis.* Quantify the concentrations of 25 alkanes, 32 aromatics and hopane (SOP 4, Table SOP 4.4 of this Appendix) using an Agilent 6890 GC/5973 MS or equivalent equipped with a 30-m × 0.25-mm ID × 0.25-µm film thickness DB–5 or equivalent fused silica column. To prepare the samples, transfer 1.0 mL of the hexane extract into a 2 mL autosampler vial with Teflon lined cap. Add 20 µL of internal standard solution to each vial with a syringe or positive displacement pipettor. SOP 2 of this Appendix outlines the procedure for preparing the internal standard solution. Load vials onto the autosampler tray and analyze in selected ion monitoring mode (SIM). Sum the individual alkane concentrations for the total alkane concentration and the individual aromatic concentrations for total aromatic concentrations in each flask.

5.6 *Quality Assurance/Quality Control (QA/QC).*

5.6.1 *Objectives.* The critical variables to be analyzed for each set of experimental conditions are the individual petroleum hydrocarbons, *i.e.,* the alkanes ranging in carbon number from nC–14 to nC–35, plus pristane and phytane, and the 2- to 4-ring polycyclic aromatic hydrocarbons (PAHs) and their alkylated homologs as listed in SOP 4 of this Appendix. The quality assurance objectives for precision, accuracy, and detection limits are ±20%, 75–125% recovery, and 22.5 µg/L on average for the 58 compounds, respectively. For more details, refer to the SOPs of this Appendix.

5.6.2 *Precision Objectives.* Precision is presented as relative percent difference (RPD) for duplicate measurements and as relative standard deviation (RSD, or coefficient of variance) for triplicate measurements, applicable to replication of treatments as separate samples.

5.6.3 *Accuracy Objectives.* These are based on the check standards and standard oil samples run concurrently with the sample analyses for GC/MS analysis of critical compounds. Critical compounds in the check standards and in the oil standards must fall within 75–125% of expected values for the analysis to be valid. Six surrogate compounds (SOP 1 of this Appendix) added to each sample before extraction can also serve as a surrogate for determining accuracy. The measured surrogate concentrations must fall within 75–125% of expected values.

5.6.4 *Calibration Range.* Conduct all measurements within the linear calibration range of the instrument. The calibrated concentration range for GC/MS analysis is 0.1 mg/L to 30 mg/L. If the measured concentration of any critical compound is above the calibration range, dilute the sample and re-analyze to quantify that particular compound within the linear calibration range.

5.6.5 *Quality Control.* Table 17 of this Appendix summarizes the QC checks for each measurement. See the corresponding SOP in this Appendix for detailed descriptions of QC checks, frequency, acceptance criteria, and corrective actions.

TABLE 17—QA/QC CHECKS

Sample matrix	Measurement	QA/QC check	Frequency	Acceptance criteria	Corrective action
DCM	GC/MS hydrocarbon analysis.	Blanks	Once per calibrated run.	Peak area of interfering peaks <10% of lowest standard peak area.	Flush with solvent, clean injection port, and/or bake column.
DCM	GC/MS hydrocarbon analysis.	DFTPP Check Standard.	Once per calibrated run.	Must pass all DFTPP criteria	If any criteria fail, retune and rerun DFTPP check standard.
DCM	GC/MS hydrocarbon analysis.	Initial Calibration Samples.	Once per calibrated run.	Response Factor RSD ≤25% or R2 >0.99.	If RSD for any one compound >25%, recalibrate.
DCM	GC/MS hydrocarbon analysis.	Calibration Check Standards.	Every 10–15 samples	±25% of expected values	If >5 compounds are out of range, recalibrate and rerun samples.
Hexane	GC/MS hydrocarbon analysis.	Surrogates	Every Sample	±30% of expected values	Re-inject.
Hexane	GC/MS hydrocarbon analysis.	Biomarker Concentration.	Every Sample	±25% of average values	Re-inject.

5.7 *Pass/Fail Criteria.*

5.7.1 Calculate the mean and standard deviation of the hopane-normalized total aromatics (sum of all resolved aromatics) and hopane-normalized total alkane concentrations (sum of all resolved alkanes) from the 6 independent replicates at days 0 and 28. To normalize, divide the sum of the alkane analytes and the sum of the aromatic analytes in each replicate by the hopane concentration in the corresponding replicate.

5.7.2 From those data, calculate the 95% Upper Confidence Level (UCL95) at days 0 and 28 using the following formula (Equation 11 of this Appendix):

$$UCL_{95} = \bar{x}_{t(0 and 28)} + \left(\frac{t_{95,5df} \times \sigma}{\sqrt{n}} \right) \quad \text{(Equation 11)}$$

where:

$\bar{x}_{t(0and28)}$ = total hopane-normalized alkane or total hopane-normalized aromatic mean of 6 replicates at days 0 and 28,

$t_{95,\ 5\ df}$ = the 95% one-tailed t-value with 5 degrees of freedom (2.015),

s = the standard deviation of the 6 replicates at day 0 and 28, and

n = no. of replicates = 6.

$$\%\ reduction = 100 \times \left[1 - \left(\frac{t_{28(UCL95)}}{t_{0(UCL95)}} \right) \right] \quad \text{(Equation 12)}$$

where:

$t_{28(UCL95)}$ = UCL_{95} of the hopane-normalized total alkane or total aromatic mean of 6 replicates on day 28, and

$t_{0(UCL95)}$ = UCL_{95} of the hopane-normalized total alkane or total aromatic mean of 6 replicates on day 0.

5.7.4 A product is successful in saltwater or freshwater if the % reduction of total alkanes (aliphatic fraction) from the GC/MS analysis is greater than or equal to 85% and the % reduction of total aromatics (aromatic fraction) is greater than or equal to 35% at day 28 based on the UCL_{95} (Equation 12 of this Appendix). The benchmark reduction ranges in aliphatic and aromatic fractions for the positive control are the same as for the products specified above. The average concentration of the biomarker hopane at day 28 must not differ from the average concentration at day 0 by more than 12% in the positive control. If the conditions for the positive control are not met, the entire procedure must be repeated.

5.8 *Data Verification and Reporting.* GC/MS data files are generated by MS ChemStation software (the Agilent standard software for GC/MS) or equivalent for each injection. Data files contain summed ion chromatograms and selected ion chromatograms. Calibration curves are generated within MS ChemStation software, and all data files are calculated against the calibration curve by MS ChemStation. Data verification would be done by crosschecking between analysts for 10% of the raw data and its reduction process.

5.9 *Laboratory Report.* The summary of findings from a product test must include the data listings for each analyte that was analyzed (*i.e.,* all individual alkanes and aromatics in the list of required analytes), along with QA/QC checks (see Table 17) and instrument detection/reporting limits for each analyte. Express all concentrations as mg analyte/L exposure water.

5.10 *Standard Operating Procedures (SOPs) 1–4*

5.10.1 *SOP 1. Preparation of Surrogate Recovery Standards*

5.10.1.1 *Preparation:*

5.10.1.1.1 *Solvents:* Dichloromethane (DCM), Optima grade or equivalent.

5.10.1.1.2 *Reagents:*

D36-Heptadecane (C17)
D50-Tetracosane (C24)
D66-Dotriacontane (C32)
D10-1-Methylnaphthalene
D10-Phenanthrene
D10-Pyrene
5-beta-cholestane (coprostane)

Note: Deuterated reagents are available from Cambridge Isotope Laboratories, Andover, MA.

5.10.1.1.3 *Equipment:*

Micro-spatula
Small beakers
Glass funnel
Analytical balance (0.0001g)
Vials with Teflon-lined caps
Teflon wash bottle with Optima grade DCM
Volumetric flask (250 mL), class A
Pasteur pipettes

5.10.1.2 *Procedure:*

5.10.1.2.1 Using a calibrated analytical balance, weigh 100 mg (0.100 g) of each reagent into separate 10–25 mL beakers.

5.10.1.2.2 Dissolve the reagents in their beakers by adding 10 mL DCM. Use a Pasteur pipette to transfer the solutions to a single 250 mL volumetric flask.

5.10.1.2.3 Wash the beakers 3 or 4 times with DCM. Use a Pasteur pipette to transfer each of the washings to the 250 mL volumetric flask.

5.10.1.2.4 Dilute the solution to the 250 mL volume mark on the volumetric flask with DCM.

5.10.1.2.5 Use a glass stopper to seal the flask and homogenize the solution by inverting the flask 5 or more times. The final concentration of this solution is 400 mg/L for each of the reagents.

5.10.1.2.6 Transfer the solution into 40 mL storage vials and cap with Teflon-lined caps and label each with the date of preparation, operator, sample names, and concentrations.

5.10.1.2.7 Weigh each vial and record its weight on the label. This weight is used to monitor possible evaporation during storage.

5.10.1.2.8 Store these vials at 0 °C or lower.

5.10.1.2.9 Before using, allow the solution to come to room temperature, and then shake it well.

5.10.1.2.10 Weigh the vial before using it and compare the weight with the last weight recorded on the vial.

5.10.1.2.11 If the weights are consistent, the integrity of the solution can be assumed. If not, investigate and resolve the cause.

5.7.3 Using Equation 12 of this Appendix, calculate the % reduction of each oil fraction from day 0 to day 28, using the day 0 and 28 UCL_{95} hopane-normalized values for each fraction:

Prepare a new solution if the integrity has been compromised.

5.10.1.3 *Quality Control:* Inject 20 µL of the surrogate stock solution into 1 mL DCM. Add 20 µL of the internal standard solution (SOP 2 of this Appendix). Analyze this solution by GC/MS using a calibrated method (SOPs 3 and 4 of this Appendix). The expected concentration of each of the corresponding surrogate compounds is 8 ± 2 mg/L. If the measured value does not fall within this range, prepare and measure another independent surrogate solution. If the measured concentration of the second surrogate solution is within the allowable tolerance range, the calibration and instrument conditions are acceptable; properly discard the first surrogate solution. If the concentration of the second surrogate solution is also out of range, then clean and recalibrate the instrument until the problem is resolved.

5.10.2 *SOP 2. Preparation of Internal Standard Solution*

5.10.2.1 *Preparation:*

5.10.2.1.1 *Solvents:* Dichloromethane (DCM), Optima grade or equivalent

5.10.2.1.2 *Reagents:*

D34 n-Hexadecane (C16)
D42 n-Eicosane (C20)
D62 n-Triacontane (C30)
D8-Naphthalene
D10-Anthracene
D12-Chrysene
5-alpha-Androstane

Note: Deuterated reagents are available from Cambridge Isotope Laboratories, Andover, MA.

5.10.2.1.3 *Equipment:*

Micro-spatula
Small beakers
Glass funnel
Analytical balance (0.0001g), calibrated and checked for accuracy
Amber vials with Teflon-lined caps, labeled
Teflon wash bottle with DCM
Volumetric flask (200 mL), class A
Pasteur pipettes

5.10.2.2 *Procedure:*

5.10.2.2.1 Using a calibrated analytical balance, weigh 100 mg (0.100 g) of each of the reagents into separate small beakers.

5.10.2.2.2 Dissolve the reagents in their beakers by adding 10 mL DCM; using a Pasteur pipette, transfer the solutions to a single 200 mL volumetric flask.

5.10.2.2.3 Wash the beakers 3 or 4 times with DCM; use a Pasteur pipette to transfer each of the washings to the 200 mL volume mark on the volumetric flask.

5.10.2.2.4 Dilute the solution with DCM to the 200 mL volume.

5.10.2.2.5 Seal the flask with a glass stopper and homogenize the solution by inverting the flask a minimum of 5 times. The final concentration of this solution is 500 mg/L of each reagent.

5.10.2.2.6 Transfer the solution into 40 mL storage vials and cap with Teflon-lined caps. Label each vial with the date of preparation, operator, sample names, and concentrations.

5.10.2.2.7 Weigh each vial, and record its weight on the label. This weight is used to monitor possible evaporation during storage.

5.10.2.2.8 Store this solution at 0 °C or lower.

5.10.2.2.9 Before using, allow the solution to come to room temperature, and then shake it well.

5.10.2.2.10 Weigh the vial before using it, and compare the weight with the last weight recorded on the vial.

5.10.2.2.11 If the weights are consistent, the integrity of the solution can be assumed. If not, investigate and resolve the cause. Prepare a new solution if the integrity has been compromised.

5.10.2.3 *Quality Control:* Inject 20 µL of the internal standard solution into 1 mL DCM. Analyze this solution by GC/MS. The only peaks corresponding to the internal standards must appear. If other peaks appear, particularly close to the internal standard peaks, discard the internal standard solution and prepare a new solution.

5.10.3 *SOP 3. Preparation of Working Standards, Check Standards, and Oil Standards for GC/MS Consistency.*

5.10.3.1 *Preparation:*

5.10.3.1.1 *Solvent:* Dichloromethane (DCM), Optima grade or equivalent

5.10.3.1.2 *Stock solutions:*

5.10.3.1.2.1 *Oil analysis standard:* 44 compounds, 100 mg/L in hexane/DCM (9:1), four, 1-mL vials required. Available from Absolute Standards, Inc., Hamden, CT, Part #90311.

5.10.3.1.2.2 *Nine compound PAH standard:* 1,000 mg/L in DCM, one vial. Available from Absolute Standards, Inc., Hamden, CT, Part #90822.

5.10.3.1.2.3 1,2-Benzodiphenylene sulfide, (synonym for naphthobenzothiophene). Prepare a 2 mg/mL stock solution. Available from Sigma-Aldrich Co., Part # 255122, purity 99%.

5.10.3.1.2.4 Hopane solution (17 α (H), 21β (H), 0.1 mg/mL in isooctane. Available from Sigma-Aldrich Co. Part #90656.

5.10.3.1.2.5 *Surrogate solution:* 400 mg/L of each reagent in DCM (see SOP 1 of this Appendix).

5.10.3.1.2.6 Internal standard solution, 500 mg/L in DCM (see SOP 2 of this Appendix).

5.10.3.1.3 Alaska North Slope Crude Oil 521 (ANS521).

5.10.3.1.4 *Equipment:*

5.10.3.1.4.1 Glass storage vials with Teflon-lined caps (2 mL and 40 mL capacity);

5.10.3.1.4.2 Volumetric flasks, Class A, 5 mL, 10 mL, and 100 mL

5.10.3.1.4.3 Glass syringes capable of dispensing 25–500 µL with an accuracy and precision of ± 1%, or equivalent

5.10.3.1.4.4 Wheaton repetitive dispenser, Model 411 STEP–PETTE or equivalent

5.10.3.1.4.5 Teflon wash bottle filled with Optima grade DCM or equivalent grade DCM

5.10.3.1.4.6 Pasteur pipettes

The volumes of stock solutions required to make the working standards are listed in Table SOP 3.1 of this Appendix.

TABLE SOP 3.1—AMOUNT OF STOCK SOLUTIONS REQUIRED TO MAKE THE WORKING STANDARDS

Stock standards	A	B	C	D	E		F
Working standards concentration, mg/L	Oil analysis mix (44 compounds, 100 mg/L) µL	Aromatics mix (9 compounds, 1,000 mg/L) µL	1,2-Benzo-diphenylene sulfide (NBT) (2 mg/mL) µL	Surrogate solution (100 mg/L) µL	Hopane solution (100 mg/L) µL	Volumetric flask volume mL	ISTD (500 mg/L) µL
STD 30 (no hopane)	1,500	150	75	375	0	5	100
STD 20 (5 mg/L hopane)	1,000	100	50	250	250	5	100
STD 10 (2.5 mg/L hopane)	500	50	25	125	125	5	100
STD 5* (1 mg/L hopane)	500	50	25	125	100	10	200
STD 5-Utility (1 mg/L hopane)	500	50	25	125	100	10 (used for preparation of STD 2.5 & STD 1).	0
STD 2.5 (0.5 mg/L hopane)	Use 5 mL of STD 5-Utility and dilute to 10 mL.						200
STD 1 (0.2 mg/L hopane)	Use 2 mL of STD 5-Utility and dilute to 10 mL.						200
STD 0.1 (0.2 mg/L hopane)	Use 0.2 mL of STD 5-Utility and dilute to 10 mL.						200

*Make extra STD 5 for use as check standard.

