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Contents

Federal Register

Vol. 88, No. 123

Wednesday, June 28, 2023

Agency for Healthcare Research and Quality

NOTICES

Meetings:

Software Developers on the Common Formats for Patient Safety Data Collection, 41961–41962

Agriculture Department

See Animal and Plant Health Inspection Service

See Rural Business-Cooperative Service

NOTICES

Request of Nominations:

Tribal Advisory Committee, 41874–41875

Animal and Plant Health Inspection Service

NOTICES

Imports:

Fresh Leaves and Stems of Garland Chrysanthemum from Mexico into the Continental United States, Hawaii, Puerto Rico, and the U.S. Virgin Islands, 41875–41876

Children and Families Administration

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Child Care and Development Fund Plan Preprint for States/Territories for FFY 2025-2027 and Child Care and Development Fund Plan Preprint for States/Territories for FFY 2022-2024, 41962

Judicial, Court, and Attorney Measures of Performance—Feedback and Implementation, 41962–41964

Coast Guard

RULES

Safety Zone:

Key West July 4th Fireworks, Key West, FL, 41822–41824

Marathon July 4th Fireworks, Marathon, FL, 41820–41822

Northern California and Lake Tahoe Area Annual Fireworks Events, 41824–41826

Special Local Regulation:

Dutch Shoe Regatta; San Diego, CA, 41820

Commerce Department

See Foreign-Trade Zones Board

See International Trade Administration

See National Oceanic and Atmospheric Administration

See Patent and Trademark Office

Commodity Futures Trading Commission

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Process for Review of Swaps for Mandatory Clearing, 41932–41933

Meetings:

Technology Advisory Committee, 41933–41934

Meetings; Sunshine Act, 41933

Comptroller of the Currency

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Mandatory Contractual Stay Requirements for Qualified Financial Contracts, 42002–42003

Margin and Capital Requirements for Covered Swap Entities, 42000–42002

Consumer Product Safety Commission

NOTICES

Meetings; Sunshine Act, 41934

Copyright Royalty Board

RULES

Determination of Rates and Terms for Public Broadcasting (PB IV), 41827–41833

Education Department

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Evaluation of the Professional Learning Resources of the REL NW Toolkit for Using Technology to Support Postsecondary Student Learning, 41951–41952

Privacy Act; Systems of Records, 41934–41951

Energy Department

See Federal Energy Regulatory Commission

Environmental Protection Agency

RULES

National Oil and Hazardous Substances Pollution

Contingency Plan:

Product Schedule Listing and Authorization of Use Requirements, 41834–41835

Testing Provisions for Air Emission Sources; Correction, 41833–41834

PROPOSED RULES

National Emission Standards for Hazardous Air Pollutants:

Taconite Iron Ore Processing Amendments; Extension of Comment Period, 41872–41873

Federal Accounting Standards Advisory Board

NOTICES

Request for Applications:

Non-Federal Member of the Federal Accounting Standards Advisory Board, 41957

Federal Aviation Administration

RULES

Airspace Designations and Reporting Points:

Winnie/Stowell, TX, 41819–41820

PROPOSED RULES

Airworthiness Directives:

Viking Air Limited (Type Certificate Previously Held by Bombardier Inc. and de Havilland, Inc.) Airplanes, 41863–41870

NOTICES

Environmental Assessments; Availability, etc., 41997–41998

Petition for Exemption; Summary of Petition Received:

The Boeing Company, 41997

Federal Communications Commission**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 41957–41961

Federal Energy Regulatory Commission**NOTICES**

Application:

Cushaw Hydro, LLC, 41955–41956
 Combined Filings, 41953–41955
 Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
 Electra Sparks, LLC, 41956–41957
 Star Light and Power LLC, 41955
 Wildflower Solar, LLC, 41957
 Request for Extension of Time:
 Mountain Valley Pipeline, LLC, 41952–41953

Federal Highway Administration**NOTICES**

Final Federal Agency Action:
 Central Business District Tolling Program, New York, NY, 41998–41999

Federal Motor Carrier Safety Administration**NOTICES**

Qualification of Drivers; Exemption Applications:
 Hearing, 41999–42000

Federal Reserve System**NOTICES**

Change in Bank Control:
 Acquisitions of Shares of a Savings and Loan Holding Company, 41961

Fish and Wildlife Service**RULES**

Endangered and Threatened Species:
 Removal of the Okaloosa Darter from the Federal List, 41835–41854

NOTICES

Permit Application:
 Incidental Take; Proposed Habitat Conservation Plan for the Audubon's Crested Caracara, Brevard County, FL; Categorical Exclusion, 41982–41983
 Incidental Take; Proposed Habitat Conservation Plan for the Scrub-Jay; Marion County, FL; Categorical Exclusion, 41981–41982

Food and Drug Administration**PROPOSED RULES**

Filing of Color Additive Petition:
 Environmental Defense Fund, et al.; Request To Revoke Color Additive Listing for Use of Titanium Dioxide in Food; Extension of Comment Period, 41870–41871

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
 Imports and Electronic Import Entries, 41964–41966
 Guidance:
 Patient-Matched Guides to Orthopedic Implants, 41967–41969
 Presenting Quantitative Efficacy and Risk Information in Direct-to-Consumer Promotional Labeling and Advertisements, 41966–41967
 Prohibition on Wholesaling under the Federal Food, Drug, and Cosmetic Act, 41969–41970

New Drug Applications:

Gemini Laboratories, LLC, et al.; OXANDRIN (Oxandrolone) Tablets and Four Abbreviated New Drug Applications for Oxandrolone Tablets; Withdrawal, 41970–41971

Foreign-Trade Zones Board**NOTICES**

Subzone Application:
 Foreign-Trade Zone 20; LL Flooring Services, LLC; Sandston, VA, 41884

Health and Human Services Department

See Agency for Healthcare Research and Quality
See Children and Families Administration
See Food and Drug Administration
See National Institutes of Health

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 41972

Homeland Security Department

See Coast Guard
See U.S. Citizenship and Immigration Services

Interior Department

See Fish and Wildlife Service

International Trade Administration**NOTICES**

Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
 Certain Aluminum Foil from the People's Republic of China, 41884–41885

Justice Department**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
 Application for Amended Federal Firearms License, 41983–41984
 Proposed Consent Decree:
 Clean Water Act, 41983

Labor Department

See Occupational Safety and Health Administration

Library of Congress

See Copyright Royalty Board

National Institutes of Health**NOTICES**

Meetings:
 Center for Scientific Review, 41972–41973
 Eunice Kennedy Shriver National Institute of Child Health and Human Development, 41973–41974, 41976
 National Cancer Institute, 41973
 National Institute of Allergy and Infectious Diseases, 41975
 National Institute of Environmental Health Sciences, 41974
 National Institute of General Medical Sciences, 41973
 National Institute of Neurological Disorders and Stroke, 41975–41976
 Tribal Consultation for All of Us Research Program, 41974–41975

National Oceanic and Atmospheric Administration**NOTICES**

- Agency Information Collection Activities; Proposals, Submissions, and Approvals:
 Basic Requirements for Special Exception Permits and Authorizations to Take, Import, and Export Marine Mammals, Threatened and Endangered Species, etc., 41887–41888
 Electronic Monitoring Systems for Atlantic Highly Migratory Species, 41931–41932
 Final Revised Management Plan:
 Grand Bay National Estuarine Research Reserve, 41928
 Meetings:
 Caribbean Fishery Management Council, 41930–41931
 Caribbean Fishery Management Council's Outreach and Education Advisory Panel, 41929
 Fisheries of the U.S. Caribbean; Southeast Data, Assessment, and Review, 41886
 Gulf of Mexico Fishery Management Council, 41908
 Mid-Atlantic Fishery Management Council, 41886
 Takes of Marine Mammals Incidental to Specified Activities:
 Marine Site Characterization Surveys Off New Jersey and New York, 41912–41920
 Taking and Importing Marine Mammals:
 Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico, 41909–41912, 41929–41930
 Incidental to Phase II of the Richmond-San Rafael Bridge Restoration Project, 41920–41928
 Marine Site Characterization Surveys in the New York Bight, 41888–41908

Nuclear Regulatory Commission**PROPOSED RULES**

- Regulatory Guide:
 Guidance for a Technology-Inclusive Content of Application Methodology to Inform the Licensing Basis and Content of Applications for Licenses, Certifications, and Approvals for Non-Light-Water Reactors, 41862–41863

NOTICES

- Guidance:
 Advanced Reactor Content of Application Project Chapter 10, Control of Occupational Dose, 41985–41986
 Advanced Reactor Content of Application Project Chapter 11, Organization and Human-System Considerations, 41992–41993
 Advanced Reactor Content of Application Project Chapter 12, Post-Construction Inspection, Testing, and Analysis Program, 41987–41988
 Advanced Reactor Content of Application Project Chapter 2, Site Information, 41991–41992
 Advanced Reactor Content of Application Project Chapter 9, Control of Routine Plant Radioactive Effluents, Plant Contamination and Solid Waste, 41986–41987
 Advanced Reactor Content of Application Project, Risk-informed Inservice Inspection/Inservice Testing, 41989
 Advanced Reactor Content of Application Project, Risk-informed Performance-Based Fire Protection Program (for Operations), 41990
 Advanced Reactor Content of Application Project, Risk-informed Technical Specifications, 41990–41991
 Review of Risk-Informed, Technology Inclusive Advanced Reactor Applications—Roadmap, 41988–41989

Occupational Safety and Health Administration**NOTICES**

- Agency Information Collection Activities; Proposals, Submissions, and Approvals:
 Formaldehyde Standard, 41984–41985

Patent and Trademark Office**NOTICES**

- Grant of Interim Extension:
 Patent No. 7,517,522; recombinant ADAMTS13 (rADAMTS13), a recombinant A disintegrin and metalloprotease with thrombospondin type-1 motifs 13, 41932

Personnel Management Office**PROPOSED RULES**

- General Schedule Locality Pay Areas, 41855–41862

Postal Service**PROPOSED RULES**

- Intelligent Mail Package Barcode Compliance Quality, 41871–41872

Presidential Documents**EXECUTIVE ORDERS**

- Contraception and Family Planning Services; Effort to Strengthen Affordability and Access to High-Quality (EO 14101), 41815–41818

Railroad Retirement Board**NOTICES**

- Agency Information Collection Activities; Proposals, Submissions, and Approvals, 41993–41994

Rural Business-Cooperative Service**NOTICES**

- Funding Opportunity:
 Higher Blends Infrastructure Incentive Program for Fiscal Years 2023 and 2024, 41876–41884

Social Security Administration**NOTICES**

- Agency Information Collection Activities; Proposals, Submissions, and Approvals, 41994–41996

State Department**NOTICES**

- Agency Information Collection Activities; Proposals, Submissions, and Approvals:
 State Assistance Management System Domestic Results Monitoring Module, 41996
 Delegation of Authority:
 International Broadcasting Advisory Board, 41996
 Designation as Terrorist or Global Terrorist:
 Arkan Ahmad 'Abbas al-Matuti and Nawaf Ahmad Alwan al-Rashidi, 41997
 Determination under the Trade Act:
 Extension of Waiver Authority, 41996–41997

Transportation Department

- See Federal Aviation Administration
 See Federal Highway Administration
 See Federal Motor Carrier Safety Administration

Treasury Department

- See Comptroller of the Currency

NOTICES

Agency Information Collection Activities; Proposals,
Submissions, and Approvals:
Bureau of Fiscal Service Information Collection Requests,
42005
Multiple Internal Revenue Service Information Collection
Requests, 42003–42005

U.S. Citizenship and Immigration Services**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals:
Application to Adjust Status from Temporary to
Permanent Resident, 41978–41979
Citizenship and Integration Direct Services Grant
Program, 41980–41981
Immigrant Petition for Alien Workers, 41976–41977
Notice of Appeal or Motion, 41977–41978
Request for Reduced Fee, 41979–41980

Veterans Affairs Department**NOTICES**

Privacy Act; Systems of Records, 42005–42012
Requests for Nominations:
Advisory Committee on Tribal and Indian Affairs, 42012–
42013

Reader Aids

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

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CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR**Executive Orders:**

14101.....41815

5 CFR**Proposed Rules:**

531.....41855

10 CFR**Proposed Rules:**

50.....41862

52.....41862

14 CFR

71.....41819

Proposed Rules:

39.....41863

21 CFR**Proposed Rules:**

73.....41870

33 CFR

100.....41820

165 (3 documents)41820,
41822, 41824**37 CFR**

381.....41827

39 CFR**Proposed Rules:**

111.....41871

40 CFR

60.....41833

110.....41834

300.....41834

Proposed Rules:

63.....41872

50 CFR

17.....41835

Presidential Documents

Title 3—

Executive Order 14101 of June 23, 2023

The President

Strengthening Access to Affordable, High-Quality Contraception and Family Planning Services

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

Section 1. Policy. Women should have access to the healthcare they need, including contraception and family planning services. Access to contraception is essential to ensuring that all people have control over personal decisions about their own health, lives, and families. High-quality contraception improves health outcomes, advances economic stability, and promotes women's overall well-being. Contraception access is linked to improved maternal and child health, expanded educational and professional opportunities, and higher lifetime earnings.

Through new requirements for private health coverage and expanded access to Medicaid, the Affordable Care Act extended access to affordable contraception to millions of women, helping them save billions of dollars on birth control. Yet access to high-quality contraception continues to vary based on income, location, health insurance coverage, and the availability of healthcare providers. Millions of people continue to face barriers to obtaining the contraception they need even as access has become more critical in the wake of the Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*, 142 S. Ct. 2228 (2022), to overturn *Roe v. Wade*, 410 U.S. 113 (1973).

Given that the Supreme Court overruled *Roe*, which rested on the fundamental right to privacy in matters of health, bodily autonomy, and family, it has never been more important to protect and expand access to family planning services. *Dobbs* has already had, and will continue to have, devastating implications for women's health. In States with laws that restrict access to abortion, health clinics that provide contraception and other essential health services have shuttered, eliminating critical points of care. Some State officials have adopted policies interfering with access to emergency contraception, including for vulnerable populations. Such policies further threaten women's ability to make decisions about their own bodies, families, and futures. These threats persist despite decades of Supreme Court precedent, beginning with *Griswold v. Connecticut*, 381 U.S. 479 (1965), and *Eisenstadt v. Baird*, 405 U.S. 438 (1972), affirming the right to contraception. Moreover, an overwhelming majority of Americans support access to contraception.

In the wake of the Supreme Court's decision in *Dobbs*, I issued Executive Order 14076 of July 8, 2022 (Protecting Access to Reproductive Healthcare Services), and Executive Order 14079 of August 3, 2022 (Securing Access to Reproductive and Other Healthcare Services), to direct my Administration to take action to protect access to reproductive healthcare services, including contraception and abortion. In Executive Order 14076, I directed the Secretary of Health and Human Services and the Director of the Gender Policy Council to establish an Interagency Task Force on Reproductive Healthcare Access to coordinate these efforts across my Administration. Consistent with these Executive Orders and other applicable authorities, executive departments and agencies have taken numerous steps to protect and strengthen access to contraception, including:

(a) issuing guidance and convening sponsors of employee benefit plans and health insurers to clarify contraception coverage requirements under the Affordable Care Act;

(b) expanding walk-in contraceptive care services for active duty service members and other Military Health System beneficiaries;

(c) issuing a Notice of Proposed Rulemaking to improve access to affordable contraception for certain dependents of veterans;

(d) providing additional funding to bolster training, develop and expand telehealth infrastructure and capacity, and provide technical assistance for clinics funded under Title X of the Public Health Service Act (42 U.S.C. 300 *et seq.*) (Title X);

(e) strengthening the inclusion of family planning providers in insurance networks for qualified health plans under the Affordable Care Act;

(f) issuing a Notice of Proposed Rulemaking to provide a new pathway for women to access contraceptives when their private health coverage is exempt from covering this benefit;

(g) issuing a Notice of Proposed Rulemaking to strengthen privacy protections under the Health Insurance Portability and Accountability Act of 1996, Public Law 104–191, 110 Stat. 1936, as amended by Public Law 111–5, 123 Stat. 115 (2009), by proposing to prohibit doctors, other healthcare providers, and health plans from using or disclosing individuals’ protected health information related to lawful reproductive healthcare, such as contraception use, under certain circumstances;

(h) issuing a Notice of Proposed Rulemaking to ensure healthcare providers that receive Federal financial assistance do not deny healthcare, including contraception, on the basis of any ground protected by Federal law; and

(i) reminding Health Resources and Services Administration (HRSA)-funded health centers of their obligations to provide family planning services to patients consistent with Federal requirements.

Through this order, I direct my Administration to build on this progress and further strengthen and bolster access to affordable, high-quality contraception. It remains the policy of my Administration to support access to reproductive healthcare services and to protect and defend reproductive rights in the face of ongoing efforts to strip Americans of their fundamental freedoms.

Sec. 2. *Improving Access and Affordability Under the Affordable Care Act.*

(a) The Secretaries of the Treasury, Labor, and Health and Human Services (Secretaries) shall consider issuing guidance, consistent with applicable law, to further improve Americans’ ability to access contraception, without out-of-pocket expenses, under the Affordable Care Act. In doing so, the Secretaries shall consider actions that would, to the greatest extent permitted by law:

(i) ensure coverage of comprehensive contraceptive care, including all contraceptives approved, granted, or cleared by the Food and Drug Administration, without cost sharing for enrollees, participants, and beneficiaries; and

(ii) streamline the process for patients and healthcare providers to request coverage, without cost sharing, of medically necessary contraception.

(b) The Secretaries shall consider additional actions, as appropriate and consistent with applicable law, to promote increased access to affordable over-the-counter contraception, including emergency contraception.

Sec. 3. *Supporting Access Through Medicaid and Medicare.* The Secretary of Health and Human Services, through the Administrator of the Centers for Medicare and Medicaid Services, shall consider taking steps, as appropriate and consistent with applicable law, to:

(a) expand access to affordable family planning services and supplies across the Medicaid program, including by identifying and disseminating best practices for providing high-quality family planning services and supplies, including through Medicaid-managed care; and

(b) improve coverage and payment for contraceptives for Medicare beneficiaries through Medicare Advantage and Medicare Part D plans.

Sec. 4. *Additional Actions to Support Contraception Access.* (a) To promote access to affordable, high-quality contraception, the Secretary of Defense, the Secretary of Veterans Affairs, and the Director of the Office of Personnel Management shall consider additional actions, as appropriate and consistent with applicable law, to:

(i) ensure, where appropriate, robust coverage of contraception under Federal programs;

(ii) offer technical assistance to help promote access to contraception, where relevant; and

(iii) educate Federal program participants and beneficiaries on how to access affordable, high-quality contraception, including through public awareness initiatives that provide timely and accurate information about such access.

(b) To promote access to affordable, high-quality contraception across Federal healthcare programs and relevant human services programs, including through Title X clinics, HRSA-funded health centers, and the Indian Health Service, the Secretary of Health and Human Services shall consider taking actions, as appropriate and consistent with applicable law, to:

(i) encourage all federally funded health centers, including HRSA-funded health centers, to expand the availability and quality of voluntary family planning services offered to beneficiaries;

(ii) support healthcare providers that participate in the Title X program through new technical assistance and training;

(iii) support access to culturally and linguistically appropriate care, including by developing and disseminating materials on family planning services available at federally funded health centers;

(iv) provide guidance on contraception-related obligations, such as confidentiality protections, and technical assistance resources to funding recipients, where relevant; and

(v) support research and data analysis to document gaps and disparities in access to contraception, as well as the benefits of comprehensive coverage for contraception and family planning services through public and private healthcare programs.

(c) The Secretary of Labor shall identify best practices for making affordable, high-quality contraception available to health plan enrollees, participants, and beneficiaries to share with employers and organizations that sponsor private health coverage.

(d) The Secretary of Education shall convene institutions of higher education to share best practices for making affordable, high-quality contraception available, as well as ways to raise awareness of options for accessing contraception.

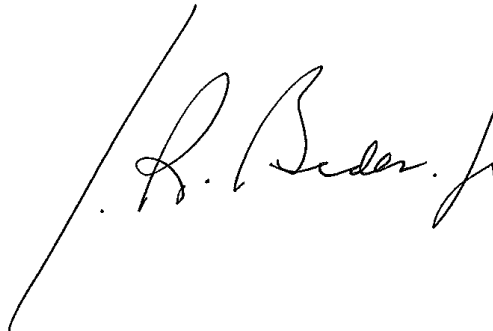
Sec. 5. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

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

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

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

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

A handwritten signature in black ink, appearing to read "Joe Biden Jr.", is written over a large, light gray diagonal watermark that reads "BIDEN".

THE WHITE HOUSE,
June 23, 2023.

Rules and Regulations

Federal Register

Vol. 88, No. 123

Wednesday, June 28, 2023

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

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2023-0615; Airspace Docket No. 23-ASW-4]

RIN 2120-AA66

Establishment of Class E Airspace; Winnie/Stowell, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Winnie/Stowell, TX. The FAA is taking this action to support new public instrument procedures.

DATES: Effective date 0901 UTC, October 5, 2023. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes Class E airspace extending upward from 700 feet above the surface at Chambers County/Winnie Stowell Airport, Winnie/Stowell, TX, to support instrument flight rule operations at this airport.

History

The FAA published an NPRM for Docket No. FAA 2023-0615 in the **Federal Register** (88 FR 21126; April 10, 2023), proposing to establish the Class E airspace at Winnie/Stowell, TX. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Incorporation by Reference

Class E airspace designations are published in paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11G, dated August 19, 2022 and effective September 15, 2022. FAA Order JO 7400.11G is publicly available as listed in the **ADDRESSES** section of this document. These amendments will be published in the next update to FAA Order JO 7400.11.

FAA Order JO 7400.11G lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This action amends 14 CFR part 71 by establishing Class E airspace upward from 700 feet above the surface within

a 6.3-mile radius of Chambers County/Winnie Stowell Airport, Winnie/Stowell, TX.

This action supports new public instrument procedures.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5-6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ASW TX E5 Winnie/Stowell, TX [Establish]
Chambers County/Winnie Stowell Airport,
TX

(Lat. 29°49'08" N, long. 94°25'52" W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Chambers County/Winnie Stowell Airport.

* * * * *

Issued in Fort Worth, Texas, on June 21, 2023.

Martin A. Skinner,

*Acting Manager, Operations Support Group,
ATO Central Service Center.*

[FR Doc. 2023-13655 Filed 6-27-23; 8:45 am]

BILLING CODE 4910-13-P

**DEPARTMENT OF HOMELAND
SECURITY**
Coast Guard**33 CFR Part 100**

[Docket No. USCG-2023-0493]

Special Local Regulation; Dutch Shoe Regatta; San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Dutch Shoe Regatta special local regulation on the waters of San Diego Bay, California on July 21, 2023. These special local regulations are necessary to provide for the safety of the participants, crew, spectators, sponsor vessels, and general users of the waterway. During the enforcement period, persons and vessels are prohibited from anchoring, blocking, loitering, or impeding within this regulated area unless authorized by the Captain of the Port, or his designated representative.

DATES: The regulations in 33 CFR 100.1101 will be enforced for the Dutch Shoe Regatta regulated area listed in item 4 in Table 1 to § 100.1101 from noon to 4:30 p.m. on July 21, 2023.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Lieutenant

Kim Shera, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278-7656, email MarineEventsSD@uscg.mil.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the special local regulations in 33 CFR 100.1101 for the Dutch Shoe Regatta in San Diego Bay, CA for the location described in Table 1 to § 100.1101, Item No. 4 of that section Regatta from noon to 4:30 p.m. on July 21, 2023. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulation for marine events within the Eleventh Coast Guard District, § 100.1101, Item No. 4 of that section, specifies the location of the regulated area for the Dutch Shoe Regatta which encompasses the waters of San Diego Bay, CA, from Shelter Island to Glorietta Bay. Under the provisions of § 100.1101, persons and vessels are prohibited from anchoring, blocking, loitering, or impeding within this regulated area unless authorized by the Captain of the Port, or his designated representative. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners, Safety Marine Information Broadcast, and local advertising by the event sponsor.

If the Captain of the Port Sector San Diego or his designated representative determines that the regulated area need not be enforced for the full duration stated on this document, he or she may use a marine information broadcast or other communications coordinated with the event sponsor to grant general permission to enter the regulated area.

Dated: June 21, 2023.

J.W. Spittler,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2023-13755 Filed 6-27-23; 8:45 am]

BILLING CODE 9110-04-P

**DEPARTMENT OF HOMELAND
SECURITY****Coast Guard****33 CFR Part 165**

[Docket Number USCG-2023-0508]

RIN 1625-AA00

**Safety Zone; Marathon July 4th
Fireworks, Marathon, FL**

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters surrounding Marathon, Florida, during the Marathon July 4th Fireworks event. The safety zone will encompass a 200-yard radius on Sombbrero Beach. The safety zone is necessary to ensure the safety of participant vessels, spectators, and the general public during the event. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Key West or a designated representative.

DATES: This rule is effective from 8 p.m. until 10 p.m. on July 4, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2023-0508 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Hailye Wilson, Waterways Management Division, Sector Key West, U.S. Coast Guard; telephone 305-292-8772, email Hailye.M.Wilson@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

**II. Background Information and
Regulatory History**

The Coast Guard is issuing this temporary final 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 doing so would be impracticable and contrary to the public interest. The Coast Guard did not receive final details of the event until June 1, 2023, and the event is scheduled to take place on July 4, 2023. The event would begin before the rulemaking process would be completed. Because of the dangers posed by the fireworks display, a safety zone is necessary without delay to ensure the safety of persons, vessels, and the marine environment. It is impracticable and contrary to the public interest to delay this rule because it is necessary to protect personnel, vessels, and the marine environment from potential hazards created by the fireworks display.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action is needed to respond to the potential safety hazards associated with the fireworks display.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under the authority in 46 U.S.C. 70034. The Captain of the Port Key West (COTP) has determined that potential hazards associated with the Marathon July 4th Fireworks event will be a safety concern for anyone within a 200-yard radius from position 24°41.470' N, 081°05.205' W, on Sombrero Beach near Marathon, FL. This rule is necessary to ensure the safety of the event participants, the general public, vessels and the navigable waters of Marathon, Florida, during the Marathon July 4th Fireworks event.

IV. Discussion of the Rule

This rule establishes a safety zone on certain navigable waters of Marathon, FL, during the Marathon July 4th Fireworks event. The safety zone will encompass a 200-yard radius from position 24°41.470' N, 081°05.205' W, on Sombrero Beach. The safety zone will be enforced from 8 p.m. to 10 p.m. on July 4, 2023. Approximately 300 spectator craft are anticipated to attend the event. No person or vessel will be permitted to enter, transit through, anchor in, or remain within the safety zone without obtaining permission from the COTP or a designated

representative. If authorization to enter, transit through, anchor in, or remain within the safety zone is granted by the COTP or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP or a designated representative. The Coast Guard will provide notice of the safety zone by Broadcast Notice to Mariners, and/or by on-scene designated representatives.

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 section 3(f) of 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 location, duration, and time-of-day of the safety zone. This rule involves a safety zone that will prohibit persons and vessels from entering, transiting through, anchoring in, or remaining within a limited area on the navigable waters of Key West, Florida, during a firework display lasting thirty minutes. Although persons and vessels may not enter, transit through, anchor in, or remain within the zone without authorization from the COTP or a designated representative, they will be able to safely transit around the safety zone. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

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

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

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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone that will prohibit persons and vessels from entering, transiting through, anchoring in, or remaining within a limited area on the navigable waters of Key West, Florida, during a firework display lasting thirty minutes. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to 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.T07–0508 to read as follows:

§ 165.T07–0508 Safety Zone; Marathon July 4th Fireworks, Marathon, FL.

(a) *Location.* The following regulated area is a safety zone: All waters encompassing a 200-yard radius from position 24°41.470' N, 081°05.205' W, on Sombrero Beach near Marathon, FL. All coordinates are North American Datum 1983.

(b) *Definition.* As used in this section, the term *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Key West (COTP) in the enforcement of the safety zone.

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

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the COTP by telephone at (305) 292–8772, or a designated representative via VHF–FM radio on channel 16 to request authorization. If authorization is granted, all persons and vessels receiving such authorization must comply with the instructions of the COTP Key West or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Broadcast Notice to Mariners via VHF–FM channel 16, and/or by on-scene designated representatives.

(d) *Enforcement period.* This section will be enforced from 8 p.m. until 10 p.m. on July 4, 2023.

Dated: June 22, 2023.

Jason D. Ingram,

Captain, U.S. Coast Guard, Captain of the Port Key West.

[FR Doc. 2023–13766 Filed 6–27–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0369]

RIN 1625–AA00

Safety Zone; Key West July 4th Fireworks, Key West, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters surrounding Key West, Florida, during the Key West July 4th Fireworks event. The safety zone will include an 800-foot radius around the White Street Pier in Key West, FL. The safety zone is necessary to ensure the safety of participant vessels, spectators, and the general public during the event. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Key West or a designated representative.

DATES: This rule is effective from 8:30 p.m. until 10:30 p.m. on July 4, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2023–0369 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Hailye Wilson, Waterways Management Division, Sector Key West, FL, U.S. Coast Guard; telephone 305–292–8823, email Hailye.M.Wilson@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

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

comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. The Coast Guard did not receive final details of the event until June 6, 2023, and the event is scheduled to take place on July 4, 2023. The event would begin before the rulemaking process would be completed. Because of the dangers posed by the fireworks display, a safety zone is necessary without delay to ensure the safety of persons, vessels, and the marine environment. It is impracticable and contrary to the public interest to delay this rule because it is necessary to protect personnel, vessels, and the marine environment from potential hazards created by the fireworks display.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is needed to respond to the potential safety hazards associated with the fireworks display.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under the authority in 46 U.S.C. 70034. The Captain of the Port Key West (COTP) has determined that potential hazards associated with the Key West July 4th Fireworks event will be a safety concern for anyone within 800 feet of the White Street Pier in Key West, FL. This rule is necessary to ensure the safety of the event participants, the general public, vessels and the navigable waters of Key West, Florida, during the Key West July 4th Fireworks event.

IV. Discussion of the Rule

This rule establishes a safety zone on certain navigable waters of Key West, Florida, during the Key West July 4th Fireworks event. The safety zone will encompass an 800-foot radius around the White Street Pier in Key West, FL. The safety zone will be enforced from 8:30 p.m. to 10:30 p.m. on July 4, 2023. Approximately 300 spectator craft are anticipated to attend the event. No person or vessel will be permitted to enter, transit through, anchor in, or remain within the safety zone without first obtaining permission from the COTP or a designated representative. If authorization to enter, transit through, anchor in, or remain within the safety

zone is granted by the COTP or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP or a designated representative. The Coast Guard will provide notice of the safety zone by Broadcast Notice to Mariners, and/or by on-scene designated representatives.

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 section 3(f) of 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 location, duration, and time-of-day of the safety zone. This rule involves a safety zone that will prohibit persons and vessels from entering, transiting through, anchoring in, or remaining within a limited area on the navigable waters of Key West, Florida, during a firework display lasting thirty minutes. Although persons and vessels may not enter, transit through, anchor in, or remain within the zone without authorization from the COTP or a designated representative, they will be able to safely transit around this safety zone. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone, and the rule will allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone that will prohibit persons and vessels from entering, transiting through, anchoring in, or remaining within a limited area on the navigable waters of Key West, Florida, during a firework display lasting thirty minutes. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T07–0369 to read as follows:

§ 165.T07–0369 Safety Zone; Key West July 4th Fireworks, Key West, FL.

(a) *Location.* The following regulated area is a safety zone: All waters encompassing an 800-foot radius around the White Street Pier in Key West, FL.

(b) *Definition.* As used in this section, the term *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Key West (COTP) in the enforcement of the safety zone.

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

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the COTP by telephone at 305–292–8727, or a designated representative via VHF–FM radio on channel 16 to request authorization. If authorization is granted, all persons and vessels receiving such authorization must comply with the instructions of the COTP Key West or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Broadcast Notice to Mariners via VHF–FM channel 16, and/or by on-scene designated representatives.

(d) *Enforcement period.* This section will be enforced from 8:30 p.m. until 10:30 p.m. on July 4, 2023.

Dated: June 22, 2023.

Jason D. Ingram,

Captain, U.S. Coast Guard, Captain of the Port Key West.

[FR Doc. 2023–13765 Filed 6–27–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2023–0482]

Safety Zone; Northern California and Lake Tahoe Area Annual Fireworks Events

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce numerous safety zones within the San Francisco Captain of the Port area of responsibility during the dates and times specified below. This action is necessary to protect personnel, vessels, and the marine environment from the hazards associated with the fireworks displays. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the regulated areas, unless authorized by the Patrol Commander (PATCOM) or an Official Patrol including any Federal, State, or local law enforcement agencies on scene to assist the Coast Guard in enforcing the regulated area.

DATES: The regulations in 33 CFR 165.1191 will be enforced for the locations identified in Items 3, 4, 7, 9, 10, 11, 12, 14, 16, 18, and 31 of Table 1 to § 165.1191 during the dates and times identified in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Petty Officer First Class Shannon Curtaz-Milian, Waterways Management, U.S. Coast Guard Sector San Francisco; telephone (415) 399–7440, email SFWaterways@uscg.mil.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zones established in 33 CFR 165.1191, Table 1, Item numbers 3, 4, 7, 9, 10, 11, 12, 14, 16, 18, and 31 during the dates, times, and locations indicated in the table below. The dates, times, and locations will also be published in the Local Notice to Mariners at least 10 days prior to the date of each event.

3. Fourth of July Fireworks, City of Eureka

Sponsor	City of Eureka, CA.
Event Description	Fireworks Display.
Date	July 3, 2023 and July 4, 2023.
Time	From 8 a.m. on July 3, 2023 to 9:45 p.m. on July 4, 2023, the barge will load, transit, and stage at the display location. From 9:45 p.m. until approximately 10:55 p.m. on July 4, 2023, the safety zone will encompass all navigable waters within a 1,000-foot radius of the fireworks barge.
Location	Humboldt Bay, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.

4. Fourth of July Fireworks, Crescent City

Sponsor	Crescent City, CA.
Event Description	Fireworks Display.
Date	July 4, 2023.
Time	From 9:30 p.m. until approximately 10:20 p.m. on July 4, 2023.
Location	Crescent City Harbor, Crescent City, CA.
Regulated Area	Crescent City Harbor in the navigable waters within a 700-foot radius of the launch platform located on the West Jetty.

7. San Francisco Independence Day Fireworks

Sponsor	The City of San Francisco.
Event Description	Fireworks Display.
Date	July 4, 2023.
Time	From 10 a.m. on July 2, 2023, to 9:25 p.m. on July 4, 2023 the barges will load, transit, and stage at the display location. From 9:25 p.m. until approximately 10:30 p.m. on July 4, 2023, the safety zone will encompass all navigable waters within a 1000-foot radius of the fireworks barges.
Location 1	A barge located approximately 1,000 feet off San Francisco Pier 39.
Location 2	A barge located approximately 700 feet off the San Francisco Municipal Pier at Aquatic Park.
Regulated Area	100-foot radius around each fireworks barge during the loading, transit, setup, and until the commencement of the scheduled display. Increases to a 1,000-foot radius upon commencement of the fireworks display.

9. Fourth of July Fireworks, City of Richmond

Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	July 3, 2023.
Location	A barge located in the Richmond Harbor in Richmond, CA.
Time	From 9 a.m. on July 3, 2023 to 9:15 p.m. on July 3, 2023, the barge will load, transit, and stage at the display location. From 9:15 p.m. until approximately 10 p.m. on July 3, 2023, the safety zone will encompass all navigable waters within a 560-foot radius of the fireworks barge.
Regulated Area	100-foot radius around the fireworks launch barge during the loading, transit, setup, and until the commencement of the scheduled display. Increases to a 560-foot radius upon commencement of the fireworks display.

10. Fourth of July Fireworks, City of Sausalito

Sponsor	City of Sausalito.
Event Description	Fireworks Display.
Date	July 4, 2023.
Time	From 9 a.m. on July 4, 2023 to 9:15 p.m. on July 4, 2023, the barge will load, transit, and stage at the display location. From 9:15 p.m. until approximately 10:20 p.m. on July 4, 2023, the safety zone will encompass all navigable waters within a 1,000-foot radius of the fireworks barge.
Location	1,000 feet offshore from Sausalito, CA waterfront, north of Spinnaker Restaurant.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.

11. Fourth of July Fireworks, City of Martinez

Sponsor	City of Martinez.
Event Description	Fireworks Display.
Date	July 4, 2023.
Time	From 9:30 p.m. until approximately 9:50 p.m. on July 4, 2023.
Location	Carquinez Strait, CA.
Regulated Area	The area of navigable waters within a 560-foot radius of the launch platform located near Waterfront Park.

12. Fourth of July Fireworks, City of Antioch

Sponsor	City of Antioch.
Event Description	Fireworks Display.
Date	July 4, 2023.

Time	From 9 a.m. to 8:45 p.m. on July 4, 2023, the barge will load, transit, and stage at the display location. From 8:45 p.m. until approximately 9:50 p.m. on July 4, 2023, the safety zone will encompass all navigable waters within a 1,000-foot radius of the fireworks barge.
Location	San Joaquin River, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the moving fireworks display.