5.10.3.2 *Procedure for Working Standards and Check Standards:*

5.10.3.2.1 Label three 5 mL volumetric flasks as STD30, STD20, STD10, and two 10 mL volumetric flasks as STD5, and STD5-utility.

5.10.3.2.2 Add 1–2 mL of DCM to each volumetric flask.

5.10.3.2.3 Using glass syringes, add the appropriate volume of stock solution A (as listed in Table SOP 3.1 of this Appendix) to the flasks labeled STD30, STD20, STD10, STD5, and STD5-utility.

5.10.3.2.4 Wash the walls of the inner neck of the flasks with several drops of DCM to rinse off the residue of the stock solution into the flasks.

5.10.3.2.5 Repeat Step 3 and Step 4 to dispense stock solutions B–E (do not add stock solution F, internal standard solution, at this step).

5.10.3.2.6 Dilute to volume with DCM for all the above flasks, seal with glass stoppers, and invert several times to homogenize the solutions.

5.10.3.2.7 Label three additional 10 mL volumetric flasks as STD2.5, STD1, and STD0.1. Wet with 1–2 mL DCM.

5.10.3.2.8 Dispense 5 mL of STD5-utility solution into flask STD2.5, 2 mL of STD5-utility solution into flask STD1, and 0.2 mL of STD5-utility solution into flask STD0.1.

5.10.3.2.9 Dilute to volume with DCM, seal with glass stoppers, and invert several times to homogenize the solutions.

5.10.3.2.10 Using a 100 µL glass syringe, dispense 100 µL of internal standard solution into flasks STD30, STD20, and STD10. Dispense 200 µL into flasks STD5, STD2.5, STD1, and STD0.1 to give a final concentration of 10 mg/L internal standard.

5.10.3.2.11 Seal with glass stoppers, and invert the flasks several times to homogenize the solutions.

5.10.3.2.12 Transfer the solutions into 2 mL storage vials, and cap with Teflon-lined caps.

5.10.3.1.13 Label each vial with date of preparation, analyst, sample names, and concentrations.

5.10.3.2.14 Weigh each storage vial and record its weight on the label. This weight is used to monitor possible evaporation during storage.

5.10.3.2.15 Store this solution at 0 °C or below.

5.10.3.2.16 Before using, allow the solution to come to room temperature, and shake it well.

5.10.3.2.17 Weigh the vial before opening, and compare the weight with the last weight recorded on the vial. If the weights are consistent, the integrity of the solution can be assumed. If not, investigate and resolve the cause. Do not use the solution if the integrity has been compromised.

5.10.3.3 *Procedure for Oil Standard.* In a 100 mL volumetric flask, weigh 0.500 g of the standard ANS521 crude oil, add 2 mL of surrogate solution (see SOP 1 of this

Appendix), and bring to volume with DCM. Add 2 mL of internal standard solution (see SOP 2 of this Appendix). Follow steps 5.10.3.2.11 through 5.10.3.2.17 of this SOP, substituting 40 mL storage vials for the 2 mL vials.

5.10.3.4 *Quality Control/Quality Assurance:*

5.10.3.4.1 Run the seven standard solutions using the GC/MS method (SOP 4) on a tuned GC/MS. Use the EnviroQuant software or equivalent to calculate the average Relative Response Factor (RRF) and the relative standard deviation (RSD) of the RRFs for each analyte over the six concentrations. The RRF is defined as:

$$RRF = \frac{\text{area analyte}}{\text{area internal standard}} \times \frac{\text{concentration of internal standard}}{\text{concentration of analyte}} \quad \text{(Equation 13)}$$

5.10.3.4.2 The RSD of the RRFs for all analytes must be 25% or less. Alternatively, the coefficients of determination (R2) for the calibration curve for each target compounds and surrogate should be over 0.99.

5.10.4 *SOP 4. GC/MS Method for the Analysis of Crude Oil Samples.*

5.10.4.1 *Instrument Specifications:*

5.10.4.1.1 Use an Agilent 6890 GC coupled with an Agilent 5973 mass selective detector (MSD) and an Agilent 6890 series auto sampler or equivalent, equipped with a DB–5 capillary column (30 m, 0.25 mm I.D., and 0.25 μm film thickness) or equivalent, and a split/splitless injection port operating in the splitless mode. Data acquisition occurs in the SIM (selected ion monitoring) mode for quantitative analysis. In SIM mode, the dwell time of each ion is set to be 10 milliseconds and the ions are split up into groups by retention time. One way to divide the ions is by retention time grouping as shown in Table SOP 4.1 of this Appendix. The number of ions in each ion group must be constant, yielding the same scan rate for each group.

TABLE SOP 4.1—IONS ASSOCIATED WITH RETENTION TIME GROUPS

Group	Ions
1	57, 66, 128, 136, 142, 152, 156, 166, 170, 184.
2	57, 66, 166, 170, 178, 180, 184, 188, 192, 194, 198, 208.
3	57, 66, 178, 184, 188, 192, 194, 198, 202, 206, 208, 212, 220, 226.
4	57, 66, 192, 198, 202, 206, 208, 212, 216, 220, 226, 230, 234, 245.
5	57, 66, 191, 217, 228, 240, 242, 248, 256, 262, 264, 270, 276, 284.

5.10.4.1.2 Table SOP 4.2 of this Appendix summarizes the instrumental conditions for crude oil analysis. Use only ultra-high purity helium (99.999% pure) as the carrier gas. In series, connect a moisture trap, an oxygen trap, and an organic trap to the carrier gas line before it enters the column.

TABLE SOP 4.2—INSTRUMENTAL CONDITIONS FOR CRUDE OIL ANALYSIS

Instrument	Agilent 6890 Series II Gas Chromatograph (GC) with an Agilent 5973MSD and an Agilent 6890 auto sampler, or equivalent.
Column	DB–5 capillary column (30 m, 0.25 mm I.D., and 0.25-mm film thickness) or equivalent.
Carrier Gas	Helium, ultra-high purity grade (99.999%).
Inlet Temperature	300 °C.
Transfer Line (detector) Temperature	310 °C.
Oven Temperature Program	50 °C for 4 minutes, then 7 °C/min to 310 °C, hold for 18 minutes.
Flow Rate	Constant flow at 1mL/min. Linear velocity: 36.2 cm/sec.
Injection Volume	1 μL.
Split/Splitless Mode	Splitless.
Total Run Time	59.18 minutes.

5.10.4.2 *Procedure for preparing the instrument:*

5.10.4.2.1 Lower the injection port temperature and the oven temperature to 50 °C or less to avoid oxidation of the column.

5.10.4.2.2 Replace the liner with a clean, silanized liner. Do not touch the liner with bare fingers. A small piece of muffled glass wool may be inserted to protect the column.

5.10.4.2.3 Return the injection port and oven to the appropriate temperatures.

5.10.4.2.4 Wait five minutes after the temperature equilibrates before using the instrument.

5.10.4.3 *Procedure for tuning the MSD:*

5.10.4.3.1 Perform an air/water check. The value reported for the relative abundance of water (m/z 18), nitrogen (m/z 28), oxygen (m/z 32), or carbon dioxide (m/z 44) shall be less than 5% of the base peak for the system to be considered leak free and are expected to be closed to 1% for a stable system.

5.10.4.3.2 Tune the MSD using the Standard Autotune program and the decafluorotriphenylphosphine (DFTPP) Tune program to reduce instrument variability. The Autotune report file is referenced by the instrument when performing an air/water check and thus must be run at least once per month. Run standards and samples using DFTPP Tune parameters, and retune the instrument using DFTPP Tune at least once per week. The tune programs use three fragment ions of perfluorotributylamine (PFTBA) as a standard for tuning: m/z 69, 219, and 502. Tune reports must meet the following criteria:

5.10.4.3.2.1 Symmetrical peaks;

5.10.4.3.2.2 Mass assignments within ±0.2 amu's from 69, 219, and 502;

5.10.4.3.2.3 Peak widths within 0.5 ± 0.1 amu's;

5.10.4.3.2.4 Relative abundance is 100% for ion 69, at least 35% for ion 219, and at least 1% for ion 502;

5.10.4.3.2.5 Relative abundances for isotope masses 70, 220, and 503 ± 0.2 amu's are 0.5–1.5%, 2–8%, and 5–15%, respectively; and

5.10.4.3.2.6 Air and water peaks at m/z = 18, 28, 32, and 44 amu's must be very small and consistent with historical values.

5.10.4.4 *Maintaining a log book.* Maintain an instrument log book, and make entries for each use. Include the following information in the logbook: operator name, helium cylinder tank pressure and outlet pressure, vacuum gauge reading, any maintenance performed on the instrument (such as changing the injection port liner, gold seal, guard column, source cleaning), sequence

name, data path, samples in order of injection, method information, GC column number, and the Standard Auto Tune report and DFTPP Tune report.

5.10.4.5 *Running a Solvent Blank:* Following a liner change or at the start of a new run, run an injection of a pure solvent to confirm that the system is free of excessive or interfering contamination. Analyze the solvent in SCAN mode using the same temperature program used for sample analysis. If contamination is present, analyze additional samples of fresh solvent until the interfering contamination is removed.

5.10.4.6 *Checking the DFTPP Tune:* Prior to running the first calibration standard, verify the instrument tune conditions by running a 10 ng/µL DFTPP check standard to check the mass measuring accuracy of the MS, the resolution sensitivity, the baseline threshold, and the ion abundance ranges. Run the standard using the DFTPP method provided with the instrument. Each of the criteria identified in Table SOP 4.2 of this Appendix must be met before using the instrument for analysis:

TABLE SOP 4.3—ION ABUNDANCE CRITERIA FOR DFTPP

Mass, M/z	Relative to mass	Relative abundance criteria	Purpose of checkpoint
51	442	10–80% of the base peak	Low mass sensitivity.
68	69	<2% of mass 69	Low mass resolution.
70	69	<2% of mass 69	Low mass resolution.
127	442	10–80% of the base peak	Low-mid mass sensitivity.
197	198	<2% of mass 198	Mid mass resolution.
198	442	Base peak or >50% of 442	Mid mass resolution and sensitivity.
199	198	5–9% of mass 198	Mid mass resolution and isotope ratio.
275	442	10–60% of the base peak	Mid-high mass sensitivity.
365	442	>1% of the base peak	Baseline threshold.
441	443	Present and < mass 443	High mass resolution.
442	442	Base peak or >50% of 198	High mass resolution and sensitivity.
443	442	15–24% of mass 442	High mass resolution and isotopic ratio.

5.10.4.7 Calibrating *with a Multiple-Point Calibration Curve.* A 5- or 6-point calibration curve is obtained by running 5 or 6 working standards (see SOP 3) on the tuned GC/MS instrument. Calculate the relative response factor (RRF) for each compound relative to its corresponding deuterated internal standard as indicated in Table SOP 4.3 of this Appendix. The relative standard deviation (RSD) of the RRFs for each compound must be less than 25%. Run an independently prepared check standard immediately after the calibration standards to validate the accuracy of the calibration curve.

5.10.4.8 *Running Samples.* Once the calibration curve has been validated, samples can be analyzed. Dispense 1,000 µL of sample extract into labeled auto-sampler vials. Add 20 µL of the internal standard solution (see SOP 2 of this Appendix) to the extract using a syringe or a positive displacement pipettor. Run a check standard every 10 samples to ensure the consistency of the instrument. The RRF for each compound in the check standard must be within 25% of the average RRF obtained in the initial calibration.

5.10.4.9 *Quantification:* Once a calibration table has been generated, quantify each data file using the ''Calculate and Generate'' function in the MS ChemStation software, or equivalent software. Review individual peak integration manually to ensure proper baseline integration. The quantification of a compound is based on the peak area of the primary ion (Q Ion) indicated in Table SOP 4.4 of this Appendix.

TABLE SOP 4.4—TARGET COMPOUND LIST

Compound name	Quantitation ion	Reference compound for response factor	Internal standard for quantitation
N D34 C16	66	N D34 C16	D34 n C16 Q Ion 66.
n-C14	57	n C14.	
n-C15	57	n C15.	
n-C16	57	n C16.	
N D34 C17	66	N D34 C17.	
n-C17	57	n C17.	
Pristane	57	Pristane.	
n-C18	57	n C18.	
Phytane	57	Phytane.	
n C19	57	n C19.	
N D42 C20	66	N D42 C20	D42 n C20 Q Ion 66.
n C20	57	n C20.	
n C21	57	n C21.	
n C22	57	n C22.	
n C23	57	n C23.	
N D50 C 24	66	N D50 C 24.	
n C24	57	n C24.	
n C25	57	n C25.	
n C26	57	n C26.	
n C27	57	n C27.	
n C28	57	n C28.	
n C29	57	n C29.	
N D62 C30	66	N D62 C30	D62 n C30Q Ion 66.
n C30	57	n C30.	
n C31	57	n C31.	
N D66 C32	57	N D66 C32.	
n C32	57	n C32.	
n C33	57	n C33.	
n C34	57	n C34.	

TABLE SOP 4.4—TARGET COMPOUND LIST—Continued

Compound name	Quantitation ion	Reference compound for response factor	Internal standard for quantitation
n C35	57	n C35.	
D8 Naphthalene	136	D8 Naphthalene	D8 Naphthalene Q Ion 136.
Naphthalene	128	Naphthalene.	
D10 1-Methylnaphthalene	152	D10 1-Methylnaphthalene.	
C1 Naphthalene*	142	C1 Naphthalene.	
C2 Naphthalene*	156	C2 Naphthalene.	
C3 Naphthalene*	170	C3 Naphthalene.	
C4 Naphthalene*	184	C3 Naphthalene.	
D10 Anthracene	188	D10 Anthracene	D10 Anthracene Q Ion 188.
D10 Phenanthrene	188	D10 Phenanthrene.	
Phenanthrene	178	Phenanthrene.	
C1 Phenanthrene*	192	C1 Phenanthrene.	
C2 Phenanthrene*	206	C2 Phenanthrene.	
C3 Phenanthrene*	220	C2 Phenanthrene.	
C4 Phenanthrene*	234	C2 Phenanthrene.	
Fluorene	166	Fluorene.	
C1 Fluorene*	180	Fluorene.	
C2 Fluorene*	194	Fluorene.	
C3 Fluorene*	208	Fluorene.	
Dibenzothiophene	184	Dibenzothiophene.	
C1 Dibenzothiophene*	198	Dibenzothiophene.	
C2 Dibenzothiophene*	212	Dibenzothiophene.	
C3 Dibenzothiophene*	226	Dibenzothiophene.	
Naphthobenzothiophene (NBT)	234	Naphthobenzothiophene.	
C1 NBT*	248	Naphthobenzothiophene.	
C2 NBT*	262	Naphthobenzothiophene.	
C3 NBT*	276	Naphthobenzothiophene.	
Fluoranthene	202	Fluoranthene.	
D10 Pyrene	212	D10 Pyrene.	
Pyrene	202	Pyrene.	
C1 Pyrene*	216	Pyrene.	
C2 Pyrene*	230	Pyrene.	
D12 Chrysene	240	D12 Chrysene	D12 Chrysene Q Ion 240.
Benzo(a)anthracene/Chrysene*	228	Chrysene.	
C1 Chrysene*	242	Chrysene.	
C2 Chrysene*	256	Chrysene.	
C3 Chrysene*	270	Chrysene.	
C4 Chrysene*	284	Chrysene.	
5α-androstane	245	5α-androstane	5α-androstane Q Ion 245.
Coprostane	219	Coprostane.	
Hopane	191	Hopane.	

*Summed compounds; draw an integration line underneath all peaks with selected ion.

5.10.4.10 Equation 14 of this Appendix is used to calculate the concentration of analytes in units of µg/g oil added:

$$Concentration\ of\ analyte\ (\mu g / g\ oil) = \frac{100 \times A_{analyte} \times C_{istd}}{A_{istd} \times RRF} \qquad \text{(Equation 14)}$$

where:

$A_{analyte}$ = the peak area of the analyte,
C_{istd} = the concentration of the internal standard,
A_{istd} = the area of the internal standard,
RRF = the relative response factor, and
100 is the conversion factor to convert mg/L DCM to µg/g oil added.

5.10.4.11 If some analytes are not commercially available, the RRFs of other compounds (usually the parent compound) are used to quantify those analytes. For example, the RRF of C3-naphthalene may be used to calculate the concentrations of C3- and C4-naphthalenes. See Table SOP 4.4 of this Appendix for details. The quantification of these alkylated PAHs is relative because it is assumed that the molecular ions of the alkylated PAHs have the same RRFs as the parent compound ions. Nevertheless, these relative concentrations are useful for monitoring the fate of these compounds during the course of any analysis, as long as their concentrations are measured in a consistent way throughout the analysis.

5.10.4.12 Concentration calculations for all target compounds are performed using EnviroQuant software or equivalent. Data for each sample can be printed directly using a customized report template. Data can also be automatically entered into a spreadsheet within the EnviroQuant software.

5.10.5 *Quality Assurance/Quality Control.* The following criteria must be met before any samples are analyzed:

5.10.5.1 Air/water check to verify the system is leak free.

5.10.5.2 AutoTune and DFTPP Tune pass all criteria.

5.10.5.3 DFTPP check standard passes all criteria.

5.10.5.4 Solvent blank scan indicates the GC/MS system is free of interfering contamination.

5.10.5.5 Prepare and monitor a control chart of a standard oil analysis.

Concentrations of the analytes in the control chart must be no more than 25% different from their historical averages.

5.10.5.6 Relative response factors for analytes in the check standards inserted between every 10 samples must be no more than 25 percent different from the average RRF of those same analytes in the calibration curve. Peak shapes must be symmetrical.

5.11 *References for Section 5*

(1) Haines, J.R., E.J. Kleiner, K.A. McClellan, K.M. Koran, E.L. Holder, D.W. King, and A.D. Venosa. 2005. ''Laboratory evaluation of oil spill bioremediation products in salt and freshwater systems.'' J. Ind. Microbiol. Biotech 32: 171–185.

Appendix E to Part 300 [Removed]

■ 16. Remove Appendix E to Part 300.

[FR Doc. 2023–11904 Filed 6–7–23; 11:15 am]

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Part IV

Department of the Interior

Fish and Wildlife Service

50 CFR Part 14

Regulations To Implement the Big Cat Public Safety Act; Interim Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 14

[Docket No. FWS–HQ–IA–2023–0068; FXIA16710900000–234–FF09A30000]

RIN 1018–BH23

Regulations To Implement the Big Cat Public Safety Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Interim rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are amending our implementing regulations for the Captive Wildlife Safety Act (CWSA) by incorporating the requirements of the Big Cat Public Safety Act (BCPSA) in the CWSA regulations. On December 20, 2022, the BCPSA amended the Lacey Act Amendments of 1981 to clarify provisions enacted by the CWSA and to further the conservation of certain wildlife species. The BCPSA makes it unlawful to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce, or in a manner substantially affecting interstate or foreign commerce, or breed or possess prohibited wildlife species (lions, tigers, leopards, snow leopards, clouded leopards, jaguars, cheetahs, and cougars, or any hybrids thereof), with certain exceptions. The BCPSA also requires an entity or individual who does not qualify for one of the other exceptions and is in possession of any prohibited wildlife species to register each such animal with the Service not later than June 18, 2023, allowing pre-BCPSA owners to register their pre-BCPSA big cats to continue to possess them under the pre-BCPSA exception.

DATES: This rule is effective June 12, 2023. Comments on this interim rule and the information collection requirements contained in it must be received by August 11, 2023.

Information collection requirements: If you wish to comment on the information collection requirements in this rule, please note that the Office of Management and Budget (OMB) is required to make a decision concerning the collection of information contained in this rule between 30 and 60 days after publication of this rule in the **Federal Register**. Therefore, comments should be submitted to OMB, with a copy to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, (see ''Information Collection'' section below under **ADDRESSES**) by August 11, 2023.

ADDRESSES: You may submit comments on this interim rule by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *https://www.regulations.gov.* In the Search box, enter FWS–HQ–IA–2023–0068, which is the docket number for this rulemaking. Then click on the Search button. On the resulting page, in the panel on the left side of the screen, under the Document Type heading, click on the Rules link to locate this document. You may submit a comment by clicking on ''Comment.'' Please ensure that you have found the correct rulemaking before submitting your comment.

(2) *By hard copy:* U.S. mail: Public Comments Processing, Attn: FWS–HQ–IA–2023–0068; U.S. Fish and Wildlife Service; MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

We will post all comments on *https://www.regulations.gov.* This generally means that we will post any personal information you provide us (see *Public Comments,* below, for more information).

Send comments on the information collection requirements contained in this interim rule to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, by email to *Info_Coll@fws.gov;* or by mail to 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803.

Information collection requirements: Written comments and suggestions on the information collection requirements should be submitted within 60 days of publication of this document to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803 (mail); or *Info_Coll@fws.gov* (email). Please reference ''OMB Control Number 1018–0192'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Naimah Aziz, U.S. Fish and Wildlife Service, Department of the Interior, MS: IA, 5275 Leesburg Pike, Falls Church, VA 22041–3803; (571) 218–5019. 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:

Background

The Big Cat Public Safety Act (BCPSA) was signed into law on December 20, 2022 (Pub. L. 117–243). The purpose of the BCPSA is to amend the Lacey Act Amendments of 1981 (16 U.S.C. 3371–3378) to clarify provisions enacted by the Captive Wildlife Safety Act (CWSA) and to further the conservation of certain wildlife species, including to end private ownership of big cats as pets and also to prohibit exhibitors from allowing direct public contact with big cats, including cubs. The BCPSA helps to ensure the health and welfare of big cats, protects the public from the dangers associated with private ownership of big cats, and strengthens the Service's ability to combat wildlife trafficking. In this interim rule, we are implementing the BCPSA by amending subpart K of part 14, Importation, Exportation, and Transportation of Wildlife, in title 50 of the Code of Federal Regulations (CFR) to incorporate the new definitions, prohibitions, and exceptions under the BCPSA.

In the early 1900s, Congress recognized the need to support States in protecting game animals and birds by prohibiting the interstate shipment of wildlife killed in violation of State or Territorial laws. Today this legislation is known as the Lacey Act. Most significantly amended in 1981, the Lacey Act makes it unlawful to import, export, transport, sell, receive, acquire, or purchase fish, wildlife, or plants taken, possessed, transported, or sold in violation of any Federal, State, foreign, or Native American Tribal law, treaty, or regulation. The Lacey Act applies to all fish and wildlife (including their parts or products) and to wild plants (including plant parts) that are indigenous to the United States and are included in the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) or are listed under a State conservation law.

The CWSA was signed into law on December 19, 2003 (Pub. L. 108–191). The purpose of the CWSA was to amend the Lacey Act Amendments of 1981 to further the conservation of certain wildlife species and to protect the public from dangerous animals. The CWSA was enacted in response to concerns that the Lacey Act did not explicitly address the problem of the increasing trade in big cat species. Although the number of big cats kept as

pets cannot be reliably estimated due to the patchwork nature of State laws regarding possession of big cats and other exotic wildlife, at the time of enactment of the CWSA, the number of big cats kept as pets in the United States was estimated to number in the thousands. That trade has been driven in part by an increase in internet sales and auctions, and the increase in popularity of this trade has raised concerns for public safety as well as for the welfare of the big cats. The CWSA made it illegal to import, export, transport, sell, receive, acquire, or purchase, in interstate or foreign commerce, live lions, tigers, leopards, snow leopards, clouded leopards, cheetahs, jaguars, or cougars, or any hybrid thereof, unless certain exceptions applied.

Prior to the enactment of the BCPSA, the United States had no Federal law regarding the possession or breeding of big cats, except where there is a violation of another Federal law, such as take under the Endangered Species Act or international trade contrary to CITES. The legislative history of the BCPSA, and in particular U.S. House of Representatives Report No. 117–428 (July 22, 2022), notes that State laws vary, with some having no restrictions, some requiring registration, and others altogether banning ownership of big cats as pets. According to the House report, an estimated 20,000 big cats, including tigers, lions, jaguars, leopards, cougars, and hybrids, are currently kept in private ownership in the United States. The report also notes that privately owned big cats are often purchased as cubs or bred for photo opportunities, but then, as the animals outgrow that use, they are sold into the exotic pet trade or the illegal market.

The House report notes that privately owned big cats typically live in inadequate conditions that also threaten public safety. It references a Humane Society of the United States publication noting that, since 1990, around 300 dangerous incidents involving big cats in the United States have resulted in human injuries, mauling, and death. Furthermore, big cats are often purchased when young, and many owners are unable to cope with the high-maintenance needs of mature big cats. The report points out that the burden of caring for big cats that are abandoned because they are too dangerous to keep or too expensive to care for properly often falls to already financially strained sanctuaries or humane societies.

Taking into account the above information, Congress has recognized the need to end the private ownership of big cats as pets and prohibit exhibitors from allowing public contact with big cats, including cubs. The BCPSA builds on and amends the CWSA by making it illegal to privately possess or breed lions, tigers, leopards, snow leopards, clouded leopards, cheetahs, jaguars, or cougars, or any hybrid thereof. The BCPSA also makes it illegal to import, export, transport, sell, receive, acquire, or purchase big cats in a manner substantially affecting interstate or foreign commerce, including intrastate activities. The BCPSA also makes it illegal to attempt to commit any of these new prohibitions with big cats.

Current private owners are granted a one-time 180-day period in which to register their big cats under the BCPSA, allowing them to keep their current animals if they register them with the Service and meet all the BCPSA requirements, as described below. Certain entities outlined in the statute, including exhibitors with valid U.S. Department of Agriculture (USDA) Class C licenses, State agencies, State colleges and universities, State-licensed veterinarians, and wildlife sanctuaries, that meet the requirements for other BCPSA exceptions are not required to register their big cats with the Service.

Basis for Regulatory Changes

As noted above, in this interim rule, we are implementing the BCPSA by amending 50 CFR part 14, subpart K, Importation, Exportation, and Transportation of Wildlife, to incorporate the new definitions, prohibitions, and exceptions under the BCPSA. The BCPSA, at 16 U.S.C. 3376(a)(3), provides that the Secretary shall promulgate any regulations necessary to implement the prohibitions and exceptions of the BCPSA (16 U.S.C. 3372(e)).

As previously noted, the BCPSA was signed into law on December 20, 2022 (Pub. L. 117–243, December 20, 2022, 136 Stat. 2336 (amending the CWSA and Lacey Act Amendments of 1981, 16 U.S.C. 3371–3374, 3376, and 7 U.S.C. 1997)). The BCPSA clarifies and updates provisions enacted by the CWSA, placing new restrictions on commerce in and possession, breeding, and use (including public contact) of certain big cat species (referred to in the BCPSA as ''prohibited wildlife species'') to address threats to public safety posed by lions, tigers, leopards, snow leopards, clouded leopards, jaguars, cheetahs, cougars, and any hybrids thereof, particularly those currently kept in private ownership in the United States, and to further the conservation of these wildlife species.

The new provisions of the BCPSA are addressed in this interim rule. The BCPSA:

- added a new definition of ''breed'' (16 U.S.C. 3371(a));
- added a new prohibition on breeding any prohibited wildlife species (16 U.S.C. 3372(e)(1)(B));
- added a new prohibition on possession of any prohibited wildlife species (16 U.S.C. 3372(e)(1)(B));
- maintained prohibitions on import, export, transport, sale, receipt, acquisition, or purchase in interstate or foreign commerce of any prohibited wildlife species (16 U.S.C. 3372(e)(1)(A);
- added new prohibitions on import, export, transport, sale, receipt, acquisition, or purchase in a manner substantially affecting interstate or foreign commerce of any prohibited wildlife species, including intrastate activities (16 U.S.C. 3372(e)(1)(A));
- updated the prohibition on attempting to commit any act prohibited by the CWSA to include any act prohibited by the BCPSA (16 U.S.C. 3372(a)(4));
- revised exceptions for USDA-licensed/registered exhibitors, including by:
  - limiting the exception to an entity exhibiting animals to the public under a Class C license from the USDA, or a Federal facility registered with the USDA that exhibits animals, if such entity or facility holds such license or registration in good standing (16 U.S.C. 3372(e)(2)(A));
  - prohibiting physical contact with big cats except for people who meet certain professional training requirements, licensed veterinarians (or a veterinary student accompanying such a veterinarian), or noncommercial contact necessary to directly support conservation needs for the species pursuant to a species-specific, publicly available, peer-edited population management and care plan submitted to the Service for consideration and approval in accordance with specific criteria in the BCPSA (16 U.S.C. 3372(e)(2)(A)(i));
  - prohibiting public contact with big cats through the establishment of requirements that during public exhibition of a lion, tiger, leopard, snow leopard, jaguar, cougar, or any hybrid thereof, the animal is at least 15 feet from the public or behind a permanent barrier sufficient to prevent public contact (16 U.S.C. 3372(e)(2)(A)(ii));
- maintained exceptions for State colleges, State universities, State agencies, and State-licensed veterinarians, but removed the

exception for State-licensed wildlife rehabilitators (16 U.S.C. 3372(e)(2)(B));

• revised exceptions for wildlife sanctuaries, including by clarifying terminology and prohibiting the transportation and display of any prohibited wildlife species offsite (16 U.S.C. 3372(e)(2)(C)); and

• added a new pre-BCPSA exception allowing pre-BCPSA owners to register their pre-BCPSA big cats to continue to possess them, as described in greater detail below (16 U.S.C. 3372(e)(2)(E)).

The prohibitions and exceptions of the BCPSA entered into effect when the BCPSA was signed into law on December 20, 2022 (also referred to as the date of enactment). This rulemaking action updates the regulations in 50 CFR part 14, subpart K, to conform to current law. Notwithstanding 50 CFR part 14, subpart K, any act prohibited by the BCPSA following its enactment is currently unlawful, unless a relevant exception under the BCPSA applies. To the extent of a conflict or inconsistency with the regulations implementing the CWSA at 50 CFR part 14, subpart K, the BCPSA statute is controlling.

''Prohibited wildlife species'' (also referred to as ''big cats'') is defined by statute as ''any live species of lion, tiger, leopard, cheetah, jaguar, or cougar or any hybrid of such species'' (16 U.S.C. 3371(h)). This list includes any of the following species, or hybrids of any of these species: lion (*Panthera leo*), tiger (*Panthera tigris*), leopard (*Panthera pardus*), snow leopard (*Uncia uncia*), clouded leopard (*Neofelis nebulosa*), jaguar (*Panthera onca*), cheetah (*Acinonyx jubatus*), cougar (*Puma concolor*) (16 U.S.C. 3371(h); 50 CFR 14.252).

The BCPSA makes it unlawful for any person to—(A) import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce, or in a manner substantially affecting interstate or foreign commerce, or (B) breed or possess any live prohibited wildlife species (16 U.S.C. 3372(e)(1)). The BCPSA also makes it unlawful for any person to attempt to commit any of these acts with prohibited wildlife species (16 U.S.C. 3372(a)(4)). Violators of the BCPSA are subject to civil and criminal penalties (16 U.S.C. 3373), and big cats bred, possessed, imported, exported, transported, sold, received, acquired, or purchased contrary to the provisions of the BCPSA shall be subject to forfeiture to the United States (16 U.S.C. 3374).

The BCPSA also authorizes a limited exception from the prohibition on possession for a person or entity to register live specimens of prohibited wildlife species if certain requirements are met and continue to be met (16 U.S.C. 3372(e)(2)(E)). The exception was intended to allow current owners of big cats at the time of enactment of the BCPSA to keep their big cats. However, they must register with the Service within 180 days after the date of enactment; must not breed, acquire, or sell big cats after the date of enactment; and must not allow direct contact between the public and their big cats (16 U.S.C. 3372(e)(2)(E)(i)–(iii); H. Rept. No. 117–428, p. 17 (July 22, 2022)). By registering their big cats no later than the statutory deadline (June 18, 2023), the person or entity (registrant) may continue to possess registered big cats that were legally in their possession on or before the date of enactment, as long as the registrant meets and continues to meet all requirements of 16 U.S.C. 3372(e)(2)(E).