14. Delta Independence Day Celebration Fireworks

Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	July 3, 2023.
Time	From 8 a.m. on July 3, 2023 until 9:15 p.m. on July 3, 2023, the barge will load, transit, and stage at the display location. From 9:15 p.m. until approximately 10 p.m. on July 3, 2023, the safety zone will encompass all navigable waters within a 1,000-foot radius of the fireworks barge.
Location	San Joaquin River, near Mandeville Island, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.

16. Fourth of July Fireworks, Glenbrook NV

Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	July 4, 2023.
Time	From 9 a.m. to 9:15 p.m. on July 4, 2023, the barge will load, transit, and stage at the display location. From 9:15 p.m. until approximately 10:20 p.m. on July 4, 2023, the safety zone will encompass all navigable waters within a 1,000-foot radius of the fireworks barge.
Location	Offshore Glenbrook Beach, NV.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.

18. Lights on the Lake Fourth of July Fireworks, South Lake Tahoe, CA

Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	July 1, 2023 through July 4, 2023.
Time	From 7 a.m. on July 1, 2023 till 9:30 p.m. on July 4, 2023, the barges will load, transit, and stage at the display location. From 9:30 p.m. until approximately 10:30 p.m. on July 4, 2023, the safety zone will encompass all navigable waters within a 1,000-foot radius of the fireworks barges.
Location	Off South Lake Tahoe, CA near the NV Border.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1,000-foot radius upon commencement of the fireworks display.

31. Benicia Fourth of July Fireworks

Sponsor	City of Benicia, CA.
Event Description	Fireworks Display.
Date	July 4, 2023.
Time	From 9:30 p.m. until approximately 9:50 p.m. on July 4, 2023.
Location	Carquinez Strait, Benicia, CA.
Regulated Area	1,000-foot radius around the fireworks launch site located on the Benicia First Street Pier.

Under the provisions of 33 CFR 165.1191, unauthorized persons or vessels are prohibited from anchoring, blocking, loitering, or impeding the through transit of participants or official patrol vessels in the safety zone during all applicable effective dates and times, unless authorized to do so by the PATCOM or other Official Patrol, defined as a Federal, State, or local law enforcement agency on scene to assist the Coast Guard in enforcing the safety zone. During the enforcement periods, if you are the operator of a vessel in one of the safety zones, you must comply directions from the Patrol Commander or other Official Patrol. The PATCOM or

Official Patrol may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners.

If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: June 21, 2023.

Jordan M. Balueza,
Captain, U.S. Coast Guard, Alternate Captain of the Port, San Francisco.

[FR Doc. 2023-13714 Filed 6-27-23; 8:45 am]

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Copyright Royalty Board

37 CFR Part 381

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

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

AGENCY: Copyright Royalty Board (CRB), Library of Congress.**ACTION:** Final rule.**SUMMARY:** The Copyright Royalty Judges publish final regulations that set rates and terms for use of certain works in connection with noncommercial broadcasting for the period from January 1, 2023, through December 31, 2027.**DATES:***Effective date:* June 28, 2023.*Applicability date:* These rates and terms are applicable during the period from January 1, 2023, through December 31, 2027.**ADDRESSES:** For access to the docket to read background documents or the comment received, go to eCRB, the Copyright Royalty Board's electronic filing and case management system, at <https://app.crb.gov/> and search for docket number 21–CRB–0002–PBR (2023–2027).**FOR FURTHER INFORMATION CONTACT:** Anita Brown, CRB Program Specialist, (202) 707–7658, crb@loc.gov.**SUPPLEMENTARY INFORMATION:****Background**

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

In the **Federal Register** notice, the Judges requested that interested parties submit petitions to participate. *Id.* Petitions to Participate (PTPs) were received from: The American Society of Authors, Composers and Publishers (ASCAP); SESAC Performing Rights, LLC; Broadcast Music, Inc. (BMI); Educational Media Foundation (EMF); Corporation for Public Broadcasting (CPB), National Public Radio (NPR), and the Public Broadcasting Service (PBS)

(jointly, the Public Broadcasting Entities (PBE)); National Religious Broadcasters Noncommercial Music License Committee (NRBNMLC); the Church Music Publishers' Association (CMPA); The Harry Fox Agency (HFA); Global Music Rights, LLC (GMR); and David Powell.

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

There are two ways copyright owners and public broadcasting entities² may negotiate rates and terms under the section 118 statutory license. First, copyright owners may negotiate rates and terms with specific public broadcasting entities for the use of all of the copyright owners' works covered by the license. Section 118(b)(2) provides that such license agreements "shall be given effect in lieu of any determination by the . . . Copyright Royalty Judges," provided that copies of the agreement are submitted to the Judges "within 30 days of execution." 17 U.S.C. 118(b)(2). The Judges received five agreements in this category for which no further action was required.³

Second, copyright owners and public broadcasting entities may negotiate rates and terms for categories of copyrighted works and uses that would be binding on all owners and entities using the same license and submit them to the Judges for approval. Section 801(b)(7)(A) of the Copyright Act authorizes the Judges to adopt rates and terms negotiated by "some or all of the participants in a proceeding at any time

during the proceeding" provided they are submitted to the Judges for approval. This section states that the Judges shall: (1) provide an opportunity to comment on the agreement to non-participants who would be bound by the terms, rates, or other determination set by the agreement; and (2) provide an opportunity to comment and to object to participants in the proceeding who would be bound by the terms, rates, or other determination set by the agreement. *See* section 801(b)(7)(A). The Judges may decline to adopt the agreement as a basis for statutory terms and rates for participants not party to the agreement if any participant objects and the Judges conclude that the agreement does not provide a reasonable basis for setting statutory terms or rates. *Id.*

The Judges received negotiated rates and terms from ASCAP (Jul. 2, 2021), BMI (May 17, 2021), GMR (Sept. 9, 2021), and SESAC (Sept. 3, 2021), and jointly from all four (Dec. 7, 2022) regarding rates for compositions in their repertories by certain public broadcasters;⁴ and from NRBNMLC jointly with ASCAP (Sept. 9, 2021), BMI (Sept. 10, 2021), GMR (Sept. 9, 2021, and Dec. 7, 2022), SESAC (Sept. 10, 2021), and HFA (June 21, 2021) regarding rates for compositions in their repertories by certain other public broadcasters. The Judges received joint proposals from PBE and HFA regarding the fees in § 381.7 (Dec. 12, 2022); from CPB, NPR, and PBS regarding the provisions of § 381.4 (Dec. 30, 2022); and from CPB and PBS regarding the rates in § 381.8 (Jan. 5, 2023).

The Judges published the aforementioned settlements in the **Federal Register** for comment on January 26, 2023. 88 FR 4928. Members of the public could comment on, and participants in this rate proceeding could comment on and object to, any or all of the proposed regulations and a proposed technical revision.⁵ *Id.*

Statutory Standard and Precedent

Pursuant to section 801(b)(7)(A) of the Copyright Act, the Judges have the authority to adopt settlements between some or all of the participants to a proceeding at any time during a proceeding. This section states that the Judges shall: (1) provide an opportunity

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

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

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

⁴ The joint proposal aggregates the separate proposals and is to be considered in place of them. *See* Dec. 7, 2022 Joint Proposal at 1 n.1.

⁵ The Judges' January 26, 2023 **Federal Register** document proposed technical revisions to §§ 381.7(e) and 381.8(e)(1) to require online filing of cue sheets or summaries in lieu of submissions of electronic copies on compact disk or floppy diskette.

to comment on the agreement to non-participants who would be bound by the terms, rates, or other determination set by the agreement; and (2) provide an opportunity to comment and to object to participants in the proceeding who would be bound by the terms, rates, or other determination set by the agreement. *See* section 801(b)(7)(A). The Judges may decline to adopt the agreement as a basis for statutory terms and rates for participants not party to the agreement if any participant objects and the Judges conclude that the agreement does not provide a reasonable basis for setting statutory terms or rates. *Id.*

Regardless of the comments of interested parties or participants, the Judges are not compelled to adopt a settlement to the extent it includes provisions that are inconsistent with the statutory license. *See* Review of Copyright Royalty Judges Determination, 74 FR 4537, 4540 (Jan. 26, 2009) (error for Judges to adopt settlement without threshold determination of legality); *see also* Review of Copyright Royalty Judges Determination, 73 FR 9143, 9146 (Feb. 19, 2008) (error not to set separate rates as required under sections 112 and 114 when parties' unopposed settlement combined rates in contravention of those statutory sections).⁶

As the Register of Copyrights (Register) observed in the 2009 review of the Judges' decision, nothing in the statute precludes rejection of any portions of a settlement that would be contrary to provisions of the applicable license or otherwise contrary to the statute. 74 FR 4540. In the instance under review by the Register, the settlement agreement purported to alter the date(s) for payment of royalties granting licensees a longer period than section 115 provided. *Id.* at 4542. The Register also noted that nothing in the statute relating to adoption of settlements precludes the Judges from considering comments of non-participants "which argue that proposed [settlement] provisions are contrary to statutory law." *Id.* at 4540.

The Judges received one comment from Jacob Eisenmann. Mr. Eisenmann questions whether the joint proposal of ASCAP, BMI, GMR, and SESAC, which proposes to modify the royalty rates set forth in § 381.5 through a term

providing rate options for licensed use of compositions in the GMR repertory by certain entities broadcasting primarily in a religious format, is in violation of the Establishment Clause of the First Amendment to the Constitution. Eisenmann Comment at 1–2. Mr. Eisenmann acknowledges that the history of the interpretation of the Establishment Clause is extensive, and points to *Lynch v. Donnelly*, 465 U.S. 668 (1984), as an analytical framework for determining whether the challenged rates violate the Establishment Clause. *Id.* Mr. Eisenmann offers a perfunctory analysis in which he suggests that the provision regarding rates for compositions in the GMR repertory by certain entities broadcasting primarily in a religious format violates the Establishment Clause. *Id.*

While the Judges may refuse to adopt a settlement that is inconsistent with the statutory license or otherwise contrary to law, the Judges do not find the challenged provisions regarding the GMR repertory to be contrary to law. *Lynch v. Donnelly* notes that there is no single test or criterion for the line-drawing process regarding Establishment Clause concerns of the sort suggested by Mr. Eisenmann, but directs inquiry as to whether a challenged action has a secular purpose, and whether the action impermissibly has a principal or primary effect to advance religion or creates excessive entanglement between religion and government. *Lynch v. Donnelly*, 465 U.S. at 679.

The Judges are directed to 17 U.S.C. 801(b)(7)(A) to consider whether a settlement agreement provides a reasonable basis for setting statutory terms or rates, and to do so based on the record before them if one exists. The arrival upon and submission of settlements, axiomatically, may be driven in part to avoid costly and uncertain litigation, a motivation that is secular in nature, and the settlement at issue addressed a range of uses and users of GMR repertory. Furthermore, the setting of rates and terms, as well as the provisions of Chapter 8 of the Copyright Act, which facilitate and encourage parties to enter into settlement negotiations, serve a secular purpose.

The Judges note that the challenged rates and terms, which were proposed by GMR, apply solely to the GMR repertory. Furthermore, the Judges observe that the challenged rates and terms address genres of music used under the license and the primary genre format of a licensee, without delineation of any particular religion. Under the totality of the circumstances, the Judges

do not find that the challenged provisions impermissibly advance religion or create excessive entanglement between religion and government.

In addition to finding that the challenged rates are not prohibited under the Establishment Clause, the Judges disagree with Mr. Eisenmann's assertion that the challenged rates promote any specific religion either in purpose or effect. By the plain language, the provisions address "stations broadcasting primarily in a religious format" and include a parenthetical language noting that the classification is "without limitation" particularly in relation to several identified genres of music.

For the reasons set forth herein, and on the basis of the entirety of the record before them, the Judges find that adoption of the challenged rates, the product of a settlement applicable to the repertory of the proponent copyright owner, adequately serves a secular purpose and does not impermissibly advance religion or create excessive entanglement between religion and government. In addition, the Judges note the perfunctory nature of Mr. Eisenmann's comment and legal analysis, from which the Judges cannot ascertain a basis for rejecting the settlement on constitutional grounds.

The Judges adopt the rates and terms and technical revision as proposed.

List of Subjects in 37 CFR Part 381

Copyright, Music, Radio, Rates, Television.

For the reasons set forth in the preamble, the Copyright Royalty Judges amend 37 CFR part 381 as follows:

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

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

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

§ 381.1 [Amended]

■ 2. In § 381.1, remove the years "2018" and "2022" and add in their places the years "2023" and "2027", respectively.

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

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

(a) *Determination of royalty rate.* The following rates and terms shall apply to

⁶ The Register found that a "paucity of evidence" in the record to support a determination of separate rates for the separate licenses "does not dispatch the . . . Judges' statutory obligations." Review of Copyright Royalty Judges Determination, 73 FR 9143, 9145 (Feb. 19, 2008). The Register noted that the Judges have subpoena power to compel witnesses to appear and give testimony. *Id.*

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

* * * * *

(c) *Records of use.* PBS and NPR shall, upon the request of a copyright owner of a published musical work who believes a musical composition of such owner has been performed under the terms of the schedule established in paragraph (a) of this section, permit

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

permit such copyright owner to examine the report.

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

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

* * * * *

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

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

(i) *Music fees.*

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

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

(ii) *Fees for stations with an authorized effective radiated power (ERP) of 100 Watts or less.* Level 1 rates as set forth in paragraph (c)(1)(i) of this section, shall also apply to College Radio Stations with an authorized ERP,

as that term is defined in 47 CFR 73.310(a), of 100 Watts or less, as specified on its current Federal Communications Commission (FCC) license, regardless of the size of the student population.

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

(i) *Music fees.*

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

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

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

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

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

(ii) *2024:* The 2023 rate, subject to an annual cost of living adjustment in

accordance with paragraph (c)(3)(vi) of this section.

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

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

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

(vi) Such cost of living adjustment to be made in accordance with the greater of: (A) The change, if any, in the Consumer Price Index (all consumers, all items) published by the U.S. Department of Labor, Bureau of Labor

Statistics, during the twelve (12) month period from the most recent Index, published before December 1 of the year immediately prior to the applicable year; or

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

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

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

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

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

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

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

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

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

(d) *Payment of royalty rate.* The public broadcasting entity shall pay the required royalty rate to ASCAP, BMI,

SESAC, and GMR not later than January 31 of each year. Each annual payment to ASCAP, BMI, SESAC, and GMR shall be accompanied by a signed declaration stating the number of full-time students enrolled in the educational entity operating the station and/or the ERP as specified in its current FCC license. An exact copy of such declaration shall be furnished to each of ASCAP, BMI, SESAC, and GMR.

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

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

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

* * * * *

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

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

(i) Music fees for stations with 20% or more programming containing Feature Music are as follows:

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

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

(ii) Talk Format Station fees for stations with <20% Feature Music programming are as follows:

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

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

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

(i) Music fees for stations with 20% or more programming containing Feature Music are as follows:

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

	Population count	Calendar years				
		2023	2024	2025	2026	2027
Level 1	0–24,999	\$574	\$585	\$597	\$609	\$621
Level 2	25,000–249,999	754	769	784	800	816

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

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

(ii) Talk Format Station fees for stations with <20% Feature Music programming are as follows:

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

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

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

(i) Music fees for stations with 20% or more programming containing Feature Music are as follows:

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

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

(ii) Talk Format Station fees for stations with <20% Feature Music programming are as follows:

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

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

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

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

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

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

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

(2) *GMR.* For fees due pursuant to paragraph (d)(4)(i) of this section, the public broadcasting entity shall pay the required royalty rate to GMR not later than January 31, 2023. For fees due pursuant to paragraph (d)(4)(ii) of this

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

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

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

§ 381.7 Recording rights, rates and terms.

(a) *Scope.* This section establishes rates and terms for the recording of nondramatic performances and displays of musical works, other than compositions subject to voluntary license agreements, on and for the radio and television programs of public broadcasting entities, whether or not in synchronization or timed relationship with the visual or aural content, and for the making, reproduction, and distribution of copies and phonorecords of public broadcasting programs containing such nondramatic performances and displays of musical works solely for the purpose of transmission by public broadcasting entities, including transmission via the internet by PBS and NPR. The schedule of rates and terms established in this section include the making of the reproductions described in 17 U.S.C. 118(c)(3).

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

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

	2023–2027
(2) Other series program	24.84

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

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

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

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

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

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

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

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

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

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

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

* * * * *

(e) *Filing of use reports with the Copyright Royalty Judges: deposit of cue sheets or summaries.* PBS and its stations, NPR, or other television public broadcasting entity shall deposit with the Copyright Royalty Judges via online filing in eCRB one electronic copy of their standard music cue sheets or summaries of same listing the recording pursuant to the schedule established in this section of the musical works of copyright owners. Such cue sheets or summaries shall be deposited not later than July 31 of each calendar year for recordings during the first six months of the calendar year and not later than

January 31 of each calendar year for recordings during the second six months of the preceding calendar year. PBS and NPR shall maintain at their offices copies of all standard music cue sheets from which such music use reports are prepared. Such music cue sheets shall be furnished to the Copyright Royalty Judges upon their request and also shall be available during regular business hours at the offices of PBS or NPR for examination by a copyright owner who believes a musical composition of such owner has been recorded pursuant to the schedule.

§ 381.8 [Amended]

- 7. In § 381.8:
 - a. In paragraph (b)(1) introductory text, add the words “not otherwise licensed by the copyright owner” at the end of the paragraph;
 - b. In paragraphs (b)(1)(i) and (ii), in the table header, remove the year “2013–2017” and add in its place the year “2023–2027”;
 - c. In paragraph (d)(1), add the text “, upon request,” after “shall maintain and”;
 - d. In paragraph (f)(1), remove the year “2017” and add in its place the year “2027”.
- 8. Revise § 381.10 to read as follows:

§ 381.10 Cost of living adjustment.

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

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

- (1) The change in the cost of living determined as provided in paragraph (a) of this section; or
- (2) One-and-a-half percent (1.5%).
- (3) Such royalty rates shall be fixed at the nearest dollar.

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

Dated: June 9, 2023.

David P. Shaw,
Chief Copyright Royalty Judge.

David R. Strickler,
Copyright Royalty Judge.

Steve Ruwe,
Copyright Royalty Judge.

Approved by:

Carla D. Hayden,
Librarian of Congress.

[FR Doc. 2023–13668 Filed 6–27–23; 8:45 am]

BILLING CODE 1410–72–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2020–0556; FRL–8335–06–OAR]

RIN 2060–AV35

Testing Provisions for Air Emission Sources; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendment.

SUMMARY: The Environmental Protection Agency (EPA) is making a correcting amendment due to an error in a final rule that was published in the **Federal Register** on March 29, 2023, and became effective on May 30, 2023. The final rule corrected and updated regulations for source testing of emissions.

DATES: Effective June 28, 2023.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2020–0556. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information is not publicly available, e.g., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy. Publicly available docket materials are available electronically through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Mrs. Lula H. Melton, Office of Air Quality Planning and Standards, Air Quality Assessment Division (E143–02), Environmental Protection Agency, Research Triangle Park, NC 27711;

telephone number: (919) 541–2910; fax number: (919) 541–0516; email address: *melton.lula@epa.gov*.

SUPPLEMENTARY INFORMATION: This correction does not change any final action taken by the EPA on March 29, 2023 (88 FR 18396); this action merely corrects language in section 1.1 of Performance Specification 16 of appendix B to part 60, which was inadvertently changed at 88 FR 18411 (March 29, 2023).

List of Subjects in 40 CFR Part 60

Environmental protection, Air pollution control, Incorporation by reference, Performance specifications, Test methods and procedures.

For the reasons stated in the preamble, EPA amends 40 CFR part 60 by making the following correcting amendment:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

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

■ 2. Amend appendix B to part 60 by revising the last sentence in section 1.1 of performance specification 16 to read as follows:

Appendix B to Part 60—Performance Specifications

* * * * *

Performance Specification 16—Specifications and Test Procedures for Predictive Emission Monitoring Systems in Stationary Sources

1.0 Scope and Application

1.1 * * * These specifications apply to PEMS that are installed under 40 CFR parts 60, 61, and 63 after April 24, 2009.

* * * * *

Richard A. Wayland,

Director, Air Quality Assessment Division,
Office of Air Quality Planning and Standards.

[FR Doc. 2023–13595 Filed 6–27–23; 8:45 am]

BILLING CODE 6560–50–P

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

Correction

In rule document 2023–11904 beginning on page 38280 in the issue of Monday, June 12, 2023 make the following corrections:

Appendix C to Part 300

1. On page 38339, Equation 1 should read as follows:

$$theoretical\ concentration, \frac{mg}{mL} = \frac{mass\ of\ oil, g * 1000\ mg/g}{total\ mass, g / \rho_{solution}, g/mL} \tag{Equation 1}$$

2. On page 38340, Equation 2 should read as follows:

$$\int_{340\lambda}^{400\lambda} f(x)dx \approx \frac{H}{2} \sum_{k=1}^N (f(x_{k+1}) + f(x_k)) \tag{Equation 2}$$

3. On the same page, Equation 3 should read as follows:

$$Area = \frac{(Abs_{340} + Abs_{350}) * 10}{2} + \frac{(Abs_{350} + Abs_{360}) * 10}{2} + \dots + \frac{(Abs_{390} + Abs_{400}) * 10}{2} \tag{Equation 3}$$

4. On page 38341, Equation 4 should read as follows:

$$RF = \frac{Theoretical\ Concentration, \frac{g}{mL} (Eq.1)}{area (Eq.3)} \tag{Equation 4}$$

5. On the same page, Equation 5 should read as follows:

$$\% difference = \frac{|RF - \overline{RF}|}{\overline{RF}} * 100 \tag{Equation 5}$$

6. On the same page, Equation 6 should read as follows:

$$Y(\text{area under absorbance curve}) = m(\text{slope}) * x(\text{concentration of oil}) \quad (\text{Equation 6})$$

7. On the same page, Equation 7 should read as follows:

$$\text{Total Oil Dispersed, mg} = \frac{\text{Area (Eq.2)}}{\text{Calibration Curve Slope}} * V_{DCM} * \frac{V_{tw}}{V_{ew}} \quad (\text{Equation 7})$$

8. On the same page, Equation 8 should read as follows:

$$\%OD = \frac{\text{Total Oil Dispersed}}{\rho_{oil} * V_{oil}} * 100 \quad (\text{Equation 8})$$

9. On page 38342, Equation 9 and the first two words following it should read as follows:

$$DE_{LCL95} = \overline{\%OD} - \left(\frac{t_{(n-1,1-\alpha)} * S}{\sqrt{n}} \right) \quad (\text{Equation 9})$$

where (%OD)

10. On the same page, Equation 10 should read as follows:

$$\%recovery = 100 * \frac{\text{measured concentration of check standard}}{\text{theoretical concentration of check standard}} \quad (\text{Equation 10})$$

[FR Doc. C1-2023-11904 Filed 6-27-23; 8:45 am]
BILLING CODE 0099-10-D

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-R4-ES-2021-0036;
FF09E22000 FXES1113090000 234]

RIN 1018-BE57

Endangered and Threatened Wildlife and Plants; Removal of the Okaloosa Darter From the Federal List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are removing the Okaloosa darter (*Etheostoma okaloosae*) from the Federal List of Endangered and Threatened Wildlife (List) due to recovery. This final rule is based on a thorough review of the best available scientific and commercial information which indicates that the threats to the species have been eliminated or reduced to the point that the species is no longer in danger of

extinction or likely to become in danger of extinction within the foreseeable future. Therefore, the species no longer meets the definition of a threatened species, and does not meet the definition of an endangered species, under the Endangered Species Act of 1973, as amended (Act). Accordingly, the prohibitions and conservation measures provided by the Act will no longer apply to this species.

DATES: This rule is effective July 28, 2023.

ADDRESSES: This final rule, supporting documents in preparing this rule, the post-delisting monitoring plan, and the comments received on the proposed rule are available for public inspection at <https://www.regulations.gov> under Docket No. FWS-R4-ES-2021-0036.

FOR FURTHER INFORMATION CONTACT: Lourdes Mena, Division Manager, Florida Classification and Recovery, U.S. Fish and Wildlife Service, Florida Ecological Services Field Office, 7915 Baymeadows Way, Jacksonville, FL 32256-7517; telephone 904-731-3134. 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:

Executive Summary

Why we need to publish a rule. Under the Act, a species may be removed from the Federal Lists of Endangered and Threatened Wildlife and Plants (*i.e.*, “delisted”) if it is determined that the species has recovered and no longer meets the definition of an endangered species or a threatened species. Delisting a species can only be completed by issuing a rule through the Administrative Procedure Act rulemaking process (5 U.S.C. 551 *et seq.*).

What this document does. This rule removes the Okaloosa darter (*Etheostoma okaloosae*) from the List of Endangered and Threatened Wildlife based on its recovery.

The basis for our action. Under the Act, we may determine that a species is an endangered species or a threatened species based on any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or

predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

The determination to delist a species must be based on an analysis of the same factors. Under the Act and our implementing regulations at 50 CFR 424.11, we may delist a species if the best available scientific and commercial data indicate that: (1) The species is extinct; (2) the species does not meet the definition of an endangered species or a threatened species when considering the five factors listed above; or (3) the listed entity does not meet the statutory definition of a species. We have determined that the Okaloosa darter should be delisted because, based on an analysis of the five listing factors, it has recovered and no longer meets the definition of an endangered species or a threatened species.

Specifically, our recent review indicated that actions by the U.S. Air Force and implementation of multiple conservation agreements with local landowners have reduced erosion into streams to background levels, restored and reconnected stream habitat, restored and improved management of longleaf and watersheds, maintained historical water flows, and improved and maintained water quality and riparian habitat to the point that the Okaloosa darter no longer requires protections under the Act. Accordingly, the species no longer meets the definition of an endangered or a threatened species under the Act.

A species status assessment (SSA) report for the Okaloosa darter was prepared by an SSA team (USFWS 2019, entire). The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species.

Peer review and public comment. We evaluated the species' needs, current conditions, and future conditions to inform our November 17, 2021, proposed rule (86 FR 64158). We sought the expert opinions of six appropriate specialists regarding the species status assessment (SSA) report, which informed the proposed rule. Out of the six reviews requested, we received two responses. All comments were clarification-based with some biological information submitted. All were readily incorporated into the final version of the SSA report. The purpose of peer review is to ensure our determination is based on scientifically sound data, assumptions, and analyses. We invited these peer reviewers to comment on the

proposed rule and draft post-delisting monitoring plan. We considered all comments and information we received during the public comment period on the proposed delisting rule and the draft post-delisting monitoring plan when developing this final rule.

Previous Federal Actions

On November 17, 2021, we published in the **Federal Register** (86 FR 64158) a proposed rule to delist the Okaloosa darter. Please refer to that proposed rule for a detailed description of previous Federal actions concerning this species. The proposed rule and supplemental documents are provided at <https://www.regulations.gov> under Docket No. FWS-R4-ES-2021-0036.

Summary of Comments and Changes From the Proposed Rule

In the proposed rule published on November 17, 2021 (86 FR 64158), we requested that all interested parties submit written comments on the proposal by January 18, 2022. We also contacted the Florida Fish and Wildlife Commission (FWC), scientific experts and organizations, and other interested parties and invited them to comment on the proposal. A newspaper notice inviting the public to provide comments on the proposed rule was published in the Northwest Florida Daily News and the Tallahassee Democrat on November 19, 2021.

In preparing this final rule, we reviewed and fully considered the two comments we received during the public period on the proposed rule to delist the Okaloosa darter. We received one substantive comment from the FWC that suggested increasing the frequency of surveys in the post-delisting monitoring (PDM) plan from biannually to annually in years 1 through 4. After further discussion between the Service and FWC staff, we collectively determined that biannual surveys would be adequate to capture any future changes in Okaloosa darter population size, and thus we made no changes to this final rule or the PDM plan based on this comment. The other comment we received was not substantive. In summary, we made no substantive changes to this final rule based on public comments received. Minor, nonsubstantive changes and corrections have been made throughout this final rule. In preparing this final rule, we also refined the *Status Throughout a Significant Portion of Its Range* analysis in order to better align with current policy and guidance.

Final Delisting Determination

Species Information

Below, we present a review of the taxonomy, life history, ecology, and overall status of the Okaloosa darter, referencing data where appropriate from the SSA report that was finalized for the species in April 2019 (USFWS 2019, entire).

Background

The Okaloosa darter is a small (maximum size 49 millimeters (mm), 1.93 inches (in)) percid fish (perch family). General body coloration varies from red-brown to green-yellow dorsally, and lighter ventrally, although breeding males have a bright orange submarginal stripe on the first dorsal fin (Burkhead et al. 1992, p. 23). The Okaloosa darter is a member of Order Perciformes, Family Percidae and is a distinct species within the genus *Etheostoma* (Burkhead et al. 1992, p. 23), although it remains uncertain as to which subgenus this species belongs (e.g., Song et al. 1998, pp. 348–351; Smith et al. 2014, pp. 259–260).

The Okaloosa darter is a narrow endemic, known to occur in only the tributaries and main channels of six clear stream systems that drain into three Choctawhatchee Bay bayous (Toms, Boggy, and Rocky) in Walton and Okaloosa Counties in northwest Florida: Toms, Turkey, Mill, Swift, Deer Moss (formerly known as East Turkey or Turkey Bolton), and Rocky Creeks. Approximately 90 percent of the 457-square-kilometer (176-square-mile) watershed drainage area that historically supported the Okaloosa darter is Federal property under the management of Eglin Air Force Base (Eglin AFB), including about 98.7 percent of the stream length in the current range of the Okaloosa darter. Eglin AFB encompasses the headwaters of all six of these drainages, and the remainder of these streams flow out of Eglin AFB into the urban complex of the cities of Niceville and Valparaiso (USAF 2022c, p. 3–1; 76 FR 18087, April 1, 2011).

The Okaloosa darter's breeding season extends from late March through October, although it usually peaks in April. Spawning pairs attach small numbers of eggs to vegetation, woody debris, and root mats (Collette and Yerger 1962, p. 226; Burkhead et al. 1994, p. 81); however, little is known about larval development (Burkhead et al. 1992, p. 26). As with most darters, fecundity is low (Burkhead et al. 1992, p. 26). A mean of 76 total ova (eggs) and 29 mature ova were found in 201 female Okaloosa darters, although these numbers may underrepresent annual

fecundity as their prolonged spawning season is an indication of fractional spawning (eggs develop and mature throughout the spawning season) (Ogilvie 1980, p. 4; 76 FR 18087, April 1, 2011).

Longleaf pine-wiregrass-red oak sandhill communities dominate the vegetation landscape in Okaloosa darter watersheds. These areas are characterized by high sand ridges where soil nutrients are low and woodland fire is a regular occurrence. Where water seeps from these hills, acid bog communities develop, consisting of sphagnum moss (*Sphagnum* sp.), pitcher plants (*Sarracenia* sp.), and other plants adapted to low-nutrient soils. In other areas, the water emerges from seepage springs directly into clear flowing streams where variation of both temperature and flow is moderated by the deep layers of sand. The streams support a mixture of bog moss (*Mayaca fluviatilis*), bulrush (*Schoenoplectus tuberculatus*), golden club (*Orontium aquaticum*), bur-reed (*Sparganium americanum*), pondweed (*Potamogeton diversifolius*), spikerush (*Eleocharis* sp.), and other aquatic and emergent plants. Okaloosa darters typically inhabit the margins of moderate- to fast-flowing streams where detritus (organic matter, including leaves, twigs, and sticks), root mats, and vegetation are present (Burkhead et al. 1992, p. 25; 76 FR 18087, April 1, 2011). They are rarely found in areas with no current or in open sandy areas in the middle of the stream channel. Creeks with Okaloosa darters have temperatures ranging from 7 to 22 degrees Celsius (°C) (44 to 72 degrees Fahrenheit (°F)) in the winter to 22 to 29 °C (72 to 84 °F) in the summer (Mettee and Crittenden 1977, p. 5; Tate 2018, pers. comm.; Jelks 2018, pers. comm). Overhead canopies range from open to fully closed depending on stream width and fire history (Jordan 2018, pers. comm.). Okaloosa darters thrive in reaches with relatively open canopies, likely due to either increased abundance of submerged vegetation that is used preferentially for spawning or increased secondary production of insect prey (Ingram 2018, p. 11).

Okaloosa darter abundance has been quantified by visual census at multiple sites annually since 1995. Densities in 1995 averaged 1.2 (± 0.8; ± 1 standard deviation) Okaloosa darter per meter (3.28 feet) of stream length. In 2005, a rangewide survey estimated the species' population size at 822,500 (95 percent confidence interval: 662,916 to 1,058,009). Repeated rangewide surveys in 2014 and 2020 indicated that overall abundance declined by about 24 percent from 2005 to 2014 and then a further 20

percent in 2020 (Jordan and Jelks 2021, pp. 12). However, 2005 was an unusually good year for the Okaloosa darter, and the 2014 and 2020 estimates likely reflect some declines associated with dense canopy cover.

A thorough review of the taxonomy, life history, ecology, and overall viability of the Okaloosa darter is presented in the SSA report (USFWS 2019, entire; available at <https://ecos.fws.gov/ecp/species/E00H/> and at <https://www.regulations.gov> under Docket No. FWS-R4-ES-2021-0036).

Recovery

Section 4(f) of the Act (16 U.S.C. 1531 *et seq.*) directs us to develop and implement recovery plans for the conservation and survival of endangered and threatened species unless we determine that such a plan will not promote the conservation of the species. Under section 4(f)(1)(B)(ii), recovery plans must, to the maximum extent practicable, include objective, measurable criteria which, when met, would result in a determination, in accordance with the provisions of section 4 of the Act, that the species be removed from the List.

Recovery plans provide a roadmap for us and our partners on methods of enhancing conservation and minimizing threats to listed species, as well as measurable criteria against which to evaluate progress towards recovery and assess the species' likely future condition. However, they are not regulatory documents and do not substitute for the determinations and promulgation of regulations required under section 4(a)(1) of the Act. A decision to delist a species is ultimately based on an analysis of the best scientific and commercial data available and consideration of the standards listed in 50 CFR 424.11(e) to determine whether a species is no longer an endangered species or a threatened species, regardless of whether that information differs from the recovery plan.

There are many paths to accomplishing recovery of a species, and recovery may be achieved without all of the criteria in a recovery plan being fully met. For example, one or more criteria may be exceeded while other criteria may not yet be accomplished. In that instance, we may determine that the threats are minimized sufficiently, and that the species is robust enough that it no longer meets the Act's definition of an endangered species or a threatened species. In other cases, we may discover new recovery opportunities after having finalized the recovery plan. Parties

seeking to conserve the species may use these opportunities instead of methods identified in the recovery plan. Likewise, we may learn new information about the species after we finalize the recovery plan. The new information may change the extent to which existing criteria are appropriate for identifying recovery of the species. The recovery of a species is a dynamic process requiring adaptive management that may, or may not, follow all guidance provided in a recovery plan.

The objective of the Okaloosa darter recovery plan is to restore and protect habitat and stream ecosystems so that Okaloosa darter may be initially downlisted (which occurred in 2011; see 76 FR 18087, April 1, 2011) and eventually delisted. Because the Okaloosa darter is a narrow endemic that occupies the unique habitats of only six stream systems, recovery objectives are focused on habitats within their historical range. The recovery plan states that the Okaloosa darter will be considered for delisting when:

1. (a) All downlisting criteria have been met; (b) historical habitat of all six streams has been restored to support viable populations of Okaloosa darter (including degraded sections of Mill, Swift, and Tom Creeks); (c) erosion at clay pits, road crossings, and steep slopes has been minimized to the extent that resembles historical predisturbance condition; (d) longleaf restoration and watershed management practices on Eglin AFB are in effect; (e) natural, historical flow regimes are maintained; and (f) water quality and riparian habitat have been significantly improved and maintained.

2. (a) Cooperative and enforceable agreements are in place to protect habitat and water quality and quantity for the historical range outside of Eglin AFB; and (b) management plans that protect and restore habitat and water quality and quantity have been effective and are still in place for the 90 percent of the historical range currently managed by Eglin AFB.

3. Okaloosa darter populations at monitoring sites consist of two or more age-classes and remain stable or increasing in all six streams over a period of 20 consecutive years.

4. No foreseeable threats exist that would impact the survival of this species (assumes military mission is compatible).

Recovery Plan Implementation

The following discussion summarizes the recovery criteria and information on recovery actions that have been

implemented under each delisting criterion.

Recovery Criteria

Delisting Criterion 1: All reclassification criteria have been met. This criterion has been met.

Delisting Criterion 2: Restore and protect habitat in the six Okaloosa darter stream watersheds.

The Okaloosa darter is naturally restricted in distribution to six streams, of which about 90 percent of the basins are on Eglin AFB and the remaining 10 percent in the Niceville and Valparaiso, Florida, municipal area. Because of the specific habitat requirements and limited distribution of the darter, habitat that is essential for spawning, rearing, feeding, and cover needs to be restored and protected to prevent the species from declining irreversibly and to recover the species.