To qualify to continue to possess live specimens of prohibited wildlife species under 16 U.S.C. 3372(e)(2)(E), a registrant must register all live specimens of prohibited wildlife species in their possession with the Service no later than June 18, 2023. To comply with the requirements of the BCPSA, the Service provided the public with notice of the BCPSA registration form and sought Office of Management and Budget (OMB) approval of FWS Form 3–200–11, ''Registration Form—Big Cat Public Safety Act'' (Pub. L. 117–243, December 20, 2022, 136 Stat. 2336), which will collect information to verify eligibility to possess big cats under the BCPSA in accordance with 16 U.S.C. 3372(e)(2)(E). The BCPSA emergency information collection for the BCPSA registration form was approved and assigned OMB Control Number 1018–0192. The OMB approval is valid for only 6 months and expires October 31, 2023 (See 88 FR 16657, March 20, 2023, Agency Information Collection Activities; Big Cat Public Safety Act Registration.).

The Service further announced the availability of the registration form on its website on April 18, 2023: *https://www.fws.gov/media/3-200-11-big-cat-public-safety-act-registration-form* Big cats bred or possessed in violation of the BCPSA and any big cat that is not registered on or before June 18, 2023, is subject to forfeiture for violation of the BCPSA prohibition on possession, unless another limited exception applies in accordance with the BCPSA (16 U.S.C. 3372(e)(2)(A)–(D), 3374(a)). The other exceptions apply only to qualifying entities exhibiting big cats to the public under a Class C license from the USDA, or a Federal facility registered with the USDA that exhibits animals; State colleges, State universities, State agencies, or State-licensed veterinarians; qualifying wildlife sanctuaries; or qualifying transporters only when in custody of any big cat solely for the purpose of expeditiously transporting the big cat to a person who qualifies for an exception under the BCPSA.

To meet the requirements for an exception from the prohibition on possession under 16 U.S.C. 3372(e)(2)(E), the registrant must:

• Register each individual big cat in their possession with the Service by no later than 180 days after the date of enactment of the BCPSA (*i.e.,* no later than June 18, 2023) (16 U.S.C. 3372(e)(2)(E)(i));

• Not breed, acquire, or sell any big cat after the date of the enactment of the BCPSA (the requirement that the registrant not breed, acquire, or sell any prohibited wildlife species after December 20, 2022, applies regardless of whether the activity is intrastate, interstate, or international) (16 U.S.C. 3372(e)(2)(E)(ii)); and

• Not allow direct contact between the public and any big cat after the date of enactment of the BCPSA (16 U.S.C. 3372(e)(2)(E)(iii)).

To meet the requirements under 16 U.S.C. 3372(e)(2)(E), the big cat(s) in the registrant's possession must:

• Have been born before December 20, 2022, the date of enactment of the BCPSA, except as described below for a big cat born on or after December 20, 2022, from breeding that occurred before that date (16 U.S.C. 3372(e)(2)(E));

• Not have been acquired by the registrant after the date of enactment (*i.e.,* was legally in the registrant's possession on or before December 20, 2022, and has remained continually in the registrant's possession) (16 U.S.C. 3372(e)(2)(E)(ii)); and

• Have been registered by the owner with the Service by no later than 180 days after the date of enactment of the BCPSA (*i.e.,* no later than June 18, 2023) (16 U.S.C. 3372(e)(2)(E)(i)).

To register with the Service and thereby ensure compliance with these requirements for each individual big cat and ensure sufficient information to differentiate among individual big cats, the registrant must:

• Mark each individual animal of each prohibited wildlife species with a unique identifier that is either a tattoo or a microchip.

• Provide the Service with detailed information for each big cat or hybrid big cat:

1. Common name of big cat or hybrid big cat;

2. Name given to individual big cat, if applicable;
3. Genus, species, and subspecies;
4. Birthdate and date of acquisition, including supporting documentation;
5. Unique identifier information (*i.e.,* microchip or tattoo);
6. Sex;
7. Description (*e.g.,* eye color, scars, ear tags);
8. Photographs of big cat;
9. Physical location of individual big cat (if different from registrant's contact information);
10. Protocols taken to prevent intentional or unintentional breeding;
11. Protocols taken to prevent direct contact between the public and prohibited wildlife species; and
12. Copies of all local, State, or Federal licenses held in relation to the big cats, if applicable.

• Update the registration with the Service within 10 calendar days when a big cat dies or when there is any change in:
1. The location where the big cat is housed;
2. Protocols taken to prevent breeding;
3. Protocols taken to prevent direct contact between the public and big cat;
4. Ownership; or
5. Unique identifier.

As has previously been the case for excepted wildlife sanctuaries, excepted USDA-licensed entities, USDA-registered Federal facilities, and registered pre-BCPSA owners will also be required to maintain records of their BCPSA activities with big cats.

The Service recognizes that some big cats may have been conceived before the effective date of the BCPSA that were subsequently born on or after the effective date of the BCPSA. The BCPSA provides for registration under 16 U.S.C. 3372(e)(2)(E) by an individual or entity in possession of one or more big cats born before the effective date of the BCPSA. If a big cat is not registered, then it may not be possessed by its owner under the limited exception of 16 U.S.C. 3372(e)(2)(E); and, if each big cat owned by a registrant is not registered by the statutory deadline (*i.e.,* no later than June 18, 2023), then the registrant does not qualify to possess any of their big cats under 16 U.S.C. 3372(e)(2)(E). However, the BCPSA does not specifically address big cats born on or after the effective date of the BCPSA from breeding that occurred before the effective date of the BCPSA.

As noted above, the exception in 16 U.S.C. 3372(e)(2)(E) is intended to allow current owners of big cats to keep big cats that were legally in their possession at the time of enactment of the BCPSA, if they register their big cats and comply with the BCPSA, including by not breeding any big cats on or after the effective date of the BCPSA (H. Rept. No. 117–428, p. 17, July 22, 2022). The BCPSA was not intended to retroactively prohibit breeding that occurred before the enactment of the BCPSA (See *Vartelas* v. *Holder,* 566 U.S. 257 (2012) (recognizing deeply rooted presumption against retroactive application of legislation unless Congress has unambiguously instructed retroactivity).). Under the requirements of 16 U.S.C. 3372(e)(2)(E)(ii)–(iii), after December 20, 2022, the registrant is prohibited from breeding, acquiring, or selling big cats, and from allowing direct contact between the public and big cats. The BCPSA requires that, to keep and possess the parent under the limited exception of 16 U.S.C. 3372(e)(2)(E), the owner must register the parent and each big cat legally in the owner's possession (16 U.S.C. 3372(e)(2)(E)(i)), which the Service reads to include any cub conceived before but born to the parent after the enactment of the BCPSA.

Recognizing these intentions, and to avoid a reading of the BCPSA that would lead to an impossibility for some current owners of big cats both to comply with the law and retain possession of big cats that were born on or after the effective date of the BCPSA from breeding that occurred legally before the effective date of the BCPSA, such big cats will be considered eligible for registration under 16 U.S.C. 3372(e)(2)(E)(i). In addition to meeting all the other requirements above, such big cats may be registered if the registrant includes documentation demonstrating that the conception of the big cat occurred before the date of enactment of the BCPSA (December 20, 2022). The gestation period for all big cats is substantially less than the 180-day registration period provided in the BCPSA, meaning that any owners of big cats that are affected still must meet the statutory deadline to register (June 18, 2023). Accordingly, except as otherwise provided by the BCPSA (16 U.S.C. 3372(e)(2)(A)–(D)), possession of any big cat born on or after December 20, 2022, violates the BCPSA, unless: Documentation is provided to prove the big cat was born on or after December 20, 2022, from breeding that occurred before December 20, 2022, and all other registration requirements of 16 U.S.C. 3372(e)(2)(E) are met as described above.

This reading of the BCPSA recognizes that a prerequisite for registration under 16 U.S.C. 3372(e)(2)(E) is ownership of one or more big cats born before the enactment of the BCPSA. However, reading the provisions of 16 U.S.C. 3372(e)(2)(E) and subparagraphs (i)–(iii) together, Congress did not intend to prohibit registration of the cubs of such big cats legally bred before the enactment of the BCPSA, provided they and all other big cats owned by the registrant were not acquired by the owner after December 20, 2022, are registered by June 18, 2023, and are not bred, sold, or allowed in direct contact with the public after December 20, 2022. The public safety and conservation purposes of the BCPSA are met through this reading, because: All pre-BCPSA owners of prohibited wildlife species that do not qualify for another BCPSA exception are required to register each of their big cats to continue to possess them and must not allow them to come into direct contact with the public; no new breeding, acquisition, or sale of prohibited wildlife species by registrants may occur after the enactment of the BCPSA; and no new cubs resulting from such prohibited breeding, acquisition, or sale may be registered.

An alternative reading that is not adopted by this rulemaking would preclude a pre-BCPSA owner from registering big cats conceived before the date of enactment of the BCPSA, that were subsequently born on or after the date of enactment of the BCPSA, even though such big cats were not bred or acquired in violation of the BCPSA. The alternative reading would therefore subject the pre-BCPSA owner to potential penalties and their big cats to forfeiture under the BCPSA, through engaging in no prohibited action other than continued possession of the cub after it is born. The pre-BCPSA owner's only options would be to abandon the cub to the Federal Government or donate it to a BCPSA-excepted exhibitor, State college, State university, State agency, State-licensed veterinarian, or wildlife sanctuary. The legislative history of the BCPSA does not indicate that this alternative reading was the intent of Congress in enacting the BCPSA.

Once registered, it remains the responsibility of registrants and other individuals or entities engaging in otherwise prohibited activities under a BCPSA exception to follow all local, territorial, Tribal, State, and Federal laws and regulations for possession of and other activities with prohibited wildlife species. Registration and other exceptions under the BCPSA do not constitute authorization to engage in any activity prohibited by such laws and regulations. For example, most big cats are listed as either endangered or threatened under the Endangered

Species Act, and take of such species and their offspring is prohibited, with limited exceptions for take authorized by statute, regulation, or permit (16 U.S.C. 1531 *et seq.;* 50 CFR part 17). The legislative history is clear that where State laws have varied in their restrictions on commerce in or possession, breeding, or use (including public contact) of big cats, the BCPSA establishes uniform Federal policy, and Congress intended the BCPSA to supersede or preempt State law under the Supremacy Clause of the Constitution to the extent that it may permit what is prohibited by the BCPSA with regard to commerce in, possession, breeding, or use (including public contact) of big cats (H. Rept. No. 117–428, pp. 4, 32; July 22, 2022).

For any individual or entity that does not qualify for another BCPSA exception, does not qualify for the pre-BCPSA exception, does not want to register, or otherwise no longer wishes to possess their big cat, there are responsible options available to comply with the BCPSA. The pre-BCPSA exception at 16 U.S.C. 3372(e)(2)(E) does not allow pre-BCPSA owners to acquire additional big cats after December 20, 2022. They may register their pre-BCPSA big cats only to continue to possess their pre-BCPSA big cats; they may not acquire big cats from other owners. Therefore, such persons may make arrangements to donate their big cat to another person or entity that qualifies to possess big cats under one of the other exceptions of the BCPSA outlined in 16 U.S.C. 3372(e)(2)(A)–(C). Pursuant to the requirements of the BCPSA, the disposition transaction must not be reasonably likely to result in economic use, gain, or benefit, including, but not limited to, profit (whether in cash or in kind). As noted above, these are qualifying entities exhibiting animals to the public under a Class C license from the USDA, or a Federal facility registered with the USDA that exhibits animals; State colleges, State universities, State agencies, or State-licensed veterinarians; or a qualifying wildlife sanctuary.

Each person involved in an otherwise prohibited activity must qualify for a BCPSA exception that applies to that activity for the activity to be excepted from BCPSA prohibitions. A licensed exhibitor that qualifies under 16 U.S.C. 3372(e)(2)(A) may, for example, sell to, purchase from, or engage in a breeding loan with another licensed exhibitor that qualifies under 16 U.S.C. 3372(e)(2)(A). However, for example, in accordance with 16 U.S.C. 3372(e)(1), (e)(2)(C), and (e)(2)(E), a licensed exhibitor may not sell to, purchase from, or engage in a breeding loan with a person or entity that does not qualify for a BCPSA exception, a wildlife sanctuary, or an individual or entity that registers under the pre-BCPSA exception. This is the case because a person who does not qualify for a BCPSA exception, a wildlife sanctuary, or an individual or entity that registers under the pre-BCPSA exception may neither engage in commerce with big cats nor breed big cats.

For additional example, under the BCPSA a prohibited wildlife species may not be exported from the United States to a foreign entity except for purposes of reintroduction to the wild in coordination with and under the authority of a foreign government. The BCPSA, and the CWSA it amends, are intended to regulate activities with big cats in captivity; they are not intended to foreclose the possibility of reintroduction to the wild, if the need and opportunity arise in the future for such conservation activities. The only foreign entity that might qualify for a BCPSA exception to possess the wildlife in captivity would be a wildlife sanctuary under 16 U.S.C. 3372(e)(2)(C), and at this time we have no ability to verify and enforce compliance with the requirements of the BCPSA for a potential foreign wildlife sanctuary. Thus, at this time we would be unable to issue a permit to authorize export to a foreign entity for holding in captivity, even if all of the other requirements of subchapter B of chapter I of title 50 CFR are met (including parts 13, 14, 17, and 23). We will consider comments on whether our final regulations should include provisions for establishing comity agreements with foreign governments to allow for transfer of big cats to a foreign wildlife sanctuary that meets all of the requirements of 16 U.S.C. 3372(e)(2)(C). On the other hand, we may be able to authorize import of prohibited wildlife species to an entity that qualifies for a BCPSA exception under 16 U.S.C. 3372(e)(2)(A)–(C) if all of the other requirements of subchapter B of chapter I of title 50 CFR are met (including parts 13, 14, 17, and 23).

The Service is not presently aware of specific issues with the management of prohibited wildlife species possessed by State colleges, State universities, State agencies, or State-licensed veterinarians under the BCPSA exception at 16 U.S.C. 3372(e)(2)(B). However, consistent with the BCPSA at 16 U.S.C. 3376, the Service intends to consult with relevant State agencies on whether there should be any uniform recordkeeping requirements for State colleges, State universities, State agencies, or State-licensed veterinarians, which might later be included in the regulations. To meet the deadline for the 180-day registration period, we have been unable to engage in such consultations prior to publication of this interim rule and accordingly have made no changes to the regulatory requirements for State colleges, State universities, State agencies, or State-licensed veterinarians at this time.

As outlined above, exhibitors with valid USDA Class C licenses and Federal facilities registered with USDA are excepted from the BCPSA registration requirement. However, they are prohibited by the BCPSA from allowing direct physical contact with their big cats, except under one of three conditions outlined in the statute. The first two exceptions cover necessary physical contact by an individual who is (1) a trained professional employee or contractor of the USDA-licensed entity or USDA-registered Federal facility (or an accompanying employee receiving professional training) or (2) a licensed veterinarian (or a veterinary student accompanying such veterinarian) (16 U.S.C. 3372(e)(2)(A)(i)(I)–(II)). Finally, the BCPSA provides an exception if there is direct physical contact necessary for the conservation of the species (16 U.S.C. 3372(e)(2)(A)(i)(III)).

Under that limited conservation exception, the physical contact by the individual must be necessary to directly support conservation programs of the entity or facility, must not be in the course of commercial activity (as evidenced by advertisement or promotion of such activity or other relevant evidence), and must only be incidental to humane husbandry conducted pursuant to a species-specific, publicly available, peer-edited population management and care plan with necessary justifications, which has been provided to the Service for review and approval in accordance with the BCPSA. For example, a financial conservation contribution (whether through ticket sales, donation, or otherwise) in exchange for physical contact with big cats does not qualify for an exception under the BCPSA because it would be incompatible with these requirements and the purposes of the statute. In considering direct physical contact with big cats that would be allowed under such population management and care plans consistent with the conservation purposes of the exception, we anticipate that it could be by a trained professional employee or contractor of another excepted entity or facility operating in accordance with the approved plan, or by a third party researcher in the course of bona fide scientific research on the conservation

of big cat species and in accordance with the approved plan.

We invite comments on elements that should be included in population management and care plans under the BCPSA, including the scenarios under which an individual who is not a trained professional employee or contractor of the entity or facility, or licensed veterinarian, would need to come into direct physical contact with the prohibited wildlife species to directly support conservation of the species. We also invite comments on whether any of the terms in 16 U.S.C. 3372(e)(2)(A)(i)(III) require further regulatory definition to ensure successful implementation of population management and care plans in accordance with the conservation purposes of this BCPSA exception. See *Public Comments* below for more information.

Required Determinations

Clarity of This Rule: Executive Orders 12866 and 12988 and the Presidential Memorandum of June 1, 1998, require us to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Regulatory Planning and Review—Executive Orders 12866, 13563, and 14094: Executive Order 14094 reaffirms the principles of E.O. 12866 and E.O. 13563 and states that regulatory analysis should facilitate agency efforts to develop regulations that serve the public interest, advance statutory objectives, and are consistent with E.O. 12866, E.O. 13563, and the Presidential Memorandum of January 20, 2021 (Modernizing Regulatory Review). Regulatory analysis, as practicable and appropriate, shall recognize distributive impacts and equity, to the extent permitted by law. We have developed this interim rule in a manner consistent with these requirements.

E.O. 12866, as reaffirmed by E.O. 13563 and E.O. 14094, provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rulemaking action is significant.

The Service is proceeding under the emergency provision at E.O. 12866 section 6(a)(3)(D) based on the need to move expeditiously to implement the new prohibitions and exceptions enacted under the BCPSA. For transparency, the Service is presenting potential impacts of this interim rule, which implements the statutory directive as enacted under the BCPSA. The Service has minimal regulatory discretion because the statutory requirements are self-implementing even in the absence of the regulatory action. To clarify these impacts, we use two baselines: (1) a pre-statutory baseline showing the substantial portions of the impacts are a result of the statute, and (2) a post-statutory baseline showing the minimal discretionary elements of the action.

As noted above, the BCPSA applies to live specimens of ''prohibited wildlife species'' (also referred to as ''big cats''), which includes the following big cat species, or hybrids of any of these species: lion, tiger, leopard, snow leopard, clouded leopard, jaguar, cheetah, and cougar. Current law prohibits the import, export, purchase, sale, receipt, transport, or acquisition of big cats in interstate or foreign commerce, including across State lines or the national border. State regulations are fragmented, and there are no standardized databases on private ownership.

The BCPSA set forth new prohibitions on breeding, possession, and import, export, purchase, sale, receipt, transport, or acquisition of big cats in a manner substantially affecting interstate or foreign commerce, including intrastate activities. The BCPSA also revised exceptions for USDA-licensed/registered exhibitors, specifying applicable USDA-licensing/registration requirements and establishing requirements to disallow physical contact with the public; revised exceptions for wildlife sanctuaries by prohibiting transport offsite for display; and established new exceptions for registered owners of big cats owned on the date of enactment (December 20, 2022), including prohibiting registered pre-BCPSA owners from breeding, acquiring, or selling any big cats, or allowing their big cats to come into physical contact with the public.

U.S. market data for these regulated categories are not typically collected; however, the Congressional Budget Office (CBO) compiled a cost estimate to accompany the U.S. House Report 263 and BCPSA (July 2022).[1] All estimates are from the CBO cost estimate to depict the interim rule's impacts for the pre-statutory baseline scenario. CBO does not indicate the dollar year for the estimates. The CBO report does not identify any of the data sources informing its cost estimates nor how it otherwise produced its estimates of forgone income. CBO states all cost estimates are forgone revenue. Under the pre-statutory baseline, CBO estimates that some businesses (such as zoos and exhibitors) that own big cats will incur costs. The bulk of these costs will be incurred by businesses that allow direct contact between the public and prohibited wildlife species. CBO estimates that 30 exhibitors and 150 privately owned facilities offer physical contact with big cats. Under the BCPSA, CBO estimates the cost of prohibiting these encounters would be $80 million annually in forgone income. Additionally, CBO estimates licensed owners and trainers that offer big cats for movies would incur costs of $20 million annually in forgone income.

It is unknown whether exhibitors or facilities will choose to continue encounters and ensure that no member of the public comes into direct physical contact with the animals and ensure that, during public exhibition of a lion, tiger, leopard, snow leopard, jaguar, cougar, or any hybrid thereof, the animal is at least 15 feet from members of the public unless there is a permanent barrier sufficient to prevent public contact, as required under the BCPSA. Facilities are not required to upgrade their infrastructure unless doing so is necessary to meet the requirements of 16 U.S.C. 3372(e)(2)(A) to prevent public contact based on the activities in which they choose to engage with big cats. CBO does not estimate costs that would be incurred to ensure no direct physical contact with the public and that during exhibition the public remains 15 feet away from the animals or the cost of a permanent barrier sufficient to prevent public contact. Furthermore, transporting and displaying big cats will also be prohibited unless excepted under the BCPSA, but CBO does not estimate the cost incurred due to this prohibition.

[1] The U.S. House Report 263 and the CBO's cost estimate are available in the docket on *www.regulations.gov*. They are also available at *https://www.govinfo.gov/content/pkg/CRPT-117hrpt428/pdf/CRPT-117hrpt428.pdf* and *https://www.cbo.gov/system/files/2022-07/hr0263_0.pdf*.

CBO estimates the costs for current private owners of big cats owned on the date of the statute's enactment. Examples of exceptions under the BCPSA include exhibitors with USDA Class C licenses, State agencies, State colleges, State universities, State-licensed veterinarians, and wildlife sanctuaries. Additionally, under the BCPSA, an exception is provided for possession by registered pre-BCPSA owners, who are prohibited from breeding, acquiring, or selling any big cats, or allowing their big cats to come into physical contact with the public. According to CBO, forgone revenue of approximately $1.6 million may be incurred by private owners due to the prohibition of breeding, acquiring, and selling big cats because about 200 cubs with an average value of $8,000 each will no longer be allowed to be bred, bartered, traded, or sold. CBO states that the value of cubs was derived from industry sources. CBO does not estimate forgone revenue incurred by private owners that can no longer sell adult big cats. The statute requires that protocols also be taken to prevent breeding, which could include sterilization, segregating by sex, or other methods. CBO does not estimate the cost of these protocols, and it is unknown how private owners will choose to prevent breeding. Furthermore, current private owners will be required to register their big cats by June 18, 2023, and the House report estimates 20,000 big cats are currently in private ownership in the United States. CBO expects registration costs for current owners that do not sell or trade big cats to be small. Estimating the black market and illegal trade is beyond the scope of this analysis.

The Service estimates approximately $259,000 to administer the information collection ($17,000 for amendment and recordkeeping activities and $242,000 for law enforcement activities). While the number of future enforcement actions is unknown, CBO estimates that the Service would incur costs of less than $500,000 annually after 2023 to maintain the registration database and conduct enforcement.

Under the pre-statutory baseline, benefits are expected to accrue due to the consistent regulations for big cats, which the Service presumes to include increased benefits to the general public in knowing that big cats will be taken care of and individual workers will be protected from risk of injury from big cats for which they provide care. According to the Animal Legal and Historical Center at Michigan State University, 20 States prohibit the private possession of wild or exotic pets, 27 States have a partial ban on possession of big cats or require permits for their possession, and 3 States have no ban (but may require health certificates or import permits).[2] The House report notes that privately owned big cats typically live in inadequate conditions that also threaten public safety. It references a Humane Society of the United States publication noting that, since 1990, around 300 dangerous incidents involving big cats in the United States have resulted in human injuries, mauling, and death. The Humane Society publication highlights a number of incidents, including a county caseworker bitten by a cougar at a private home, a child mauled by a cougar at a relative's home, a volunteer bitten by an adult tiger at a big cat rescue center, and a child clawed by a leopard during an encounter at a zoo.

Furthermore, big cats are often purchased when young, and many owners are unable to cope with the high-maintenance needs of mature big cats. The report points out that the burden of caring for big cats that have been abandoned because they are too dangerous to keep or too expensive to care for properly often lands on already financially strained sanctuaries or humane societies. The CBO report does not quantify these costs. While many wildlife sanctuaries depend on donations to support the abandoned big cats, it is beyond the scope of this analysis to estimate the willingness to pay among the general population to avoid big cats being euthanized versus adopted by a sanctuary. If there are fewer abandoned big cats, then there may be a reduced cost for sanctuaries supporting big cats. It is beyond the scope of this analysis to estimate the benefit of reducing costs for sanctuaries.

Under the post-statutory baseline, the Service has not added any additional measures beyond those necessary to implement the requirements of the BCPSA. The Service is incorporating the new prohibitions, requirements, and exceptions of the BCPSA into its regulations. To comply with the BCPSA's requirements for each registrant and each individual big cat, and to ensure sufficient information to differentiate among individual big cats, to register with the Service, the registrant must mark each individual big cat with a unique identifier that is either a tattoo or a microchip. Each registrant must also provide the Service with detailed identifying information for each big cat and information regarding compliance with protocols taken to prevent breeding and direct contact between the public and prohibited wildlife species, and update this information when changes occur. As noted above, the approved BCPSA registration form is available on the Service website at: *https://www.fws.gov/media/3-200-11-big-cat-public-safety-act-registration-form.* BCPSA-excepted USDA-licensed entities, USDA-registered Federal facilities, wildlife sanctuaries, and registered pre-BCPSA owners will be required to maintain records of their BCPSA activities with big cats and provide access to their big cats and big cat facilities by Service officials at reasonable hours to ensure ongoing compliance with all requirements of these limited BCPSA exceptions. The Service's registration and record maintenance processes ensure the public is in compliance with the BCPSA. All incurred costs and benefits are due to the statute and not any of the Service's discretionary actions under the interim rule.

This rule will not create inconsistencies with other agencies' actions. We are the lead Federal agency regulating international wildlife trade, the issuance of permits to conduct activities affecting federally protected wildlife and their habitats, and carrying out the United States' obligations under CITES. Therefore, this rule has no effect on other agencies' responsibilities and will not create inconsistencies with other agencies' actions.

This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. This rule will not change the fee schedule for any permits issued by the Service or any licenses or registrations issued by the USDA.

This rule is based upon Congress' passage of the BCPSA, which reflects a heightened concern for public safety resulting from the use of big cats as pets and the increased risk of danger to members of the public when given opportunities for direct contact with big cats. This rule would decrease the risk to public safety as is reflected in the Humane Society report cited in the House report as discussed previously. This rulemaking does not establish new prohibitions for big cats outside of those already established by statute. As directed by Congress' passage of the BCPSA, this rulemaking includes the BCPSA's new registration requirement. This rulemaking will update the regulations to conform to the new statutory requirements and enable affected members of the public to comply with the statute's requirement to register big cats that fall under the statute's pre-BCPSA exception by June 18, 2023.

[2] *https://www.animallaw.info/content/map-private-exotic-pet-ownership-laws.*

Regulatory Flexibility Act (5 U.S.C. 601 et seq.) and Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2)): The Regulatory Flexibility Act (RFA) generally requires that when an agency issues a proposed rule, or a final rule pursuant to section 553(b) of the Administrative Procedure Act (APA) or another law, the agency must prepare a regulatory flexibility analysis that meets the requirements of the RFA and publish such analysis in the **Federal Register** (5 U.S.C. 603, 604). Specifically, the RFA normally requires agencies to describe the impact of a rulemaking on small entities by providing a regulatory impact analysis that determines whether impacts exceed a threshold for ''significant impact'' and a threshold for a ''substantial number of small entities.'' Under the interim rule, impacted small entities include zoos (North American Industry Classification System (NAICS) 712130) with receipts less than $34 million and travelling exhibits (NAICS 712110) with receipts less than $34 million. As noted previously, all impacts under the interim rule are due to the statute and not the Service's discretionary actions.

As discussed below in the *Need for Interim Rule* section, consistent with the APA, the Service has determined for good cause that general notice and opportunity for public comment is impracticable, unnecessary, and contrary to the public interest, and, therefore, the Service is not issuing a notice of proposed rulemaking. Rules that are exempt from notice and comment are also exempt from the RFA requirements, including conducting a regulatory flexibility analysis, when among other things the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest (Small Business Administration's Office of Advocacy guide: *How to Comply with the Regulatory Flexibility Act, Ch. 1, p. 9* (August 2017)). Accordingly, the Service is not required to conduct a regulatory flexibility analysis.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.): Under the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), this rule will have no effects. This rule will not significantly or uniquely affect small governments. A small government agency plan is not required. We are the lead Federal agency regulating international wildlife trade, the issuance of permits to conduct activities affecting federally protected wildlife and their habitats, and carrying out the United States' obligations under CITES. No small government assistance or impact is expected as a result of this rule.

This rule will not produce a Federal requirement that may result in the combined expenditure by State, local, or Tribal governments of $100 million or greater in any year, so it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act. This rule will not result in any combined expenditure by State, local, or Tribal governments.

Executive Order 12630 (Takings): Under Executive Order 12630, this rule does not have significant takings implications or affect any constitutionally protected property rights. We have analyzed this regulation under Executive Order 12630 and have determined that it does not result in takings: This rule will not result in physical occupancy of property or physical invasion of property by the Government or in a regulatory taking. This rule is based upon Congress' passage of the BCPSA.

Executive Order 13132 (Federalism): Under Executive Order 13132, this rule does not have significant federalism effects. This rule is based upon Congress' passage of the BCPSA. The legislative history is clear that where State laws have varied in their restrictions on commerce in or possession, breeding, or use (including public contact) of big cats, the BCPSA establishes uniform Federal policy, and Congress intended the BCPSA to supersede or preempt State law under the Supremacy Clause of the Constitution to the extent that it may permit what is prohibited by the BCPSA with regard to commerce in, possession, breeding, or use (including public contact) of big cats (H. Rept. No. 117–428, pp. 4, 32; July 22, 2022). Therefore, a federalism assessment is not required.

Executive Order 12988 (Civil Justice Reform): Under Executive Order 12988, the Office of the Solicitor has determined that this rule does not overly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. Specifically, this rule has been reviewed to eliminate errors and ensure clarity, has been written to minimize lawsuits, provides a clear legal standard for affected actions, and specifies in clear language the effect on existing Federal law or regulation.

Paperwork Reduction Act: This interim rule contains existing and new information collections. All information collections require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number.

On March 20, 2023, we published in the **Federal Register** (88 FR 16657) a notice of our intent to request that OMB approve our request for emergency clearance of information collections associated with the BCPSA. OMB reviewed and approved the emergency clearance request associated with the initial registration and registration amendment information collections and assigned OMB Control Number 1018–0192, ''Big Cat Public Safety Act Registration'' (expires 10/31/2023). OMB previously reviewed and approved the recordkeeping requirements under the CWSA and assigned OMB Control Number 1018–0129, ''Captive Wildlife Safety Act, 50 CFR 14.250–14.255'' (expires 07/31/2025).

In an effort to increase public awareness of, and participation in, our public commenting processes associated with information collection requests, the Service also posted the **Federal Register** notice on *Regulations.gov* (Docket No. FWS–HQ–IA–2023–0031) to provide the public with an additional method to submit comments (in addition to the typical *Info_Coll@fws.gov* email and U.S. mail submission methods). As of May 19, 2023, we received the following comments in response to the **Federal Register** notice:

Comment 1: Electronic comment received March 20, 2023, via *Regulations.gov* (FWS–HQ–IA–2023–0031–0002) from Jean Publiee. The commenter expressed concern about exhibition of cats in the United States and trophy hunting of large cats outside of the United States.

Agency Response to Comment 1: We consider this comment to be beyond the scope of this information collection request. As part of our continuing effort to reduce paperwork and respondent burdens, we have invited the public and other Federal agencies to comment on this new collection of information. The comment did not address the information collections. We did not make any changes to our approval request to OMB as a result of this comment.

Comment 2: Electronic comment received March 20, 2023, via *Regulations.gov* (FWS–HQ–IA–2023–0031–0003) from Jean Publiee. The commenter provided a personal commentary regarding the Service's conservation efforts and other agency's land management practices.

Agency Response to Comment 2: We consider this comment to be beyond the scope of this information collection request. As part of our continuing effort

to reduce paperwork and respondent burdens, we have invited the public and other Federal agencies to comment on this new collection of information. The comment did not address the information collections. We did not make any changes to our approval request to OMB as a result of this comment.

Comment 3: Anonymous electronic comment received March 21, 2023, via *Regulations.gov* (FWS–HQ–IA–2023–0031–0004). The commenter submitted an inquiry regarding the Federal Government's role in the regulation of intrastate ownership and breeding of big cats.