Much progress has been made towards actions identified for the Okaloosa darter under this criterion since 2011, when the species was downlisted from endangered to threatened. Erosion into the streams has been reduced to background levels, nearly all fish passage barriers on Eglin AFB have been removed, more than 20 projects have been completed to restore and reconnect stream habitat, and conservation agreements with local landowners have been put in place on private lands to protect stream and floodplain habitat. The Eglin AFB erosion control program, habitat restoration programs, and habitat protections agreed to by private landowners have improved habitat for Okaloosa darter sufficient to partially meet this criterion.

Delisting Criterion 3: Erosion at clay pits, road crossings, and steep slopes has been minimized to the extent that resemble historical pre-disturbance condition. Between 1995 and 2005, over 510 borrow pits and non-point erosion sites (680 acres) have been rehabilitated and maintained within Okaloosa darter watersheds (USAF 2022, p. 142) and erosion rates are calculated to be nearly at background levels (USAF 2022, p. 143). This work was a major factor in the decision to reclassify the species from Endangered to Threatened (USFWS 2011, entire) and as such, this criterion should be considered fulfilled.

Delisting Criterion 4: Longleaf restoration and watershed management practices on the Eglin AFB are in effect. This criterion is largely fulfilled. Both longleaf and watershed management practices are in effect on Eglin AFB. In fact, Eglin's longleaf pine/sandhill management has been so effective, Eglin reached its recovery goal for the Red-

cockaded Woodpecker (RCW) in 2009 (USAF 2022, p. 134) with continued population growth. Because the ranges of RCW and Okaloosa darter overlap, continued management and protections associated with RCW in the uplands will benefit Okaloosa darters. Additionally, Eglin has committed to maintaining buffers around Okaloosa darter streams for infrastructure and mission planning (Felix 2020, pers. comm.). In addition to protections and management associated with endangered species, Eglin continues to monitor aquatic habitat quality through macroinvertebrate and water quality monitoring (USAF 2022, p. 160).

Delisting Criterion 5: Natural, historical flow regimes are maintained. Water withdrawals for human consumption in and around the range of the Okaloosa darter are presently served by wells that tap the Floridan Aquifer, which is declining in the most populated areas near the coast (Pascale 1974, pp. 1–2). At this time, there is no evidence that pumping from that aquifer has reduced flows in darter streams (USFWS 2017, p. 13). To the extent that the darter drainages are spring fed (by and large they are fed by seepage), the springs are from the shallow sand and gravel aquifer that is not currently used for human consumption. Additionally, the low permeability of the Pensacola Clay confining bed likely severely limits hydraulic connectivity between the two aquifers (Schumm et al. 1995, p. 288). As long as withdrawals from the sand and gravel aquifer are minimal, local human population growth should not adversely affect water flows in the drainages occupied by the darter (USFWS 2017, p. 13). This criterion has been met.

Delisting Criterion 6: Water quality and riparian habitat have been significantly improved and maintained. Water quality in Okaloosa darter streams has been monitored consistently throughout the past 25 years. At each monitoring site, standard water quality parameters are measured and recorded and up to 20 sites per year are surveyed using the FDEP rapid Bioecon and Stream Condition Index (SCI) methods (FDEP 2017). In general, streams originating on Eglin exhibit pristine water quality and high to very high scores on Bioecon and SCI surveys (Jordan and Jelks 2022, p. 11; USFWS 2023, unpublished data). Streams under anthropogenic pressure exhibit lower Okaloosa darter numbers or local extirpations, however these anthropogenic pressures are limited to less than 15 percent of the historic ranges and only 5 percent of the currently occupied range (USFWS 2019,

p. 15). Water Quality in Deer Moss Creek and Shaw Still Branch continue to be negatively influenced by treated sewage effluent applied to sprayfields adjacent to those streams and the Niceville wastewater treatment facility was upgraded in 2010, to reduce nutrients in sprayfield effluent. Recent studies at Eglin AFB have found that groundwater transport in the Deer Moss Creek watershed is approximately 12 to 18 years (Landmeyer et al. 2022, 9(5):69), so we expect to observe water quality changes in upcoming years. This criterion is partially fulfilled, and progress is ongoing.

Delisting Criterion 7: Cooperative and enforceable agreements are in place to protect habitat and water quality and quantity for the historical range outside of Eglin AFB ((2)(a), above), and management plans that protect and restore habitat and water quality and quantity have been effective and are still in place for the 90 percent of the historical range currently managed by Eglin AFB ((2)(b), above).

About 90 percent of the 51,397 hectares (127,000 acres) that represent the drainage basins of darter streams are managed by Eglin AFB. Eglin AFB will continue to include management for the Okaloosa darter in the Eglin AFB's integrated natural resources management plan (INRMP), changes to which are reviewed and approved by both the Service and by FWC as specified under the Sikes Act. Eglin AFB has no plans to remove management from the INRMP or limit management within Okaloosa darter watersheds (Hagedorn 2020, pers. comm.). In fact, Eglin AFB is working with the Service to shift prescribed fire management to reduce canopy cover in Okaloosa darter streams to further bolster darter numbers and stabilize monitoring sites with observed declines. Additionally, Eglin AFB has placed protective buffers on Okaloosa darter streams to prevent land use changes and management actions that might adversely affect Okaloosa darter or its habitat, thus protecting 90 percent of the darter's watershed area from impacts (Felix 2020, pers. comm.).

Outside the Eglin AFB boundary, the remaining 485.6 hectares (1,200 acres) of Okaloosa darter habitat are situated in the Niceville-Valparaiso urban complex. Okaloosa darters are found at reduced levels or absent from much of this area. Current stream impacts include erosion, non-point discharge of nutrients and pollutants, impoundment, alteration of flow, and culverting. Conservation agreements and habitat buffering on private property further prevent adverse impacts to an additional 3 to 4 percent

of the historical range (Ruckel Properties 2018, entire). In total, 90 to 95 percent of the watershed area has established protections, and monitoring will ensure this criterion continues to be met.

Delisting Criterion 8: Management plans that protect and restore habitat and water quality and quantity have been effective and are still in place for the 90 percent of the historical range currently managed by Eglin AFB. This criterion is largely fulfilled through Eglin's 2007 INRMP.

Delisting Criterion 9: Okaloosa darter populations at monitoring sites consist of two or more age-classes and remain stable or increasing in all six streams over a period of 20 consecutive years.

Monitoring for Okaloosa darter has been conducted annually at 21 core sites distributed throughout the range since 1995. In 2005, 2014, and 2020, expanded monitoring efforts of 58 sites were conducted to estimate the population size and inform the status review and species status assessment. Additional monitoring has been conducted to support specific research projects. In general, Okaloosa darter numbers increased in the late 1990s through early 2000s, at which time declines were observed at a subset of sites (Jordan and Jelks 2020, p. 11). Multiple year-classes have been recorded in each of the six watersheds in all years of study, regardless of declines (USFWS 2022, unpublished data). Although declines have been identified in portions of the range, the majority of the declines could be associated with dense canopy cover limiting vegetation and primary productivity in the stream (Jordan and Jelks 2020, p. 10). Eglin AFB natural resource managers are working to shift habitat management activities such as prescribed fire, vegetative spraying, or mechanical timber stand improvement to limit excessive riparian growth along Okaloosa darter streams. Monitoring data will continue to be collected and used to assess and inform management actions in Okaloosa darter watersheds.

Regardless of declines, the overall population estimate for Okaloosa darter was greater than 500,000 individuals in 2020 (Jordan and Jelks 2021, p. 11) and rangewide densities generally remain above 2 darters per meter of inhabited stream (Jordan and Jelks 2021). Maintaining multiple viable populations substantially reduces the risk of species extinction, and future scenario modelling suggests that resiliency and redundancy will remain sufficient to support the viability of the species into the foreseeable future (USFWS 2019, pp.

70–72). This criterion has been fully met.

Delisting Criterion 10: No foreseeable threats exist that would impact the survival of this species.

Potential future threats to the Okaloosa darter are to its habitat, particularly in three of the smaller basins: Mill, Swift, and Deer Moss Creeks. Human activity has degraded physical and chemical habitat quality in these basins, though only the Deer Moss Creek population exhibits declines. Mill Creek is almost entirely within the Eglin AFB golf course, which sponsored a major stream restoration in 2007 that nearly doubled the inhabited stream in this watershed. The golf course has also implemented best management practices (BMPs) for herbicide and pesticide application that limit impacts to Mill Creek. The lower portions of Swift Creek are nearly completely urbanized, but our models show that the restoration of College Pond would nearly double the population size. Stream restoration at College Pond would not only add substantial habitat to the watershed, it would also remove a fish passage barrier to multiple tributaries that are currently unoccupied by the Okaloosa darter. Eglin AFB is currently working with the Service, FWC, and community partners to begin engineering designs for this project.

The portions of Deer Moss Creek outside Eglin AFB are currently subject to development pressure; however, during the FWC endangered species permit process, developments and other actions must show a net benefit to the species before approval by the State. In the case of Deer Moss Creek, a conservation plan was developed that prevents construction in all wetlands, adds an upland buffer that requires bridges that completely span all wetlands, and requires the removal of two fish passage barriers within the watershed, among other provisions (Ruckel Properties 2014, entire). In addition to protections from urbanization in lower Deer Moss Creek, the Niceville wastewater treatment facility was upgraded in 2010, to reduce nutrients in sprayfield effluent. Recent studies at Eglin AFB have found that groundwater transport in the Deer Moss Creek watershed is approximately 12 to 18 years (Landmeyer 2022, 9(5):69), so we expect to observe water quality changes in upcoming years.

Because the range of the Okaloosa darter is almost entirely on Federal lands, nearly all actions in this area were subject to the interagency cooperation requirements of section 7. Following delisting, the protections under section 7 will no longer apply;

however, Eglin AFB plans to maintain protections for the Okaloosa darter by maintaining a buffer around Okaloosa darter streams during infrastructure and mission planning (USAF 2022d, appendix K) and by developing enhanced BMPs to limit erosion during construction projects and continuing to monitor stream health (Felix 2020, pers. comm.). Additionally, any action on Federal or private lands that impact wetlands would require permits under the Clean Water Act (33 U.S.C. 1251 *et seq.*). Eglin AFB protection and restoration of Okaloosa darter streams is a substantial component of natural resources management on Eglin AFB. Approximately 90 percent of the species' range is under the management of Eglin AFB; urbanization will have little to no future effect. Because the Okaloosa darter occurs in multiple stream systems, which provides redundancy, and no long-term threats are presently impacting the Okaloosa darter at the species level within the foreseeable future, this criterion has been met.

Regulatory and Analytical Framework

Regulatory Framework

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations in title 50 of the Code of Federal Regulations set forth the procedures for determining whether a species is an endangered species or a threatened species, issuing protective regulations for threatened species, and designating critical habitat for endangered species. In 2019, jointly with the National Marine Fisheries Service, the Service issued a final rule that revised the regulations in 50 CFR 424 regarding how we add, remove, and reclassify endangered and threatened species and the criteria for designating listed species' critical habitat (84 FR 45020; August 27, 2019). On the same day, the Service also issued final regulations that, for species listed as threatened species after September 26, 2019, eliminated the Service's general protective regulations automatically applying to threatened species the prohibitions that section 9 of the Act applies to endangered species (84 FR 44753; August 27, 2019).

The Act defines an "endangered species" as a species that is in danger of extinction throughout all or a significant portion of its range, and a "threatened species" as a species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether any species is an endangered

species or a threatened species because of any of the following factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects. The determination to delist a species must be based on an analysis of the same five factors.

We use the term "threat" to refer in general to actions or conditions that are known to or are reasonably likely to negatively affect individuals of a species. The term "threat" includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term "threat" may encompass—either together or separately—the source of the action or condition or the action or condition itself.

However, the mere identification of any threat(s) does not necessarily mean that the species meets the statutory definition of an "endangered species" or a "threatened species." In determining whether a species meets either definition, we must evaluate all identified threats by considering the species' expected response and the effects of the threats—in light of those actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species, then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species—such as any existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the definition of an "endangered species" or a "threatened species" only after conducting this cumulative analysis and describing the expected

effect on the species now and in the foreseeable future.

The Act does not define the term "foreseeable future," which appears in the statutory definition of "threatened species." Our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis. The term "foreseeable future" extends only so far into the future as we can reasonably determine that both the future threats and the species' responses to those threats are likely. In other words, the foreseeable future is the period of time in which we can make reliable predictions. "Reliable" does not mean "certain"; it means sufficient to provide a reasonable degree of confidence in the prediction. Thus, a prediction is reliable if it is reasonable to depend on it when making decisions.

It is not always possible or necessary to define the foreseeable future as a particular number of years. Analysis of the foreseeable future uses the best scientific and commercial data available and should consider the timeframes applicable to the relevant threats and to the species' likely responses to those threats in view of its life-history characteristics. Data that are typically relevant to assessing the species' biological response include species-specific factors such as lifespan, reproductive rates or productivity, certain behaviors, and other demographic factors.

Analytical Framework

The SSA report documents the results of our comprehensive biological review of the best scientific and commercial data regarding the status of the species, including an assessment of the potential stressors to the species. The SSA report does not represent a decision by the Service on whether the species should be proposed for delisting. However, it does provide the scientific basis that informs our regulatory decisions, which involve the further application of standards within the Act and its implementing regulations and policies. In this discussion, we summarize the key conclusions from the SSA report; the full SSA report can be found on the Service website at <https://ecos.fws.gov/ecp/species/E00H/> and at <https://www.regulations.gov> under Docket No. FWS-R4-ES-2021-0036.

To assess the Okaloosa darter's viability, we used the three conservation biology principles of resiliency, representation, and redundancy (Shaffer and Stein 2000, pp. 306–310). Briefly, resiliency describes the ability of the species to withstand environmental and demographic stochasticity (for example,

wet or dry, warm or cold years), redundancy supports the ability of the species to withstand catastrophic events (for example, droughts, large pollution events), and representation supports the ability of the species to adapt over time to long-term changes in the environment (for example, climate changes). In general, the more redundant and resilient a species is, and the more representation it has, the more likely it is to sustain populations over time, even under changing environmental conditions. Using these principles, we identified the species' ecological requirements for survival and reproduction at the individual, population, and species levels, and described the beneficial and risk factors influencing the species' viability.

The SSA process can be categorized into three sequential stages. During the first stage, we evaluated individual species' life-history needs. The next stage involved an assessment of the historical and current condition of the species' demographics and habitat characteristics, including an explanation of how the species arrived at its current condition. The final stage of the SSA involved making predictions about the species' responses to positive and negative environmental and anthropogenic influences. Throughout all of these stages, we used the best available information to characterize viability as the ability of a species to sustain populations in the wild over time. We use this information to inform our regulatory decision.

Summary of Threats and Conservation Measures That Affect the Species

In this discussion, we review the biological condition of the species and its resources, and the threats that influence the species' current and future condition, in order to assess the species' overall viability and the risks to that viability.

Stressors to Okaloosa darter stem from two main sources: land use and management practices on Eglin AFB and urbanization around the lower reaches of streams outside of Eglin AFB. Urbanization is the greatest threat to the Okaloosa darter, as development leads, through multiple pathways, to pollution, erosion, and sedimentation; altered water flows; and dispersal barriers. Land use and management practices such as road building, timber harvesting, and fire suppression can affect abundance of Okaloosa darters on Eglin AFB. The effects of a changing climate, such as increasing stream temperatures, could become a threat to the Okaloosa darter throughout its geographic range in the future; however,

the degree and magnitude of any impacts are uncertain at this time. Impending development along Deer Moss Creek would likely be completed in 20 years; however, a conservation plan is in place to minimize impacts to Deer Moss Creek.

Sedimentation and Erosion

Sediment loading is perhaps the primary factor continuing to impact the Okaloosa darter. The primary sources of sediment to aquatic ecosystems on Eglin AFB are accelerated streamside erosion, borrow pits (areas where clay, sand, or gravel are removed for use at other locations), developed areas, weapon test ranges, silviculture, and roads (Rainer et al. 2005, p. 1–1). Sedimentation can result from unpaved roads, road crossings, and road or development projects (e.g., solar power grids); sedimentation can also result from poor stormwater control or runoff during heavy, localized rains. Even though the species has been impacted by these threats, the current population estimate is approximately 500,000 darters across its range.

Management for the Okaloosa darter is outlined in Eglin AFB's INRMP, which includes specific goals and objectives to improve Okaloosa darter habitat, and Eglin AFB has demonstrated a commitment to recovery of the species. Therefore, management and other conservation actions are much more likely to occur on Eglin AFB than surrounding properties (USFWS 2007, p. 5). These streams on Eglin AFB flow mostly through forested, natural settings, whereas off-installation, they interface mostly with urban and suburban areas. Eglin AFB personnel have implemented this effective habitat restoration program to control erosion from roads, borrow pits, and cleared test ranges. Since 1995, Eglin AFB personnel have restored 317 sites covering 196.2 hectares (484.8 acres) that were eroding into Okaloosa darter streams, including borrow pits and other non-point sources (pollution created from larger processes and not from one concentrated point source, like excess sediment from a construction site washing into a stream after a rain) of stream sedimentation (76 FR 18087, April 1, 2011, p. 18090). Erosion into the streams has been reduced to background levels, nearly all fish passage barriers on Eglin AFB have been removed, several restoration projects have been completed to restore and reconnect stream habitat, and conservation agreements with local landowners (on 3 to 4 percent of potential Okaloosa darter range) have been put in place on private lands to

protect stream and floodplain habitat (Wetland Sciences 2011, entire).

Eglin AFB personnel estimate that these and other restoration efforts have reduced soil loss from roughly 69,000 tons per year in Okaloosa darter watersheds in 1994 to approximately 2,500 tons per year in 2010 (Pizzolato 2018, pers. comm.). While soils will always be highly susceptible to disturbance and sedimentation and erosion could impact the species, habitat restoration work has improved Okaloosa darter habitat within the base. Improvements such as bottomless culverts, bridges over streams, and bank restoration and revegetation have resulted in increased clarity of the water, stability of the channel and its banks, and expansion of Okaloosa darter into new areas within drainages (USFWS 2011, 76 FR 18087, April 1, 2011, p. 18090). Poorly designed silviculture programs can result in accelerated soil erosion and stream sedimentation, but Eglin AFB personnel have designed their program within Okaloosa darter habitat to avoid and minimize impacts to the aquatic ecosystems such that the program is not likely to adversely affect Okaloosa darters (USAF 2022, pp. 4–23; USFWS 2017, pp. 11–12).

Forest and timber management in Okaloosa darter drainages is generally directed toward habitat management for the red-cockaded woodpecker (*Picoides borealis*) or fuel reduction near military test ranges and in the urban interface, which involve the use of prescribed fire, mechanical or chemical timber stand improvement, and traditional forestry practices for timber harvest and fuelwood. Recently timbered areas may leave exposed sandy patches, which can be susceptible to wind erosion. However, erosion has been reduced to background levels; all of these habitat management programs are coordinated through Eglin AFB and are conducted in accordance with State and Federal BMPs (USAF 2022, p. 77, INRMP forestry component plan).

Road Development Projects

Unpaved roads, their low-water stream crossings, and subsequent bank erosion probably have the greatest impact because of their distribution on Eglin AFB, relative permanence as base infrastructure, and long-term soil disturbance characteristics. The largest remaining source of sediment input to Okaloosa darter streams is the unpaved road network, which allows sediment to be washed off the road and into nearby streams, especially where they cross the stream itself. As of 2005, 87 percent (4,348 km) of the roads in Eglin AFB's

road network were unpaved, and remain so currently (Felix 2018, pers. comm.).

Road crossings can be detrimental to Okaloosa darter depending on their design. Pipe culverts alter stream flow and impede movement of Okaloosa darter, whereas bridges and bottomless culverts do not. Of the 153 road crossings that previously existed in Okaloosa darter drainages, 57 have been eliminated—28 in Boggy Bayou streams and 29 in Rocky Bayou streams. Although many road crossings have been removed and restored through road closures and restoration efforts over the last few years, others remain and pose a threat to the Okaloosa darter and its habitat. For example, five road crossings in the Turkey Creek drainage have repeatedly exceeded State water quality standards for turbidity (USFWS 2017, p. 11).

Road development projects also present potential threats that may negatively impact the Okaloosa darter. The Mid-Bay Bridge Authority's Mid-Bay Connector Road (Connector Road), a road constructed from the terminus of the Mid-Bay Bridge to SR 85 north of Niceville, was completed in February 2014 (USFWS 2017, p. 13). We completed consultation on this project under section 7(a)(2) of the Act. Although the Connector Road crosses Okaloosa darter drainages, conservation measures included 19 stipulations to minimize impacts to darter drainages. For example, the project used environmentally sensitive bridge construction techniques and measures to minimize erosion and ground disturbance at each stream crossing and to maintain channel stability. Because the bridges were designed to maintain natural stream geomorphology and were built using appropriate methods to stabilize stream banks and provide erosion control along the stream, long-term erosion and degradation of Okaloosa darter habitat is not anticipated. Monitoring before, during, and after construction detected no significant project-related changes in abundance of Okaloosa darters above or below any of the new stream crossings (Jordan and Jelks, unpublished data). However, the project impacted multiple areas of Okaloosa darter streams via erosion associated with large storm events and, in 2012, violated erosion controls. One of the stream crossings required a full stream restoration within the project limits and downstream from the project area. Erosion-related issues were also reported in 2013 (USFWS 2017, p. 13). As part of further mitigation of the Connector Road's accumulated negative impacts on the Okaloosa darter, to date the Mid-Bay

Bridge Authority has improved road crossings of Okaloosa darter streams at seven sites on Eglin AFB and at one site off of Eglin AFB. As of February 2019, the Mid-Bay Bridge Authority has no plans for future corridors. The existing corridor could be widened to four lanes if future traffic projections justify the need. The corridor has already been cleared and grassed, so no additional sedimentation or erosion-related impacts are anticipated should an expansion to four lanes occur. Any future road projects will require consultation under section 7(a)(2) of the Act (USFWS 2017, p. 13).

The construction of the Connector Road created several relatively small “orphaned” parcels of Eglin AFB-owned property, whereby the road effectively separated those parcels from the natural resources management practices employed elsewhere over the contiguous Eglin AFB reservation properties. Three of these orphan parcels lie within the Okaloosa darter’s geographic range (approximately 740, 170, and 260 acres) and surround segments of four occupied streams (Mill, Swift, Turkey, and Deer Moss Creeks). Eglin AFB has historically considered orphan parcels candidates both for leasing through enhanced use agreements and for real property transaction or exchange to public and private entities in order to maximize the effectiveness of its real property in supporting the United States Air Force (USAF) mission. Eglin AFB may consider the three parcels mentioned above for such transactions. However, the Eglin AFB has indicated its intent to coordinate with the Service on the impacts identified in any environmental impact analysis for such transactions (Felix 2018, pers. comm.).

In 2012, the Service issued a biological opinion to the Federal Highway Administration (FHWA) for widening SR 123 from a two-lane undivided roadway to a four-lane divided roadway from SR 85 South to SR 85 North (USFWS 2017, p. 13). The widening included new two-lane bridges at Toms Creek and Turkey Creek, and replacement of the culvert at the unnamed tributary to Turkey Creek with two single-span bridges. The biological opinion concluded that, while the effects of the project included displacement, injury, and mortality to Okaloosa darters resulting from construction debris, equipment movement, dredge and fill activities, sedimentation, introduction of contaminants, and habitat alteration, it would not jeopardize the continued existence of the threatened Okaloosa

darter if certain measures were implemented.

In 2015 and 2016, multiple erosion control failures resulted in sediment from the project site discharging into streams occupied by Okaloosa darters: Toms Creek, Shaw Still Branch, Turkey Creek, and an unnamed tributary to Turkey Creek following storm events. The Service worked with the U.S. Army Corps of Engineers, FHWA, and the Florida Department of Transportation to develop a restoration and compensation plan, and implementation of the plan began in 2018. The plan was designed to fully offset all impacts and provide a net conservation benefit to the species due to unforeseen, but preventable, impacts. In summer 2017, the Service identified additional impacts of this highway project to steepheads (deep ravines) outside of the initial defined action area for this project (Tate 2018, pers. comm.; USFWS 2017, pp. 13–14). Additionally, a working group including the Service and Eglin AFB was formed to develop BMPs that would prevent erosion events and that would be applied to base projects during site preparation and construction (Tate 2018, pers. comm.). The goal of this effort is to prepare BMPs and language/requirements to be included in the real estate leasing agreements, to help ensure the species’ conservation when the Act’s protections are removed. The BMPs and any additional requirements will be finalized before any projects move forward; to date, no such projects have been undertaken.

Stormwater Control

Development and construction activity in residential areas outside of Eglin AFB and primarily in the downstream-most portion of the Okaloosa darter’s range pose a threat due to poor stormwater runoff control and pollution prevention measures that degrade habitat and sometimes create barriers to movement between basins. Although this threat is greater in urban areas, recent failures in erosion control and stormwater management on Eglin AFB highlight the importance of thoroughly understanding how proposed activities contribute to erosion and stormwater management problems and implementing practices to minimize those effects (USFWS 2017, p. 11).

For example, in June 2017, a significant stormwater retention pond failure occurred on Eglin AFB property leased to Gulf Power and run by Gulf Coast Solar Center I, LLC (Coronal Energy), for a solar energy project. This failure caused extensive soil loss both on the leased site and offsite on Eglin AFB property. Okaloosa darter habitat

in an unnamed tributary to Toms Creek was completely lost to sedimentation, and additional sediment is still located throughout the floodplain. However, this event impacted less than 0.1 percent of the estimated populations involved, and design changes have been made that are expected to fully offset all impacts and provide a net conservation benefit to the species due to unforeseen, but preventable, impacts (USFWS 2017, p. 14).

Borrow Pits

Borrow pits were a major source of sediment loading to Okaloosa darter streams cited in the 1998 darter recovery plan. At that time, 29 of 39 borrow pits located within or immediately adjacent to Okaloosa darter drainages had been restored. As of 2004, all borrow pits within Okaloosa darter drainages had been restored (59.3 ha; 146.5 ac) (USAF 2022b, pp. 3–18; USFWS 2017, p. 11).

Pollution

Pollution, other than sedimentation, poses a potential threat to darters. One stream in the darter’s range, lower Turkey Creek, is on the Florida Department of Environmental Protection’s (2018) Verified List as impaired, listing iron from a closed landfill as the pollutant (USFWS 2018, entire). Using aquatic insect sampling methods, the Service (Thom and Herod 2005, entire) found 12 sites out of 42 sampled within the darter’s range to be impaired. One notable source of pollution in Shaw Still Branch and Deer Moss Creek results from wastewater treatment sprayfields (the Niceville–Valparaiso Regional Effluent Land Application Sprayfield) (USFWS 2017, pp. 12–13). Abundance declines from about 45 Okaloosa darter per 20 meters in the headwaters just above the sprayfield down to 1 or fewer Okaloosa darter per 20 meters in the remaining 4 kilometers or so of stream downstream from the sprayfield (Jordan 2017, pp. 5–7; Jordan 2018, unpublished data, figure 8). The actual pollutant has yet to be determined, but impacted streams have high conductivity compared to the relatively sterile, ion-poor, and slightly acidic streams that are typical of the area and likely similar to streams where the Okaloosa darter evolved. Contaminants found in the portions of Deer Moss Creek exposed to sprayfield effluent were shown to affect the biological processes of other species of fish in those streams (Weil et al. 2012, p. 185). Municipal wastewater with increased conductivity has been shown to negatively affect other species of

darters (Hitt et al. 2016, entire; Fuzzen et al. 2016, entire).

Water Withdrawals

Water withdrawals for human consumption in and around the range of the Okaloosa darter are presently served by wells that tap the Floridan Aquifer, which is declining in the most populated areas near the coast (Pascale 1974, pp. 1–2). At this time, there is no evidence that pumping from that aquifer has reduced flows in darter streams (USFWS 2017, p. 13). To the extent that the darter drainages are spring fed (by and large they are fed by seepage), the springs are from the shallow sand and gravel aquifer that is not currently used for human consumption. Additionally, the low permeability of the Pensacola Clay confining bed likely severely limits hydraulic connectivity between the two aquifers (Schumm et al. 1995, p. 288). As long as withdrawals from the sand and gravel aquifer are minimal, local human population growth should not adversely affect water flows in the drainages occupied by the darter (USFWS 2017, p. 13).

Effects of Climate Change

The Intergovernmental Panel on Climate Change (IPCC) concluded that warming of the climate system is unequivocal (IPCC 2014, entire). Numerous long-term changes have been observed including changes in arctic temperatures and ice, and widespread changes in precipitation amounts, ocean salinity, wind patterns, and aspects of extreme weather including droughts, heavy precipitation, heat waves, and the intensity of tropical cyclones (IPCC 2014, entire). While continued change is certain, the magnitude and rate of change is unknown in many cases (USFWS 2017, p. 14).

The current occupied range of the darter is restricted to approximately 402 kilometers of streams in Walton and Okaloosa Counties, Florida. While science shows that global-scale increases in stream temperatures have occurred (Kaushal et al. 2010, entire; Song et al. 2018, entire), streams within the Okaloosa darter's range are seepage and spring-fed, and thus thought to be thermally moderated (USFWS 2017, p. 14). However, thermal mediation varies among nearby Okaloosa darter streams, and streams that support Okaloosa darter are strongly affected by increases in air temperature (Jordan 2018, unpublished data). Information required to evaluate whether increased temperatures in streams will adversely affect the Okaloosa darter is lacking; however, declines in abundance following the impoundment of small

stream reaches are likely due in part to increased temperatures, and the loss of darters below larger impoundments, such as Brandt Pond and Swift Creek, are generally assumed to be due to temperature change (Jordan 2018, pers. comm.). Because the distribution of the Okaloosa darter is limited, and individuals cannot expand northward, stream temperature increases or sea level rise that would cause stream inundation could pose a threat to the Okaloosa darter by isolating the populations. The National Oceanographic and Atmospheric Administration (NOAA) (2017, entire; NOAA Sea Level Rise Viewer 2018) projects sea level rise will be around 1.84 feet by year 2050 (Sweet et al. 2017, Intermediate High scenario). While this increase will not inundate much of the darter's stream systems due to topography, it could isolate the stream systems from each other, limiting genetic exchange (Tate 2018, pers. comm.; NOAA Sea Level Rise Viewer 2018). However, the species has maintained genetic exchange among populations despite current and historical saltwater isolation (Austin et al. 2011, p. 987).

Impoundments

Many streams within the range of the Okaloosa darter have a history of impoundment. These impoundments were either deliberately created to produce recreational ponds or unintentionally formed following installation of a poorly designed road crossing. Culverts and other installations can also facilitate the creation of permanent impoundments by North American beavers (*Castor canadensis*), which take advantage of human-made alterations (Nicholson 2009, p. 5; Reeves et al. 2016, p. 1376). Okaloosa darters do not occupy impounded stream reaches (Mettee et al. 1976, p. 2; Nicholson 2009, p. 6) due to their depth and low flow rates, variable water temperatures, more accumulation of organic substrates, and higher numbers of predatory fishes than free-flowing stream reaches (Nicholson 2009, pp. 3–4; Reeves et al. 2016, p. 1376). Okaloosa darters living downstream of impoundments are also negatively affected, sometimes for a considerable distance. For instance, the roughly 3 kilometers (60 percent) of Swift Creek below College Pond and roughly 2 kilometers (100 percent) of Foxhead Branch below Brandt Pond currently lack Okaloosa darters (Jordan 2018, pers. comm.). In the absence of predators, beaver populations can become overpopulated (Nicholson 2009, p. 5). Eglin AFB currently traps and

relocates nuisance beavers and removes beaver impoundments in order to improve stream habitats for Okaloosa darters and plans to continue this work indefinitely (USAF 2022, pp. 5–12).

Barriers to Dispersal

All of the aforementioned threats could pose barriers to dispersal. Road crossings and impoundments, however, create the most obvious barriers, and many of these barriers have been removed. In 2011, when the Okaloosa darter was downlisted to threatened status, 4 of the 153 road crossings and 25 impoundments that were barriers to fish passage remained. A few of these road crossings were culverts with the downstream end perched above the stream bed, precluding the upstream movement of fish during normal and low-flow conditions. However, some of these barriers were determined to have little to no adverse consequence to darter habitat connectivity because they occurred on the outskirts of the current range or were immediately adjacent to another barrier or impoundment.

To date, all but three of the problematic road crossings have been removed. One of these, located at the headwaters of Rocky Creek, is scheduled for removal in upcoming funding cycles (USAF 2022d, appendix K). Additionally, 13 impoundments still exist, 4 of which are caused by beaver activity. Beavers that remain are primarily in the headwater reaches where the Okaloosa darter is either not present or would be in very low density. Nuisance beavers are managed under a cooperative agreement with the U.S. Department of Agriculture. USFWS is currently working with Eglin and other partners to secure funding for the restoration of Swift Creek via removal of College Pond (Tate 2020, pers. comm.). Since the time of listing, most of the barriers to dispersal have been removed, and most of the problematic ones that remain are scheduled to be removed, contributing to improved habitat and reduced population fragmentation.

Canopy Closure

Overhead canopies range from open to fully closed depending on stream width and fire history (Jordan 2018, pers. comm.). Okaloosa darters thrive in reaches with relatively open canopies, likely due to either increased abundance of submerged vegetation that is used preferentially for spawning or increased secondary production of insect prey (Ingram 2018, p. 11). During the past 25 years, several monitored stream sections have changed from open with submerged vegetation to closed canopies with no vegetation. Closed

canopy may reduce densities of the Okaloosa darter. Once canopy is removed, Okaloosa darter densities increase quickly and dramatically (USFWS 2019, p. 30). In addition to increased riparian density along the streams, the use of low-intensity fire for forest management as opposed to historically high-intensity wildfires could have cascading negative effects on the watershed through changes in nutrient cycling, hydrology (evapotranspiration), or simply charcoal buffering (changes in pH levels) of water chemistry in the creeks. The Eglin AFB fire management program may shift, if needed, toward the use of higher intensity prescribed fires in the growing season along stream margins to control growth of canopy trees.

Invasive Species

The introduction and colonization by nonnative, invasive species that could compete with or prey on the Okaloosa darter is a potential threat. The Okaloosa darter recovery plan lists competitive exclusion by the then-thought-to-be invasive brown darter (*Etheostoma edwini*) to be a threat to the Okaloosa darter. The brown darter is native to Okaloosa darter watersheds (Austin 2011, unpublished data) and is not altering the distribution or abundance of the Okaloosa darter where they coexist (USFWS 2019, p. 23). Flathead catfish (*Pylodictis olivaris*) are already present in the surrounding river systems, and conditions could become suitable for several cichlid species to successfully reproduce in Okaloosa darter habitat (Jelks 2018, pers. comm.). Tilapia (*Oreochromis niloticus*), for instance, are highly invasive and are well documented to cause local extinctions of native species through resource competition, predation, and habitat alteration (Canonico et al. 2005, pp. 467–474; Zambrano et al. 2006, pp. 1906–1909). Release of aquarium species also remains a possibility. While this threat is speculative and dependent on an intentional release of an unknown invasive species, introduction of a highly competitive predator could lead to severe population depression or potential extirpation of the Okaloosa darter. Dispersal of an invasive species among Okaloosa darter's watersheds, however, would likely be limited by saltwater, giving managers time to take control measures within a single population. Eglin AFB and Service personnel have long-established invasive species monitoring programs, and both agencies are committed to routine monitoring, early detection, and control of aquatic invasive species (USAF 2022d, appendix K). Early

detection and targeted management of invasive species will minimize or eliminate this threat to the Okaloosa darter in the future (Tate 2019, pers. comm.).

Summary of Factors Influencing Viability

The vast majority of the range of the Okaloosa darter is located on Eglin AFB, where many conservation and restoration actions have been successful in restoring the Okaloosa darter to regions from which it had previously been extirpated and increasing darter densities since the time of its listing in 1973. Much progress has been made in implementing conservation actions since the Okaloosa darter was downlisted to threatened in 2011. For example, Eglin AFB has restored more than 534 acres of erosional sites and completed multiple stream restoration projects to reconnect fragmented populations. Stream erosion levels have been reduced, and most of the fish passage barriers have been removed. Many restoration projects have been completed, and conservation agreements have been implemented. Collectively, the habitat restoration programs have restored Okaloosa darter habitat, and management agreements will secure the habitat into the future (USAF 2022, p. 94; Wetland Sciences 2011, entire).

However, portions of the Okaloosa darter's range still face threats, mostly from urbanization. The sedimentation, pollution, and water quality impacts, as well as changes to water flow from impoundments that can result from urbanization, can lead to a decrease in Okaloosa darter numbers. In areas where there is development, either on Eglin AFB main base or the surrounding cities, darters decrease in abundance or disappear (USFWS 2019, p. 23). Darters also still face threats from canopy closure, accidental spills, or other severe events. However, the vast majority of the Okaloosa darter's range is expected to remain under the management of the Air Force, limiting the impacts from urbanization to less than 10 percent of the historical range for the species.