Agency Response to Comment 3: We consider this comment to be beyond the scope of this information collection request. The information collection is required to implement the registered pre-BCPSA owner exception of the BCPSA (16 U.S.C. 3372(e)(2)(E)). Additionally, the BCPSA, at 16 U.S.C. 3376(a)(3), provides that the Secretary shall promulgate any regulations necessary to implement the prohibitions and exceptions of the BCPSA (16 U.S.C. 3372(e)). As part of our continuing effort to reduce paperwork and respondent burdens, we have invited the public and other Federal agencies to comment on this new collection of information. The comment did not address the information collections. We did not make any changes to our approval request to OMB as a result of this comment.

Comment 4: Anonymous electronic comment received March 24, 2023, via *Regulations.gov* (FWS–HQ–IA–2023–0031–0008 duplicated at FWS–HQ–IA–2023–0031–0009). The commenter submitted a question regarding concern with a possible future scenario after the BCPSA registration period where a current licensed exhibiter no longer has a USDA Class C license and, therefore, is no longer excepted from prohibitions under the BCPSA. Two additional commenters (Comment 6 and Comment 9) also raised this concern and the possibility of registering now as a backup option if a current USDA Class C license holder later no longer has a USDA Class C license.

Agency Response to Comment 4: We consider this comment to be beyond the scope of this information collection request. The BCPSA provides a one-time 180-day period from December 20, 2022, to June 18, 2023, to current private owners in which to register their big cats under the BCPSA, allowing them to keep their current animals if they register them with the Service and meet all the BCPSA requirements for a registered pre-BCPSA owner. The Service does not have discretion to extend the statutory deadline. Certain entities outlined in the statute, including exhibitors with valid USDA Class C licenses, USDA-registered Federal facilities, State agencies, State colleges and universities, State-licensed veterinarians, and sanctuaries, are excepted from the requirement to register their big cats with the Service subject to certain requirements.

There may be some circumstances where an entity that is in possession of only pre-BCPSA big cats meets the criteria of both 16 U.S.C. 3372(e)(2)(A) and (e)(2)(E). It is up to a USDA-licensed Class C exhibitor to decide if they wish to register under the BCPSA, if they meet the requirements for a registered pre-BCPSA owner. Registration would prohibit any otherwise qualifying USDA-licensed Class C exhibitor from breeding, acquiring, or selling any big cats, and any USDA-licensed Class C exhibitor that has engaged in breeding, acquiring, or selling any big cats after December 20, 2022, does not qualify for the registration exception under the BCPSA.

Please also see response to Comment 11. Under the BCPSA, if the individual no longer qualifies for an exception, then they are prohibited from possessing prohibited wildlife species. For any individual or entity that does not qualify for another BCPSA exception, does not qualify for the registered pre-BCPSA owner exception, does not want to register, or otherwise no longer wishes to possess their big cat, there are responsible options available to comply with the BCPSA. Such persons may make arrangements to donate their big cat to another person or entity that qualifies to possess big cats under one of the other exceptions of the BCPSA outlined in 16 U.S.C. 3372(e)(2)(A)–(C). As part of our continuing effort to reduce paperwork and respondent burdens, we have invited the public and other Federal agencies to comment on this new collection of information. The comments did not address the information collections, and we did not make any changes to our approval request to OMB as a result of these comments.

Comment 5: Anonymous electronic comment received March 27, 2023, via *Regulations.gov* (FWS–HQ–IA–2023–0031–0010). The commenter asked whether USDA C class holders are still able to legally breed and transport (across State lines) prohibited wildlife species under the BCPSA.

Agency Response to Comment 5: We consider this comment to be beyond the scope of this information collection request. Each person involved in an otherwise prohibited activity must qualify for a BCPSA exception that applies to that activity for the activity to be excepted from BCPSA prohibitions. A USDA-licensed Class C exhibitor that qualifies under 16 U.S.C. 3372(e)(2)(A) may, for example, sell to, purchase from, or engage in a breeding loan with another licensed exhibitor that qualifies under 16 U.S.C. 3372(e)(2)(A). However, for example, in accordance with 16 U.S.C. 3372(e)(1), (e)(2)(C), and (e)(2)(E), a licensed exhibitor may not sell to, purchase from, or engage in a breeding loan with a person or entity that does not qualify for a BCPSA exception, a wildlife sanctuary, or an individual or entity that registers under the registered pre-BCPSA owner exception. This is the case because a person who does not qualify for a BCPSA exception, a wildlife sanctuary, or an individual or entity that registers under the pre-BCPSA exception may neither engage in commerce with big cats nor breed big cats. As part of our continuing effort to reduce paperwork and respondent burdens, we have invited the public and other Federal agencies to comment on this new collection of information. The comments did not address the information collections, and we did not make any changes to our approval request to OMB as a result of these comments.

Comment 6: Anonymous electronic comment received April 2, 2023, via *Regulations.gov* (FWS–HQ–IA–2023–0031–0011). The commenter raised three issues in their comment: First, the commenter asserted that very few private owners of prohibited wildlife species have access to information to know that they need to register their cats by a certain date. Second, the commenter is also concerned about the release of information related to the names and addresses of registrants of pre-BCPSA prohibited wildlife species through Freedom of Information Act (FOIA) requests. Third, the commenter recommends reworking the grandfather clause in the BCPSA to make it fairer to owners and the captive big cats by providing a consideration for owners who no longer qualify for a USDA license.

Agency Response to Comment 6: The BCPSA was enacted December 20, 2022. As stated above, to comply with the requirements of the BCPSA, the Service provided the public with notice of the BCPSA registration form and sought OMB approval of FWS Form 3–200–11, ''Registration Form—Big Cat Public Safety Act'' (Pub. L. 117–243, December 20, 2022, 136 Stat. 2336), which collects information to verify eligibility to

possess big cats under the BCPSA in accordance with 16 U.S.C. 3372(e)(2)(E). The BCPSA emergency information collection for the BCPSA registration form was approved and assigned OMB Control Number 1018–0192. The OMB approval is valid for only 6 months and expires October 31, 2023 (See 88 FR 16657, March 20, 2023, Agency Information Collection Activities; Big Cat Public Safety Act Registration.). The Service further announced the availability of the registration form on its website on April 18, 2023: *https://www.fws.gov/media/3-200-11-big-cat-public-safety-act-registration-form*. In addition to publishing notice of this information collection in the **Federal Register** on March 20, 2023, and posting it to the Service's website, the Service has also engaged in and continues to engage in public outreach to message requirements to the public and ensure relevant individuals and entities are aware of the requirements. We did not make any changes to our approval request to OMB as a result of this comment.

In regard to the commenter's second concern, the Service has a responsibility to protect personally identifiable information (PII) for employees and members of the public as required by the Privacy Act of 1974 (5 U.S.C. 552a). The Service has a Privacy program that ensures that all PII entrusted to the Service from members of the public, project partners, and personnel is protected and handled according to the Fair Information Practice Principles upon which the Privacy Act and other privacy legislation is based. For more information, please visit: *https://www.fws.gov/program/privacy*.

The third issue raised by the commenter is outside the scope of the information requested and is addressed above in Comment 4. Please see the response to Comment 4. We did not make any changes to our approval request to OMB as a result of this comment.

Comment 7: Anonymous electronic comment received April 11, 2023, via *Regulations.gov* (FWS–HQ–IA–2023–0031–0012). The commenter seeks additional descriptions for ''permanent barrier'' terminology and clarification on the ''15 feet'' distance requirements as required by the form. The commenter questioned how the 15-foot distance would be enforced if it is in a vertical orientation.

Agency Response to Comment 7: The information collection is to implement the registered pre-BCPSA owner exception under the BCPSA and does not specify a ''permanent barrier'' or 15-foot distance requirement (16 U.S.C. 3372(e)(2)(E)). The comment refers to the restriction on public contact by an exhibitor under a separate exception of the BCPSA (16 U.S.C. 3372(e)(2)(A)). That exception requires that a licensed entity or a registered Federal facility must ensure that during public exhibition of a lion (*Panthera leo*), tiger (*Panthera tigris*), leopard (*Panthera pardus*), snow leopard (*Uncia uncia*), jaguar (*Panthera onca*), cougar (*Puma concolor*), or any hybrid thereof, the animal is at least 15 feet from members of the public unless there is a permanent barrier sufficient to prevent public contact (16 U.S.C. 3372(e)(2)(A)(ii)). The BCPSA places a similar requirement on a registered pre-BCPSA owner not to allow direct contact between the public and any prohibited wildlife species (16 U.S.C. 3372(e)(2)(E)(iii)). The information collection therefore requests information on the protocols taken to prevent direct contact between the public and prohibited wildlife species to ensure compliance with this requirement.

While a registered pre-BCPSA owner may be able to provide evidence of other ways to prevent all direct contact between the public and prohibited wildlife species at all times, we consider that under the BCPSA if a registered pre-BCPSA owner ensures at all times that any big cat is at least 15 feet in every direction from any member of the public or if there is a permanent barrier sufficient to prevent public contact, then this requirement would be met. We did not make any changes to our approval request to OMB as a result of this comment.

Comment 8: Anonymous electronic comment received April 22, 2023, via *Regulations.gov* (FWS–HQ–IA–2023–0031–0013). The commenter provided a personal commentary on big cat ownership and referred to the BCPSA as a proposal.

Agency Response to Comment 8: The BCPSA was passed and became Public Law 117–243 on December 20, 2022. It is a law and not a proposal. This information collection will assist the public in complying with the law. We did not make any changes to our approval request to OMB as a result of this comment.

Comment 9: Electronic comment received April 22, 2023, via *Regulations.gov* (FWS–HQ–IA–2023–0031–0014) from Lynn Culver. The commenter expressed concern about the impacts to big cat owners due to loss of licenses if commercial activities cease. Additionally, the commenter recommended more detailed description on the registration page that addresses the status of currently exempted entities and includes encouragement to register now in order to secure a secondary exemption status that would become primary should the big cat owner end their exhibition license.

Agency Response to Comment 9: Please see response to Comment 4. We did not make any changes to our approval request to OMB as a result of this comment.

Comment 10: Anonymous electronic comment received April 23, 2023, via *Regulations.gov* (FWS–HQ–IA–2023–0031–0015). The commenter expressed concern about the requirement for the unique identifier of every big cat to be either a tattoo or microchip, stating that this requirement is unreasonable, unjustified, costly, and potentially deadly due to the danger of sedating big cats.

Agency Response to Comment 10: No information was provided to support the concern expressed in the comment regarding the costs associated with these identifiers or dangers of sedation for big cats for a short, minimally invasive procedure such as microchip implantation or tattoo marking. The form requests a unique identifier for registered big cats, which will allow the animals to be readily and accurately identified and prevent laundering of unregistered big cats. This requirement is necessary to accurately identify individual animals in compliance with the registered pre-BCPSA owner exception (16 U.S.C. 3372(e)(2)(E)). We did not make any changes to our approval request to OMB as a result of this comment.

Comment 11: Anonymous electronic comment received April 24, 2023, via *Regulations.gov* (FWS–HQ–IA–2023–0031–0016). The commenter expressed concern about the legality of the BCPSA registration form and regulation of intrastate activities due to the reference to intrastate activity, whereas this term is not included in 16 U.S.C. 3372(e)(2)(E)(ii).

Agency Response to Comment 11: The text of the BCPSA sets forth the requirement that, in order to qualify for the registered pre-BCPSA owner exception to the BCPSA prohibition on possession, the registrant must not ''breed, acquire, or sell any prohibited wildlife species after December 20, 2022'' (16 U.S.C. 3372(e)(2)(E)(ii)). The plain text of this statutory requirement is without limitation to whether the activity is intrastate, interstate, or international. We did not make any changes to our approval request to OMB as a result of this comment.

Comment 12: Electronic comment received April 26, 2023, via

Regulations.gov (FWS–HQ–IA–2023–0031–0017) from Lynn Culver. The commenter expressed concern that there are ''practically'' no privately owned big cats in the United States and those held in facilities with USDA Class B status should be exempted once they are registered. The commenter also claims genetic diversity of big cat species is facing a crisis and will become a greater issue if USDA Class B facilities are prohibited.

Agency Response to Comment 12: This information collection will assist the public in complying with the law. With the exception of cost estimates, we consider the points raised in this comment to be beyond the scope of this information collection request. The BCPSA provides a one-time 180-day period from December 20, 2022, to June 18, 2023, to current private owners in which to register their big cats under the BCPSA, allowing them to keep their current animals if they register them with the Service and meet all the BCPSA requirements for a registered pre-BCPSA owner. The Service does not have discretion to extend the statutory deadline.

Certain entities outlined in the statute, including exhibitors with valid USDA Class C licenses, are excepted from the requirement to register their big cats with the Service subject to certain requirements. The Service does not have discretion to extend the BCPSA's exhibitor exception for qualifying holders of Class C licenses (16 U.S.C. 3372(e)(2)(A)) to holders of Class B licenses. Under the BCPSA, individuals who do not qualify for an exception are prohibited from possessing prohibited wildlife species. We did not make any changes to our approval request to OMB as a result of this comment.

Regarding cost estimates, we estimate that we will receive 7,263 responses totaling 7,263 burden hours. We estimate the dollar value of the burden hours for the initial registration will be $299,577. After the initial registration, the annual cost for recordkeeping and reporting will drop substantially. We did not make any changes to our approval request to OMB as a result of this comment.

Comment 13: Anonymous electronic comment received May 15, 2023, via *Regulations.gov* (FWS–HQ–IA–2023–0031–0018). The commenter urged the Service to protect big cats and the general public.

Agency Response to Comment 13: We consider this comment to be beyond the scope of this information collection request. As part of our continuing effort to reduce paperwork and respondent burdens, we have invited the public and other Federal agencies to comment on this new collection of information. The comment did not address the information collections. We did not make any changes to our approval request to OMB as a result of this comment.

Comment 14: Anonymous electronic comment received May 15, 2023, via *Regulations.gov* (FWS–HQ–IA–2023–0031–0019). The commenter states that cheetahs and clouded leopards are not included under the BCPSA and asks why the Service is requiring them to be registered.

Agency Response to Comment 14: As previously stated, ''prohibited wildlife species'' (also referred to as ''big cats'') is defined by statute as ''any live species of lion, tiger, leopard, cheetah, jaguar, or cougar or any hybrid of such species'' (16 U.S.C. 3371(h)). These are the following species, or hybrids of any of these species: lion (*Panthera leo*), tiger (*Panthera tigris*), leopard (*Panthera pardus*), snow leopard (*Uncia uncia*), clouded leopard (*Neofelis nebulosa*), jaguar (*Panthera onca*), cheetah (*Acinonyx jubatus*), and cougar (*Puma concolor*) (50 CFR 14.252).

The comment refers to the restriction on public contact by an exhibitor under a specific exception of the BCPSA, 16 U.S.C. 3372(e)(2)(A)(ii). The exception requires that a licensed entity or a registered Federal facility must ensure that, during public exhibition of a lion (*Panthera leo*), tiger (*Panthera tigris*), leopard (*Panthera pardus*), snow leopard (*Uncia uncia*), jaguar (*Panthera onca*), cougar (*Puma concolor*), or any hybrid thereof, the animal is at least 15 feet from members of the public unless there is a permanent barrier sufficient to prevent public contact (16 U.S.C. 3372(e)(2)(A)(ii)). This specific provision does not apply to clouded leopard, cheetah, or hybrids of only those two species. The provisions at 16 U.S.C. 3372(e)(2)(A)(ii) apply to all other prohibited wildlife species, including for example, if a clouded leopard or cheetah were hybridized with another big cat species. We did not make any changes to our approval request to OMB as a result of this comment.

Comment 15: Electronic comment received May 18, 2023, via *Regulations.gov* (FWS–HQ–IA–2023–0031–0020) from Lynn Culver. The commenter questioned why an exhibitor that may at some point in the future become a USDA-licensed C exhibitor should be required to sign a certification statement on Form 3–200–11, ''Registration Form—Big Cat Public Safety Act'' certifying that they will not breed, acquire, or sell any big cat after December 20, 2022, if they may in the future be eligible for an exception under the BCPSA.

Agency Response to Comment 15: To meet the requirements of 16 U.S.C. 3372(e)(2)(E)(ii), a registrant is required to certify that they have not bred, acquired, or sold and will not breed, acquire, or sell any big cat after December 20, 2022. As noted in response to Comment 4, there may be some circumstances where an entity that is in possession of only pre-BCPSA big cats meets the criteria of both 16 U.S.C. 3372(e)(2)(A) and 16 U.S.C. 3372(e)(2)(E). If a registered pre-BCPSA owner later becomes a USDA-licensed Class C exhibitor, the registration requirements of 16 U.S.C. 3372(e)(2)(E)(ii) that allow for continued possession of the big cats would prohibit that registrant from breeding, acquiring, or selling any big cats after December 20, 2022. We did not make any changes to our approval request to OMB as a result of this comment.

The existing and new reporting and/or recordkeeping requirements identified below require approval by OMB under OMB Control Number 1018–0192 in conjunction with this interim rule:

(1) *Discontinuation of Initial Registration Requirement—Form 3–200–11, ''Registration Form–Big Cat Public Safety Act'' (Pub. L. 117–243, December 20, 2022, 136 Stat. 2336)*—There are no exceptions to the June 18, 2023, deadline to comply with the requirements of the BCPSA requiring registration of big cats. Therefore, effective June 19, 2023 (or on the date of OMB approval of this submission), we are requesting OMB approval to discontinue the previously approved information collection associated with the initial registration.

(2) *Amendments—Form 3–200–11, ''Registration Form–Big Cat Public Safety Act'' (Pub. L. 117–243, December 20, 2022, 136 Stat. 2336)*—Following the initial registration, as is also required under Form 3–200–11, owners must provide the Service with updates if information concerning the registered big cats changes, as follows:

50 CFR 14.255(d)—Within 10 calendar days as required by the Service in Form 3–200–11, a registered pre-BCPSA owner must update the registration with the Service when a prohibited wildlife species dies or any of the following information changes: The location where the prohibited wildlife species is housed; the protocols taken to prevent breeding; the protocols taken to prevent direct contact between

the public and big cat; ownership; or a unique identifier.

(3) *Population Management and Care Plan (50 CFR 14.254(a)(3))*—To qualify for an exception in § 14.257, under certain circumstances a USDA-licensed entity or USDA-registered Federal facility must provide a population management and care plan to the Service for consideration in accordance with the BCPSA (16 U.S.C. 3372(e)(2)(A)(i)(III)). If a licensed entity or registered Federal facility allows any person who is neither (1) a trained professional employee or contractor of the licensed entity (or an accompanying employee receiving professional training) nor (2) a licensed veterinarian (or a veterinary student accompanying such a veterinarian) to come into direct physical contact with prohibited wildlife, then prior to allowing any such individual to come into direct physical contact with prohibited wildlife species the conservation program of the licensed entity or registered Federal facility must meet certain requirements. One requirement is that the licensed entity or registered Federal facility must provide a species-specific, publicly available, peer-edited population management and care plan to the Director with justifications that the plan:

- Reflects established conservation science principles;
- Incorporates genetic and demographic analysis of a multi-institution population of animals covered by the plan; and
- Promotes animal welfare by ensuring that the frequency of breeding is appropriate for the species.

(4) *Recordkeeping Requirements*—We do not anticipate the recordkeeping requirements will impose any significant burden, because the maintenance of these records is typically a normal business practice. Therefore, complying with the requirement to make records available can likely be met by making available and copying, if needed, a small number of documents pertaining to the possession, transportation, acquisition, disposition, importation, or exportation of the prohibited wildlife species, which we estimate can be completed in an hour or less.

a. *50 CFR 14.254(c), Licensed Entity or Registered Federal Facility*—To qualify for an exception in § 14.257, a licensed entity or a registered Federal facility must maintain complete and accurate records of any possession, breeding, transportation, acquisition, receipt, purchase, sale, disposition, importation, or exportation of prohibited wildlife species.

1. These records must be up to date and include the names and addresses of persons to or from whom any prohibited wildlife species has been acquired, received, imported, exported, purchased, sold, or otherwise transferred (including loans for exhibition, breeding, or otherwise), and the dates of these transactions.

2. The licensed entity or registered Federal facility must maintain these records for the lifespan of each prohibited wildlife species and for 5 years after its death or disposition and must copy these records for Service officials, if requested.

3. The licensed entity or registered Federal facility must make these records available and allow access to its facilities and its prohibited wildlife specimens for inspection by Service officials at reasonable hours.

b. *50 CFR 14.255(e), Registered Pre-BCPSA Owners*—A registered pre-BCPSA owner must maintain complete and accurate records of information for each individual prohibited wildlife species in their possession as required by the Service in the BCPSA registration form (Form 3–200–11) for the lifespan of each individual prohibited wildlife species and for 5 years after its death or disposition and must copy these records for Service officials, if requested.

1. While the pre-BCPSA owner may not sell or otherwise engage in commerce with prohibited wildlife species, if the pre-BCPSA owner is no longer able to continue to possess their prohibited wildlife species, the pre-BCPSA owner may make arrangements to donate the prohibited wildlife species to a licensed entity, State college, State university, State agency, State-licensed veterinarian, or a wildlife sanctuary, or may make arrangements to abandon the prohibited wildlife species to the Federal Government. The disposition must not be reasonably likely to result in the registered pre-BCPSA owner's economic use, gain, or benefit, including, but not limited to, profit (whether in cash or in kind).

2. These records must be up to date, and the registered pre-BCPSA owner must make these records available and allow access to their facilities and prohibited wildlife specimens for inspection by Service officials at reasonable hours.

c. *50 CFR 14.256(b), Wildlife Sanctuaries*—A wildlife sanctuary must maintain complete and accurate records of any possession, transportation, acquisition, receipt, disposition, importation, or exportation of prohibited wildlife species.

1. These records must be up to date and must include the names and addresses of persons to or from whom any prohibited wildlife species has been acquired, received, imported, exported, or otherwise transferred, and the dates of these transactions.

2. The wildlife sanctuary must maintain these records for the lifespan of each prohibited wildlife species and for 5 years after its death or disposition and must copy these records for Service officials, if requested.

3. The wildlife sanctuary must make these records available and allow access to its facilities and its prohibited wildlife specimens for inspection by Service officials at reasonable hours.

d. *50 CFR 14.257(a), Documentation To Transport Live Prohibited Wildlife*—The prohibitions of § 14.253 do not apply to licensed entities or registered Federal facilities that meet all of the requirements of § 14.254; State colleges, State universities, or State agencies; State-licensed veterinarians; wildlife sanctuaries that meet all of the requirements of § 14.256; or persons who:

1. Can produce documentation showing that they are transporting live prohibited wildlife species solely for the purpose of expeditiously transporting the prohibited wildlife species between individuals or entities that are excepted from the prohibitions in § 14.253; and

2. Has no financial interest (whether in cash or in kind) in the prohibited wildlife species other than payment received for transporting them.

e. *50 CFR 14.257(b), Documentation of Date of Breeding*—The prohibition on possession in § 14.253 does not apply to a registered pre-BCPSA owner who is in possession of any prohibited wildlife species that was:

1. Born and possessed by the registered pre-BCPSA owner before the date of enactment of the BCPSA and meets all of the requirements of § 14.255 for each of the prohibited wildlife species in their possession; or

2. Bred before and born on or after the date of enactment of the BCPSA, to a prohibited wildlife species possessed by the registered pre-BCPSA owner before the date of enactment of the BCPSA, if the registered pre-BCPSA owner provides documentation demonstrating that the breeding occurred before the date of enactment of the BCPSA, and the person meets all of the requirements of § 14.255 for each of the prohibited wildlife species in their possession.

Title of Collection: Big Cat Public Safety Act Requirements.

OMB Control Number: 1018–0192.

Form Number: 3–200–11.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Individuals, private sector, and State/local/Tribal governments.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: $3,016.

Type of action	Number of annual respondents	Number of responses each	Total annual responses	Average completion time (hours)	Total annual burden hours
Amendments—Form 3–200–11, "Registration Form–Big Cat Public Safety Act":					
Reporting—Individuals	250	1	250	.5	250
Recordkeeping—Individuals				.5	
Reporting—Private Sector	250	1	250	.5	250
Recordkeeping—Private Sector				.5	
Population Management and Care Plan (50 CFR 14.254):					
Reporting—Private Sector	5	1	5	.5	5
Recordkeeping—Private Sector				.5	
Reporting—State/Local/Tribal Govt	1	1	1	.5	1
Recordkeeping—State/Local/Tribal Govt				.5	
Recordkeeping—50 CFR 14.254(c) Licensed Entity or a Registered Federal Facility:					
Reporting—Individuals	500	1	500	.25	500
Recordkeeping—Individuals				.75	
Reporting—Private Sector	500	1	500	.25	500
Recordkeeping—Private Sector				.75	
Reporting—State/Local/Tribal Govt	1	1	1	.25	1
Recordkeeping—State/Local/Tribal Govt				.75	
Recordkeeping—50 CFR 14.255(d) Registered Pre-BCPSA Owners:					
Reporting—Individuals	2,500	1	2,500	.25	2,500
Recordkeeping—Individuals				.75	
Reporting—Private Sector	2,500	1	2,500	.25	2,500
Recordkeeping—Sector				.75	
Recordkeeping—50 CFR 14.256(b) Wildlife Sanctuaries:					
Reporting—Private Sector	750	1	750	.25	750
Recordkeeping—Private Sector				.75	
Recordkeeping—50 CFR 14.257(a) Documentation to Transport Live Prohibited Wildlife:					
Reporting—Individuals	1	1	1	.25	1
Recordkeeping—Individuals				.75	
Reporting—Private Sector	1	1	1	.25	1
Recordkeeping—Private Sector				.75	
Reporting—State/Local/Tribal Govt	1	1	1	.25	1
Recordkeeping—State/Local/Tribal Govt				.75	
Recordkeeping—50 CFR 14.257(b) Documentation of Date of Breeding:					
Reporting—Individuals	1	1	1	.25	1
Recordkeeping—Individuals				.75	
Reporting—Private Sector	1	1	1	.25	1
Recordkeeping—Private Sector				.75	
Reporting—State/Local/Tribal Govt	1	1	1	.25	1
Recordkeeping—State/Local/Tribal Govt				.75	
Totals:	7,263		7,263		7,263

We also propose to discontinue OMB Control Number 1018–0129 in conjunction with this interim rule:

(1) *Recordkeeping—Captive Wildlife Safety Act, 50 CFR 14.250–14.255—* With this submission, the interim rule amends the recordkeeping requirements contained in this collection. We propose to merge the updated recordkeeping requirements into OMB Control Number 1018–0192. Upon receiving OMB approval of the transfer request, we will discontinue OMB Control Number 1018–0129 to avoid a duplication of burden.

Title of Collection: Captive Wildlife Safety Act, 50 CFR 14.250–14.255.

OMB Control Number: 1018–0129.

Form Number: None.

Type of Review: Discontinuance of a currently approved collection.

Total Estimated Number of Annual Respondents: 750.

Total Estimated Number of Annual Responses: 750.

Estimated Completion Time per Response: 1 hour.

Total Estimated Number of Annual Burden Hours: 750.

Respondents/Affected Public: Private sector.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: $300.

Send your written comments and suggestions on these information collections by the date indicated in **DATES** to OMB, with a copy to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB/PERMA (JAO), 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number 1018–

0192 in the subject line of your comments.

National Environmental Policy Act: The Service has analyzed this rule under the criteria of the National Environmental Policy Act of 1969, as amended (NEPA; 42 U.S.C. 4321, *et seq.*), Council on Environmental Quality NEPA regulations (40 CFR parts 1500–1508), and the Department of the Interior (DOI) NEPA regulations (43 CFR part 46). This rule will not amount to a major Federal action significantly affecting the human environment. Additionally, the NEPA compliance for this rulemaking is covered under a categorical exclusion pursuant to 43 CFR 46.210(i) in that this rule implements regulations that are of an administrative or procedural nature. Therefore, preparation of an environmental assessment or an environmental impact statement is not required.

Executive Order 13175 (Tribal Consultation) and 512 DM 2 (Government-to-Government Relationship With Tribes): Under the President's memorandum of April 29, 1994, ''Government-to Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on federally recognized Indian Tribes and have determined that there are no adverse effects. Individual Tribal members must meet the same regulatory requirements as other individuals who breed, possess, or import, export, transport, sell, receive, acquire, or purchase, in interstate or foreign commerce, the prohibited wildlife species.

Executive Order 13211 (Energy Supply, Distribution, or Use): Executive Order 13211 pertains to regulations that significantly affect energy supply, distribution, and use. The Executive order requires agencies to prepare statements of energy effects when undertaking certain actions. As noted above, the purpose of this rule is to implement the BCPSA by amending 50 CFR part 14, subpart K, Importation, Exportation, and Transportation of Wildlife, to incorporate the new definitions, prohibitions, and exceptions under the BCPSA. This rule is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no statement of energy effects is required.

Need for Interim Rule

The Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for prior public comment. 5 U.S.C. 553(b)(B). The Service finds that there is good cause to issue this interim rule without first providing for public comment. The primary purpose of the BCPSA is to amend the Lacey Act Amendments of 1981 to clarify and update provisions enacted by the CWSA with regard to prohibited activities with prohibited wildlife species—including by adding prohibitions on possession and breeding; import, export, transport, sale, receipt, acquisition, or purchase in a manner substantially affecting interstate or foreign commerce; prohibiting otherwise excepted exhibitors, sanctuaries, and registered owners from allowing public contact with big cats, including cubs; and prohibiting attempts to commit any of these acts—to address threats to public safety posed by lions, tigers, leopards, snow leopards, clouded leopards, jaguars, cheetahs, cougars, and any hybrids thereof, particularly those currently kept in private ownership in the United States, and to further the conservation of these wildlife species (16 U.S.C. 3371(a), (h), 3372(a)(4), (e); H. Rept. No. 117–428, pp. 3–4, July 22, 2022). Certain limited statutory exceptions are also provided by the BCPSA (16 U.S.C. 3372(e)(2)). Violators of the BCPSA are subject to civil and criminal penalties (16 U.S.C. 3373), and big cats bred, possessed, imported, exported, transported, sold, received, acquired, or purchased contrary to the provisions of the BCPSA shall be subject to forfeiture to the United States (16 U.S.C. 3374).

As of December 20, 2022, the regulations implementing the CWSA at 50 CFR part 14, subpart K, are, therefore, not in compliance with the new prohibitions and exceptions enacted by the BCPSA. To the extent of a conflict or inconsistency, the statute is controlling. Notwithstanding 50 CFR part 14, subpart K, any act prohibited by the BCPSA is currently unlawful, unless a relevant exception under the BCPSA applies. However, it undermines the public safety and conservation purposes of the BCPSA to maintain regulations in 50 CFR part 14, subpart K, that do not conform to current law. Additionally, publication of an interim rule will provide entities and individuals who must register their animal(s) with the Service an appropriate amount of time to comply with the requirement. As provided in the BCPSA, prohibited wildlife species required to be registered must be registered within 180 days after the date of enactment (*i.e.,* by June 18, 2023). It would not be possible to update the implementing regulations in advance of the 180-day deadline imposed by the BCPSA if we were first to publish a proposed rule, allowing for a public comment period and time to analyze comments received, followed by a final rule.

The Service is issuing this interim rule to implement the statutory directive in the BCPSA. The Service has no discretion to vary the amount of time available to register under the statute, nor does it have discretion to change the new prohibitions and exceptions enacted under the BCPSA. Delay in publishing updates to reflect and implement the new prohibitions and exceptions enacted under the BCPSA would undermine the public safety and conservation purposes of the BCPSA described in greater detail above, as it may result in delays in compliance by the regulated public and put the public at greater risk to the threats posed by big cats in private ownership. As noted above, U.S. House of Representatives Report No. 117–428 (July 22, 2022) provides an estimate of 20,000 big cats in private ownership in the United States and around 300 dangerous incidents since 1990 involving big cats and resulting in human injury or death, as well as the killing of big cats by first responders to restore public safety. Additionally, the House report notes that unwanted big cats may be sold into the exotic pet trade or the illegal market, or surrendered to already overburdened and financially strained wildlife sanctuaries. In addition to increased public safety, the BCPSA strengthens the Service's ability to combat wildlife trafficking, which will lead to benefits for the conservation of big cats. These concerns support the Service's decision to issue an interim rule to implement the statutory directive in the BCPSA. Accordingly, it would serve no purpose to provide an opportunity for public comment on a proposed rule prior to publication of this rule. Thus, pre-publication notice and public comment is impracticable, unnecessary, and contrary to the public interest.