Okaloosa darters react quickly to restoration activities. For instance, erosion control and other restoration activities began earlier in the Boggy Bayou drainages, progressing to the Rocky Bayou drainages (Pizzolato 2018, pers. comm.). Accordingly, darter numbers increased in the Boggy Bayou drainages earlier than in the Rocky Bayou drainages (Jordan and Jelks 2021, p. 9). Okaloosa darters have also been shown to quickly recolonize restored

streams (Reeves et al. 2016, entire) and reclaim beaver impoundments (Nicholson 2009, entire).

We note that, by using the SSA framework to guide our analysis of the scientific information documented in the SSA report, we have not only analyzed individual effects on the species, but we have also analyzed their potential cumulative effects. We incorporate the cumulative effects into our SSA analysis when we characterize the current and future condition of the species. To assess the current and future condition of the species, we undertake an iterative analysis that encompasses and incorporates the threats individually and then accumulates and evaluates the effects of all the factors that may be influencing the species, including threats and conservation efforts. Because the SSA framework considers not just the presence of the factors, but to what degree they collectively influence risk to the entire species, our assessment integrates the cumulative effects of the factors and replaces a standalone cumulative effects analysis.

Current Condition

Resiliency

For the Okaloosa darter to maintain viability and withstand stochastic disturbance events, its populations must be sufficiently resilient, which is associated with population size, growth rate, and habitat quality. Stochastic events that have the potential to affect the Okaloosa darter include temperature changes, drought, localized pollutants/contaminants or other disturbances, or severe weather events such as hurricanes, which can impact individuals or the habitat they require for critical life functions such as breeding, feeding, and sheltering.

Sufficiently resilient Okaloosa darter populations need quality habitat. Okaloosa darters require clear, clean, flowing water provided by deep layers of sand that regulate temperature and flow, with aquatic vegetation, root mats, leaf snags, and other substrates that provide cover. This habitat is maintained by land management practices on adjacent land that limit sedimentation and pollution. Streams that support Okaloosa darter should be free of impoundments created as human-made retention ponds, by poorly designed road crossings that impede flow and genetic exchange, or by beaver dams. Okaloosa darter also benefit from open riparian canopies that allow sunlight to reach the stream below (Ingram 2018, p. 11).

For analysis purposes, we delineated resiliency units for the Okaloosa darter based on genetic analysis and obvious barriers to dispersal. Genetic variation exists between the six stream systems (Austin et al. 2011, p. 987). Because limited genetic exchange occurs between streams, the population in each stream is likely to be demographically independent; therefore, we used abundance data for each of the six stream systems to assess resiliency.

Additionally, we assessed barriers to dispersal within each stream system that would indicate a further breakdown into additional populations. However, Eglin AFB has been effective in removing impoundments and poorly designed road crossings that served as barriers to dispersal, so the remaining impoundments occur at the headwaters or the lower reaches of each stream, leaving each stream’s population mostly intact, allowing genetic exchange to occur within each stream system. Outside of Eglin AFB, Shaw Still Branch has Okaloosa darters that are isolated from other Okaloosa darters in the upper reaches of Swift Creek by College Pond; however, the numbers of darters in this small stream are likely fewer than 150. Therefore, we considered this population separately. The watersheds of each of the bayous (Toms, Boggy, and Rocky) where the species has been historically found constitute the three resiliency units for the purposes of this analysis. The Toms representative unit consists only of the Toms population; the Boggy unit consists of the Turkey and Mill populations; and the Rocky

unit consists of the Swift, Deer, and Rocky populations.

Habitat metrics, such as conductivity, other water quality metrics, and management, influence darter presence and abundance, but due to a lack of explained variation within the data, no quantitative predictive model has been successfully used. However, numerous data exist that draw causal relationships between habitat metrics and darter presence and abundance, such that we can draw some conclusions. First, it is clear that the Okaloosa darter does not inhabit impounded stream reaches. Further, when an impounded stream is restored, Okaloosa darter will quickly colonize the restored habitat, often at higher densities than initially found (Jordan and Jelks 2018, p. 29). When water conductivity gets too high, Okaloosa darter abundance drops (USFWS 2019, p. 33).

We assess current resiliency for the Okaloosa darter in terms of population factors, including the species’ presence and density. To estimate a population size, we multiplied the estimated average abundance per meter by the estimated meters occupied (USFWS 2019, table 5). The average abundance was derived from annual sampling at each of the 21 core monitoring sites over the past 20 years. In populations with multiple core sites, a grand mean was calculated for the entire population by averaging the long-term means within the population. Due to statistical constraints, population estimates using the expanded monitoring data from 2005 and 2014 only estimate the

population of darters present in stream reaches between monitoring sites (USFWS 2019, p. 23) and do not include headwaters and tributary systems known to be inhabited. The calculations made during the SSA and used for this assessment apply the average abundance to all known inhabited stream reaches, generally producing a larger but more complete population estimate.

Using this method, the total rangewide population estimate of the Okaloosa darter is approximately 500,000 (see table 1, below). The Rocky Creek population is the largest, comprising 713,458 darters, or 57 percent of this total, followed by the Turkey Creek population, comprising 490,456 darters, or 39 percent. The other four resiliency units (Toms, Mill, Swift, and Deer Moss Creeks) together total only 4 percent of the estimate: Toms Creek has an estimated 23,099 darters; Mill Creek, 1,317; Swift Creek, 18,810; and Deer Moss Creek, 2,353.

These numbers reflect a significant (40 percent) decline between 2005 and 2014. However, the population is still significantly greater than when the species was originally listed. Our professional judgment is that the reduction was caused by an increase in the canopy cover and that more aggressive clearing of the canopy cover will result in rebounding population numbers. This conclusion is consistent with experimental data, in which darter populations increased within months after canopy removal.

TABLE 1—RESILIENCY SCORES FOR THE OKALOOSA DARTER BASED ON ESTIMATED POPULATION SIZE, POPULATION TRENDS, AND VULNERABILITY

Population	Estimated population	Population trend slope (avg. count/year)	Population trend	Resiliency	Population vulnerability (%)
Toms	23,099 (±7,610)	0.96	Increasing	Moderate	100
Turkey	490,456 (±90,045)	- 1.9	Decreasing	High	36
Mill	1,317 (±288)	- 0.47	Decreasing	Low	100
Swift	18,810 (±9,875)	6.05	Increasing	Moderate	75
Deer Moss	2,353 (±1,658)	- 0.89	Decreasing	Low	100
Rocky	713,458 (±130,006)	1.12	Increasing	High	41

We classified resiliency by species’ presence, density, and population sizes. Population sizes of fewer than 10,000 Okaloosa darters are considered “low,” 10,000 to 50,000 are “moderate,” and more than 50,000 are “high” resiliency. Based on the population numbers presented above, the results of the resiliency analysis are as follows: Two of the populations (Turkey and Rocky) currently have high resiliency, two (Toms and Swift) have moderate

resiliency, and two (Deer Moss and Mill) are considered to have low resiliency.

Redundancy

Redundancy describes the ability of a species to withstand catastrophic events. Measured by the number of populations, their resiliency, and their distribution (and connectivity), redundancy gauges the probability that the species has a margin of safety to

withstand or to bounce back from catastrophic local events such as collapse of a restored borrow pit, infestation by beavers, or spill of toxic chemicals that affect part or all of one population. We report redundancy for the Okaloosa darter as the total number of populations and the resiliency of population segments and their distribution within and among representative units. Also, there are

multiple populations in two of the stream systems.

Six populations comprise the vast majority of the historical range of the Okaloosa darter within the three representative units. Redundancy is demonstrated through the darter's presence in multiple tributaries within most watersheds, and representation is demonstrated through the genetic structure of the populations. All six extant populations exhibit genetic differentiation, and the species is extant across all three representation units. Adequate redundancy is demonstrated through the darter's presence in multiple tributaries within most watersheds encompassing its historical range.

Representation

Representation can be characterized by genetic variability within the range of the species. These three representative units, each identified as containing unique and significant historical variation (Austin et al. 2011, pp. 983, 987), have not been reduced over time. The Toms Bayou representative unit comprises just the Toms population, which is currently considered moderately resilient. However, the Toms population is vulnerable to upstream impacts, which could affect the representation of this unit were a major impact to occur. The Boggy Bayou representative unit comprises the Turkey and Mill populations, of which Turkey is considered highly resilient and has low vulnerability. The Rocky Bayou unit comprises the Swift, Deer Moss, and Rocky populations, of which Swift is considered moderately resilient and Rocky is considered highly resilient with low vulnerability. Given that each unit still contains at least one population that is moderately or highly resilient (>10,000 individuals), the Okaloosa darter has sufficient genetic variability. Representation is demonstrated through the genetic structure of the populations.

Future Condition

The biggest potential threat to the Okaloosa darter in the future is development on and off Eglin AFB. Neighborhoods, roads, commercial structures, and associated utilities such as sprayfields are potential sources of sedimentation, pollution, and altered stream flow throughout the range of this species. Natural factors resulting from long-term forest management practices (e.g., prescribed fire) could also have potentially negative impacts on the Okaloosa darter. For instance, excessive canopy closure over streams might limit Okaloosa darter abundance by shading

out aquatic vegetation preferred for spawning, refuge, or foraging (USFWS 2019, p. 23). The effects of canopy closure were built into all the future scenarios through general population increases or declines. For instance, in the "ideal management" scenario, we would expect that prescribed fire or other management limits excessive canopy cover and contributes to increases in darter numbers. The opposite would be expected in the "poor" and "worst" scenarios. Because we have not established a quantitative relationship between darter numbers and canopy closure, we decided to incorporate this factor into a general increase or decrease in populations over time.

While there are several restoration activities, developments, or other proposed activities that have anticipated locations and quantifiable outcomes, specific information on the location, and therefore the effects to the Okaloosa darter, of other potential threats are unknown. Therefore, because it is impossible to predict the specific locations or impacts of future developments or other management decisions that could impact Okaloosa darter streams, we assess the future resiliency of each population based on general management and development scenarios. Accordingly, to assess the future viability of the Okaloosa darter, we considered four future scenarios that account for some degree of future development and restoration activities, considering effects of whether these activities are implemented or not; we also considered general impacts from unknown future management or land use changes or impacts, at varying levels with positive or negative impacts to each population. For each population, we consider its current condition, including the length of each stream that is unimpounded, the length considered occupied, and the average abundance per meter, to assess the future viability under each of these scenarios. Please see the SSA report (USFWS 2019, entire) for a more detailed discussion of these considerations.

We projected these future scenarios both over 20 years and 50 years. Any planned restoration efforts, should they be realized, as well as the impending development along Deer Moss Creek, would likely be completed in 20 years. Okaloosa darters respond very quickly to habitat changes, both good and bad. Improved conditions would result in an increase in Okaloosa darters, possibly within the same year (Reeves et al. 2016, pp. 1379–1382), but areas can also lose Okaloosa darters equally quickly if habitat conditions worsen. In some

cases where habitat is restored in areas without nearby Okaloosa darters, 20 years would be sufficient to ensure that they would recolonize that area. Not only would 20 years encompass several generations of Okaloosa darter, but it is the time period outlined in the recovery plan for delisting. We projected to 50 years as it is considered the outer limit that projections of base realignment, hydrologic cycles, and climate alteration may be relied upon, based on expert opinion, and will encompass a timeframe in which projected sea level rise as a result of climate change could have realized impacts.

To account for the uncertainty in the management implications of some proposed actions (Deer Moss Creek development and cleanup of the sprayfields) and other unforeseen/unknown future conditions (future land management/development and accidents), we generalize the future stream conditions/management in four categories: status quo (current conditions continue), ideal, poor, and worst. The "ideal," or "best-case," scenario assumes that all potential stream habitat is colonized at normal densities. "Poor" management assumes that accidents stemming from errors in management may occur but are unlikely to affect the population in the worst possible place or are unlikely to have a high-magnitude impact; however, over time, these accidents add up and eventually have a larger impact. "Worst" management assumes that accidents stemming from errors in management occur and affect the population in a location that will affect the largest portion of the stream or will be of such a magnitude to have a similar effect. In all long-term scenarios, we anticipate the potential negative impacts of climate change by applying reductions in population estimates of 0.5 standard deviations from the current population mean abundance.

Below, we assess the future resiliency of Okaloosa darter populations both in the short (20-year) and long term (50-year) for the four different scenarios. Of the four scenarios, the status quo and the ideal scenario are the most likely to occur. The poor and worst management are the least likely to occur. Because these four scenarios encompass the broad changes to management, which would encompass water quality and render land ownership irrelevant, we model future resiliency based on how each scenario would affect the amount of occupied habitat and average abundance estimates within each population. Please see the SSA report (USFWS 2019, entire) for further description of the methodologies we

used to model these scenarios and their impacts to the Okaloosa darter.

Scenario 1: Status Quo

In this scenario, we modeled current management coupled with both no restoration efforts (1a) and with restoration of the beaver dams on Toms Creek and College Pond on Swift Creek (1b). Under scenario 1a, nothing changed by way of management or restoration, meaning the impounded stream and abundance estimates stayed the same as the current estimates. The development of Deer Moss Creek did not affect the resiliency of this population because the section of stream that would be developed is currently, and remains, unoccupied. For the species as a whole, population estimates did not change much in the short term but decreased in the long term due to a loss of potential habitat (due to sea level rise resulting in stream inundation) and other possible climate-related threats, which we modeled as a 0.5 standard deviation reduction for each population. Not surprisingly, the smallest and most fragmented populations, Mill, Deer Moss, Toms,

and Swift Creeks, are potentially susceptible to climate change impacts alone. Habitat restoration in Toms and Swift Creeks (scenario 1b) would offset our modelled impacts from climate change. Even though saltwater inundation will fragment about 5 percent of the two large populations in Turkey and Rocky Creeks, our models exhibited minimal loss of resiliency as a result of climate change under this scenario.

For the species as a whole, our modelling suggested that, under current management conditions, there are likely to be nearly 1 million Okaloosa darters beyond the 50-year timeframe. In the long term under this scenario, Mill Creek would lose over 30 percent of its population (dropping below 1,000), as would Deer Moss and Toms Creek, unless restoration occurs. Swift Creek would lose almost 60 percent of its population unless habitat restoration occurs, but if restoration occurs (scenario 1b), the population would more than double in the short term and still increase by nearly 60 percent in the long term. Saltwater inundation in the

long term would cause the Rocky, Turkey, and Swift populations to split into three streams each. While Rocky and Turkey would see about 5 percent of their populations cut off from the main segment, the inundation of Swift Creek would also cut off that population from the current location in the absence of restoration efforts. With no restoration, we can expect that 70 percent of the population in Swift Creek will be above College Pond in Swift Creek, with fewer than 100 in Shaw Still Branch, although neither of these populations are unlikely to remain at all in 50 years. With restoration, about 83 percent of the population would remain in the Swift Creek population and about 17 percent in a Shaw Still Branch population, with likely no dispersal between them (see table 2, below). Due to the continued impacts of urbanization in the watershed within the city of Niceville, we estimated population sizes as if inhabited under moderate management conditions (long-term average minus one standard deviation). Sanders Branch would remain unoccupied.

TABLE 2—SCENARIO 1 OF MANAGEMENT FOR OKALOOSA DARTER RECOVERY

[Total stream lengths in meters (m) that would be unimpounded, the occupied meters and the percent that represents, abundance estimates per meter, and the projected population size, both with and without restoration efforts on Toms and Swift Creeks, in both the short term and long term. Scenario 1b shown for Toms (r) and Swift (r) assume restoration of uninhabited portions of the watershed.]

	Total unimpounded streams (m)	Occupied (m)	Abundance/m	Population size
Short Term				
Toms	14,936	11,300	2.0	23,011
Turkey	150,040	147,911	3.3	486,243
Mill	1,993	846	1.6	1,317
Swift	21,130	5,292	3.5	18,631
Deer Moss	8,396	5,780	0.4	2,354
Rocky	282,068	276,683	2.6	707,791
Toms (r)	16,336	12,360	2.0	25,167
Swift (r)	22,276	14,767	3.5	46,622
Long Term				
Toms	14,111	9,265	1.7	15,759
Turkey	149,063	132,041	3.0	394,227
Mill	1,993	647	1.4	896
Swift	19,533	2,939	2.6	7,631
Deer Moss	7,981	4,696	0.3	1,239
Rocky	280,096	246,739	2.3	573,683
Toms (r)	15,511	11,736	1.7	19,960
Swift (r)	20,679	11,031	2.6	20,509

Scenario 2: Ideal Restoration, Good Management

This scenario represented the highest population size that the species could attain. Under this scenario, all impoundments were removed, and management removed most existing

threats, increasing the occupied lengths of each stream to almost all of the inhabitable area. In other words, we modelled the potential population for all streams as if they were completely free-flowing by applying our current population estimates to the entire

potential length of stream habitat in the watershed. This scenario represented the “best case scenario” for the species. Because of this, we modelled an expected population expansion of 1.0 standard deviation from the current mean abundance for each population.

As expected, short-term estimates increased for all populations, with the highest relative increases in fragmented populations (Swift and Toms Creeks) or those impaired by urbanization (Deer Moss and Mill Creeks). Because we apply the same negative influence of climate change to the long-term models in this scenario, the long-term population estimates are dampened but still increasing in the four smaller populations with a very slight (<1 percent) reduction in Turkey and Rocky Creeks due to fragmentation and saltwater inundation. Under this

scenario, our model indicated there will be more than 1.3 million Okaloosa darters and increased resiliency in all of the smaller populations, even when negative impacts of climate change are applied in the long term.

In the short term, the population would increase for all stream systems, although by a much higher percent in Mill and Swift Creeks than in Rocky and Turkey Creeks. In the long term, all populations except Turkey and Rocky Creeks still see an increase from current conditions, though not quite as large. Turkey and Rocky Creeks would decrease slightly from the current

situation (see table 3, below). Saltwater inundation in the long term would cause the Rocky, Turkey, and Swift stream systems to split into three streams each. While Rocky and Turkey Creeks would see about 5 percent of their populations cut off from the main segment, the inundation of Swift Creek in the long term, given ideal restoration and management, would split the population such that about 15 percent would be cut off into a Shaw Still Branch population, and about 11 percent would be cut off into a Sanders Branch population.

TABLE 3—SCENARIO 2 OF MANAGEMENT FOR OKALOOSA DARTER RECOVERY

[Total stream lengths in meters (m) that would be unimpounded, the occupied meters and the percent that represents, abundance estimates per meter, and the projected population size in both the short term and long term. Saltwater inundation in the long term causes the Swift stream systems to split into three streams.]

	Total unimpounded streams (m)	Occupied (m)	Abundance/m	Population size
Short Term				
Toms	18,510	18,247	2.7	49,397
Turkey	152,692	150,525	3.9	585,687
Mill	4,555	4,490	1.9	8,520
Swift	24,510	24,162	5.4	129,717
Deer Moss	8,396	8,277	0.7	5,746
Rocky	282,731	278,719	3.0	842,921
Long Term				
Toms	17,685	15,666	2.4	37,153
Turkey	151,715	134,390	3.6	482,352
Mill	4,555	4,035	1.7	6,968
Swift	22,913	14,816	4.4	65,852
		3,146	4.4	13,982
		2,334	4.4	10,374
Deer Moss	7,981	7,070	0.6	3,894
Rocky	280,759	248,699	2.8	694,169

Scenario 3: Poor Management

To model what the future effect of poor management decisions, developments, or other habitat impacts would be in terms of a decrease in average Okaloosa darter abundance per meter, we considered the configuration (or geography) of each stream system for each population. In streams that are complex (have many branching tributaries) or are generally large, a severe negative impact (such as a chemical spill or source of chronic sedimentation) at any of the headwaters would be more likely to impact a smaller percentage of the population compared to a similar impact in the headwaters of a low-complexity (few tributaries) or small stream system. For scenarios 3 and 4, we first assessed the effects of an impact that might occur at the worst possible placement within each watershed by finding the longest

length of stream that could be affected by a major impact at the headwaters; in other words, the longest possible downstream distance that could be affected by a single upstream impact. We calculated this distance for each stream (USFWS 2019, figure 14) and then took that distance and calculated the percent of the total unimpounded streams it would affect (USFWS 2019, table 7). This percent represents the maximum percent of the stream system that could be affected by one management decision or development. In real-world terms, if one of the outlying airfields that are located in the upper reaches of these stream systems (USFWS 2019, figure 14) were to be reactivated for military or other uses, the amount of stream impacted could come close to or meet these estimates of “largest percent affected.”

For both the “poor” and “worst” management scenarios, we used this “largest percent affected” to model declines in Okaloosa darter abundances based on whether management was considered “poor” or “worst,” and whether we were assessing the scenario in the long or short term (USFWS 2019, table 8).

For management that was “poor,” looking at the short term, we considered a management decision or set of decisions or impacts that would decrease the average abundance by 1.0 standard deviation across this “largest percent affected” (this percent of the occupied meters). The remainder of the occupied stream length stayed at current Okaloosa darter abundances. In the long term, we proposed that management impacts could continue to affect these streams either in unfortunate locations or in great magnitude and, coupled with

unknown impacts of climate change and the associated warming over that time span, will decrease all abundance estimates an additional 0.5 standard deviation (USFWS 2019, table 8). As with the “status quo” scenario, we modeled poor management coupled with either no restoration efforts or removal of beaver dams on Toms Creek

and restoration of College Pond on Swift Creek.

Under this scenario (see table 4, below), all population sizes decreased. In the long term, the Swift population dropped below 10,000 individuals unless College Pond is restored, in which case the population almost doubled in the short term and still maintained 15 percent more than

current in the long term. In the long term, the Swift Creek population dropped below 10,000 individuals without restoration, and the populations in both Deer Moss and Mill Creeks dropped below 1,000 individuals. Even so, long-term resiliency in Toms, Turkey, Swift, and Rocky Creeks remained relatively unchanged from the “status quo” models.

TABLE 4—SCENARIO 3 OF MANAGEMENT FOR OKALOOSA DARTER RECOVERY

[Total stream lengths in meters (m) that would be unimpounded, the occupied meters and the percent that represents, abundance estimates per meter, and the projected population size, both with and without restoration efforts on Toms and Swift Creeks, in both the short term and long term.]

	Total unimpounded streams (m)	Occupied (m)	Avg. abundance/m	Population size
Short Term				
Toms	14,936	11,300	1.8	20,333
Turkey	150,040	147,911	3.2	474,298
Mill	1,993	846	1.3	1,057
Swift	21,130	5,292	3.1	16,321
Deer Moss	8,396	5,780	0.2	1,075
Rocky	282,068	276,683	2.5	692,277
Toms (r)	16,336	12,360	1.8	21,913
Swift (r)	22,276	14,767	2.8	41,688
Long Term				
Toms	14,111	9,265	1.5	13,563
Turkey	149,063	132,041	2.9	383,564
Mill	1,993	647	1.1	698
Swift	19,533	2,939	2.2	6,348
Deer Moss	7,981	4,696	0.1	284
Rocky	280,096	246,739	2.3	559,848
Toms (r)	15,511	10,184	1.4	14,640
Swift (r)	20,679	13,290	1.9	25,238

Scenario 4: Worst Management

This scenario is very pessimistic. We considered a management decision or set of decisions or impacts that would decrease the average abundance by 2.0 standard deviations across the “largest percent affected,” described above. The remainder of the occupied stream length in Scenario 4 was then considered to be occupied at the “poor” Okaloosa darter abundances (a reduction of 1.0 standard deviation). As with other scenarios, we modeled climate change impacts as an additional reduction of 0.5 standard

deviations from the long-term mean and considered the impact of restoration in Toms and Swift Creeks in a separate model.

This is the only scenario where we modeled an extirpation. All populations were reduced by at least 20 percent, even in the short term (see table 5, below). Under this scenario, Mill and Deer Moss Creeks dropped below 1,000 individuals in the short term, and Deer Moss Creek became extirpated in the long term. We estimated a population decline in Toms Creek to approximately half the population estimate of the

“status quo” scenario. Our model projected that Swift Creek could drop to approximately one quarter of the population anticipated under the “status quo”; however, the restoration of College Pond would prevent this population from dropping below 10,000 individuals in the short term and more than quadruple the population estimate in the long term. The Turkey and Rocky Creeks’ populations would maintain high resiliency, above 300,000 individuals, even in the long term.

TABLE 5—SCENARIO 4 OF WORST MANAGEMENT FOR OKALOOSA DARTER RECOVERY

[Total stream lengths in meters (m) that would be unimpounded, the occupied meters and the percent that represents, abundance estimates per meter, and the projected population size, both with and without restoration efforts on Toms and Swift Creeks, in both the short term and long term.]

	Total unimpounded streams (m)	Occupied (m)	Avg. abundance/m	Population size
Short term				
Toms	14,936	11,300	1.1	12,752
Turkey	150,040	147,911	2.6	385,027
Mill	1,993	846	0.9	769
Swift	21,130	5,292	1.3	6,760
Deer Moss	8,396	5,780	0.0	159
Rocky	282,068	276,683	2.0	563,304
Toms (r)	16,336	12,360	1.1	13,622
Swift (r)	22,276	14,767	1.0	15,377
Long term				
Toms	14,111	9,265	0.8	7,348
Turkey	149,063	132,041	2.3	303,870
Mill	1,993	647	0.7	478
Swift	19,533	2,939	0.6	1,680
Deer Moss	7,981	4,696	0.0	0
Rocky	280,096	246,739	1.8	444,833
Toms (r)	15,511	11,736	0.8	8,998
Swift (r)	20,679	13,290	0.5	6,192

Future Resiliency

Our projections of how resiliency will change in the future are based on the completion or success of specific restoration efforts, nonspecific changes to the management of Okaloosa darter streams or other unforeseen impacts, and the effects of climate change, including unknown effects to the streams from temperature increases, drought, frequent or heavy rainfalls, or invasive species. Our models showed population increases only under “ideal restoration, good management,” with the exception of restoration efforts on Swift Creek, which increase the population even under the “poor” management scenario. We also took a pessimistic approach to climate change impacts by applying population reductions to all populations in the long-term models. Accordingly, population numbers declined in the long-term models across all stream systems in the absence of future management efforts. Both Mill Creek and Deer Moss Creek remained at low resiliency and decreased to fewer than 1,000 individuals or became extirpated in the long term under the “poor” and “worst” scenarios. Toms Creek maintained a moderate resiliency in all but the “worst” scenario. Swift Creek would see a huge benefit from the removal of beaver impoundments in College Pond, which even under “poor” management conditions, would almost double its population size in the short

term. In the long term, restoring College Pond resulted in the most robust population gains, roughly quadrupling population estimates under “poor” and “worst” scenarios. Even under the worst projected management or impact scenario, the estimated sizes of Rocky and Turkey populations did not drop below 300,000, and resiliency in these populations remained exceptionally high.

In general, in our scenarios, the larger populations were more resilient and more likely than small populations to maintain resiliency in the future. The Deer Moss population is considered to have a low resiliency in comparison to the other populations; however, even under ideal conditions, our models suggested that this population can increase to only about 4,000 individuals, which remains below our designation of moderate resiliency. So, even under “ideal” conditions, this population will always have low resiliency. Regardless, the Deer Moss Creek population has persisted over time, even with a much lower resiliency than the other populations. When comparing model outcomes to the most likely future scenario, “status quo,” we do not see shifts in resiliency categorization for any of the populations. Only under the “worst” scenario were the resiliency for Toms and Swift Creeks depressed, indicating that the two large populations, Turkey and Rocky, should maintain high to

very high resiliency in perpetuity. From a population standpoint, a reduction of 2.5 standard deviations from the long-term mean is massive and highly unlikely, indicating the “worst” scenario is a depiction of a truly catastrophic decline. Even under this scenario, five of the six populations remain. At the species level, Okaloosa darter exhibits moderate to high resiliency even under the worst-case scenario.

Future Redundancy

Determined by the number of populations, their resiliency, and their distribution (and connectivity), redundancy describes the probability the species has a margin of safety to withstand or recover from catastrophic events (such as a rare destructive natural event or episode involving many populations). The Okaloosa darter has a constrained range, limited to just six populations in six streams, and redundancy is naturally low. However, the Okaloosa darter inhabits its historical range almost completely, exhibiting documented resiliency to natural phenomena such as hurricanes and drought (USFWS 2019, p. 23).

Four of the populations, the ones with the lowest current resiliency, are considered highly vulnerable to catastrophic events due to their stream configuration. We determined the “largest percent affected” in Mill Creek to be 90 percent (USFWS 2019, table 7).

Thus, a major impact like a toxic chemical spill in the upper watershed could result in drastic population declines. Further, climate change could have consequences that make the streams uninhabitable to Okaloosa darter; temperature rise is one potential threat, but other impacts are possible. Invasive species could also extirpate an entire population were a highly competitive predator to be introduced; tilapia, for instance, are highly invasive and are well documented to cause local extinctions of native species through resource competition, predation, and habitat alteration (Canonico et al. 2005, pp. 467–474; Zambrano et al. 2006, pp. 1906–1909). Given the species' limited range, catastrophic events, the invasion of a nonnative species, or steady changes such as increased stream temperatures due to climate change could impact one or more populations. Even so, our modeling resulted in only one population completely failing in the long term under our “worst” management scenario, and that scenario assumed drastic declines across all six populations. Thus, loss of redundancy is unlikely in all but the most extreme circumstances. Accordingly, we do not expect the Okaloosa darter's viability to be characterized by a loss in redundancy unless management fails dramatically in the coming years, or a major impact occurs.

Future Representation

All representative units are predicted to retain the same number of populations at least 50 years into the future, except in the scenario where management is particularly bad (“worst” scenario). In the “worst” scenario, the Deer Moss population becomes extirpated, and the Mill population experiences heavy declines. In both the “poor” and “worst” scenarios, each representative unit will have populations with decreased resiliency, both within the next 20 years (short term) and next 50 years (long term); however, even under the “worst” scenario, the two large populations (Turkey Creek and Rocky Creek) will maintain resiliency. The Toms Creek population, being the only population in its representative unit, will see decreased resiliency in the short term in two (“poor” and “worst”) of the scenarios, and in the long term in three scenarios (all except “ideal restoration, good management”).

Determination of Species Status

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species meets

the definition of an endangered species or a threatened species. The Act defines an “endangered species” as a species that is in danger of extinction throughout all or a significant portion of its range, and a “threatened species” as a species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. For a more detailed discussion on the factors considered when determining whether a species meets the Act's definition of an endangered species or a threatened species and our analysis on how we determine the foreseeable future in making these decisions, please see Regulatory and Analytical Framework, above.

Status Throughout All of Its Range

The Okaloosa darter is a narrow endemic, occurring in six stream systems in Walton and Okaloosa Counties, Florida. Okaloosa darters currently occur within all six historical watersheds. Populations in two of those watersheds are currently highly resilient, two are moderately resilient, and two have low resiliency. While the populations have been affected by impoundments, urbanization (on the lower ends of the streams), and land use impacts (e.g., sedimentation), current population estimates show approximately more than 500,000 darters across the species' range. Redundancy is demonstrated through the darter's presence in multiple tributaries within most watersheds, and representation is demonstrated through the genetic structure of the populations. All six extant populations exhibit genetic differentiation, and the species is extant across all three representative units. Overall, the populations are robust. Because approximately 90 percent of the species' range is under the management of Eglin AFB, urbanization will have little to no future effect. The Okaloosa darter occurs in multiple stream systems, which provides redundancy, and no long-term threats are presently impacting the Okaloosa darter at the species level. Accordingly, we conclude that the species is not currently in danger of extinction, and thus does not meet the Act's definition of an endangered species, throughout its range.

In considering whether the species continues to meet the Act's definition of a threatened species (likely to become an endangered species within the foreseeable future) throughout its range, we identified the foreseeable future for the Okaloosa darter to be 20 to 50 years based on our ability to reliably determine that the threats are likely and

predict the species' response to current and future threats. Over 90 percent of the darter's range is located on Eglin AFB and will continue to benefit from the conservation protections resulting from the Eglin AFB INRMP. Overall, while there may be some loss of resiliency due to climate change, in all but the worst-case scenario, all extant populations will remain. Redundancy will remain the same except under the worst-case scenario, as will representation. Under all four management scenarios, two darter populations (Turkey Creek and Rocky Creek) are expected to continue to be highly resilient. Toms Creek will continue to be moderately resilient in all but the worst-case scenario, in which case its resiliency will fall to low. The currently uninhabited tributaries in the Swift Creek watershed will continue to be isolated due to sea level rise, and without restoration, Swift Creek itself will be the only occupied tributary in this population; however, the upper Swift Creek population will continue to serve as a source for recolonization if restoration occurs. Deer Moss Creek is the only population with potential for extirpation, and then only under the worst-case scenario. Further, this population exhibits low resiliency even under “ideal” conditions, and its extirpation would not compromise the resiliency of the Rocky Creek representative unit. In other words, while some populations may decline or even become extirpated under the two negative scenarios, under all scenarios the Okaloosa darter will exhibit sufficient resiliency, redundancy, and representation to maintain viability for the foreseeable future. Accordingly, we conclude that the species is not likely to become in danger of extinction in the foreseeable future throughout all of its range.

Status Throughout a Significant Portion of Its Range

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so in the foreseeable future throughout all or a significant portion of its range. Having determined that the Okaloosa darter is not in danger of extinction or likely to become so throughout all of its range in the foreseeable future, we proceed to evaluating whether it may be in danger of extinction or likely to become so in the foreseeable future in a significant portion of its range—that is, whether there is any portion of the species' range for which it is true that both (1) the portion is significant; and (2) the species is in danger of extinction now or likely

to become so in the foreseeable future in that portion. Depending on the case, it might be more efficient for us to address the “significance” question or the “status” question first. We can choose to address either question first. Regardless of which question we address first, if we reach a negative answer with respect to the first question that we address, we do not need to evaluate the other question for that portion of the species’ range.

In undertaking this analysis for the Okaloosa darter, we chose to address the status question first—we considered information pertaining to the geographic distribution of both the species and the threats that the species faces, to identify any portions of the range where the species is endangered or threatened. We examined whether any threats are geographically concentrated in any portion of the species’ range at a biologically meaningful scale. It is important to note at the outset that this is a narrow endemic with a naturally limited range. We examined the following threats: urbanization, land use and management practices on Eglin AFB, and sea level rise around the southern reaches of watersheds.

Urbanization is the greatest threat to the Okaloosa darter, as development leads, through multiple pathways, to pollution, erosion, sedimentation, altered water flows, and dispersal barriers. However, because over 90 percent of the range of the Okaloosa darter will continue to be managed under the Eglin AFB INRMP, we expect management to improve overall conditions for the species across its range. Because populations of the Okaloosa darter within Eglin AFB will continue to benefit from the conservation protections, where urbanization is not considered to be a current or future threat, our analysis focuses on southern portions of watersheds outside of Eglin AFB as a portion of the range that may have a different status. This portion overlaps with three populations of Okaloosa darter: Swift, Deer Moss, and Mill Creeks. Of these, Swift Creek rangewide currently has moderate resiliency with increasing population size now and into the future in all scenarios. Both Deer Moss and Mill Creeks rangewide are considered to have low resiliency with decreasing population size now, with the potential for extirpation in the future without proper management. Because of the current and projected future status of the Deer Moss and Mill Creeks populations, and because sea level rise will only affect the populations of Okaloosa darter within this portion, our analysis indicates that the status of this portion of the range

(i.e., southern portions of watersheds outside of Eglin AFB) may be different than the overall range.

We then proceeded to consider whether this portion of the range (Deer Moss and Mill Creeks) is significant. The Service’s most recent definition of “significant” within agency policy guidance has been invalidated by court order (see *Desert Survivors v. U.S. Department of the Interior*, 321 F. Supp. 3d 1011, 1070–74 (N.D. Cal. 2018)). In undertaking this analysis for the Okaloosa darter, we considered whether the Deer Moss and Mill Creeks portion of the species’ range may be significant based on its biological importance to the overall viability of the Okaloosa darter. Therefore, for the purposes of this analysis, when considering whether this portion is significant, we considered whether the portion may (1) occur in a unique habitat or ecoregion for the species; (2) contain high-quality or high-value habitat relative to the remaining portions of the range, for the species’ continued viability in light of the existing threats; (3) contain habitat that is essential to a specific life-history function for the species and that is not found in the other portions (for example, the principal breeding ground for the species); or (4) contain a large geographic portion of the suitable habitat relative to the remaining portions of the range for the species.

This portion (Deer Moss and Mill Creeks’ populations) represents a small portion (approximately 2 and 1 percent, respectively) of the Okaloosa darter’s range. Although these populations contribute to the rangewide representation and redundancy of the darter, this portion does not constitute a large geographic area relative to the range as a whole. Additionally, this portion does not contribute high-quality habitat or constitute high-value habitat (e.g., refugia) for the Okaloosa darter. In addition, this portion does not constitute an area of habitat that is essential to a specific life-history function for the species that is not found in the remainder of the range.

Overall, we found no substantial information that would indicate this portion of the Okaloosa darter’s range is significant in terms of the above habitat considerations. As a result, we determined that this portion does not represent a significant portion of the Okaloosa darter’s range. Therefore, we conclude that the species is not in danger of extinction now or likely to become so in any significant portion of its range in the foreseeable future. This finding does not conflict with the courts’ holdings in *Desert Survivors v. U.S. Department of the Interior*, 321 F.

Supp. 3d 1011, 1070–74 (N.D. Cal. 2018) and *Center for Biological Diversity v. Jewell*, 248 F. Supp. 3d 946, 959 (D. Ariz. 2017) because, in reaching these conclusions, we did not need to consider whether any portions are significant and therefore did not apply the definition of “significant” in the Final Policy on Interpretation of the Phrase “Significant Portion of its Range” in the Endangered Species Act’s Definitions of “Endangered Species” and “Threatened Species” (79 FR 37578; July 1, 2014) that those court decisions held was invalid.

Determination of Status

Our review of the best available scientific and commercial information indicates that the Okaloosa darter does not meet the definition of an endangered species or a threatened species in accordance with sections 3(6) and 3(20) of the Act. Therefore, we are delisting (removing) the Okaloosa darter from the Federal List of Endangered and Threatened Wildlife.

Effects of This Rule

This final rule will revise 50 CFR 17.11(h) and 17.44(bb) by removing the Okaloosa darter from the Federal List of Endangered and Threatened Wildlife and removing the section 4(d) rule for this species. The prohibitions and conservation measures provided by the Act will no longer apply to this species. Federal agencies will no longer be required to consult with the Service under section 7 of the Act in the event that activities they authorize, fund, or carry out may affect the Okaloosa darter. However, approximately 90 percent of the 457-square-kilometer (176-square-mile) watershed drainage area that historically supported the Okaloosa darter is Federal property under the management of Eglin AFB, and about 98.7 percent of the stream length in the current range of the Okaloosa darter is within the boundaries of Eglin AFB.

As discussed above, Eglin AFB encompasses the headwaters of all six of these drainages. Benefits from conservation protections will continue because the Air Force will maintain its INRMP for the benefit of other listed species, such as the red-cockaded woodpecker (USAF 2022c, p. 3–1). Thus, the INRMP will continue to provide for the conservation of the Okaloosa darter even if the species is delisted. Because the Service is required to approve INRMPs every 5 years, we will be able to ensure that this INRMP continues to protect the habitat and resources required by the Okaloosa darter into the future. There is no critical habitat designated for this

species, so this rule has no effect on 50 CFR 17.95.

Post-Delisting Monitoring

Section 4(g)(1) of the Act requires us, in cooperation with the States, to implement a monitoring program for not less than 5 years for all species that have been delisted due to recovery. Post-delisting monitoring (PDM) refers to activities undertaken to verify that a species delisted remains secure from the risk of extinction after the protections of the Act no longer apply. The primary goal of PDM is to ensure that the species' status does not deteriorate, and that if a decline is detected, measures are taken to halt the decline so as to avoid the need for us to propose listing of the species again. If at any time during the monitoring period data indicate that protective status under the Act should be reinstated, we can initiate listing procedures, including, if appropriate, emergency listing.

Section 4(g) of the Act explicitly requires that we cooperate with the States in development and implementation of PDM programs. However, we remain ultimately responsible for compliance with section 4(g) and, therefore, must remain actively engaged in all phases of PDM. We also seek active participation of other entities that are expected to assume responsibilities for the species' conservation after delisting.

We will coordinate with other Federal agencies, State resource agencies, interested scientific organizations, and others as appropriate to implement an effective PDM plan for the Okaloosa darter. The PDM plan was developed based upon current research and effective management practices that have improved the status of the species since listing. Ensuring continued implementation of proven management strategies that have been developed to sustain the species is a fundamental goal for the PDM plan. The PDM plan has identified measurable management thresholds and responses for detecting and reacting to significant changes in Okaloosa darter's numbers, distribution, and persistence. If declines are detected equaling or exceeding these thresholds, the Service, in combination with other PDM participants, will investigate causes of the declines. The investigation will be to determine if the Okaloosa darter warrants expanded monitoring or additional protection under the Act.

We are delisting the Okaloosa darter based on all six extant populations exhibiting genetic differentiation and

the species being extant across all three representation units. Overall, the populations are robust. Because approximately 90 percent of the species' range is under the management of Eglin AFB, urbanization will have little to no future effect. The Okaloosa darter occurs in multiple stream systems, and no long-term threats are presently impacting the Okaloosa darter at the species level. Since delisting is, in part, due to conservation actions taken by stakeholders, we have developed a PDM plan for the Okaloosa darter. The PDM plan discusses the current status of the taxon and describes the methods that will be implemented for monitoring following delisting. The PDM plan: (1) Summarizes the status of the Okaloosa darter at the time of delisting; (2) describes frequency and duration of monitoring; (3) discusses monitoring methods and sampling regimes; (4) defines what potential triggers will be evaluated to address the need for additional monitoring; (5) outlines reporting requirements and procedures; (6) defines a schedule for implementing the PDM plan; and (7) defines responsibilities. It is our intent to work with our partners towards maintaining the recovered status of the Okaloosa darter.

The Service prepared this PDM plan in coordination with Eglin AFB, based largely on monitoring methods developed by the U.S. Geological Survey and Loyola University New Orleans (USFWS 2021, p. 5). The Service designed the PDM plan to detect substantial changes in habitat occupied by the Okaloosa darter and declines in Okaloosa darter occurrences with reasonable certainty and precision. It meets the minimum requirement set forth by the Act because it will monitor the status of the Okaloosa darter using a structured sampling regime over a 10-year period.

The final PDM plan for the Okaloosa darter can be accessed at <https://www.regulations.gov> under Docket No. FWS-R4-ES-2021-0036, and through the Service's Environmental Conservation Online System at <https://ecos.fws.gov/ecp/species/E00H>.

Required Determinations

National Environmental Policy Act

We have determined that we do not need to prepare an environmental assessment or environmental impact statement, as defined in the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), in connection with

regulations adopted pursuant to section 4(a) of the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretary's Order 3207 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. There are no Tribes or Tribal lands affected by this final rule.

References Cited

A complete list of references cited in this rulemaking is available on the internet at <https://www.regulations.gov> under Docket No. FWS-R4-ES-2021-0036 and upon request from the Field Supervisor, Florida Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this rule are staff members of the Fish and Wildlife Service's Species Assessment Team and the Florida Ecological Services Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Plants, Reporting and recordkeeping requirements, Transportation, Wildlife.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

§ 17.11 [Amended]

■ 2. In § 17.11, amend paragraph (h) by removing the entry for “Darter, Okaloosa” under FISHES from the List of Endangered and Threatened Wildlife.

§ 17.44 [Amended]

■ 3. Amend § 17.44 by removing and reserving paragraph (bb).

Martha Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2023–12982 Filed 6–27–23; 8:45 am]

BILLING CODE 4333–15–P

Proposed Rules

Federal Register

Vol. 88, No. 123

Wednesday, June 28, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 531

[Docket ID: OPM–2023–0009]

RIN 3206–AO58

General Schedule Locality Pay Areas

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management is proposing regulations on behalf of the President's Pay Agent to change the geographic boundaries of General Schedule locality pay areas. The proposed changes in locality pay area definitions would be applicable on the first day of the first applicable pay period beginning on or after January 1, 2024, subject to issuance of final regulations. The locations proposed for inclusion in a locality pay area separate from the Rest of U.S. locality pay area have all met criteria previously recommended by the Federal Salary Council and approved by the Pay Agent for nationwide use in the locality pay program.

DATES: We must receive comments on or before July 28, 2023.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) and title, by the following method:

- *Federal Rulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments.

All submissions received must include the agency name and docket number or RIN for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at <https://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Joe Ratcliffe by email at pay-leave-policy@

[opm.gov](mailto:pay-leave-policy@opm.gov) or by telephone at (202) 936–3081.

SUPPLEMENTARY INFORMATION: The proposed changes in locality pay area definitions include linking geographic boundaries of locality pay areas to the updated definitions of metropolitan statistical areas and combined statistical areas (MSAs and CSAs) in Office of Management and Budget (OMB) Bulletin No. 20–01; establishing four new locality pay areas having pay disparities significantly exceeding that for the Rest of U.S. locality pay area over an extended period; and changing the criteria by which locations adjacent to an MSA or CSA comprising a basic locality pay area can be included in the locality pay area as an area of application. (The terms *basic locality pay area* and *area of application* are defined below.) However, while any location may be subject to a change in locality pay area designation in the future based on a recommendation by the Federal Salary Council which is approved by the Pay Agent, locations that are currently in a locality pay area other than the Rest of U.S. locality pay area and would otherwise be redesignated as part of a lower-paying locality pay area due to application of approved criteria will remain in their current locality pay area under this proposal.

The four new locality pay areas proposed are Fresno-Madera-Hanford, CA; Reno-Fernley, NV; Rochester-Batavia-Seneca Falls, NY; and Spokane-Spokane Valley-Coeur d'Alene, WA-ID. Locality pay rates for these four areas would be set by the President after they have been established by regulation as new locality pay areas.

Section 5304 of title 5, United States Code, authorizes locality pay for General Schedule (GS) employees with duty stations in the United States and its territories and possessions. Section 5304(f) of title 5, United States Code, authorizes the President's Pay Agent (the Secretary of Labor, the Director of the Office of Management and Budget (OMB), and the Director of the Office of Personnel Management (OPM)) to determine locality pay areas. The boundaries of locality pay areas are based on appropriate factors, which may include local labor market patterns, commuting patterns, and the practices of other employers. The Pay Agent considers the views and

recommendations of the Federal Salary Council, a body composed of experts in the fields of labor relations and pay policy and representatives of Federal employee organizations. The President appoints the members of the Council, which submits annual recommendations to the Pay Agent about the administration of the locality pay program, including the geographic boundaries of locality pay areas. (The Federal Salary Council's recommendations are posted on the OPM website at <https://www.opm.gov/policy-data-oversight/pay-leave/pay-systems/general-schedule/#url=Federal-Salary-Council>.) The establishment or modification of pay area boundaries conforms to the notice and comment provisions of the Administrative Procedure Act (5 U.S.C. 553).

This proposal provides notice and requests comments on proposed regulations to implement the Pay Agent's plan to define GS locality pay areas geographically based on the updated definitions of metropolitan statistical areas and combined statistical areas (MSAs and CSAs) in Office of Management and Budget (OMB) Bulletin No. 20–01; to establish four new locality pay areas having pay disparities significantly exceeding that for the Rest of U.S. locality pay area over an extended period; and to change the criteria by which locations adjacent to an MSA or CSA comprising a basic locality pay area are included in locality pay areas as areas of application. (The terms *basic locality pay area* and *area of application* are defined below.) As further discussed below, those changes were tentatively approved, pending appropriate rulemaking, in the December 15, 2022, report of the President's Pay Agent. (Annual Pay Agent reports on locality pay are posted on the OPM website at <https://www.opm.gov/policy-data-oversight/pay-leave/pay-systems/general-schedule/#url=Pay-Agent-Reports>.)

Terms Used in Defining Locality Pay Areas

As explained in the Federal Salary Council's October 14, 2022, report to the Pay Agent, a locality pay area separate from the Rest of U.S. locality pay area consists of a *basic locality pay area* and, where criteria recommended by the Council and approved by the Pay Agent are met, *areas of application*. A basic

locality pay area consists of a main core-based statistical area (CBSA) defined by OMB as a metropolitan statistical area (MSA) or combined statistical area (CSA). An MSA or CSA cannot be established as a basic locality pay area separate from the Rest of U.S. locality pay area unless the MSA or CSA has a pay disparity that significantly exceeds the overall Rest of U.S. pay disparity over an extended period, with such pay disparities calculated using approved Bureau of Labor Statistics (BLS) salary data. Areas of application are locations that are adjacent to the basic locality pay area and have met approved criteria for inclusion in the locality pay area.

Linking Locality Pay Area Boundaries to OMB-Defined Metropolitan Areas

OMB-defined metropolitan areas are called CBSAs and are currently grouped into three categories: micropolitan statistical areas, where the largest included urban area has a population of 10,000 to 49,999; MSAs, where the largest included urban area has a population of 50,000 or more; and CSAs, which are composed of two or more adjacent CBSAs with an employment interchange measure of at least 15 percent. (The employment interchange measure is the sum of the percentage of workers living in the smaller entity who work in the larger entity and the percentage of employment in the smaller entity that is accounted for by workers who reside in the larger entity.) OMB-defined metropolitan areas have been the basis of locality pay area boundaries since locality pay was first implemented in 1994. OMB periodically updates its definitions of CBSAs, and current regulations defining locality pay areas link the geographic definitions of locality pay areas to MSAs and CSAs as delineated in OMB Bulletin No. 18–03 (*available at <https://www.whitehouse.gov/wp-content/uploads/2018/04/OMB-BULLETIN-NO.-18-03-Final.pdf>*).

As explained in the Pay Agent's December 2022 annual report, the Pay Agent has tentatively approved the use in the locality pay program of the MSAs and CSAs delineated in OMB Bulletin No. 20–01 (*available at <https://www.whitehouse.gov/wp-content/uploads/2020/03/Bulletin-20-01.pdf>*), pending the issuance of revised locality pay regulations. This proposed rule would implement the change by revising the definitions of “CSA” and “MSA” in 5 CFR 531.602 to link the geographic definitions of locality pay areas to the March 2020 definitions of MSAs and CSAs in OMB Bulletin No. 20–01, and by updating the locality pay

area definitions in 5 CFR 531.603 to reflect use of the OMB Bulletin No. 20–01 MSA and CSA definitions. The geographic boundaries of locality pay areas would not change automatically should OMB issue a new Bulletin to change the definitions of any MSAs or CSAs serving as the basis of the geographic boundaries of locality pay areas. As under the current regulations, the Pay Agent would instead assess what the impact of a future Bulletin would be on locality pay areas before deciding whether to use the new CBSA definitions. While any location may be subject to a change in locality pay area designation in the future based on a recommendation by the Federal Salary Council which is approved by the Pay Agent, the proposed rule also implements the Pay Agent's plan to retain, in their current locality pay area, any locations that would otherwise move to a lower-paying locality pay area as a result of linking locality pay area definitions to the MSAs and CSAs in OMB Bulletin No. 20–01, as recommended by the Federal Salary Council. Under this proposed rule, any such retained area would no longer be part of the basic locality pay area due to use of those MSAs and CSAs and would be treated as an area of application.

Establishing Four New Locality Pay Areas

Locality pay is set by comparing GS and non-Federal pay rates for the same levels of work in each locality pay area. Non-Federal salary survey data used to set locality pay rates are collected by BLS. Historically, the Federal Salary Council and President's Pay Agent have not been able to study non-Federal pay and establish separate locality pay areas in all the many metropolitan areas with GS employees. However, the current salary survey methodology, which was first used in 2012, provides more location coverage than the previous methodology by combining data sources from two previously existing BLS products—*i.e.*, the National Compensation Survey (NCS) and the Occupational Employment and Wage Statistics (OEWS) program. The measurement process BLS provides in doing so is called the NCS/OEWS Model, and the Rest of U.S. metropolitan areas it covers are called Rest of U.S. research areas.

Based on its review of pay disparities using NCS/OEWS data and calculated for all Rest of U.S. research areas, the Council has recommended new locality pay areas be established for four metropolitan areas with pay gaps averaging more than 10 percentage points above that for the Rest of U.S.

locality pay area over an extended period. The President's Pay Agent has agreed to propose regulations that would establish the four new locality pay areas by modifying 5 CFR 531.603(b) accordingly. The four new locality pay areas proposed are Fresno-Madera-Hanford, CA; Reno-Fernley, NV; Rochester-Batavia-Seneca Falls, NY; and Spokane-Spokane Valley-Coeur d'Alene, WA-ID. Locality pay rates for the four new locality pay areas would be set by the President at a later date should the locality pay areas be established by final regulation.

Stakeholders should note that Rest of U.S. locations that we have not proposed for establishment as new locality pay areas have not met the pay disparity criterion by which locality pay areas are established. Such locations are either established Rest of U.S. research areas that have not met the pay disparity criterion referred to above or are locations that have not been established as Rest of U.S. research areas. Stakeholders should also note that establishment of Rest of U.S. research areas historically has not been on a case-by-case basis in response to stakeholder requests. When the Council began using the NCS/OES (now NCS/OEWS) model in 2012, selection of Rest of U.S. research areas was limited to MSAs and CSAs having 2,500 or more GS employees. Starting in 2022, the Council has now begun to request that BLS deliver NCS/OEWS estimates for areas that had fewer than 2,500 GS employees, and so far BLS resources have allowed for delivery of NCS/OEWS estimates for 10 such CBSAs. Those 10 CBSAs had the highest levels of GS employment among areas not previously established as Rest of U.S. research areas. Two of those new Rest of U.S. research areas—Reno, NV, and Rochester, NY—met the pay disparity criterion mentioned above and thus are proposed here as new locality pay areas. (Fresno, CA, and Spokane, WA, had already been established as Rest of U.S. research areas but did not meet the pay disparity criterion prior to the Council issuing its October 14, 2022, report.)

It should also be noted that BLS has said it is not feasible for the NCS/OEWS model to produce reliable salary estimates for micropolitan statistical areas or rural counties. In addition, the data for any additional MSAs and CSAs evaluated as potential new Rest of U.S. research areas are subject to BLS validation and testing. Thus, it is possible that data from some MSAs or CSAs not yet evaluated as potential Rest of U.S. research areas may not pass such validation and testing and may not meet

BLS' standards for delivery to the Pay Agent.

We support the Council's plans to continue its work with BLS to determine whether additional locations can be established as Rest of U.S. research areas. The Pay Agent looks forward to hearing of future progress on increasing the capacity to monitor pay disparities in more areas but also has urged the Council to continue proceeding with caution on this work to ensure pay disparity data for any additional MSAs or CSAs are as accurate as possible in the context of current methodology.

Criteria for Areas of Application

As mentioned above, locality pay areas consist of (1) the MSA or CSA comprising the basic locality pay area, and (2) where criteria recommended by the Federal Salary Council and approved by the Pay Agent are met, areas of application. Areas of application are locations that are adjacent to the basic locality pay area and meet approved criteria for inclusion in the locality pay area. Those criteria are explained below.

Since 2005, the criteria by which CBSAs or counties adjacent to a basic locality pay area have been evaluated for possible inclusion in the locality pay area as areas of application have been as follows: For adjacent CSAs and adjacent multi-county MSAs, the criteria are 1,500 or more GS employees and an employment interchange rate of at least 7.5 percent. For adjacent single counties, the criteria are 400 or more GS employees and an employment interchange rate of at least 7.5 percent. The employment interchange rate is defined as the sum of the percentage of employed residents of the area under consideration who work in the basic locality pay area and the percentage of the employment in the area under consideration that is accounted for by workers who reside in the basic locality pay area. (The employment interchange rate is calculated by including all workers in assessed locations, not just Federal employees.)

The Pay Agent has tentatively agreed with the Council that the following criteria should be used for evaluating CBSAs or counties that are adjacent to the basic locality pay area as potential areas of application and that the GS employment criteria currently used in evaluating such locations should be eliminated:

- For a CBSA (includes single-county CBSAs other than single-county micropolitan areas) adjacent to a basic locality pay area, an employment

interchange rate of at least 7.5 percent with the basic locality pay area.

- For a county that is not part of a CBSA or comprises a single-county micropolitan area and is adjacent to a basic locality pay area, an employment interchange rate of at least 20 percent with the basic locality pay area.

- For a county that is adjacent to multiple locality pay areas and does not meet the 20 percent employment interchange threshold with respect to any single locality pay area, a sum of employment interchange rates of at least 20 percent with the adjacent basic locality pay areas. Such a county would be added to the locality pay area with which it has the greatest degree of employment interchange.

This proposed rule reflects application of those criteria to all locations throughout the country.

The Pay Agent also has criteria for evaluating Federal facilities that cross county lines into a separate locality pay area. Those criteria do not change under this proposal and are as follows: To be included in an adjacent locality pay area, the whole facility under consideration must have at least 500 GS employees, with the majority of those employees in the higher-paying locality pay area, or that portion of a Federal facility outside of a higher-paying locality pay area must have at least 750 GS employees, the duty stations of the majority of those employees must be within 10 miles of the separate locality pay area, and a significant number of those employees must commute to work from the higher-paying locality pay area.

It has been the practice in the locality pay program in recent years to include a location completely bordered by land that is included in higher-paying locality pay areas in the adjacent locality pay area with which the location has the greatest degree of employment interchange. We agree with the Council that this practice should continue. Thus, we also agree with the Council that Emporia City, VA—a U.S. county equivalent surrounded geographically by Greensville County, VA—should be included in the Richmond, VA, locality pay area as an area of application. (Greensville County would be included in the Richmond, VA, locality pay area as an area of application because it is adjacent to the Richmond, VA, basic locality pay area and has a 23.36 percent rate of employment interchange with the Richmond, VA MSA.)

This proposal also reflects our tentative agreement with the Council that the following locations bordered only by water and higher-paying locality pay areas should be included in higher-

paying locality pay areas because we share the Council's view that they are similar to locations completely bordered by land that is included in higher-paying locality pay areas: Dukes and Nantucket Counties, MA, which would be included in the Boston-Worcester-Providence, MA-RI-NH-CT-ME-VT locality pay area as areas of application; Huron County, MI, which would be included in the Detroit-Warren-Ann Arbor, MI, locality pay area as an area of application; and Pacific and San Juan Counties, WA, which would be included in the Seattle-Tacoma, WA, locality pay area as areas of application.

Situations Involving Locations Previously Retained in a Locality Pay Area

It has been the practice in the locality pay program to retain in their current locality pay area locations that would otherwise be redesignated as part of a lower-paying locality pay area due to application of approved criteria. However, situations involving such locations must be monitored over time. As pay levels and locations comprising locality pay areas change over time, the situation with respect to a retained location can change so that it should no longer be retained in a locality pay area but rather should be placed as it would be otherwise based on standard criteria. In our view, such is the case with respect to Windham County, CT, which we propose be included in the Boston-Worcester-Providence, MA-RI-NH-CT-ME-VT locality pay area. In 2016, the Pay Agent retained Windham County, CT, in the Hartford-West Hartford, CT-MA locality pay area, even though under OMB Bulletin No. 13–01 (which had just been approved for use in the locality pay program) the county had been redesignated from the Hartford CSA to the Boston CSA. The Pay Agent took that action because otherwise the county would have been redesignated to the Boston locality pay area, which then had a lower locality pay percentage than the Hartford locality pay area. However, since January 2023, the locality pay percentage for the Boston locality pay area has exceeded that for the Hartford locality pay area. Considering that, and because Windham County is currently part of the OMB-defined CSA the Boston basic locality pay area is based on, we are proposing the county be redesignated to the Boston-Worcester-Providence, MA-RI-NH-CT-ME-VT locality pay area.

Strict application of standard criteria can also be problematic in situations where a new locality pay area would be adjacent to an existing locality pay area that contains locations that would be

retained by the Pay Agent as areas of application to avoid redesignation to a potentially lower-paying locality pay area. Alpine County, CA, exemplifies such a case. Under the criteria by which locality pay areas are defined under this proposed rule, a single-county location that is adjacent to multiple locality pay areas would be added to the locality pay area with which it has greatest degree of employment interchange provided the sum of the employment interchange rates the county has with adjacent locality pay areas would be at least 20 percent. Alpine County, CA, is adjacent to the Reno-Carson City-Fernley, NV CSA and the Sacramento-Roseville, CA-NV basic locality pay area; the sum of its employment interchange rates is greater than 20 percent; and it has a higher rate of employment interchange with the Reno CSA than with the Sacramento CSA (51.86 percent with Reno and 41.04 percent with Sacramento). However, because the Pay Agent plans to retain the Nevada Counties of Carson City and Douglas (which are part of the Reno-Carson City-Fernley, NV, CSA) in the Sacramento-Roseville, CA-NV locality pay area as the Federal Salary Council recommended, having Alpine County in the Reno locality pay area would make that locality pay area discontinuous, with Alpine County no longer being adjacent to any other county in the Reno locality pay area while being bordered by counties in the Sacramento locality pay area. In addition, when Carson City and Douglas County are removed from the Reno CSA for purposes of calculating an interchange rate for Alpine County, its employment interchange rate with the remaining subset of the Reno CSA drops to 9.34 percent. Thus, the Pay Agent proposes including Alpine County, CA, in the proposed Sacramento-Roseville, CA-NV locality pay area as an area of application.

Note on Caroline County, VA

In addition to the Rest of U.S. locations the Council listed in its October 14, 2022, report as impacted by its recommendations on the criteria for areas of application, Caroline County, VA, which is currently in the Richmond, VA, locality pay area, would be included in the Washington-Baltimore-Arlington, DC-MD-VA-WV-PA locality pay area under this proposed rule.

While Caroline County, VA, is part of the basic Richmond, VA, locality pay area as previously defined using OMB Bulletin No. 18–03, it is not part of the Richmond, VA, basic locality pay area as defined using OMB Bulletin No. 20–

01 nor is it part of any other CBSA comprising a basic locality pay area under this proposed rule. However, this single-county location is adjacent to both the Richmond, VA and Washington-Baltimore-Arlington, DC-MD-VA-WV-PA basic locality pay areas.

Under the criteria by which locality pay areas are defined under this proposed rule, a single-county location that is adjacent to multiple locality pay areas would be added to the locality pay area with which it has greatest degree of employment interchange provided the sum of the employment interchange rates the county has with adjacent locality pay areas would be at least 20 percent. Caroline County, VA, is adjacent to the Richmond, VA, and Washington-Baltimore-Arlington, DC-MD-VA-WV-PA locality pay areas; the sum of its employment interchange rates is greater than 20 percent; and it has a higher rate of employment interchange with the Washington-Baltimore-Arlington, DC-MD-VA-WV-PA basic locality pay area than with the Richmond, VA, basic locality pay area (53.24 percent with Washington-Baltimore and 40.04 percent with Richmond).

Locations Comprising New Locality Pay Areas

This proposal would amend 5 CFR 531.603(b) to establish the following locations as new locality pay areas.

Fresno-Madera-Hanford, CA

Fresno County, CA; Kings County, CA; Madera County, CA; Mariposa County, CA; and Tulare County, CA.

Reno-Fernley, NV

Churchill County, NV; Lyon County, NV; Storey County, NV; and Washoe County, NV.

Rochester-Batavia-Seneca Falls, NY

Genesee County, NY; Livingston County, NY; Monroe County, NY; Ontario County, NY; Orleans County, NY; Seneca County, NY; Wayne County, NY; and Yates County, NY.

Spokane-Spokane Valley-Coeur d'Alene, WA-ID

Benewah County, ID; Kootenai County, ID; Shoshone County, ID; Ferry County, WA; Lincoln County, WA; Pend Oreille County, WA; Spokane County, WA; Stevens County, WA.

Locations Added to Existing Locality Pay Areas

This proposal would amend 5 CFR 531.603(b) to add the following locations to existing locality pay areas:

Albany-Schenectady, NY-MA

Greene County, NY; and Hamilton County, NY.

Albuquerque-Santa Fe-Las Vegas, NM

Mora County, NM.

Atlanta—Athens-Clarke County—Sandy Springs, GA-AL

Cherokee County, AL; Cleburne County, AL; Lee County, AL; Randolph County, AL; Russell County, AL; Banks County, GA; Chattahoochee County, GA; Elbert County, GA; Floyd County, GA; Franklin County, GA; Gilmer County, GA; Greene County, GA; Habersham County, GA; Harris County, GA; Lumpkin County, GA; Marion County, GA; Muscogee County, GA; Putnam County, GA; Rabun County, GA; Stephens County, GA; Stewart County, GA; Talbot County, GA; Taliaferro County, GA; and White County, GA.

Austin-Round Rock, TX

Blanco County, TX; Burnet County, TX; Lee County, TX; and Milam County, TX.

Birmingham-Hoover-Talladega, AL

Clay County, AL; Etowah County, AL; Greene County, AL; Hale County, AL; Pickens County, AL; Tuscaloosa County, AL; and Winston County, AL.

Boston-Worcester-Providence, MA-RI-NH-ME

Windham County, CT (redesignated from Hartford-West Hartford CT-MA locality pay area); Dukes County, MA; Nantucket County, MA; Carroll County, NH; Cheshire County, NH; Grafton County, NH; Sullivan County, NH; Orange County, VT; and Windsor County, VT.

Buffalo-Cheektowaga, NY

Allegany County, NY; and Wyoming County, NY.

Burlington-South Burlington, VT

Addison County, VT; Lamoille County, VT; and Washington County, VT.

Charlotte-Concord, NC-SC

Alexander County, NC; Anson County, NC; Burke County, NC; Caldwell County, NC; Catawba County, NC; and Chesterfield County, SC.

Chicago-Naperville, IL-IN-WI

Boone County, IL; Iroquois County, IL; Ogle County, IL; Stephenson County, IL; Winnebago County, IL; and Starke County, IN.

Cincinnati-Wilmington-Maysville, OH-KY-IN

Ripley County, IN; Switzerland County, IN; Carroll County, KY; Fleming County, KY; Lewis County, KY; Owen County, KY; Robertson County, KY; Adams County, OH; and Highland County, OH.

Cleveland-Akron-Canton, OH

Ashland County, OH; Columbiana County, OH; Crawford County, OH; Holmes County, OH; Mahoning County, OH; Richland County, OH; Trumbull County, OH; Wayne County, OH; and Mercer County, PA.

Columbus-Marion-Zanesville, OH

Coshocton County, OH; Hardin County, OH; Morgan County, OH; Noble County, OH; Pike County, OH; and Vinton County, OH.

Corpus Christi-Kingsville-Alice, TX

Duval County, TX; Live Oak County, TX; and Refugio County, TX.

Dallas-Fort Worth, TX-OK

Carter County, OK; Love County, OK; Hill County, TX; Jack County, TX; Montague County, TX; Rains County, TX; and Van Zandt County, TX.

Davenport-Moline, IA-IL

Lee County, IL; Whiteside County, IL; Cedar County, IA; Jackson County, IA; and Louisa County, IA.

Dayton-Springfield-Sidney, OH

Allen County, OH; Auglaize County, OH; Mercer County, OH; and Van Wert County, OH.

Denver-Aurora, CO

Lincoln County, CO.

Des Moines-Ames-West Des Moines, IA

Adair County, IA; Clarke County, IA; Greene County, IA; Hamilton County, IA; Lucas County, IA; Mahaska County, IA; Marion County, IA; Monroe County, IA; and Poweshiek County, IA.

Detroit-Warren-Ann Arbor, MI

Clinton County, MI; Eaton County, MI; Huron County, MI; Ingham County, MI; Jackson County, MI; Sanilac County, MI; Shiawassee County, MI; and Tuscola County, MI.

Harrisburg-Lebanon, PA

Juniata County, PA.

Houston-The Woodlands, TX

Colorado County, TX; Grimes County, TX; Jackson County, TX; and Madison County, TX.

Huntsville-Decatur-Albertville, AL

Colbert County, AL; Lauderdale County, AL; and Lincoln County, TN.

Indianapolis-Carmel-Muncie, IN

Benton County, IN; Blackford County, IN; Carroll County, IN; Clinton County, IN; Fayette County, IN; Fountain County, IN; Lawrence County, IN; Monroe County, IN; Owen County, IN; Randolph County, IN; Rush County, IN; Tippecanoe County, IN; Tipton County, IN; Warren County, IN; and Wayne County, IN.

Kansas City-Overland Park-Kansas City, MO-KS

Anderson County, KS; Carroll County, MO; Daviess County, MO; Gentry County, MO; Henry County, MO; and Holt County, MO.

Laredo, TX

Jim Hogg County, TX; and La Salle County, TX.

Milwaukee-Racine-Waukesha, WI

Fond du Lac County, WI; and Sheboygan County, WI.

Minneapolis-St. Paul, MN-WI

Blue Earth County, MN; Brown County, MN; Dodge County, MN; Fillmore County, MN; Kanabec County, MN; Meeker County, MN; Morrison County, MN; Mower County, MN; Nicollet County, MN; Olmsted County, MN; Pine County, MN; Steele County, MN; Wabasha County, MN; Waseca County, MN; and Polk County, WI.

New York-Newark, NY-NJ-CT-PA

Sullivan County, NY; and Wayne County, PA.

Omaha-Council Bluffs-Fremont, NE-IA

Fremont County, IA; Shelby County, IA; and Burt County, NE.

Philadelphia-Reading-Camden, PA-NJ-DE-MD

Sussex County, DE; Somerset County, MD; Wicomico County, MD; Worcester County, MD; and Schuylkill County, PA.

Phoenix-Mesa-Scottsdale, AZ

Gila County, AZ.

Pittsburgh-New Castle-Weirton, PA-OH-WV

Belmont County, OH; Cambria County, PA; Greene County, PA; Somerset County, PA; Marshall County, WV; and Ohio County, WV.

Portland-Vancouver-Salem, OR-WA

Wahkiakum County, WA.

Raleigh-Durham-Chapel Hill, NC

Caswell County, NC; Edgecombe County, NC; Halifax County, NC; Moore County, NC; Nash County, NC; Northampton County, NC; Warren County, NC; and Wilson County, NC.

Richmond, VA

Brunswick County, VA; Essex County, VA; Greensville County, VA; Nottoway County, VA; and Emporia City, VA.

Sacramento-Roseville, CA-NV

Alpine County, CA; Amador County, CA; Butte County, CA; Colusa County, CA; and Sierra County, CA.

San Antonio-New Braunfels-Pearsall, TX

Gillespie County, TX; Gonzales County, TX; Karnes County, TX; Kerr County, TX; and McMullen County, TX.

San Jose-San Francisco-Oakland, CA

Calaveras County, CA; Merced County, CA; and Stanislaus County, CA.

Seattle-Tacoma, WA

Grays Harbor County, WA; Pacific County, WA; and San Juan County, WA.

St. Louis-St. Charles-Farmington, MO-IL

Fayette County, IL; Greene County, IL; Montgomery County, IL; Randolph County, IL; Washington County, IL; Crawford County, MO; Gasconade County, MO; Iron County, MO; Madison County, MO; Montgomery County, MO; Pike County, MO; Ste. Genevieve County, MO; and Washington County, MO.

Virginia Beach-Norfolk, VA-NC

Chowan County, NC; Hertford County, NC; Middlesex County, VA; Southampton County, VA; Surry County, VA; and Franklin City, VA.

Washington-Baltimore-Arlington, DC-MD-VA-WV-PA

Allegany County, MD; Caroline County, MD; Fulton County, PA; Caroline County, VA (redesignated from Richmond, VA locality pay area); Madison County, VA; Orange County, VA; Shenandoah County, VA; Westmoreland County, VA; Hardy County, WV; and Mineral County, WV.

Expected Impact of the Proposed Rule

This rule would establish four new locality pay areas based on updated pay disparity data and would add many locations to existing locality pay areas as a result of using the revised criteria the Council has recommended for areas of application. Wage rates for employees who receive GS locality pay would increase in these areas relative to the

baseline as a result. However, when locality pay percentages are adjusted at the time of an annual pay adjustment, they are scaled to a targeted overall salary outlay, regardless of the number or composition of locality pay areas. Thus, should this proposal be implemented, the larger annual increases locations might receive as a result of being redesignated to a higher-paying locality pay area would be offset by the annual increases elsewhere being smaller than they would absent such redesignation. These changes would result in geographic differences in Federal salaries better reflecting the overall geographic differences in salary in line with statutory goals. In turn, this could affect Federal recruitment and retention across the U.S. OPM requests comments on this rule regarding these impacts.

OPM expects that this rule would most directly impact approximately 32,900 GS employees. Modifying existing locality pay areas would affect approximately 16,700 GS employees, and establishing the four new locality pay areas proposed would affect approximately 16,200 GS employees. As discussed above, other Federal employees who receive GS locality pay would be indirectly impacted at the time of an annual pay adjustment. Due to the scope of this proposed rule, OPM does not anticipate that it would substantially impact local economies or have a large ripple effect in local labor markets. However, OPM is requesting comment on this rule regarding the impacts discussed above related to future annual pay adjustments.

OPM is highly interested in any impacts of locality pay adjustments due to rulemaking and will continue to study the implications of such impacts as needed.

Executive Orders 13563 and 12866, Regulatory Review

OPM has examined the impact of this rule as required by Executive Order 12866 and Executive Order 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). This rule is not a "significant regulatory action," under Executive Order 12866.

Regulatory Flexibility Act

OPM certifies that this rule will not have a significant economic impact on a substantial number of small entities as

this rule only applies to Federal agencies and employees.

Federalism

OPM has examined this rule in accordance with Executive Order 13132, Federalism, and has determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal governments.

Civil Justice Reform

This regulation meets the applicable standard set forth in Executive Order 12988.

Unfunded Mandates Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 5 CFR Part 531

Government employees, Law enforcement officers, Wages.

Office of Personnel Management.

Kayyonne Marston,

Federal Register Liaison.

Accordingly, OPM proposes to amend 5 CFR part 531 as follows:

PART 531—PAY UNDER THE GENERAL SCHEDULE

■ 1. The authority citation for part 531 continues to read as follows:

Authority: 5 U.S.C. 5115, 5307, and 5338; sec. 4 of Public Law 103–89, 107 Stat. 981; and E.O. 12748, 56 FR 4521, 3 CFR, 1991 Comp., p. 316; Subpart B also issued under 5 U.S.C. 5303(g), 5305, 5333, 5334(a) and (b), and 7701(b)(2); Subpart D also issued under 5 U.S.C. 5335 and 7701(b)(2); Subpart E also issued under 5 U.S.C. 5336; Subpart F also issued under 5 U.S.C. 5304, 5305, and 5941(a); E.O. 12883, 58 FR 63281, 3 CFR, 1993 Comp., p. 682; and E.O. 13106, 63 FR 68151, 3 CFR, 1998 Comp., p. 224.