For these reasons, we also find good cause in accordance with 5 U.S.C. 553(d)(3) to make the interim rule effective less than 30 days after the date of publication. Due to the significant risk to public safety posed by prohibited wildlife species and the need to ensure clarity on activities with prohibited wildlife species that are prohibited and excepted under the BCPSA; the fact that the activities prohibited by this rulemaking are already prohibited by

the BCPSA, as of December 20, 2022; and the effect of this rulemaking in recognizing and implementing exceptions provided by the BCPSA (providing additional grounds for an immediate effective date for those parts of this rule that recognize and implement an exception in accordance with 5 U.S.C. 553(d)(1)), this interim rule takes effect on the date of publication in the **Federal Register**.

Pursuant to subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (the Congressional Review Act), the Office of Information and Regulatory Affairs designated this rule as falling within the scope of 5 U.S.C. 804(2). For the same reasons given above, however, we find good cause to make this rule effective immediately under 5 U.S.C. 808(2).

Public Comments

We invite interested persons to submit written comments, suggestions, or recommendations regarding the interim rule. As noted above, we also specifically invite comments on the following:

- whether our final regulations should include provisions for establishing comity agreements with foreign governments to allow for transfer of big cats to a foreign wildlife sanctuary that meets all of the requirements of 16 U.S.C. 3372(e)(2)(C);
- whether there should be any uniform recordkeeping requirements for State colleges, State universities, State agencies, or State-licensed veterinarians;
- elements that should be included in population management and care plans under 16 U.S.C. 3372(e)(2)(A)(i)(III), including the scenarios under which an individual who is not a trained professional employee or contractor of the entity or facility, or licensed veterinarian, would need to come into direct physical contact with the prohibited wildlife species to directly support conservation of the species;
- whether any of the terms in 16 U.S.C. 3372(e)(2)(A)(i)(III) require further regulatory definition to ensure successful implementation of population management and care plans in accordance with the conservation purposes of this BCPSA exception.

We request comments or information from other governmental agencies, States, Native American Tribes, the scientific community, industry, or any other interested parties concerning this rule. We will consider all comments received, and, based on the comments and any additional information received, the final regulations may differ from this interim rule. We note that our ability to make changes to this interim rule will necessarily be limited by the statutory provisions of the BCPSA as described above. Please note that submissions merely stating support for, or opposition to, the action without providing supporting information, although noted, do not provide substantive information necessary to support a determination.

You may submit your comments and materials concerning this rule by one of the methods listed in **ADDRESSES**. We will not accept comments sent by email or fax. We will not consider mailed comments that are not postmarked by the date specified above in **DATES**. We will post all comments in their entirety—including your personal identifying information—on *https://www.regulations.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 may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing this interim rule, will be available for public inspection on *https://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, International Affairs, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

List of Subjects in 50 CFR Part 14

Animal welfare, Exports, Fish, Imports, Labeling, Reporting and recordkeeping requirements, Transportation, Wildlife.

Regulation Promulgation

For the reasons described above, we amend part 14, subchapter B of chapter I, title 50 of the Code of Federal Regulations as set forth below:

PART 14—IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

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

Authority: 16 U.S.C. 668, 704, 712, 1382, 1538(d)–(f), 1540(f), 3371–3378, 4223–4244, and 4901–4916; 18 U.S.C. 42; 31 U.S.C. 9701.

■ 2. Revise § 14.3 to read as follows:

§ 14.3 Information collection requirements.

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this part under 44 U.S.C. 3507 and assigned OMB Control Numbers 1018–0012, 1018–0092, and 1018–0192. The Service may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. You may direct comments regarding these information collection requirements to the Service's Information Collection Clearance Officer at the address provided at 50 CFR 2.1(b).

■ 3. Revise subpart K to read as follows:

Subpart K—Captive Wildlife Safety Act as Amended by the Big Cat Public Safety Act

Sec.

Subpart K—Captive Wildlife Safety Act as Amended by the Big Cat Public Safety Act

§ 14.250 What is the purpose of the regulations in this subpart?

The regulations in this subpart implement the Big Cat Public Safety Act (BCPSA), 136 Stat. 2336, which amended the Captive Wildlife Safety Act (CWSA), 117 Stat. 2871, which amended the Lacey Act Amendments of 1981, 16 U.S.C. 3371–3378.

§ 14.251 What other regulations may apply?

The provisions of this subpart are in addition to, and are not in place of, other regulations of this subchapter, or other Federal, State, Tribal, or territorial laws or regulations, that may require a permit or describe additional restrictions or conditions for the importation, exportation, transportation, sale, receipt, acquisition, or purchase of any prohibited wildlife species in interstate or foreign commerce, or in a manner substantially affecting interstate or foreign commerce, or breeding of any prohibited wildlife species, or possessing of any prohibited wildlife species.

§ 14.252 What definitions do I need to know?

In addition to the definitions contained in part 10 of this subchapter, and unless the context otherwise requires, in this subpart:

Breed means to facilitate propagation or reproduction (whether intentionally or negligently) or to fail to prevent propagation or reproduction.

Date of enactment of the BCPSA means December 20, 2022.

Direct contact or *direct physical contact* means any situation in which any individual may potentially touch or otherwise come into physical contact with any live specimen of the prohibited wildlife species.

Licensed entity means any individual, facility, agency, or other entity that holds a valid Class ''C'' license from and is inspected by the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) under the Animal Welfare Act (AWA) (7 U.S.C. 2131 *et seq.*) (See definition of ''*Class ''C'' licensee* (exhibitor)'' in 9 CFR 1.1.), holds such license in good standing, and meets the requirements in § 14.254.

Prohibited wildlife species (also referred to as ''big cats'') means a specimen of any of the following eight species: lion (*Panthera leo*), tiger (*Panthera tigris*), leopard (*Panthera pardus*), snow leopard (*Uncia uncia*), clouded leopard (*Neofelis nebulosa*), jaguar (*Panthera onca*), cheetah (*Acinonyx jubatus*), and cougar (*Puma concolor*) or any hybrids resulting from the breeding of any of these species, for example, a liger (a male lion and a female tiger) or a tiglon (a male tiger and a female lion), whether naturally or artificially produced.

Propagation or *reproduction* means to allow or facilitate the production of offspring of any of the prohibited wildlife species, by any means.

Public contact means the same as direct contact.

Registered pre-BCPSA owner (also referred to as ''registrant'') means an entity or individual that at the date of enactment of the BCPSA was in possession of any prohibited wildlife species that was born before the date of enactment of the BCPSA and that meets the requirements in § 14.255.

Registered Federal facility means any Federal facility that exhibits animals and is registered with and inspected by APHIS under the AWA (See definition of ''registrant'' in 9 CFR 1.1.), holds such registration in good standing, and meets the requirements in § 14.254.

Wildlife sanctuary means a facility that cares for live specimens of one or more of the prohibited wildlife species, is a corporation that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 and described in sections 501(c)(3) and 170(b)(1)(A)(vi) of such Code, and meets the requirements of § 14.256.

§ 14.253 What are the restrictions contained in the regulations in this subpart?

Except as provided in § 14.257, it is unlawful for any person to:

(a) Import, export, transport, sell, receive, acquire, or purchase, in interstate or foreign commerce, or in a manner substantially affecting interstate or foreign commerce, any live prohibited wildlife species;

(b) Breed any live prohibited wildlife species;

(c) Possess any live prohibited wildlife species; or

(d) Attempt to commit any act described in paragraphs (a) through (c) of this section.

§ 14.254 What are the requirements for a licensed entity or registered Federal facility?

To qualify for an exception in § 14.257, a licensed entity or a registered Federal facility must meet all of the requirements of this section.

(a) A licensed entity or a registered Federal facility must not allow any individual to come into direct physical contact with a prohibited wildlife species, unless that individual is a:

(1) Trained professional employee or contractor of the licensed entity or registered Federal facility (or an accompanying employee receiving professional training);

(2) Licensed veterinarian (or a veterinary student accompanying such a veterinarian); or

(3) Person who is directly supporting conservation programs of the licensed entity or registered Federal facility, the direct contact is not in the course of commercial activity (which may be evidenced by advertisement or promotion of such activity or other relevant evidence), and the direct contact is incidental to humane husbandry conducted pursuant to a species-specific, publicly available, peer-edited population management and care plan that has been provided to the Service with justifications that the plan—

(i) Reflects established conservation science principles;

(ii) Incorporates genetic and demographic analysis of a multi-institution population of animals covered by the plan; and

(iii) Promotes animal welfare by ensuring that the frequency of breeding is appropriate for the species.

(b) A licensed entity or a registered Federal facility must ensure that during public exhibition of any lion (*Panthera leo*), tiger (*Panthera tigris*), leopard (*Panthera pardus*), snow leopard (*Uncia uncia*), jaguar (*Panthera onca*), cougar (*Puma concolor*), or any hybrid resulting from the breeding of any of these species, whether naturally or artificially produced, the animal is at least 15 feet from members of the public unless there is a permanent barrier sufficient to prevent public contact.

(c) A licensed entity or a registered Federal facility must maintain complete and accurate records of any possession, breeding, transportation, acquisition, receipt, purchase, sale, disposition, importation, or exportation of prohibited wildlife species.

(1) The records required by this paragraph (c) must be up to date and include the names and addresses of persons to or from whom any prohibited wildlife species has been acquired, received, imported, exported, purchased, sold, or otherwise transferred (including loans for exhibition, breeding, or otherwise), and the dates of these transactions.

(2) The licensed entity or registered Federal facility must maintain the records required by this paragraph (c) for the lifespan of each prohibited wildlife species and for 5 years after its death or disposition and must copy these records for Service officials, if requested.

(3) The licensed entity or registered Federal facility must make the records required by this paragraph (c) available and allow access to its facilities and its prohibited wildlife specimens for inspection by Service officials at reasonable hours.

§ 14.255 What are the requirements for a registered pre-BCPSA owner?

To be a registered pre-BCPSA owner (also referred to as a ''registrant'') and qualify for an exception in § 14.257, an entity or individual must meet all of the requirements of this section.

(a) A registered pre-BCPSA owner must register each individual prohibited wildlife species in their possession with the Service's BCPSA registration form (Form Number 3–200–11) by no later than 180 days after the date of enactment of the BCPSA (*i.e.,* no later than June 18, 2023). Each individual prohibited wildlife species in the registrant's possession must:

(1) Have been born:

(i) Before the date of enactment of the BCPSA; or

(ii) On or after the date of enactment of the BCPSA from breeding that occurred before the date of enactment of

the BCPSA, only if the registrant provides documentation to the Service on the BCPSA registration form (Form Number 3–200–11) to prove the individual prohibited wildlife species was born on or after the date of enactment of the BCPSA from breeding that occurred before the date of enactment of the BCPSA;

(2) Not have been acquired by the registrant after the date of enactment of the BCPSA (*i.e.,* legally in the registrant's possession on or before the date of enactment of the BCPSA and have remained continually in the registrant's possession); and

(3) Be marked with a unique identifier that is either a tattoo or a microchip.

(b) A registered pre-BCPSA owner must not:

(1) Breed, acquire, or sell any prohibited wildlife species after the date of the enactment of the BCPSA (This requirement applies regardless of whether the activity is intrastate, interstate, or international); or

(2) Allow direct contact between the public and any prohibited wildlife species after the date of the enactment of the BCPSA.

(c) A registered pre-BCPSA owner must provide the Service with detailed information for each individual prohibited wildlife species as required by the Service in the BCPSA registration form (Form Number 3–200–11), including:

(1) Common name of prohibited wildlife species;

(2) Name given to individual prohibited wildlife species, if applicable;

(3) Genus, species, and subspecies;

(4) Birthdate and date of acquisition, including supporting documentation;

(5) Unique identifier information (*i.e.,* microchip or tattoo);

(6) Sex;

(7) Description (*e.g.,* eye color, scars, ear tags);

(8) Photographs of individual prohibited wildlife species;

(9) Physical location of individual prohibited wildlife species (if different from registrant's contact information);

(10) Protocols taken to prevent breeding;

(11) Protocols taken to prevent direct contact between the public and the prohibited wildlife species; and

(12) Copies of all local, State, or Federal licenses held in relation to the prohibited wildlife species, if applicable.

(d) Within 10 calendar days as required by the Service in the BCPSA registration form (Form Number 3–200–11), a registered pre-BCPSA owner must update the registration with the Service when a prohibited wildlife species dies or any of the following information changes: The location where the prohibited wildlife species is housed; the protocols taken to prevent breeding; the protocols taken to prevent direct contact between the public and big cat; ownership; or a unique identifier.

(e) A registered pre-BCPSA owner must maintain complete and accurate records of information for each individual prohibited wildlife species in their possession as required by the Service in the BCPSA registration form (Form Number 3–200–11) for the lifespan of each individual prohibited wildlife species and for 5 years after its death or disposition and must copy these records for Service officials, if requested.

(1) While the pre-BCPSA owner may not sell or otherwise engage in commerce with prohibited wildlife species, if the pre-BCPSA owner is no longer able to continue to possess their prohibited wildlife species, the pre-BCPSA owner may make arrangements to donate the prohibited wildlife species to a licensed entity, registered Federal facility, State college, State university, State agency, State-licensed veterinarian, or a wildlife sanctuary, or may make arrangements to abandon the prohibited wildlife species to the Federal Government. The disposition must not be reasonably likely to result in the registered pre-BCPSA owner's economic use, gain, or benefit, including, but not limited to, profit (whether in cash or in kind).

(2) The records required by this paragraph (e) must be up to date, and the registered pre-BCPSA owner must make these records available and allow access to their facilities and prohibited wildlife specimens for inspection by Service officials at reasonable hours.

§ 14.256 What are the requirements for a wildlife sanctuary?

To qualify for an exception in § 14.257, a wildlife sanctuary must meet all of the requirements of this section.

(a) A wildlife sanctuary must not:

(1) Commercially trade in any prohibited wildlife species, including offspring, parts, and byproducts of such animals;

(2) Breed any prohibited wildlife species;

(3) Allow direct contact between the public and any prohibited wildlife species; or

(4) Allow the transportation and display of any prohibited wildlife species offsite.

(b) A wildlife sanctuary must maintain complete and accurate records of any possession, transportation, acquisition, receipt, disposition, importation, or exportation of prohibited wildlife species.

(1) The records required by this paragraph (b) must be up to date and must include the names and addresses of persons to or from whom any prohibited wildlife species has been acquired, received, imported, exported, or otherwise transferred, and the dates of these transactions.

(2) The wildlife sanctuary must maintain the records required by this paragraph (b) for the lifespan of each prohibited wildlife species and for 5 years after its death or disposition and must copy these records for Service officials, if requested.

(3) The wildlife sanctuary must make the records required by this paragraph (b) available and allow access to its facilities and its prohibited wildlife specimens for inspection by Service officials at reasonable hours.

§ 14.257 Are there any exceptions to the restrictions contained in the regulations in this subpart?

(a) The prohibitions of § 14.253 do not apply to:

(1) A licensed entity or registered Federal facility that meets all of the requirements of § 14.254;

(2) A State college, State university, or State agency;

(3) A State-licensed veterinarian;

(4) A wildlife sanctuary that meets all of the requirements of § 14.256; or

(5) A person who:

(i) Can produce documentation showing that they are transporting live prohibited wildlife species solely for the purpose of expeditiously transporting the prohibited wildlife species between individuals or entities that are excepted from the prohibitions in § 14.253; and

(ii) Has no financial interest (whether in cash or in kind) in the prohibited wildlife species other than payment received for transporting them.

(b) The prohibition on possession in § 14.253 does not apply to a registered pre-BCPSA owner who is in possession of any prohibited wildlife species that was:

(1) Born and possessed by the registered pre-BCPSA owner before the date of enactment of the BCPSA and meets all of the requirements of § 14.255 for each of the prohibited wildlife species in their possession; or

(2) Bred before and born on or after the date of enactment of the BCPSA, to a prohibited wildlife species possessed by the registered pre-BCPSA owner before the date of enactment of the BCPSA, if the registered pre-BCPSA owner provides documentation demonstrating that the breeding

occurred before the date of enactment of the BCPSA and meets all of the requirements of § 14.255 for each of the prohibited wildlife species in their possession.

Shannon Estenoz,

Assistant Secretary for Fish and Wildlife and Parks.

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