Subpart F—Locality-Based Comparability Payments

■ 2. In § 531.602, the definitions of CSA and MSA are revised to read as follows:

§ 531.602 Definitions.

* * * * *

CSA means the geographic scope of a Combined Statistical Area, as defined by the Office of Management and Budget (OMB) in OMB Bulletin No. 20–01.

* * * * *

MSA means the geographic scope of a Metropolitan Statistical Area, as defined by the Office of Management and Budget (OMB) in OMB Bulletin No. 20–01.

* * * * *

■ 3. In § 531.603, paragraph (b) is revised to read as follows:

§ 531.603 Locality pay areas.

* * * * *

(b) The following are locality pay areas for the purposes of this subpart:

(1) Alaska—consisting of the State of Alaska;

(2) Albany-Schenectady, NY-MA—consisting of the Albany-Schenectady, NY CSA and also including Berkshire County, MA, Greene County, NY, and Hamilton County, NY;

(3) Albuquerque-Santa Fe-Las Vegas, NM—consisting of the Albuquerque-Santa Fe-Las Vegas, NM CSA and also including Cibola County, NM, and McKinley County, NM;

(4) Atlanta—Athens-Clarke County—Sandy Springs, GA-AL—consisting of the Atlanta—Athens-Clarke County—Sandy Springs, GA-AL CSA and also including Cherokee County, AL, Cleburne County, AL, Lee County, AL, Randolph County, AL, Russell County, AL, Banks County, GA, Chattahoochee County, GA, Elbert County, GA, Franklin County, GA, Gilmer County, GA, Gordon County, GA, Greene County, GA, Harris County, GA, Lumpkin County, GA, Marion County, GA, Muscogee County, GA, Putnam County, GA, Rabun County, GA, Stewart County, GA, Talbot County, GA, Taliaferro County, GA, and White County, GA;

(5) Austin-Round Rock-Georgetown, TX—consisting of the Austin-Round Rock-Georgetown, TX MSA and also including Blanco County, TX, Burnet County, TX, Lee County, TX, and Milam County, TX;

(6) Birmingham-Hoover-Talladega, AL—consisting of the Birmingham-Hoover-Talladega, AL CSA and also including Calhoun County, AL, Clay County, AL, Coosa County, AL, Etowah County, AL, Greene County, AL, Hale County, AL, Pickens County, AL, Tallapoosa County, AL, Tuscaloosa County, AL, and Winston County, AL;

(7) Boston-Worcester-Providence, MA-RI-NH-CT-ME-VT—consisting of the Boston-Worcester-Providence, MA-RI-NH-CT CSA and also including Androscoggin County, ME, Cumberland

County, ME, Sagadahoc County, ME, York County, ME, Dukes County, MA, Nantucket County, MA, Carroll County, NH, Cheshire County, NH, Grafton County, NH, Sullivan County, NH, Orange County, VT, and Windsor County, VT;

(8) Buffalo-Cheektowaga-Olean, NY—consisting of the Buffalo-Cheektowaga-Olean, NY CSA and also including Allegany County, NY, and Wyoming County, NY;

(9) Burlington-South Burlington-Barre, VT—consisting of the Burlington-South Burlington-Barre, VT CSA and also including Addison County, VT, and Lamoille County, VT;

(10) Charlotte-Concord, NC-SC—consisting of the Charlotte-Concord, NC-SC CSA and also including Alexander County, NC, Burke County, NC, Caldwell County, NC, Catawba County, NC, and Chesterfield County, SC;

(11) Chicago-Naperville, IL-IN-WI—consisting of the Chicago-Naperville, IL-IN-WI CSA and also including Boone County, IL, Iroquois County, IL, Ogle County, IL, Stephenson County, IL, Winnebago County, IL, and Starke County, IN;

(12) Cincinnati-Wilmington-Maysville, OH-KY-IN—consisting of the Cincinnati-Wilmington-Maysville, OH-KY-IN CSA and also including Ripley County, IN, Switzerland County, IN, Carroll County, KY, Fleming County, KY, Lewis County, KY, Owen County, KY, Robertson County, KY, Adams County, OH, and Highland County, OH;

(13) Cleveland-Akron-Canton, OH-PA—consisting of the Cleveland-Akron-Canton, OH CSA and also including Ashland County, OH, Columbiana County, OH, Crawford County, OH, Harrison County, OH, Holmes County, OH, Mahoning County, OH, Richland County, OH, Trumbull County, OH, and Mercer County, PA;

(14) Colorado Springs, CO—consisting of the Colorado Springs, CO MSA and also including Fremont County, CO, and Pueblo County, CO;

(15) Columbus-Marion-Zanesville, OH—consisting of the Columbus-Marion-Zanesville, OH CSA and also including Coshocton County, OH, Hardin County, OH, Morgan County, OH, Noble County, OH, Pike County, OH, and Vinton County, OH;

(16) Corpus Christi-Kingsville-Alice, TX—consisting of the Corpus Christi-Kingsville-Alice, TX CSA and also including Brooks County, TX, Live Oak County, TX, and Refugio County, TX;

(17) Dallas-Fort Worth, TX-OK—consisting of the Dallas-Fort Worth, TX-OK CSA and also including Carter County, OK, Love County, OK, Delta County, TX, Hill County, TX, Hopkins

County, TX, Jack County, TX, Montague County, TX, Rains County, TX, Somervell County, TX, and Van Zandt County, TX;

(18) Davenport-Moline, IA-IL—consisting of the Davenport-Moline, IA-IL CSA and also including Carroll County, IL, Lee County, IL, Whiteside County, IL, Cedar County, IA, Jackson County, IA, and Louisa County, IA;

(19) Dayton-Springfield-Kettering, OH—consisting of the Dayton-Springfield-Kettering, OH CSA and also including Allen County, OH, Auglaize County, OH, Mercer County, OH, Preble County, OH, and Van Wert County, OH;

(20) Denver-Aurora, CO—consisting of the Denver-Aurora, CO CSA and also including Larimer County, CO, and Lincoln County, CO;

(21) Des Moines-Ames-West Des Moines, IA—consisting of the Des Moines-Ames-West Des Moines, IA CSA and also including Adair County, IA, Clarke County, IA, Greene County, IA, Hamilton County, IA, Lucas County, IA, Monroe County, IA, and Poweshiek County, IA;

(22) Detroit-Warren-Ann Arbor, MI—consisting of the Detroit-Warren-Ann Arbor, MI CSA and also including Clinton County, MI, Eaton County, MI, Huron County, MI, Ingham County, MI, Jackson County, MI, Sanilac County, MI, Shiawassee County, MI, and Tuscola County, MI;

(23) Fresno-Madera-Hanford, CA—consisting of the Fresno-Madera-Hanford, CA CSA and also including Mariposa County, CA, and Tulare County, CA;

(24) Harrisburg-Lebanon, PA—consisting of the Harrisburg-York-Lebanon, PA CSA, except for Adams County, PA, and York County, PA, and also including Juniata County, PA, and Lancaster County, PA;

(25) Hartford-East Hartford, CT-MA—consisting of the Hartford-East Hartford, CT CSA and also including Franklin County, MA, Hampden County, MA, and Hampshire County, MA;

(26) Hawaii—consisting of the State of Hawaii;

(27) Houston-The Woodlands, TX—consisting of the Houston-The Woodlands, TX CSA and also including Colorado County, TX, Grimes County, TX, Jackson County, TX, Madison County, TX, San Jacinto County, TX, and Trinity County, TX;

(28) Huntsville-Decatur, AL-TN—consisting of the Huntsville-Decatur, AL CSA and also including Colbert County, AL, DeKalb County, AL, Lauderdale County, AL, Marshall County, AL, and Lincoln County, TN;

(29) Indianapolis-Carmel-Muncie, IN—consisting of the Indianapolis-

Carmel-Muncie, IN CSA and also including Benton County, IN, Blackford County, IN, Carroll County, IN, Clinton County, IN, Fayette County, IN, Fountain County, IN, Grant County, IN, Lawrence County, IN, Monroe County, IN, Owen County, IN, Randolph County, IN, Rush County, IN, Tippecanoe County, IN, Tipton County, IN, Warren County, IN, and Wayne County, IN;

(30) Kansas City-Overland Park-Kansas City, MO-KS—consisting of the Kansas City-Overland Park-Kansas City, MO-KS CSA and also including Anderson County, KS, Jackson County, KS, Jefferson County, KS, Osage County, KS, Shawnee County, KS, Wabaunsee County, KS, Carroll County, MO, Daviess County, MO, Gentry County, MO, Henry County, MO, and Holt County, MO;

(31) Laredo, TX—consisting of the Laredo, TX MSA and also including Jim Hogg County, TX, and La Salle County, TX;

(32) Las Vegas-Henderson, NV-AZ—consisting of the Las Vegas-Henderson, NV CSA and also including Mohave County, AZ;

(33) Los Angeles-Long Beach, CA—consisting of the Los Angeles-Long Beach, CA CSA and also including Imperial County, CA, Kern County, CA, San Luis Obispo County, CA, and Santa Barbara County, CA;

(34) Miami-Port St. Lucie-Fort Lauderdale, FL—consisting of the Miami-Port St. Lucie-Fort Lauderdale, FL CSA and also including Okeechobee County, FL;

(35) Milwaukee-Racine-Waukesha, WI—consisting of the Milwaukee-Racine-Waukesha, WI CSA and also including Fond du Lac County, WI, and Sheboygan County, WI;

(36) Minneapolis-St. Paul, MN-WI—consisting of the Minneapolis-St. Paul, MN-WI CSA and also including Blue Earth County, MN, Brown County, MN, Dodge County, MN, Fillmore County, MN, Kanabec County, MN, Meeker County, MN, Morrison County, MN, Mower County, MN, Nicollet County, MN, Olmsted County, MN, Pine County, MN, Sibley County, MN, Wabasha County, MN, Waseca County, MN, and Polk County, WI;

(37) New York-Newark, NY-NJ-CT-PA—consisting of the New York-Newark, NY-NJ-CT-PA CSA and also including Warren County, NJ, Sullivan County, NY, Carbon County, PA, Lehigh County, PA, Northampton County, PA, Wayne County, PA, and all of Joint Base McGuire-Dix-Lakehurst;

(38) Omaha-Council Bluffs-Fremont, NE-IA—consisting of the Omaha-Council Bluffs-Fremont, NE-IA CSA and also including Fremont County, IA,

Shelby County, IA, and Burt County, NE;

(39) Palm Bay-Melbourne-Titusville, FL—consisting of the Palm Bay-Melbourne-Titusville, FL MSA;

(40) Philadelphia-Reading-Camden, PA-NJ-DE-MD—consisting of the Philadelphia-Reading-Camden, PA-NJ-DE-MD CSA, except for Joint Base McGuire-Dix-Lakehurst, and also including Sussex County, DE, Somerset County, MD, Wicomico County, MD, Worcester County, MD, and Schuylkill County, PA;

(41) Phoenix-Mesa, AZ—consisting of the Phoenix-Mesa, AZ CSA;

(42) Pittsburgh-New Castle-Weirton, PA-OH-WV—consisting of the Pittsburgh-New Castle-Weirton, PA-OH-WV CSA and also including Belmont County, OH, Cambria County, PA, Greene County, PA, Somerset County, PA, Marshall County, WV, and Ohio County, WV;

(43) Portland-Vancouver-Salem, OR-WA—consisting of the Portland-Vancouver-Salem, OR-WA CSA and also including Wahkiakum County, WA;

(44) Raleigh-Durham-Cary, NC—consisting of the Raleigh-Durham-Cary, NC CSA and also including Caswell County, NC, Cumberland County, NC, Edgecombe County, NC, Halifax County, NC, Harnett County, NC, Hoke County, NC, Lee County, NC, Moore County, NC, Nash County, NC, Northampton County, NC, Robeson County, NC, Scotland County, NC, Warren County, NC, Wayne County, NC, and Wilson County, NC;

(45) Reno-Fernley, NV—consisting of the Reno-Carson City-Fernley, NV CSA, except for Carson City, NV, and Douglas County, NV, and also including Churchill County, NV;

(46) Richmond, VA—consisting of the Richmond, VA MSA and also including Brunswick County, VA, Cumberland County, VA, Essex County, VA, Greensville County, VA, Louisa County, VA, Nottoway County, VA, and Emporia City, VA;

(47) Rochester-Batavia-Seneca Falls, NY—consisting of the Rochester-Batavia-Seneca Falls, NY CSA;

(48) Sacramento-Roseville, CA-NV—consisting of the Sacramento-Roseville, CA CSA and also including Alpine County, CA, Amador County, CA, Butte County, CA, Colusa County, CA, Sierra County, CA, Carson City, NV, and Douglas County, NV;

(49) San Antonio-New Braunfels-Pearsall, TX—consisting of the San Antonio-New Braunfels-Pearsall, TX CSA and also including Gillespie County, TX, Gonzales County, TX, Karnes County, TX, Kerr County, TX, and McMullen County, TX;

(50) San Diego-Chula Vista-Carlsbad, CA—consisting of the San Diego-Chula Vista-Carlsbad, CA MSA;

(51) San Jose-San Francisco-Oakland, CA—consisting of the San Jose-San Francisco-Oakland, CA CSA and also including Calaveras County, CA, and Monterey County, CA;

(52) Seattle-Tacoma, WA—consisting of the Seattle-Tacoma, WA CSA and also including Grays Harbor County, WA, Pacific County, WA, San Juan County, WA, and Whatcom County, WA;

(53) Spokane-Spokane Valley-Coeur d'Alene, WA-ID—consisting of the Spokane-Spokane Valley-Coeur d'Alene, WA-ID CSA and also including Benewah County, ID, Shoshone County, ID, Ferry County, WA, Lincoln County, WA, and Pend Oreille County, WA;

(54) St. Louis-St. Charles-Farmington, MO-IL—consisting of the St. Louis-St. Charles-Farmington, MO-IL CSA and also including Fayette County, IL, Greene County, IL, Montgomery County, IL, Randolph County, IL, Washington County, IL, Crawford County, MO, Gasconade County, MO, Iron County, MO, Madison County, MO, Montgomery County, MO, Pike County, MO, Ste. Genevieve County, MO, and Washington County, MO;

(55) Tucson-Nogales, AZ—consisting of the Tucson-Nogales, AZ CSA and also including Cochise County, AZ;

(56) Virginia Beach-Norfolk, VA-NC—consisting of the Virginia Beach-Norfolk, VA-NC CSA and also including Chowan County, NC, Hertford County, NC, Tyrrell County, NC, Middlesex County, VA, and Surry County, VA;

(57) Washington-Baltimore-Arlington, DC-MD-VA-WV-PA—consisting of the Washington-Baltimore-Arlington, DC-MD-VA-WV-PA CSA and also including Allegany County, MD, Caroline County, MD, Dorchester County, MD, Kent County, MD, Adams County, PA, Fulton County, PA, York County, PA, Caroline County, VA, King George County, VA, Orange County, VA, Shenandoah County, VA, Westmoreland County, VA, Hardy County, WV, and Mineral County, WV; and

(58) Rest of U.S.—consisting of those portions of the United States and its territories and possessions as listed in 5 CFR 591.205 not located within another locality pay area.

[FR Doc. 2023-13621 Filed 6-27-23; 8:45 am]

BILLING CODE 6325-39-P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 52

[NRC-2022-0073]

Draft Regulatory Guide: Guidance for a Technology-Inclusive Content of Application Methodology To Inform the Licensing Basis and Content of Applications for Licenses, Certifications, and Approvals for Non-Light-Water Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft guide; extension of comment period.

SUMMARY: On May 25, 2023, the U.S. Nuclear Regulatory Commission (NRC) solicited comments on draft regulatory guide (DG), DG-1404, “Guidance for a Technology-Inclusive Content of Application Methodology to Inform the Licensing Basis and Content of Applications for Licenses, Certifications, and Approvals for Non-Light-Water Reactors.” The public comment period was originally scheduled to close on July 10, 2023. The NRC has decided to extend the public comment period to allow more time for members of the public to develop and submit their comments.

DATES: The due date for comments requested in the document published on May 25, 2023 (88 FR 33846) is extended. Comments should be submitted no later than August 10, 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-2022-0073. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Office of Administration, Mail Stop: TWFN-7-A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments,

see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Michael Orenak, Office of Nuclear Reactor Regulation, telephone: 301–415–3229; email: Michael.Orenak@nrc.gov, or Robert Roche-Rivera, Office of Nuclear Regulatory Research, telephone: 301–415–8113; email: Robert.Roche-Rivera@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2022–0073 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–2022–0073.
- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to PDR.Resource@nrc.gov.

- *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.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC–2022–0073 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at [https://](https://www.regulations.gov)

www.regulations.gov as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

On May 25, 2023, the NRC published a document in the **Federal Register** (88 FR 33846) requesting comments on DG–1404, “Guidance for a Technology-Inclusive Content of Application Methodology to Inform the Licensing Basis and Content of Applications for Licenses, Certifications, and Approvals for Non-Light-Water Reactors.” The public comment period was originally scheduled to close on July 10, 2023. The NRC has decided to extend the public comment period on this document until August 10, 2023, to allow more time for members of the public to submit their comments.

As noted in the **Federal Register** on December 9, 2022 (87 FR 75671), this document is being published in the “Proposed Rules” section of the **Federal Register** to comply with publication requirements under 1 CFR chapter I.

III. Submitting Suggestions for Improvement of Regulatory Guides

A member of the public may, at any time, submit suggestions to the NRC for improvement of existing RGs or for the development of new RGs. Suggestions can be submitted on the NRC’s public website at <https://www.nrc.gov/reading-rm/doc-collections/reg-guides/contactus.html>. Suggestions will be considered in future updates and enhancements to the “Regulatory Guide” series.

Dated: June 22, 2023.

For the Nuclear Regulatory Commission.

Meraj Rahimi,

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–1076; Project Identifier MCAI–2020–01201–A]

RIN 2120–AA64

Airworthiness Directives; Viking Air Limited (Type Certificate Previously Held by Bombardier Inc. and de Havilland, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: The FAA is revising a notice of proposed rulemaking (NPRM) that would have applied to all Viking Air Limited (Viking) (type certificate previously held by Bombardier Inc. and de Havilland, Inc.) Model DHC–3 airplanes. This action revises the NPRM by changing the required action specified in the proposed airworthiness directive (AD). Additionally, the FAA is publishing an Initial Regulatory Flexibility Analysis (IRFA) to aid the public in commenting on the potential impacts to small entities from this proposal. The FAA is reopening the comment period to allow the public the chance to comment on the revised proposed action and whether the revised proposed action would have a significant economic impact on a substantial number of small entities. The FAA is proposing this AD to address the unsafe condition on these products and the agency is requesting comments on this SNPRM.

DATES: The FAA must receive comments on this SNPRM by August 14, 2023.

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

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

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2020–1076; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except

Federal holidays. The AD docket contains the NPRM, this SNPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For service information identified in this SNPRM, contact Viking Air Limited Technical Support, 1959 De Havilland Way, Sidney, British Columbia, Canada, V8L 5V5; phone: (800) 663-8444; fax: (250) 656-0673; email: technical.support@vikingair.com; website: vikingair.com/support/service-bulletins.

- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222-5110.

FOR FURTHER INFORMATION CONTACT:

Deep Gaurav, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 228-3731; email: 9-avs-nyaco-cos@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include “Docket No. FAA-2020-1076; Project Identifier MCAI-2020-01201-A” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may again revise this proposal because of those comments.

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

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 SNPRM 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 SNPRM, 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 SNPRM. Submissions containing CBI should be sent to Deep Gaurav, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued an NPRM to amend 14 CFR part 39 by adding an AD that would apply to all Viking Model DHC-3 airplanes. The NPRM published in the **Federal Register** on February 8, 2022 (87 FR 7059). The NPRM was prompted by AD CF-2018-04, dated January 19, 2018, issued by Transport Canada, which is the aviation authority for Canada (referred to after this as “the MCAI”). The MCAI states that Viking developed a supplementary inspection and corrosion control program for aging airplanes, which identifies specific locations of an airplane that must be inspected to ensure corrosion-related degradation does not result in an unsafe condition.

The MCAI requires doing all inspections specified in Part 2 of Viking DHC-3 Otter Supplemental Inspection and Corrosion Control Manual, PSM 1-3-5, Revision IR, dated December 21, 2017 (Viking PSM 1-3-5, Revision IR), doing applicable corrective actions using Part 3 of Viking PSM 1-3-5, Revision IR, and reporting to Viking Level 2 and Level 3 corrosion as specified in Part 3 of Viking PSM 1-3-5, Revision IR.

Corrosion, wear, and fatigue-related degradation, if not addressed, could lead to structural failure with consequent loss of control of the airplane.

You may examine the MCAI in the AD docket at regulations.gov under Docket No. FAA-2020-1076.

In the NPRM, the FAA proposed to require establishing a corrosion prevention and control program to identify and correct corrosion and cracking. In the NPRM, the FAA also proposed to require completing all of the initial tasks identified in the program and reporting corrosion findings to Viking.

Actions Since the NPRM Was Issued

Since the FAA issued the NPRM, the FAA revised the proposed actions specified in the NPRM. In the NPRM, the FAA proposed to require establishing a corrosion prevention and control program approved by the FAA. In this SNPRM the FAA proposes to require incorporating into the existing maintenance records for your airplane the actions specified in Parts 2 and 3 of Viking PSM 1-3-5, Revision IR.

In addition, the FAA is reopening the comment period to allow the public the chance to comment on whether the proposed AD would have a significant economic impact on a substantial number of small entities. The FAA is proposing this AD to address the unsafe condition on these products.

Comments

The FAA received comments from three commenters. The commenters were Taquan Air, Talkeetna Air Taxi, and an individual. The following presents the comments received on the NPRM and the FAA’s response to each comment.

Request To Withdraw the NPRM: Lack of Data on Corrosion-Related Accidents

Taquan Air and an individual commenter stated that they were not aware of any corrosion-related accidents involving the affected airplanes. The individual commenter noted that ADs are supposed to be driven by accidents and incidents that result in injury and/or death and stated that if this is correct, then there is no justification for the NPRMs that would be applicable to the Beavers [Model DHC-2 airplanes] and Otters [Model DHC-3 airplanes]. The individual commenter asked how aviation would be made better by issuing the NPRMs that would be applicable to two dependable and reliable airplanes. The FAA infers that these commenters are requesting that the FAA withdraw the NPRM.

The FAA does not agree with the commenters’ requests to withdraw the NPRM. According to 14 CFR 39.5, the issuance of an AD is based on the finding that an unsafe condition exists or is likely to exist or develop in other products of the same type design. This section of the Federal Aviation Regulations does not specify that an accident is necessary for the FAA to determine that there is an unsafe condition. In this case, the FAA independently reviewed the MCAI and related service information and determined an unsafe condition exists and an AD is needed to address that unsafe condition. Further, it is within

the FAA's authority and responsibility to issue ADs to require actions to address unsafe conditions that are not otherwise being addressed (or are not addressed adequately) by routine maintenance procedures. In addition, based upon detailed airplane tear-down inspections performed by Viking (the design approval holder), the FAA has determined that the existing maintenance procedures and inspections will not adequately detect corrosion. Although this SNPRM is not tied to a specific corrosion-related accident, the FAA has determined that undetected corrosion could exist and lead to structural failure. The FAA has a responsibility to issue ADs to correct identified unsafe conditions in aircraft, regardless of the location or cause. The FAA has not changed this SNPRM regarding this issue.

Request To Withdraw NPRM: Impact on Small Entities

Taquan Air and an individual commenter expressed concern regarding the financial impact of the NPRM on small entities. The individual commenter asked if the FAA considered the financial burden on operators. This commenter explained that there are not enough mechanics and asked how a company with Beavers and Otters could stay in business trying to create and get two corrosion programs up at the same time and maintain the flying aircraft. Taquan Air stated that the NPRM was targeting a specific type of operator and would financially burden just Beaver and Otter operators.

The FAA acknowledges the commenters' concerns and infers that the commenters are requesting that the NPRM be withdrawn due to the perceived adverse economic impact on small entities. Under 14 CFR 39.1, issuance of an AD is based on the finding that an unsafe condition exists or is likely to develop in aircraft of a particular type design. An aging airplane requires more attention during maintenance procedures and, at times, more frequent inspections of structural components to detect damage due to environmental deterioration, accidental damage, and fatigue. The unsafe condition addressed in this SNPRM includes undetected corrosion, which could lead to structural failure and consequent loss of control of the airplane. Inspections and repair are therefore necessary to detect and correct such corrosion before it leads to structural failure. The FAA has not changed this SNPRM regarding this issue.

Regarding the question of the NPRM having a significant economic impact on

a substantial number of small entities, the FAA has developed an IRFA for this proposed action and a reason for issuing this SNPRM is to solicit comments on the IRFA.

Request To Supersede Certain ADs for Viking Model DHC-3 Airplanes

Talkeetna Air Taxi requested that the NPRM be revised to supersede certain ADs for Viking Model DHC-3 airplanes that include inspections requirements. The commenter explained that Viking PSM 1-3-5, Revision IR, is a broad and detailed document, and stated that if operators chose to use Viking PSM 1-3-5, Revision IR, to establish a corrosion control program, then the repetitive inspections required by those ADs would be redundant and those AD should be superseded.

The FAA disagrees with the commenter's request. The FAA has reviewed all potentially related ADs against the proposed requirements in this SNPRM and determined that no ADs need to be superseded or rescinded. If an operator identifies an inspection that it considers to be redundant, the operator can request an alternative method of compliance (AMOC) by using the procedures specified in paragraph (i) of this SNPRM.

Request To Add Airplanes to Aging Aircraft or Other Existing Rulemaking

Taquan Air and an individual commenter requested that the unsafe condition be addressed by adding Viking Model DHC-3 airplanes to the Aging Aircraft rule (14 CFR 135.422), rather than through the NPRM. The commenters noted that doing so would evenly spread the burden, rather than having different corrosion control policies for different airplane models. Taquan Air noted that airplanes operating in Alaska have been exempted from the Aging Aircraft rule. Both commenters suggested that 14 CFR part 43 appendix D (which specifies the scope and detail of items to be included in annual and 100-hour inspections) be rewritten to address corrosion. The individual commenter added that 14 CFR 135.422 should apply to all part 135 operators, with a similar 14 CFR regulation applicable to part 91 operators.

The FAA disagrees with adding this to the Aging Aircraft rule. The proposed action would address a known unsafe condition on the structure of Viking Model DHC-3 airplanes. If the FAA finds that other aircraft have similar issues to the affected airplanes, the FAA would look at appropriate rulemaking for those aircraft also. For the Viking

Model DHC-3 airplanes, the FAA has determined that annual and 100-hour inspections are currently not adequate to address the unsafe condition identified in this SNPRM. The FAA has a responsibility to address an unsafe condition that is not addressed by general maintenance by issuing an AD. Therefore, the proposed actions of this SNPRM are the appropriate way of addressing the unsafe condition. Adding inspections for corrosion to 14 CFR part 43 appendix D to address the unsafe condition identified in this SNPRM is not appropriate because that corrective action would not be limited to the products affected by this unsafe condition. 14 CFR part 43 appendix D contains general inspections that are not specific to individual products. Therefore, issuing an AD is the appropriate vehicle for addressing this identified unsafe condition. The FAA has not changed this SNPRM regarding this issue.

Request To Revise Requirements Based on Airplane Usage Conditions

Taquan Air asked if the operating environment, including the use of floats, wheels, or skis, would be considered when the FAA reviewed the corrosion prevention program. The FAA infers that the commenter is requesting a change to the NPRM based on different airplane operational usage.

The FAA disagrees with the commenter's request to change the NPRM based on different airplane operational usage. There is no current requirement to track the hours spent flying in different conditions or types of water. Additionally, operators may not know the entire flight history of an airplane. Without this detailed knowledge of each airplane, it would be impossible for the FAA to develop a special set of inspections based on airplane usage conditions. However, operators may submit a proposal for revised requirements by requesting an AMOC using the procedures specified in paragraph (i) of this SNPRM. The FAA has not changed this SNPRM regarding this issue.

Request To Clarify Process for Creating Corrosion Prevention and Control Program

Taquan Air and an individual commenter asked for clarity regarding the process of creating and getting approval for a corrosion prevention and control program. Taquan Air asked how long it would take to get a program approved. Taquan Air also asked if the Viking corrosion control program is an approved method for establishing a corrosion prevention and control

program. Taquan Air suggested that the FAA establish areas that need to be in the program and an outline of expectations, so operators can get it correct. The individual commenter suggested it is unfair for the FAA to require operators to develop a program without the proper qualifications, experience, or training. That same commenter suggested that the lack of guidance and procedures would leave room for interpretation, leading to multiple exchanges with the FAA and an ever-evolving process that could lead to significant delays and could ground airplanes.

The FAA acknowledges the commenters' concerns regarding the creation of a corrosion prevention and control program and has simplified the proposed actions. This SNPRM would require incorporating the inspections in Parts 2 and 3 of Viking PSM 1-3-5, Revision IR, into the existing maintenance records. In Note 1 to paragraph (g) of the NPRM, the use of Viking PSM 1-3-5, Revision IR, was identified as an acceptable means of compliance but was not required to be used. That note has been removed from this SNPRM and the subsequent note that appeared as Note 2 to paragraph (g) of the NPRM has been re-identified as Note 1 to paragraph (g) in this proposed AD.

The FAA also acknowledges the commenters' concerns regarding delays and timeliness of approving a prevention and control program, however, since this proposed AD would require operators to incorporate the inspections in Parts 2 and 3 of Viking PSM 1-3-5, Revision IR, into the existing maintenance records, those concerns should be mitigated.

Request To Allow Mechanics to Perform Certain Tasks

An individual commenter requested that "properly trained mechanics" be allowed to perform the non-destructive testing (NDT) inspections (tasks).

The FAA agrees with the commenter's request. Operators can use an in-house properly trained individual with qualifications equivalent to Level II or Level III to do the NDT inspections. FAA Advisory Circular 65-31B, *Training, Qualification, and Certification of Nondestructive Inspection Personnel*, dated February 24, 2014, contains FAA-approved Level II and Level III qualification standards criteria for inspection personnel doing NDT inspections. Viking PSM 1-3-5, Revision IR, specifies that personnel certified as Level II or higher, as acceptable to the operator's cognizant airworthiness authority, can do the NDT

inspections. The FAA has not changed this SNPRM regarding this issue.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Viking PSM 1-3-5, Revision IR, which specifies procedures for inspecting areas of the airplane that are particularly susceptible to corrosion, wear, and fatigue-related degradation. Viking PSM 1-3-5, Revision IR, also specifies repetitive inspection intervals, defines the different levels of corrosion, and provides corrective action if corrosion is found.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Other Related Service Information

The FAA also reviewed Viking DHC-3 Otter Service Bulletin V3/0010, Revision NC, dated March 19, 2020. The service bulletin provides a list of new inspection tasks that have been added to the DHC-3 maintenance program in Viking PSM 1-3-5, Revision IR.

FAA's Determination

These products have been approved by the aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI and service information described above. The FAA is issuing this SNPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design. At the request of some commenters, the FAA is reopening the comment period of this SNPRM to allow the public the chance to comment on the economic impact on a substantial number of small entities. This SNPRM also contains the changes discussed previously.

Proposed AD Requirements in This SNPRM

This proposed AD would require within 90 days after the effective date of the final rule, incorporating into the existing maintenance records the actions specified in Parts 2 and 3 of Viking PSM 1-3-5, Revision IR, and doing each initial task within 6 months after the effective date of the proposed AD or at the threshold for each applicable task specified in Part 3 of Viking Product Support Manual PSM 1-3-5, Revision IR, whichever occurs later. This proposed AD would also

require reporting corrosion findings to Viking.

ADs Mandating Airworthiness Limitations (ALS)

The FAA has previously mandated airworthiness limitations by issuing ADs that require revising the ALS of the existing maintenance manual or instructions for continued airworthiness to incorporate new or revised inspections. This proposed AD, however, would require establishing and incorporating new inspections into the existing maintenance records required by 14 CFR 91.417(a)(2) or 135.439(a)(2) for your airplane. The FAA does not intend this as a substantive change. Requiring incorporation of the new ALS requirements into the existing maintenance records, rather than requiring individual repetitive inspections and replacements, allows operators to record AD compliance once after updating the existing maintenance records, rather than recording compliance after every inspection and part replacement.

Impact on Intrastate Aviation in Alaska

In light of the heavy reliance on aviation for intrastate transportation in Alaska, the FAA has fully considered the effects of this SNPRM (including costs to be borne by affected operators) from the earliest possible stages of AD development. As previously stated, 14 CFR part 39 requires operators to correct an unsafe condition identified on an airplane to ensure operation of that airplane in an airworthy condition. The FAA has determined that the need to correct corrosion, wear, and fatigue-related degradation in aging aircraft, which could lead to structural failure with consequent loss of control of the airplane, outweighs any impact on aviation in Alaska.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 68 airplanes of U.S. registry. The FAA also estimates that it would take about 1 work-hour per airplane at a labor rate of \$85 per work-hour to revise the existing maintenance records.

Based on these figures, the FAA estimates the cost of the proposed AD on U.S. operators to be \$5,780 or \$85 per airplane.

The FAA estimates it would take about 1 work-hour to report any Level 2 corrosion found during the proposed initial or subsequent inspections or any Level 3 corrosion found during the proposed initial or subsequent

inspections, for an estimated cost of \$85 per airplane.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120-0056. Public reporting for this collection of information is estimated to take approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177-1524.

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 Flexibility Determination

The Regulatory Flexibility Act of 1980, Public Law 96-354, 94 Stat. 1164 (5 U.S.C. 601-612) (RFA) establishes as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and

governmental jurisdictions subject to regulation. To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA. Based on the comments received following publication of the NPRM, the FAA has completed an IRFA and requests comments from affected small entities. The purpose of this analysis is to identify the number of small entities affected, assess the economic impact of the proposed regulation on them, and consider less burdensome alternatives and still meet the agency's statutory objectives.

Initial Regulatory Flexibility Act Analysis

The RFA, 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 small organizations that are independently owned and operated and are not dominant in their fields, and small governmental jurisdictions with populations of less than fifty thousand (50,000).

The FAA is publishing this IRFA to aid the public in commenting on the potential impacts to small entities from this proposal. The FAA invites interested parties to submit data and information regarding the potential economic impact that would result from the proposal. The FAA will consider comments when making a determination or when completing a Final Regulatory Flexibility Assessment.

Under Sections 603(b) and (c) of the RFA, the initial regulatory flexibility analysis for a proposed rule must contain the following:

(1) A description of the reasons why the action by the agency is being considered;

(2) A succinct statement of the objectives of, and legal basis for, the proposed rule;

(3) A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;

(4) A description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;

(5) An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule; and

(6) A description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities.

1. Reasons the Action Is Being Considered

The FAA issued an NPRM that proposed to adopt a new AD for Viking Model DHC-3 airplanes. This proposed AD results from MCAI originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The NPRM proposed to require establishing a corrosion prevention and control program to identify and correct corrosion and cracking. The NPRM also proposed to require completing all of the initial tasks identified in the program and reporting corrosion findings to Viking.

2. Objectives and Legal Basis of the Proposed Rule

The objective of the actions proposed in this SNPRM is to meet the same safety intent as those actions proposed in the NPRM. The FAA issued the NPRM under the authority described in Title 49, Subtitle VII, Part A, Subpart III, Section 44701, General requirements. Under that section, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing minimum safety standards required in the interest of safety. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on Viking Model DHC-3 airplanes.

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.

3. Description and Estimate of the Number of Small Entities

The FAA used the definition of small entities in the RFA for this analysis. The RFA defines small entities as small businesses, small governmental jurisdictions, or small organizations. In 5 U.S.C. 601(3), the RFA defines “small business” to have the same meaning as “small business concern” under section 3 of the Small Business Act. The Small Business Act authorizes the Small Business Administration (SBA) to define “small business” by issuing regulations.

SBA (2022) has established size standards for various types of economic activities, or industries, under the North American Industry Classification System (NAICS).¹ These size standards

generally define small businesses based on the number of employees or annual receipts.

The FAA identified 68 Viking Model DHC–3 airplanes that would be affected by the proposed AD. These 68 airplanes are registered to 32 private firms and 5 individuals. The individuals are excluded from this analysis as they presumably are not small entities under the RFA.

The 32 private firms own 63 airplanes. Of these firms, the FAA was able to obtain the data necessary to classify 21 of them.² All but one firm qualify as small entities under the RFA. Thus, the FAA estimates that this rule would impact 20 small entities. For these 20 small entities, the results of the of the cost impact analysis are shown in Table 1, “Cost Impact on Small Entities.”

4. Projected Reporting, Recordkeeping, and Other Compliance Requirements

The FAA estimates that the AD costs per airplane would be 1 work hour plus \$85 in reporting costs for the initial inspection, for a total of \$170. The estimated cost of this proposed AD, per small entity, is shown in the “Cost” column of Table 1 and cost impact is measured by cost as a percentage of revenues. As the table shows, the mean cost impact is 0.1% of annual revenues,³ with a maximum impact of 0.46% of annual revenues, and a minimum impact below 0.01%. This impact did not vary with firm size; the largest cost impact was only 0.5%, which is still not considered significant. Costs under 1% of revenues for all of the small entities lead the FAA to conclude that this proposed rule would not have a significant impact on a substantial number of small entities.

TABLE 1—COST IMPACT ON SMALL ENTITIES

Firm	No. Acft	Revenue (\$1,000)	Cost (\$1,000)	Cost/revenue (%)	NAICS code	Size standard	NAICS industry
SUMMIT LEASING LLC	3	\$110	\$0.2	0.00	532490	\$35 mn	Other Comm'l and Industrial Mach. and Equip. Rental & Leasing.
KATMAI AIR LLC	2	117	0.2	0.00	532411	\$40 mn	Comm'l Air, Rail, and Water Transp. Equip. Rental & Leasing.
JESPERSEN AIRCRAFT SERVICES INC ..	1	113	1.9	0.00	481219	\$22 mn	Other Nonscheduled Air Transportation.
DOYON AIR TRANSPORT LLC	1	127	1.0	0.01	488999	\$22 mn	All Other Support Activities for Transportation.
RED LEASING LLC	2	359	0.2	0.01	532490	\$35 mn	Other Comm'l and Industrial Mach. and Equip. Rental & Leasing.
RAINBOW KING LODGE INC	1	209	0.2	0.02	721199	\$8 mn	All Other Traveler Accommodation.
PANTECHNICON AVIATION LTD	1	235	0.2	0.02	532411	\$40 mn	Comm'l Air, Rail, and Water Transp. Equip. Rental & Leasing.
EMERALD AIR SERVICE INC	1	250	1.0	0.02	481219	\$22 mn	Other Nonscheduled Air Transportation.
BLUE AIRCRAFT LLC	2	750	0.2	0.02	483000	1,500 emp.	Scheduled Passenger Air Transportation.
TALON AIR SERVICE INC	1	520	0.2	0.02	481219	\$22 mn	Other Nonscheduled Air Transportation.
BALD MOUNTAIN AIR SERVICE INC	1	700	0.2	0.03	481219	\$22 mn	Other Nonscheduled Air Transportation.
NORTHWEST SEAPLANES INC	1	750	0.3	0.05	481111	1,500 emp.	Scheduled Passenger Air Transportation.
TALKEETNA AIR TAXI INC	6	4,600	0.2	0.07	481211	1,500 emp.	Nonscheduled Chartered Passenger Air Transportation.
GOLDEN EAGLE OUTFITTERS INC	1	960	0.2	0.07	713990	\$8 mn	All Other Amusement and Recreation Industries.
MUNICH HANS W DBA	1	998	0.2	0.08	481219	\$22 mn	Other Nonscheduled Air Transportation.
DESTINATION ALASKA ADVENTURE CO LLC.	1	1,300	0.3	0.09	481211	1,500 emp.	Nonscheduled Chartered Passenger Air Transportation.
RUSTAIR INC	6	10,224	0.2	0.13	532411	\$40 mn	Comm'l Air, Rail, and Water Transp. Equip. Rental & Leasing.
KENMORE AIR HARBOR LLC	11	51,500	0.2	0.15	481111	1,500 emp.	Scheduled Passenger Air Transportation.
RAPIDS CAMP LODGE INC	1	7,000	0.3	0.29	721214	\$8 mn	Recreational and Vacation Camps (except Campgrounds).
BANK OF UTAH TRUSTEE	1	90,000	0.5	0.46	522110	\$750 mn in assets.	Commercial Banking.
Total	45	170,822	7.70				
Average		8,541	0.38	0.06			
Median		725	0.17	0.02			

Notes: 1. The size standard is the maximum size for the NAICS industry considered by the SBA to be a small entity. 2. AD costs per airplane are 1 work hour x \$85 + \$85 reporting costs for initial inspection, for a total of \$170.

¹ Small Business Administration (SBA). 2022. Table of Size Standards. Effective July 14, 2022. <https://www.sba.gov/document/support-table-size-standards>.

² Firm revenue and employee count are drawn from online sources, including: Dun & Bradstreet,

Inc. (www.dnb.com); Manta Media, Inc. (www.manta.com); Buzzfile Media, Inc. (www.buzzfile.com); Datanyze, Inc. (www.datanyze.com); Moody’s Analytics (start.cortera.com); GeneralLiabilityInsure.com (generalliabilityinsure.com); Kona Equity

(www.konaequity.com); and ZoomInfo Technologies LLC (www.zoominfo.com).

³ These revenue data come from online sources such as zoominfo.com, opencorporates.com, buzzfile.com, manta.com, allbiz.com, and lookupcompanyrevenue.com.

5. All Federal Rules That May Duplicate, Overlap, or Conflict

There are no relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule.

6. Significant Alternatives Considered

The FAA did not find any significant regulatory alternatives to the proposed AD that would still accomplish the safety objectives of this proposed AD.

Regulatory Findings

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

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

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the RFA.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Viking Air Limited (Type Certificate Previously Held by Bombardier Inc. and de Havilland, Inc.): Docket No. FAA–2020–1076; Project Identifier MCAI–2020–01201–A.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by August 14, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Viking Air Limited (type certificate previously held by

Bombardier Inc. and de Havilland, Inc.) Model DHC–3 airplanes, all serial numbers, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 2700, Flight Control System.

(e) Unsafe Condition

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as corrosion, wear, and fatigue-related degradation in aging aircraft. The FAA is issuing this AD to detect and address corrosion and cracking. This condition, if not addressed, could lead to structural failure with consequent loss of control of the airplane.

(f) Compliance

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

(g) Required Actions

(1) Within 90 days after the effective date of this AD, incorporate into the existing maintenance records required by 14 CFR 91.417(a)(2) or 135.439(a)(2), as applicable for your airplane, the actions and associated thresholds and intervals, including life limits, specified in Parts 2 and 3 of Viking DHC–3 Otter Supplemental Inspection and Corrosion Control Manual, PSM 1–3–5, Revision IR, dated December 21, 2017 (Viking PSM 1–3–5, Revision IR). Do each initial task within 6 months after the effective date of this AD or at the threshold for each applicable task specified in Part 3 of Viking Product Support Manual PSM 1–3–5, Revision IR, whichever occurs later. Where Viking PSM 1–3–5, Revision IR, specifies contacting Viking regarding a component’s alloy and heat treat condition, this AD requires contacting the Manager, International Validation Branch, FAA, Transport Canada, or Viking’s Transport Canada Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

Note 1 to paragraph (g)(1): Viking DHC–3 Otter Service Bulletin V3/0010, Revision NC, dated March 19, 2020, contains additional information related to this AD.

(2) After the action required by paragraph (g)(1) of this AD has been done, no alternative actions and associated thresholds and intervals, including life limits, are allowed unless they are approved as specified in paragraph (i) of this AD.

(h) Reporting

(1) For inspections done after the effective date of this AD, report to Viking any Level 2 or Level 3 corrosion, as specified in Viking PSM 1–3–5, Revision IR, at the times specified in and in accordance with part 3, paragraph 5, of Viking PSM 1–3–5, Revision IR.

(2) For inspections done before the effective date of this AD, within 30 days after the effective date of this AD report to Viking any Level 2 or Level 3 corrosion, as specified in Viking PSM 1–3–5, Revision IR, in

accordance with part 3, paragraph 5, of Viking PSM 1–3–5, Revision IR.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation 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 International Validation Branch, mail it to the address identified in paragraph (j)(2) of this AD or email to: 9-AVS-AIR-730-AMOC@faa.gov. If mailing information, also submit information by email.

(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.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved specifically for this AD by the Manager, International Validation Branch, FAA.

(j) Additional Information

(1) Refer to Transport Canada AD CF–2018–04, dated January 19, 2018, for related information. This Transport Canada AD may be found in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2020–1076.

(2) For more information about this AD, contact Deep Gaurav, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 228–3731; email: 9-avs-nyaco-cos@faa.gov.

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (k)(3) and (4) of this AD.

(k) Material Incorporated by Reference

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

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

(i) Viking DHC–3 Otter Supplemental Inspection and Corrosion Control Manual, PSM 1–3–5, Revision IR, dated December 21, 2017.

(ii) [Reserved]

(3) For service information identified in this AD, contact Viking Air Limited Technical Support, 1959 De Havilland Way, Sidney, British Columbia, Canada, V8L 5V5; phone: (800) 663–8444; fax: (250) 656–0673; email: technical.support@vikingair.com; website: vikingair.com/support/service-bulletins.

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this service information that is incorporated by reference at the

National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: fr.inspection@nara.gov, or go to: www.archives.gov/federal-register/cfr/ibr-locations.html.

Issued on June 21, 2023.

Michael Linegang,

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

[FR Doc. 2023–13617 Filed 6–27–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. FDA–2023–C–1487]

Filing of Color Additive Petition From Environmental Defense Fund, et al.; Request To Revoke Color Additive Listing for Use of Titanium Dioxide in Food; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of petition; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA or we) is extending the comment period for the color additive petition for which we published a notice of filing in the **Federal Register** on May 3, 2023. In the notice, FDA requested comments on a filed color additive petition submitted by Environmental Defense Fund, et al., proposing that FDA repeal the color additive regulation providing for the use of titanium dioxide in foods. We are taking this action in response to requests for an extension to allow interested persons additional time to submit comments.

DATES: FDA is extending the comment period on the color additive petition for which a notice of filing was published in the **Federal Register** of May 3, 2023 (88 FR 27818). Either electronic or written comments must be submitted by September 1, 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 September 1, 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–C–1487 for “Filing of Color Additive Petition From Environmental Defense Fund, et al.; Request To Revoke Color Additive Listing for Use of Titanium Dioxide in Food.” Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper

submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” We will review this copy, including the claimed confidential information, in our consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Paulette M. Gaynor, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1192.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 3, 2023 (88 FR 27819), we published a notice of filing of a color additive petition with a 60-day comment period. We explained that, under section 721(d)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379e(d)(1)), we were giving notice that we had filed a color additive petition (CAP 3C0325), submitted by Environmental Defense Fund, Center for Environmental Health, Center for Food Safety, Center for Science in the Public Interest, and Environmental Working Group, c/o Tom Neltner, 1875 Connecticut Ave. NW, Washington, DC 20009. The color additive petition proposes that we repeal the color additive regulation for titanium dioxide in 21 CFR 73.575, which permits the use of titanium dioxide in foods.

We have received requests for a 60-day extension of the comment period for the color additive petition. We have considered these requests and are extending the comment period for the color additive petition until September 1, 2023. We believe that a 60-day extension allows adequate time for interested persons to submit comments without significantly delaying a response to this petition.

Dated: June 23, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023-13773 Filed 6-27-23; 8:45 am]

BILLING CODE 4164-01-P

POSTAL SERVICE

39 CFR Part 111

Intelligent Mail Package Barcode Compliance Quality

AGENCY: Postal Service™.

ACTION: Proposed rule.

SUMMARY: The Postal Service is proposing to amend *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®) to add an additional Intelligent Mail® package barcode (IMpb®) validation under the “Barcode Quality” category.

DATES: Submit comments on or before July 28, 2023.

ADDRESSES: Mail or deliver written comments to the Director, Product Classification, U.S. Postal Service, 475 L’Enfant Plaza SW, Room 4446, Washington, DC 20260–5015. If sending comments by email, include the name and address of the commenter and send to PCFederalRegister@usps.gov, with a subject line of “IMpb Compliance Barcode Quality”. Faxed comments are not accepted.

You may inspect and photocopy all written comments, by appointment only, at USPS® Headquarters Library, 475 L’Enfant Plaza SW, 11th Floor North, Washington, DC 20260. These records are available for review on Monday through Friday, 9 a.m.–4 p.m., by calling 202–268–2906.

FOR FURTHER INFORMATION CONTACT: Steven Jarboe at (202) 268–7690, Devin Qualls at (202) 268–3287, or Garry Rodriguez at (202) 268–7281.

SUPPLEMENTARY INFORMATION:

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

In section 204.2.1.8, *IMpb Compliance Quality Thresholds*, the “Barcode Quality” compliance category checks that the barcode in the manifest passes two critical validations: 1. Valid and Certified Mailer ID in the label that is in Program Registration/Online Enrollment, 2. IMpb must be unique for 120 days.

The Postal Service relies on the accuracy of the IMpb, and the data contained within the barcodes, including Service Type Codes (STCs).

The Postal Service is proposing to add a third validation under “Barcode Quality” that will require that an IMpb must include a valid, unique 3-digit STC that accurately represents the mail class, product, and service combination on the physical label affixed to the package. Additionally, the IMpb on the package must also correspond with electronic package level details and Extra Services Code(s) contained within the Shipping Services File (SSF). Any variance in the data presented in the electronic submission of a parcel or a variance with the physical aspect of the label affixed to a parcel presented for mailing will be subject to the IMpb noncompliance fee if a mailer falls below the 98 percent threshold.

The Postal Service is proposing to implement this change effective October 1, 2023.

We believe the proposed revision will ensure the IMpb quality enabling the Postal Service to provide customers with a more efficient mailing experience.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C.

553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is proposed to be amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401–404, 414, 416, 3001–3018, 3201–3220, 3401–3406, 3621, 3622, 3626, 3629, 3631–3633, 3641, 3681–3685, and 5001.

■ 2. Revise the *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM) as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

200 Commercial Letters, Flats, and Parcels

* * * * *

204 Barcode Standards

* * * * *

2.0 Standards for Package and Extra Service Barcodes

2.1 Intelligent Mail Package Barcode

* * * * *

2.1.8 Compliance Quality Thresholds

* * * * *

Exhibit 2.1.8 IMpb Compliance Quality Thresholds

Compliance categories	Compliance codes	Validations	Compliance thresholds
* * * * *			
Barcode Quality * * *			

* * * * *

[Revise the text in the “Barcode Quality” compliance category under the

“Validation” column by adding a third validation to read as follows:]

- The IMpb must include a valid, unique 3-digit Service Type Code that

accurately represents the mail class, product, and service combination on the physical label affixed to the package and the electronic package level details and

Extra Services Code(s) in the Shipping Services File.

* * * * *

Sarah Sullivan,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2023-13440 Filed 6-27-23; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2017-0664; FRL-5925.1-02-OAR]

RIN 2060-AV58

National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing Amendments; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: On May 15, 2023, the Environmental Protection Agency (EPA) issued a proposed rule titled, “National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing Amendments.” The EPA is extending the comment period on this proposed rule that currently closes on June 29, 2023, by 8 days. The comment period will now remain open until July 7, 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 15, 2023 (88 FR 30917), originally ending on June 29, 2023, is being extended by 8 days. Written comments must now be received on or before July 7, 2023.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-HQ-OAR-2017-0664, 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-2017-0664 in the subject line of the message.

- *Fax:* (202) 566-9744. Attention Docket ID No. EPA-HQ-OAR-2017-0664.

- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA-HQ-OAR-2017-0664, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

- *Hand/Courier Delivery:* 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 Mr. David Putney, Sector Policies and Programs Division (D243-02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, P.O. Box 12055, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-2016; and email address: putney.david@epa.gov.

SUPPLEMENTARY INFORMATION:

Rationale. On May 15, 2023, the Environmental Protection Agency (EPA) issued a proposed rule titled “National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing Amendments,” 88 FR 30917 (May 15, 2023). The comment period on this proposed rule currently closes on June 29, 2023. The EPA has received requests for additional time to review and comment on the proposed rule. After considering these requests, the EPA has decided to extend the public comment period by 8 days. The public comment period will now end on July 7, 2023.

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA-HQ-OAR-2017-0664. 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-2017-0664. 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/submitting-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, P.O. Box 12055, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA-HQ-OAR-2017-0664. 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. 2023-13693 Filed 6-27-23; 8:45 am]

BILLING CODE 6560-50-P

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

Intent To Establish the Tribal Advisory Committee and Solicitation of Nominations for Membership to the Committee

AGENCY: United States Department of Agriculture (USDA).

ACTION: Notice of establishment the Tribal Advisory Committee and solicit nominations for membership.

SUMMARY: In accordance with section 12303 of the Agriculture Improvement Act of 2018 and the Federal Advisory Committee Act, as amended, the United States Department of Agriculture announces its intent to establish of the Tribal Advisory Committee by the Secretary of Agriculture. The Tribal Advisory Committee will advise the Secretary on matters related to Tribal and Indian affairs. The Tribal Advisory Committee will be governed by the provisions of FACA as applicable. Duration of the Tribal Advisory Committee is required by legislation to be permanent, and the Charter will be renewed biannually by the Secretary of Agriculture. This notice also solicits for nominations for membership on the Tribal Advisory Committee.

DATES: Nominations must be submitted via email or postmarked by August 14, 2023.

ADDRESSES: Please submit nominations and resumes for recognition and appointment by the Secretary of Agriculture and Chair and Ranking members of the Senate Committee on Indian Affairs; House Committee on Agriculture; and Senate Committee on Agriculture, Nutrition, and Forestry through Josiah Griffin, Designated Federal Officer, to 1400 Independence Ave. SW, Room 501–A, Washington, DC, and 20250.

FOR FURTHER INFORMATION CONTACT: Inquiries may be sent to, Josiah Griffin, Designated Federal Officer, USDA, Office of Tribal Relations, 1400

Independence Ave. SW, Room 501–A, Washington, DC, and 20250 or at (202) 205–2249 and Josiah.Griffin@usda.gov.

SUPPLEMENTARY INFORMATION:

Public Law 115–334 of section 12303 of the Agriculture Improvement Act of 2018 directs the Secretary of the United States Department of Agriculture to create the Tribal Advisory Committee to advise the Agency on matters related to Tribal and Indian affairs.

The duties of the Committee as directed by the authorizing legislation include identifying issues of relevance to Indian tribes relating to programs of the Department; communicating to the Secretary the issues identified; submitting to the Secretary recommendations for and solutions to these issues, other issues raised at the Tribal, regional, or national level, and issues relating to any Tribal consultation carried out by the Department; discussing issues and proposals for changes to regulations, policies, and procedures of the Department that impact Indian tribes; identifying priorities and providing advice on appropriate strategies for Tribal consultation; ensuring that pertinent issues of the Department are brought to the attention of an Indian tribe in a timely manner so that timely feedback can be obtained; and identifying and proposing solutions to any interdepartmental barriers between the Department and other Federal agencies.

The Committee is required to meet no less than twice per year, anticipated to be mid-Calendar year and at the end of each Calendar year. Additionally, USDA anticipates this Committee to convene over virtual/teleconference in those quarters where an in-person meeting is not otherwise scheduled. The Committee members shall be compensated at the level IV executive schedule daily rate for each day of participation in an officially scheduled, quarterly meeting of the full Committee in addition to each travel to and from these in-person Committee meetings. Once convened in full, the Committee will vote to elect a chairperson for the Committee to facilitate Committee member discussion and activity and a vice-chairperson to fill this role in lieu of the chairperson when unavailable.

Discussion Solicitation for Nominations and Membership Criteria

Of the eleven (11) members to be appointed to the Tribal Advisory Council, three (3) of which shall be appointed by the Secretary of Agriculture; one (1) by the chairperson of the Committee on Indian Affairs of the Senate; one (1) by the ranking member of the Committee on Indian Affairs of the Senate; one (1) by the chairperson of the Committee on Agriculture, Nutrition, and Forestry of the Senate; one (1) by the ranking member of the Committee on Agriculture, Nutrition, and Forestry of the House of Representatives; and two (2) by the ranking member of the Committee on Agriculture of the House of Representatives. Each appointment shall be made for no longer than three (3) years except for the first appointment of the Agriculture Secretary, which shall be for a period of two (2) years. All subsequent terms shall be for a period of three (3) years.

To the extent feasible, the Secretary will coordinate the aforementioned Congressional committee leadership to ensure that the members of the Tribal Advisory Committee represent a diverse set of expertise on issues relating to geographic regions, Indian tribes, and the agricultural industry, including in subsistence and fisheries.

Membership Nominations Information

Pursuant to the statute, nominations may be submitted by an Indian tribe as defined by 25 U.S.C. 5304, a Tribal organization as defined by 25 U.S.C. 5304, or a national or regional organization with expertise in issues relating to the above duties of the Committee. Individuals who wish to be considered for membership on Tribal Advisory Committee must submit a nomination with information, including a background disclosure form (Form AD–755). All interested nominees, whether they wish to be appointed by the Secretary or one of the Senate or Congressional Committees, shall use this same **Federal Register** process. All official appointees will each have access to this same **Federal Register** nomination process.

Nominations should be typed and include the following:

1. If nominating an individual, a brief summary, no more than two pages, explaining the nominee's qualifications to serve on the Tribal Advisory Committee and addressing the membership composition and criteria described above.

2. A resume providing the nominee's background, experience, and educational qualifications.

3. A completed Advisory Committee or Research and Promotion Background Information form (AD-755) signed by the nominee. https://www.ocio.usda.gov/sites/default/files/docs/2012/AD-755-Approved_Master-exp-3.31.22_508.pdf.

4. Letters of endorsement are optional. USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken in account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent minorities, women and person with disabilities. USDA is an equal opportunity provider, employer, and lender.

Dated: June 23, 2023.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2023-13728 Filed 6-27-23; 8:45 am]

BILLING CODE 3420-AG-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2021-0037]

Notice of Decision To Authorize the Importation of Fresh Leaves and Stems of Garland Chrysanthemum From Mexico Into the Continental United States, Hawaii, Puerto Rico, and the U.S. Virgin Islands

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our decision to authorize the importation into the continental United States, Hawaii, Puerto Rico, and the U.S. Virgin Islands of fresh leaves and stems of Garland Chrysanthemum (*Glebionis coronarium*) from Mexico. Based on the findings of a pest risk analysis, which we made available to the public for review and comment through a previous notice, we have determined that the application of one or more designated phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the importation of fresh leaves and stems of Garland Chrysanthemum from Mexico.

DATES: Imports may be authorized beginning June 28, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Claudia Ferguson, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737-1231; (301) 851-2352; email: Claudia.Ferguson@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in "Subpart L—Fruits and Vegetables" (7 CFR 319.56-1 through 319.56-12, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into and spread within the United States.

Section 319.56-4 of the regulations contains a performance-based process for approving the importation of commodities that, based on the findings of a pest risk analysis, can be safely imported subject to one or more of the designated phytosanitary measures listed in paragraph (b) of that section. Under that process, APHIS proposes to authorize the importation of a fruit or vegetable into the United States if, based on findings of a pest risk analysis, we determine that the measures can mitigate the plant pest risk associated with the importation of that fruit or vegetable. APHIS then publishes a notice in the **Federal Register** announcing the availability of the pest risk analysis that evaluates the risks associated with the importation of a particular fruit or vegetable. Following the close of the 60-day comment period, APHIS will issue a subsequent **Federal Register** notice announcing whether or not we will authorize the importation of

the fruit or vegetable subject to the phytosanitary measures specified in the notice.

In accordance with that process, we published a notice¹ in the **Federal Register** on October 19, 2021 (86 FR 57802-57803, Docket No. APHIS-2021-0037), in which we announced the availability, for review and comment, of a pest risk analysis that evaluated the risks associated with the importation of fresh leaves and stems of Garland Chrysanthemum (*Glebionis coronarium*) from Mexico into the continental United States, Hawaii, Puerto Rico, and the U.S. Virgin Islands. The pest risk analysis consisted of a pest risk assessment identifying pests of quarantine significance that could follow the pathway of importation of fresh leaves and stems of Garland Chrysanthemum from Mexico into the continental United States, Hawaii, Puerto Rico, and the U.S. Virgin Islands and a risk management document identifying phytosanitary measures to be applied to that commodity to mitigate the pest risk.

We solicited comments on the notice for 60 days ending on December 20, 2021. We received 26 comments by that date. Of these, 25 supported the importation of chrysanthemum leaves and stems for consumption without further comment or request for modification.

One commenter noted that Garland Chrysanthemum is already authorized for importation from Mexico as a cut flower if it is accompanied by a phytosanitary certificate that has been issued by the national plant protection organization of Mexico and attests to the Garland Chrysanthemum's freedom from *Puccinia horiana*, the causal agent of Chrysanthemum White Rust. The commenter further noted that parts that may be imported include leaves and stems. In light of this existing authorization, the commenter questioned why the notice was necessary.

The regulations governing the importation of cut flowers into the United States are found in 7 CFR 319.74-1 through 319.74-4 (subpart P). These regulations do not pertain to imported plant parts intended for consumption. If the commodity is intended for consumption, it is governed by the regulations in subpart L that are referenced above in this notice. Separate authorization based on the intended use of the plant part is warranted because the intended use of

¹ To view the notice, the pest risk analysis, and the comments we received, go to www.regulations.gov. Enter APHIS-2021-0037 in the Search field.

a plant part may increase or decrease the risk that it presents of introducing plant pests or noxious weeds into the United States.

Therefore, in accordance with the regulations in § 319.56–4(c)(3)(iii), we are announcing our decision to authorize the importation of fresh leaves and stems of Garland Chrysanthemum (*Glebionis coronarium*) from Mexico into the continental United States, Hawaii, Puerto Rico, and the U.S. Virgin Islands subject to the phytosanitary measures specified in the RMD that accompanied the initial notice.

These conditions will be listed in the USDA, APHIS Agricultural Commodity Import Requirements (ACIR) database (<https://acir.aphis.usda.gov/s/>).² In addition to these specific measures, each shipment will be subject to the general requirements listed in § 319.56–3 that are applicable to the importation of all fruits and vegetables.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the recordkeeping and burden requirements associated with this action are included under the Office of Management and Budget control number 0579–0049.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this notice, please contact Mr. Joseph Moxey, APHIS' Paperwork Reduction Act Coordinator, at (301) 851–2483.

Congressional Review Act

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

Authority: 7 U.S.C. 1633, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 20th day of June 2023.

Michael Watson,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2023–13674 Filed 6–27–23; 8:45 am]

BILLING CODE 3410–34–P

² On September 30, 2022, the APHIS Fruits and Vegetables Import Requirements (FAVIR) database was replaced by the ACIR database.

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

[Docket #: RBS–23–BUSINESS–0008]

Notice of Funding Opportunity for the Higher Blends Infrastructure Incentive Program (HBIIP) for Fiscal Years 2023 and 2024

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Business-Cooperative Service (RBCS or the Agency), a Rural Development agency of the United States Department of Agriculture (USDA), announces the availability of approximately \$450 million, under section 22003 of the Inflation Reduction Act of 2022, in competitive grants to eligible entities for activities designed to expand the sales and use of renewable fuels under the Higher Blends Infrastructure Incentive Program (HBIIP). Cost-share grants of up to 75 percent of total eligible project costs, but not more than \$5 million, will be made available to assist transportation fueling facilities and fuel distribution facilities with converting to higher blend friendly status for ethanol (*i.e.*, greater than 10 percent ethanol) and biodiesel (greater than 5 percent biodiesel) by sharing the costs related to the installation, and/or retrofitting, and/or otherwise upgrading of fuel dispenser or pumps and related equipment, storage tank system components, and other required infrastructure. All applicants are responsible for expenses incurred in developing their applications.

DATES: The application windows for enrollment in the HBIIP will take place quarterly for five quarters, starting July 1, 2023, through September 30, 2024, with the option for a sixth application window if funding has not been exhausted. The application window will close at 4:30 p.m. Eastern time on the last day of each quarter.

ADDRESSES:

Application Submission: Instructions and additional resources, including an Application Guide, are available at Higher Blends Infrastructure Incentive Program | Rural Development (<https://www.rd.usda.gov/HBIIP>), under the “How to Apply” tab.

Electronic submissions: All applicants must file their application electronically through the HBIIP Application portal. Guidance and resources for the application portal can be found at the website referenced above.

This funding opportunity will also be posted to <https://www.grants.gov>.

FOR FURTHER INFORMATION CONTACT: Jeff Carpenter at HBIIP@usda.gov, HBIIP Manager, RBCS, Rural Development, United States Department of Agriculture, 1400 Independence Avenue SW, Mail Stop 3201, Room 5801-South, Washington, DC 20250; or call (402) 437–5554. Persons with disabilities that require alternative means for communication should contact the U.S. Department of Agriculture (USDA) Target Center at (202) 720–2600 (voice); or the 711 Relay Service.

SUPPLEMENTARY INFORMATION:

Overview

Federal Awarding Agency Name: Rural Business-Cooperative Service (RBCS).

Funding Opportunity Title: Higher Blends Infrastructure Incentive Program (HBIIP).

Announcement Type: Notice of funding opportunity.

Funding Opportunity Number: RBCS–2023–2024–01–HBIIP.

Assistance Listing Number: 10.754.

Dates: The application windows for enrollment in the HBIIP will take place quarterly for five quarters, starting July 1, 2023, through September 30, 2024, with the option for a sixth application window if funding has not been exhausted. The application window will close at 4:30 p.m. Eastern time on the last day of each quarter.

Rural Development Key Priorities: The Agency encourages applicants to consider projects that will advance the following key priorities (more details available at <https://www.rd.usda.gov/priority-points>):

- Assisting rural communities recover economically through more and better market opportunities and through improved infrastructure;
- Ensuring all rural residents have equitable access to Rural Development (RD) programs and benefits from RD funded projects; and
- Reducing climate pollution and increasing resilience to the impacts of climate change through economic support to rural communities.

A. Program Description

1. Purpose of the Program

The purpose of the HBIIP is to significantly increase the sales and use of higher blends of ethanol and biodiesel. HBIIP is intended to encourage a more comprehensive approach to marketing higher blends by sharing the costs related to building and/or retrofitting biofuel-related infrastructure.

Under Section 22003 of the Inflation Reduction Act of 2022, RBCS is making

available approximately \$450 million in the form of cost-share grants to eligible entities to assist with infrastructure improvements to increase the sale and use of agricultural commodity-based fuels.

2. Statutory and Regulatory Authority

This notice is issued pursuant to section 22003 of the Inflation Reduction Act of 2022 (Pub. L. 117–169).

(a.) *Environmental information.* For the RBCS to consider an application complete, the application must include all environmental review documents with supporting documentation in accordance with 7 CFR part 1970 and as referenced in Section D.2 of this notice. Any required environmental review must be completed prior to obligation of funds. Applicants are advised to contact RBCS to determine environmental requirements as soon as practicable to ensure adequate review time.

Applicants should also submit to RBCS the compatibility verification of equipment to be funded. EPA regulations found in 40 CFR 280.32 require demonstrating compatibility of systems storing fuel containing greater than 10 percent ethanol or greater than 20 percent biodiesel, so RBCS collecting this information in advance is not an additional burden for applicants. A compatibility verification will ensure that grant funds are used for purposes that expand the environmentally safe availability of fuel containing higher blends of ethanol and biodiesel. More information can be found in this June 2019 compliance advisory from the EPA Office of Underground Storage Tanks: <https://www.epa.gov/sites/production/files/2019-06/documents/compliance-advisory-ust-regs-06-2019.pdf> and https://www.epa.gov/sites/default/files/2014-05/documents/bulk_storage_container_integrity-testing-factsheet.pdf.

(b) *Transparency Act Reporting.* All recipients of Federal financial assistance are required to report information about first-tier sub-awards and executive compensation in accordance with 2 CFR part 170. If an applicant does not have an exception under 2 CFR 170.110(b), the applicant must then ensure that it has the necessary processes and systems in place to comply with the reporting requirements to receive funding.

(c) *Other Federal Statutes.* The applicant must certify to compliance with other Federal statutes and regulations by completing the Financial Assistance General Certifications and Representations in SAM, including, but not limited to the following:

(1) 7 CFR part 15, subpart A—Nondiscrimination in Federally Assisted Programs of the Department of

Agriculture—Effectuation of Title VI of the Civil Rights Act of 1964. Civil Rights compliance includes, but is not limited to the following:

(i) Collect and maintain data provided by recipients on race, sex, and national origin. Race and ethnicity data will be collected in accordance with Office of Management and Budget (OMB) **Federal Register** notice, “Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity” (published October 30, 1997 at 62 FR 58782). Sex data will be collected in accordance with Title IX of the Education Amendments of 1972. These items should not be submitted with the application but should be maintained and made available upon request by RBCS.

(ii) The applicant must comply with title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, the Americans with Disabilities Act (ADA), section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Executive Order 12250, and 7 CFR part 1901, subpart E.

(2) 2 CFR part 417 Governmentwide Debarment and Suspension (Non-procurement), or any successor regulations.

(3) 2 CFR parts 200 and 400 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards), or any successor regulations.

(4) Subpart B of 2 CFR part 421, which adopts the Governmentwide implementation (2 CFR part 182) of the Drug-Free Workplace Act.

(5) Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency.” For information on limited English proficiency and agency-specific guidance go to <https://www.lep.gov/>.

(6) Federal Obligation Certification on Delinquent Debt.

3. Application of Awards

Under the HBIIP, funds will be awarded to assist transportation fueling facilities and fuel distribution facilities in converting their current facilities through upgrade or installation of new equipment required to ensure all equipment is fully compatible with higher blends of ethanol (*i.e.*, greater than 10 percent ethanol) and biodiesel (greater than 5 percent biodiesel). The program will share the costs related to the upgrading of fuel dispensers (gas and diesel pumps) and attached equipment, fuel storage tank system components (which includes but is not limited to tanks, pumps, ancillary equipment, lines, gaskets, and sealants),

and other infrastructure required at a location to ensure the environmentally safe availability of fuel containing ethanol blends greater than 10 percent or fuel containing biodiesel blends greater than 5 percent.

Storing and dispensing E15, E85, or other high blends of ethanol for transportation fueling facilities, such as automotive, freight, rail, and marine, with equipment that is not compatible with higher blends of ethanol fuel can result in leaks and releases that contaminate land and groundwater. Older and even some newer existing underground storage tank (UST) systems (which include but are not limited to tanks, pumps, ancillary equipment, lines, gaskets, and sealants) are not fully compatible with E15 or higher and require modification before storing these fuels. Biodiesel blends above B20 have similar requirements; some infrastructure changes may even be necessary when storing blends greater than B5. This program will expand the number of facilities fully compatible with higher blends of ethanol and biodiesel.

Grants for up to 75 percent of total eligible project costs, but not more than \$5 million, are made available to: (1) owners, including affiliated entities, of 10 or fewer transportation fueling facilities, including local fueling stations/locations; convenience stores; and hypermarket fueling stations; and (2) owners of home heating oil distribution facilities who have at least 80 percent of their average annual throughput volume coming from home heating oil, including affiliated entities. An affiliate is an entity controlling or having the power to control another entity, or a third party or parties that control or have the power to control both entities. Grants for up to 50 percent of total eligible project costs, but not more than \$5 million, are made available to owners of: (1) more than 10 transportation fueling facilities, including, but not limited to, local fueling stations/locations; convenience stores; and hypermarket fueling stations; (2) fleet facilities including rail and marine; and (3) fuel distribution facilities, including fuel terminal operations; midstream operations; and/or distribution facilities including home heating oil distribution facilities with more than 80 percent of their average annual throughput volume coming from home heating oil.

B. Federal Award Information

Type of Awards: Grants.

Fiscal Year Funds: FY 2023–FY2024.

Available Funds: Approximately \$450 million is made available to eligible

participants, \$90 million each calendar quarter commencing July 1, 2023. Of the total amount of funds available each quarter, approximately \$67.5 million will be made available to transportation fueling facilities (including fueling stations; convenience stores; hypermarket fueling stations; fleet facilities, including transportation, freight, rail and marine; and similar entities with capital investments) for eligible implementation activities related to higher blends of fuel ethanol greater than 10 percent ethanol, such as E15 or higher, and/or activities related to higher blends of biodiesel greater than five percent, such as B20 or higher; and approximately \$18 million will be made available to fuel distribution facilities (including terminal operations, depots, and midstream operations), for eligible implementation activities related to higher blends of fuel ethanol greater than 10 percent ethanol, such as E15 or higher and biodiesel greater than five percent biodiesel, such as B20 or higher. Additionally, up to \$4.5 million will be made available to home heating oil distribution facilities for eligible implementation activities related to higher blends of biodiesel greater than five percent, such as B20 or higher. Unused funds may be reallocated.

Award Amounts: Awards to successful applicants will be in the form of cost-share grants not to exceed \$5 million. There is no minimum amount for these grants.

Anticipated Award Date: The Agency anticipates making awards within 90—180 days after the application deadline.

Performance Period: The grant period is not to exceed 36-months, unless otherwise specified in the Grant Agreement or agreed to by the Agency.

Renewal or Supplemental Awards: None.

Type of Assistance Instrument: Grant Agreement.

Approximate Number of Awards: The number of awards will depend on the number of eligible participants and the total amount of requested funds. Based on the Agency's prior experience with this program, it expects to make approximately 175 awards per quarter. In the unlikely event that every successful applicant is awarded the maximum amount available of \$5 million, approximately 20 awards will be made.

C. Eligibility Information

1. Eligible Applicants

Owners of transportation fueling facilities and owners of fuel distribution facilities may apply for this program. Eligible facilities must be located in the

United States and its territories and include fueling stations, convenience stores, hypermarket retailer fueling stations, fleet facilities (including automotive, freight, rail and marine), and similar entities with equivalent capital investments, as well as fuel/biodiesel terminal operations, midstream operations, and heating oil distribution facilities or equivalent entities.

Applicants must include all proposed activity under a single application. Applicants must own or have the legal right to control all site locations included in their application. Applicants may apply for and will only receive funding associated with implementation activities for one or more transportation fueling facilities or one or more fuel distribution facilities. Applications including combinations of transportation fueling facility implementation activities and fuel distribution facility implementation activities are ineligible. Application requirements and other important information is available on the HBIIP web page <https://www.rd.usda.gov/hbiip>.

2. Cost Sharing or Matching

Matching Funds. The applicant is responsible for securing the remainder of the total eligible project costs not covered by grant funds. Matching funds can be comprised of eligible in-kind contributions from third parties and/or cash, however, in-kind contributions provided by the applicant cannot be used to meet the matching fund requirement. Written commitments for matching funds (e.g., Letters of Commitment on lender letterhead, electronic communication from a lender, or bank statements) must be submitted with the Certification of Matching Funds when the application is submitted. The Certification of Matching Funds must be signed by the applicant. Funds provided by the applicant in excess of matching funds are not matching funds. Unless authorized by statute, other Federal grant funds cannot be used to meet a matching funds requirement.

Funds made available under HBIIP may only be used for eligible equipment, infrastructure, and related expenses to support the sales and use of higher biofuel blends, fuel containing ethanol greater than 10 percent by volume and/or fuel containing biodiesel blends greater than 5 percent by volume.

Applicants may enter into arrangements with private entities such as, but not limited to, commercial vendors of fuels, agricultural

commodity promotional organizations, Tribes, and other entities interested in the renewable fuels in order to secure such non-Federal funds or in-kind contributions.

There are several existing or prior and ongoing State-led programs and private sector efforts to help provide funding for higher blend dispensers, related equipment, and infrastructure. These programs may be included as part of any matching contribution requirement. However, the application must show how the HBIIP grant will add to the infrastructure that fosters higher blend biofuel sales and use. HBIIP funds are intended to provide additional incentives.

Up to 10 percent of an applicant's Matching Funds requirement (up to 5 percent of total project costs) may be used to pay consumer education and/or marketing and/or signage related expenses. HBIIP grant funds awarded to transportation fueling stations are intended to assist with converting those facilities to ensure full compatibility with higher blend fuel through upgrade or installation of fuel dispensers, related equipment, and infrastructure. Although the contributions of consumer education and/or marketing and/or signage toward a fuel station's fuel sales are well recognized, a very tall sign to display fuel prices does not in any way assist a facility with higher blends compatibility. Therefore, the Agency determined that while HBIIP grant funds may not be used for consumer education and/or marketing and/or signage, matching funds may be used to pay for consumer education and/or marketing and/or signage related expenses.

3. Other

(a) Eligible Project

The goal of HBIIP is to significantly increase the market availability of higher blends biofuels. To be eligible for this program, a project's sole purpose must be for the installation, and/or retrofitting, and/or otherwise upgrading of fuel dispensers/pumps, related/attached equipment, fuel storage tank system components, and other infrastructure required at a location to ensure the environmentally safe availability of fuel containing ethanol blends greater than 10 percent or fuel containing biodiesel blends greater than 5 percent.

(A) An eligible project must conform to all applicable Federal, State, Tribal and local regulatory requirements pertaining to:

1. Technical Standards and Corrective Action Requirements for Owners and

Operators of Underground Storage Tanks, 40 CFR parts 280 and 281;

2. Spill Prevention, Control and Countermeasure Plan (SPCC) Program, 40 CFR part 112;

3. Regulation of Fuels and Fuel Additives, 40 CFR part 80;

4. Occupational Safety and Health Standards Subpart H—Hazardous Materials Section 106—Flammable Liquids, 29 CFR 1910.106;

5. Safety and Health Regulations for Construction Subpart F—Fire Protection and Prevention Section 152—Flammable Liquids, 29 CFR 1926.152; and

6. Automotive Fuel Ratings, Certification, and Posting, 16 CFR part 306.

HBIIP funds may be used for equipment required at a location to ensure the environmentally safe availability of fuel containing ethanol blends greater than 10 percent or fuel containing biodiesel blends greater than 5 percent.

Since 1988, the Environmental Protection Agency's (EPA) UST regulations require fuel to be stored in systems that are compatible with the type of fuel being stored. The environmentally safe growth in availability of fuels containing higher blends of ethanol or biodiesel depends on these fuels being stored and dispensed from UST systems that are compatible with E15. Storing and dispensing E15 at gas stations with equipment that is not compatible with higher blends of ethanol fuel can result in leaks and releases that contaminate land and groundwater. Section 280.32 of 40 CFR part 280 states that UST owners and operators must use an UST system made of or lined with materials that are compatible with the substance stored in the UST system.

Additionally, owners or operators who store regulated substances that contain more than 20 percent biodiesel or more than 10 percent ethanol, such as 15 percent ethanol or E15, must notify their implementing agency 30 days before storing the fuel. Owners and operators must also keep records demonstrating that their UST system is compatible with the substance stored.

Demonstrating compatibility of an UST system means identifying what equipment is installed as part of your UST system. You must show that a component is approved by either the manufacturer of the component or by a nationally recognized independent testing laboratory, such as Underwriters Laboratory, for use with the fuel to be stored. See details about these requirements in regulations issued by EPA at 40 CFR 280.32.

(B) Please note that compatibility extends beyond the fuel tank. Owners and operators must demonstrate compatibility for the components below to store substances containing more than 10 percent ethanol or more than 20 percent biodiesel. These components include:

1. Tanks;
2. Piping carrying product from the tank;
3. Piping containment sumps entered by the piping;
4. Pumping equipment, including the submersible pump or suction pump, depending on the type of system;
5. Release detection equipment, including automatic tank gauging probes, sump sensors, and line leak detectors;
6. Spill equipment, such as spill buckets, for the tank; and
7. Overfill equipment, including ball float valves or flapper valves.

The federal UST regulation from EPA does not require owners and operators to demonstrate the compatibility of dispensers or associated aboveground equipment. However, compatibility requirements for these components may exist in other local regulations, such as, but not limited to, the fire code. Owners and operators should check for these requirements with their implementing agency. HBIIP grant funds may be used to upgrade or replace fuel dispensers/pumps, UST system components, or other required infrastructure, necessary to make their facility fully compatible with higher blends of ethanol or biodiesel. Fuel dispensers/pumps, UST system components, and other required infrastructure and components must meet the minimum requirements of EPA's UST regulations and other Federal, State, and local regulations or codes; and, must be approved by either the manufacturer of the component or by a nationally recognized independent testing laboratory, such as Underwriters Laboratory, for use at a minimum for blends containing 25 percent ethanol or 100 percent biodiesel.

(b) Eligible Funds

Eligible Project Costs are only those costs incurred after the date that a complete application is submitted and that are directly related to the use and purposes of the HBIIP. The applicant is cautioned against taking any actions or incurring any obligations prior to the Agency completing the environmental review that would either limit the range of alternatives to be considered or that would have an adverse effect on the environment, such as the initiation of construction. If the applicant takes any such actions or incurs any such

obligations, it could result in project ineligibility. Eligible project costs may include:

(i) Retrofitting of existing, or purchase and installation of new, fuel dispensers (gas and/or diesel pumps) and attached equipment, fuel storage tank system components, and other infrastructure required at a location to ensure the environmentally safe availability of fuel containing ethanol blends greater than 10 percent or fuel containing biodiesel blends greater than 5 percent;

(ii) Construction, replacement, and improvements;

(iii) Fees for construction permits and licenses;

(iv) Professional service fees for qualified consultants, contractors, installers, and other third-party services; and

(v) HBIIP grant funds may not be used to pay for expenses related to higher blend consumer education and/or higher blend marketing and/or higher blend signage. However, up to 10 percent of an applicant's matching funds requirement (up to 5 percent of total project costs) may be used to pay for higher blend consumer education and/or higher blend marketing and/or higher blend signage related expenses. The Awardee is encouraged to display USDA standard infrastructure investment signage, available for download from the Agency, during construction of the Project. Expenditures for such signage shall be a permitted eligible cost of the Project.

(c) Ineligible Project Costs

Ineligible project costs for HBIIP projects include, but are not limited to:

1. Renewable diesel projects.
2. Sustainable aviation fuel (SAF) projects.
3. Used equipment and vehicles.
4. Construction or equipment costs that would be incurred regardless of the installation of higher blend fuel infrastructure shall not be included as eligible project costs. For example, a fuel storage tank for a fueling facility constructed during the grant period that would have been otherwise installed should not be included in an application. USDA believes all new tanks and piping available in the market only come in models compatible with higher blends of ethanol and biodiesel, so grant funds would not expand the market for higher blends by funding such tank or equipment installation. However, other required equipment such as fuel dispensers/pumps and other UST system components that are still available in traditional and higher blend compatible models, the latter at a

higher cost, may be considered in this funding program.

5. Business operations that derive more than 10 percent of annual gross revenue (including any lease income from space or machines) from gambling activity, excluding State or Tribal authorized lottery proceeds, as approved by the Agency, conducted for the purpose of raising funds for the approved project.

6. Business operations deriving income from activities of a sexual nature or illegal activities.

7. Purchase of real property or land.

8. Lease payments.

9. Any project that creates a Conflict of Interest or an appearance of a Conflict of Interest which, for purposes of this program includes, but is not limited to:

(a) Distribution or payment of a grant, guaranteed loan funds, and matching funds or award of project construction contracts to an individual owner, partner, or stockholder, or to a beneficiary or immediate family of the applicant when the recipient will retain any portion of ownership in the applicant's or borrower's project. Grant and matching funds may not be used to support costs for services or goods going to, or coming from, a person or entity with a real or apparent conflict of interest.

(b) Assistance to employees, relatives, and associates. The Agency will process any requests for assistance under this subpart in accordance with 7 CFR part 1900, subpart D.

(c) Member/delegate clause. No member of or delegate to Congress shall receive any share or part of a grant awarded pursuant to HBIIP or any benefit that may arise therefrom; but this provision shall not be construed to bar, as a contractor under the grant, a publicly held corporation whose ownership might include a member of Congress.

10. Funding of political or lobbying activities.

11. To pay off any Federal direct or guaranteed loan or any other form of Federal debt. Any incurred expense, equipment purchase, or paid service prior to the date a complete application is submitted.

12. Any expense associated with applying for this program, including environmental reviews and requirements related to it.

13. Any expense associated with reporting results and/or outcomes during the disbursement, performance, and servicing portions of this program.

14. Transportation infrastructure not on location where eligible biofuels are blended, stored, supplied, or distributed.

The U.S. Department of Agriculture Departmental Regulations and federal laws that contain other compliance requirements are referenced in paragraphs F, H, and I of this notice. Applicants who are found to be/have been in violation of applicable Federal Law/statutes will be deemed ineligible.

D. Application and Submission Information

1. Address To Request Application Package

Applicants seeking to participate in this program must submit applications in accordance with this notice.

Applications must be submitted electronically using the HBIIP secure-server portal. Instructions and resources for completing the online application are available on the HBIIP web page under the "To Apply" tab, <https://www.rd.usda.gov/programs-services/energy-programs/higher-blends-infrastructure-incentive-program#to-apply>.

2. Content and Form of Application Submission

Applicants must submit complete applications by the date identified in the **DATES** section of this notice. Applications must contain all parts necessary for the RBCS to determine applicant and project eligibility, conduct the technical evaluation, calculate a priority score, rank, and compete the application, as applicable, to be considered. All applications determined to be insufficient for these purposes shall be deemed incomplete and will neither be competed nor receive funding.

1. For Higher Blend Implementation Activities related to transportation fueling stations/facilities, the HBIIP Online Application is comprised of the following elements:

(a) SF 424, Application for Federal Assistance;

(b) HBIIP Project Worksheet with Priority Scoring Criteria: Transportation Fueling Stations/Facilities;

(c) SF 424C, Budget Information—Construction Programs;

(d) HBIIP Project Technical Report;

(e) Signed Certification of Matching Funds;

(f) Confirmation of Environmental Information to HBIIP inbox (HBIIP@usda.gov) or Environmental Information; and

(g) SF 424D, Assurances—Construction Programs signed by applicant entity (if signing by Power of Attorney, a legal, fully executed copy of the Power of Attorney must be provided when submitting the application for it to be considered complete).

2. For Higher Blend Implementation Activities related to fuel distribution facilities, an HBIIP Online Application is comprised of the following elements:

(a) SF 424, Application for Federal Assistance;

(b) HBIIP Project Worksheet with Priority Scoring Criteria: Fuel Distribution Facilities;

(c) SF 424C, Budget Information—Construction Programs;

(d) HBIIP Project Technical Report;

(e) Signed Certification of Matching Funds;

(f) Confirmation of Environmental Information to HBIIP inbox (HBIIP@usda.gov) or Environmental Information; and

(g) SF 424D Assurances—Construction Programs signed by the applicant entity (if signing by Power of Attorney, a legal, fully executed copy of the Power of Attorney must be provided when submitting the application for it to be considered complete).

3. Instructions and resources for completing the online application are available on the HBIIP web page under the "To Apply" tab, <https://www.rd.usda.gov/programs-services/energy-programs/higher-blends-infrastructure-incentive-program#to-apply>. Applicants and their authorized/rightful users will be required to obtain a USDA eAuthentication and obtain access to the secure portal. The application process requires the ability to both view and generate PDFs (Portable Document Format). The use of a Web browser such as Chrome or its equivalent is highly encouraged.

3. System for Award Management and Unique Entity Identifier

(a) At the time of application, each applicant must have an active registration in the System for Award Management (SAM) before submitting its application in accordance with 2 CFR part 25 (<https://www.ecfr.gov/current/title-2/subtitle-A/chapter-I/part-25>). To register in SAM, entities will be required to obtain a Unique Entity Identifier (UEI). Instructions for obtaining the UEI are available at <https://sam.gov/content/entity-registration>.

(b) Each applicant must maintain an active SAM registration, with current, accurate and complete information, at all times during which it has an active Federal award or an application under consideration by a Federal awarding agency.

(c) Each applicant must ensure it completes the Financial Assistance General Certifications and Representations in SAM.

(d) Each applicant must provide a valid UEI in its application, unless determined exempt under 2 CFR 25.110 (<https://www.ecfr.gov/current/title-2/subtitle-A/chapter-1/part-25/subpart-A/section-25.110>).

(e) The Agency will not make an award until the applicant has complied with all SAM requirements including providing the UEI. If an applicant has not fully complied with the requirements by the time the Agency is ready to make an award, the Agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant.

4. Submission Dates and Times

The deadline date for applications to be received to be considered for funding is specified in the **DATES** section at the beginning of this notice.

After applying electronically through the HBIIP website, the applicant will receive an automated acknowledgement, specifying submission date and time, from the HBIIP online application system. In order to be considered for funds under this notice, applications must be deemed complete and must be received by the secure portal located on the HBIIP web page at <https://www.rd.usda.gov/HBIIP#:~:text=What%20is%20the%20Higher%20Blends,derived%20from%20U.S.%20agricultural%20products> by the deadline. Application instructions can be found at <https://www.rd.usda.gov/programs-services/energy-programs/higher-blends-infrastructure-incentive-program#to-apply>.

5. Intergovernmental Review

Executive Order (E.O.) 12372, Intergovernmental Review of Federal Programs, applies to this program. This E.O. requires that Federal agencies provide opportunities for consultation on proposed assistance with State and local governments. Many states have established a Single Point of Contact (SPOC) to facilitate this consultation. Instructions for completing this required element and a list of States that maintain a SPOC are available in the HBIIP online application. Applications from Federally recognized Indian tribes are not subject to this requirement.

6. Funding Restrictions

The following funding restrictions apply to applications submitted under this notice.

1. Only one HBIIP application may be submitted by an HBIIP applicant per quarterly application window. An

application may request HBIIP assistance in a single application for more than one location that is owned and/or legally controlled by the applicant entity. An HBIIP applicant/application may receive one and only one award in each quarterly application window not to exceed a total of \$15 million of funding made available under Section 22003 of the Inflation Reduction Act of 2022.

2. If it is determined that an applicant is affiliated with another entity that has also applied, then the maximum grant award and total Inflation Reduction Act funding assistance applies to all affiliated entities as if they applied as one applicant. An affiliate is an entity controlling or having the power to control another entity, or a third party or parties that control or have the power to control both entities.

3. Previous acceptance of an HBIIP Letter of Conditions cannot be withdrawn and resubmitted under this notice, unless there is a change in scope of work approved by RBCS (HBIIP) staff.

4. Fuel Storage Tanks and Systems.

(a) *New construction.* Fueling stations/locations/facilities constructed during the grant period are restricted from receiving HBIIP grant funds for fuel storage tanks. RBCS has determined that tanks would be required of any new fueling stations/locations/facility regardless of any commitment to market higher blends. However, other required equipment such as fuel dispensers/pumps and other storage tank system components that are still available in traditional and higher blend compatible models, the latter at a higher cost, may be funded under HBIIP.

(b) *Existing fueling stations.* Existing fueling stations that require upgraded, and/or retrofitted and/or additional fuel storage tanks may request assistance of up to 50 percent of total eligible project costs or up to \$2,500,000, whichever is the lesser. Eligible equipment includes but is not limited to the tank, piping, piping containment sumps, pumping equipment, including the submersible pump or suction pump, release detection equipment, spill equipment (spill buckets), overfill equipment, fuel dispensers/pumps, or other equipment related to the storage system.

5. HBIIP grant funds may not be used to pay for expenses related to higher blend consumer education and/or higher blend marketing and/or higher blend signage. However, up to 10 percent of an applicant's matching funds requirement (up to 5 percent of total project costs) may be used to pay for higher blend consumer education and/or higher blend marketing and/or higher blend signage related expenses.

The Awardee is encouraged to display USDA standard infrastructure investment signage, available for download from the Agency, during construction of the Project. Expenditures for such signage shall be a permitted eligible cost of the Project.

6. No HBIIP grant funds may be used to pay for any incurred expense prior to the submission of a complete application.

7. Other Submission Requirements

(a) *Multiple facilities*—While only one HBIIP application may be submitted per applicant under this notice, an application may request assistance for multiple facilities/locations that are owned and/or legally controlled by the applicant entity. Section “E.3. Funding Restrictions,” advises on instances where more than one application is submitted by one or more affiliates of an entity.

(b) *Original signatures.* The RBCS reserves the right to request/require that the applicant provide original signatures on forms submitted electronically.

E. Application Review Information

1. Criteria

A priority score will be added to complete applications deemed eligible to compete. Given the purpose of the HBIIP, higher priority will be given to projects deemed to significantly increase the sales and use of higher blends of ethanol and biodiesel on a gallons per dollar of requested funds basis. Priority scoring and ranking of applications will be a function of the following criteria:

For Higher Blend Implementation Activities related to transportation fueling facilities.

(a) Annual sales volume for the past 3 calendar years or projected sales for fueling stations constructed during the grant period, for all fuels including E10 and/or B5;

(b) The incremental increase in higher blend fuel volume attributed to:

(i) The proposed change in percentage of refueling positions offering E15 and/or B20 or higher blends (the greater percentage of higher blend fuel refueling positions, the greater the higher blend fuel volume attribution);

(ii) The proposed new ratio number of fueling positions offering E15 and/or B20 relative to the number of fueling positions offering E10 and/or B5 (the greater the ratio of higher blend fuel refueling positions relative to E10 and/or B5, the greater the higher blend fuel volume attribution);

(iii) The proposed ratio number of fueling positions offering E85 relative to

the number of fueling positions offering E10 (the greater the ratio of E85 refueling positions relative to E10, the greater the higher blend fuel volume attribution);

(iv) The proposed change in the number of fueling stations with at least one E15 fueling position (the greater the number of fueling stations, the greater the higher blend fuel volume attribution);

(v) Whether the applicant is an owner of 10 fueling stations or fewer (if yes, a Targeted Assistance Goal, higher blend fuel volume attribution);

(vi) The proposed number of fueling stations located along an interstate highway corridor;

(vii) The proposed number of fueling stations located as the sole station (within a 1-mile radius) in an area;

(viii) The proposed number of fueling stations located in areas under consideration for Geographic Diversity:

1. The New England States of Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island; and/or

2. The Western States of Alaska, Arkansas, Arizona, California, Colorado, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming; and/or

3. The U.S. Territories of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands;

(c) A “Matching Funds” investment/commitment to higher blends signage and/or marketing is proposed (non-zero investment yields greater higher blend fuel volume attribution);

(d) The total amount of requested funds.

The HBIIP online application, “Project Worksheet with Priority Scoring Criteria for Transportation Fueling Stations/Facilities,” is interactive and designed to indicate an applicant’s priority score based on—HBIIP activities (e.g., fuel dispensers, related equipment, and infrastructure installations), Administrator’s geographic diversity priorities, targeted assistance goals (if applicable), and the amount of requested funds. Applicants may directly influence their priority score by the activities they select in the worksheet and by the amount of grant funds they request.

Transportation fueling stations/facilities applications should take special care to provide evidentiary documentation in support of their proposed activities in the HBIIP Project Technical Report. In the event of

suspect, overstated, or otherwise unsubstantiated claims, the Agency reserves the right to adjust an application’s priority score accordingly.

For Higher Blend Implementation Activities related to fuel distribution facilities.

(a) Annual throughput volume for past 3 years, for all fuels;

(b) The incremental increase in throughput of higher blend fuel, as substantiated by:

(i) Validated demand—demand projections/forecasts;

(ii) Market drivers—the underlying economic and technological forces that compel your customers to purchase your products and services;

(iii) Documented incentives—known national, regional, state, and local policy and market incentives available to the business;

(iv) Project sustainability—environmental, social, and economic reasons the business will thrive beyond HBIIP;

(v) Investments on consumer education and marketing; and

(vi) Partnerships—significant long-term supplier and/or customer arrangements and/or agreements;

(c) The total amount of requested funds.

Fuel distribution facility applications must provide evidentiary documentation in support of their throughput projections in the HBIIP Project Technical Report. In the event of suspect, overstated, or otherwise unsubstantiated claims, the Agency reserves the right to adjust an application’s priority score accordingly. Letters of support do not meet this requirement and are not needed.

2. Review and Selection Process

All complete applications will be competed/ranked in accordance with Section E.1., as specified above. Applicants may work to complete the online application until the deadline specified in the **DATES** section of this notice.

Due to the competitive nature of this program, applications receiving the same priority score will be competed/ranked based on submittal date. The submittal date is the date the RBCS receives a complete application. A complete application contains all information requested by RBCS and is sufficient to allow the determination of eligibility, score, rank, and compete the application for funding, subject to funds availability. Incomplete applications will not be competed and will not receive funding.

3. Discretionary Points

The RBCS retains the discretion to award a 10 percent scoring priority to applications that support HBIIP policy goals and that specifically promote economic development to improve life in rural areas that are most in need:

(a) *Consideration for First Time Applicants.* Whether an applicant had funding obligated through this program previously. A consideration for first time applicants may be given to those without a prior HBIIP acceptance of a Letter of Conditions. This includes:

(i) First time applicants.

(ii) Applicants who have not previously been selected for HBIIP funding.

(iii) Applicants who have not previously had HBIIP funding obligated.

(b) *Administration Priorities.* As per the Rural Development Key Priorities outlined in the Overview section of this notice along with the additional program goals provided below.

(c) *Targeted Assistance Goal.* A targeted assistance goal is set for applicants (owners) owning the fewest number of transportation fueling stations/locations (and owning at least one). Approximately 50 percent of funds will be made available for activities/investments related to upgrading or installing equipment to make a transportation fueling facility fully compatible to dispense/sell higher blends of fuel ethanol and/or biodiesel. The Agency expects Targeted Assistance to be exhausted by applicants owning 10 fueling stations/locations or fewer.

Approximately 80 percent of fuel sales in the U.S. is sold by convenience store owners. Moreover, about 54 percent of the stores selling fuel in the U.S. are “single store owners.” A significant majority of higher blends fuel is currently sold/dispensed by large retail convenience store chains located in the Midwest and along the East Coast of the U.S., due in part because these are the types of businesses and locations with the highest densities of higher blends fueling infrastructure. The Agency established this Targeted Assistance Goal to distribute a portion of program funds among a greater number of business owners and, across a broader geographic region, to increase participation. There is an underlying expectation that owners/participants located in underserved areas today will be positioned as higher blend fuel market leaders tomorrow.

(d) *Consideration for Geographic Diversity.* A consideration for geographical diversity and markets underserved by higher blends is also afforded to applicants/participants

based on the location of the proposed transportation fueling stations/facilities. This consideration is intended to work in concert with the Targeted Assistance Goal to distribute program funds more broadly across a greater number of states that may not otherwise participate.

4. Other Requirements

To be considered for funds, complete applications must be received by the deadline specified in the **DATES** section of this notice.

1. *Insufficient funds.* If available funds are insufficient to fund the total amount of an application:

(a) The applicant will be notified and given the option to lower the grant request and accept the remaining funds. If the applicant agrees to lower the grant request, the applicant must certify that the purposes of the project will be met and provide the remaining total funds needed to complete the project.

(b) If two or more applications have the same priority score and the same submittal date, both applicants will be notified and given the option to lower the grant requests and accept the remaining funds. If an applicant agrees to lower its grant request, the applicant must certify that the purposes of the project will be met and provide the remaining total funds needed to complete the project.

2. *Award considerations.* All award considerations will be on a discretionary basis. In determining the amount of an award, the RBCS will consider the amount requested, subject to the amount being the least of:

(a) the maximum Federal grant share percentage of total eligible project costs, or a lesser amount when deemed appropriate;

(b) the maximum award amount of \$5 million; or

(c) available funds.

3. *Notification of funding determination.* Each Applicant will be informed in writing by the RBCS as to the funding determination of the application.

F. Federal Award Administration Information

1. Federal Award Notices

HBIIIP grants will be administered in accordance with Departmental Regulations, and as otherwise specified in this notice. Applicants selected for funding will receive a signed notice of Federal award containing instructions on requirements necessary to proceed with execution and performance of the award. Applicants not selected for funding will be notified in writing and informed of any review and appeal

rights. Awards to successfully appealed applications will be limited to available funding.

2. Administrative and National Policy Requirements

Additional requirements that apply to grantees selected for this program can be found in the Grants and Agreements regulations of the Department of Agriculture codified in 2 CFR parts 180, 200, 400, 415, 417, 418, 421; 2 CFR parts 25 and 170; and 48 CFR 31.2.

3. Reporting

In addition, all recipients of Federal financial assistance are required to report information about first tier subawards and executive compensation (see 2 CFR part 170). Each applicant will be required to have the necessary processes and systems in place to comply with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282) reporting requirements (see 2 CFR 170.200(b), unless the applicant is exempt under 2 CFR 170.110(b)). More information on these requirements can be found at <https://www.rd.usda.gov/programs-services/energy-programs/higher-blends-infrastructure-incentive-program#to-apply>.

The following additional items will need to be executed by grantees selected for this program in order to receive HBIIIP funds:

1. Letter of Conditions, awarding an HBIIIP grant to the applicant and specifying certain conditions and requirements of the grant award

2. Form RD 1942–46, “Letter of Intent to Meet Conditions;”

3. Grant Agreement—RD 4280–2 Rural Business-Cooperative Service Financial Assistance Agreement;

4. Form RD 1940–1, “Request for Obligation of Funds;” and

5. Form SF 271, “Outlay Report and Request for Reimbursement for Construction Programs.”

After grant approval and through grant completion, grantees will be required to periodically provide the following, as indicated:

(a) A SF–425, “Federal Financial Report,” and a project performance report will be required on a semiannual basis (due 30 calendar days after end of the semiannual period). For the purposes of this grant, semiannual periods end on March 31st and September 30th. The project performance reports shall include the elements prescribed in the Grant Agreement which, for fueling stations, will include point of sale reporting for up to 5 years post project completion and, for fuel distribution facilities, will

include reporting of throughput volumes of all fuels including higher blend fuels.

(b) A final project and financial status report, as required per 2 CFR 200.344, “Closeout”, within 120 days after the expiration or termination of the grant.

(c) Provide project outcome/performance reports and final deliverables. Reported data will be used for program and policy evaluation. The proprietary nature and confidentiality of information collected from program participants is specified in 7 U.S.C. 2276.

G. Federal Awarding Agency Contacts

For further information contact: Jeff Carpenter at HBIIP@usda.gov, HBIIP Manager, RBCS, Rural Development, United States Department of Agriculture, 1400 Independence Avenue SW, Mail Stop 3201, Room 5801–South, Washington, DC 20250; or call (402) 437–5554. Persons with disabilities that require alternative means for communication should contact the U.S. Department of Agriculture (USDA) Target Center at (202) 720–2600 (voice) or the 711 Relay Service.

H. Buy America, Build America Act

Funding to Non-Federal Entities. Awardees that are Non-Federal Entities, defined pursuant to 2 CFR 200.1 as any State, local government, Indian tribe, Institution of Higher Education, or nonprofit organization, shall be governed by the requirements of Section 70914 of the Build America, Buy America Act (BABAA) within the IJA. USDA’s guidance is available online at <https://www.usda.gov/ocfo/federal-financial-assistance-policy/USDABuyAmericaWaiver>.

I. Other Information

1. *Congressional Review Act.* Pursuant to subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act or CRA); 5 U.S.C. 801 *et seq.*, this action meets the threshold for a major rule, as defined by 5 U.S.C. 804(2), because it will result in an annual effect on the economy of \$100,000,000 or more. Accordingly, the Agency will not take action on applications until 60 days have lapsed from notification to Congress.

2. *Paperwork Reduction Act.* In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the information collection requirements associated with HBIIIP programs, as covered in this notice, have been approved by the Office of Management and Budget (OMB) under OMB Control Number 0570–0072.

3. *National Environmental Policy Act.* All recipients under this notice are subject to the requirements of 7 CFR part 1970.

4. *Federal Funding Accountability and Transparency Act.* All applicants, in accordance with 2 CFR part 25, must be registered in SAM and have a UEI number as stated in Section D.3. of this notice. All recipients of Federal financial assistance are required to report information about first-tier sub-awards and executive total compensation in accordance with 2 CFR part 170.

5. *Nondiscrimination Statement.* In accordance with Federal civil rights laws and USDA civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotope, American Sign Language) should contact the responsible Mission Area, agency, or staff office; the USDA TARGET Center at (202) 720-2600 (voice and TTY); or the 711 Relay Service.

To file a program discrimination complaint, a complainant should complete a Form AD-3027, *USDA Program Discrimination Complaint Form*, which can be obtained online at <https://www.usda.gov/sites/default/files/documents/ad-3027.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

(1) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400

Independence Avenue SW, Washington, DC 20250-9410; or

(2) *Fax:* (833) 256-1665 or (202) 690-7442; or

(3) *Email:* program.intake@usda.gov.

Karama Neal,

Administrator, Rural Business-Cooperative Service, USDA Rural Development.

[FR Doc. 2023-13483 Filed 6-27-23; 8:45 am]

BILLING CODE 3410-XY-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S-104-2023]

Foreign-Trade Zone 20; Application for Subzone; LL Flooring Services, LLC; Sandston, Virginia

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Virginia Port Authority, grantee of FTZ 20, requesting subzone status for the facility of LL Flooring Services, LLC, located in Sandston, Virginia. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on June 23, 2023.

The proposed subzone (79.95 acres) is located at 6115 Engineered Wood Way, Sandston, Virginia. No authorization for production activity has been requested at this time. The proposed subzone would be subject to the existing activation limit of FTZ 20.

In accordance with the FTZ Board's regulations, Christopher Kemp of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary and sent to: ftz@trade.gov. The closing period for their receipt is August 7, 2023. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to August 22, 2023.

A copy of the application will be available for public inspection in the "Online FTZ Information Section" section of the FTZ Board's website, which is accessible via www.trade.gov/ftz.

For further information, contact Christopher Kemp at Christopher.Kemp@trade.gov.

Dated: June 23, 2023.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2023-13747 Filed 6-27-23; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-054]

Certain Aluminum Foil From the People's Republic of China: Final Results of the Expedited First Sunset Review of the Countervailing Duty Order

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

SUMMARY: As a result of this expedited sunset review, the U.S. Department of Commerce (Commerce) finds that revocation of the countervailing duty order on certain aluminum foil (aluminum foil) from the People's Republic of China (China) would be likely to lead to continuation or recurrence of countervailable subsidies at the levels as indicated in the "Final Results of Sunset Review" section of this notice.

DATES: Applicable June 28, 2023.

FOR FURTHER INFORMATION CONTACT:

Harrison Tanchuck, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-7421.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 2023, Commerce published the notice of initiation of the first sunset review of the *Order*,¹ pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).² Commerce received a notice of intent to participate from Aluminum Association Trade Enforcement Working Group and

¹ See *Certain Aluminum Foil from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 83 FR 17360 (April 19, 2018) (*Aluminum Foil from China Amended Final Determination and Order*); see also *Certain Aluminum Foil from the People's Republic of China: Notice of Court Decision Not in Harmony With the Amended Final Determination in the Countervailing Duty Investigation, and Notice of Amended Final Determination and Amended Countervailing Duty Order*, 85 FR 47730 (August 6, 2020) (*Aluminum Foil from China Second Amended Final Determination and Amended Order*) (collectively, the *Order*).

² See *Initiation of Five-Year (Sunset) Review*, 88 FR 12915 (March 1, 2023).

its individual members Granges Americas Inc.; JW Aluminum Company; Novelis Corporation; and Reynolds Consumer Products, LLC (collectively, domestic interested parties) within the deadline specified in 19 CFR 351.218(d)(1)(i).³ Each claimed interested party status under section 771(9)(C) of the Act as domestic producers engaged in the production in the United States of aluminum foil.

Commerce received a substantive response from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).⁴ We did not receive a substantive response from any other interested party in these proceedings, and no party requested a hearing.

On April 20, 2023, Commerce notified the U.S. International Trade Commission that it did not receive an adequate substantive response from respondent interested parties.⁵ As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted expedited (120-day) sunset reviews of the *Order*.

Scope of the Order

The product covered by the *Order* is aluminum foil. For a complete description of the scope of this order, see the Issues and Decision Memorandum.⁶

Analysis of Comments Received

All issues raised in this sunset review are addressed in the Issues and Decision Memorandum, including the likelihood of continuation or recurrence of countervailable subsidies and the net countervailable subsidy likely to prevail if the *Order* were revoked.⁷ The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Services System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly

³ See Domestic Interested Parties' Letter, "Domestic Interested Parties' Notice of Intent to Participate," dated March 9, 2023.

⁴ See Domestic Interested Parties' Letter, "Domestic Interested Parties' Substantive Response," dated March 31, 2023.

⁵ See Commerce's Letter, "Sunset Reviews Initiated on March 1, 2023," dated April 20, 2023.

⁶ See Memorandum, "Issues and Decision Memorandum for the Expedited First Sunset Review of the Countervailing Duty Order of Certain Aluminum Foil from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁷ *Id.*

at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Final Results of Sunset Review

Pursuant to sections 751(c)(1) and 752(b) of the Act, Commerce determines that revocation of the *Order* would be likely to lead to the continuation or recurrence of countervailable subsidies at the following rates:

Producer/Exporter	Subsidy rate (percent <i>ad valorem</i>)
Dingsheng Aluminum Industries (Hong Kong) Trading Co., Ltd. ⁸	54.35
Jiangsu Zhongji Lamination Materials Co., Ltd. ⁹	40.71
Loften Aluminum (Hong Kong) Limited	114.77
Manakin Industries, LLC ¹⁰ ...	114.77
All Others	47.53

Administrative Protective Order

This notice serves as the only reminder to parties subject to

⁸ See *Countervailing Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Final Affirmative Determination*, 83 FR 9274 (March 5, 2018) (*Aluminum Foil from China Final Determination*). In *Aluminum Foil from China Final Determination*, Commerce found the following companies to be cross-owned with Dingsheng Aluminum Industries (Hong Kong) Trading Co., Ltd.: Jiangsu Dingsheng New Materials Joint-Stock Co., Ltd.; Hangzhou Teemful Aluminum Co., Ltd.; Hangzhou Five Star Aluminum Co., Ltd.; Hangzhou DingCheng Aluminum Co., Ltd.; Luoyang Longding Aluminum Co., Ltd.; Hangzhou Dingsheng Industrial Group Co., Ltd.; Hangzhou Dingsheng Import & Export Co., Ltd.; and Walson (HK) Trading Co., Limited. *Aluminum Foil from China Amended Final Determination and Order and Aluminum Foil from China Second Amended Final Determination and Amended Order* made no changes to Dingsheng Aluminum Industries (Hong Kong) Trading Co., Ltd.'s cross-owned companies as described in *Aluminum Foil from China Final Determination*. The subsidy rate applies to all cross-owned companies.

⁹ In *Aluminum Foil from China Final Determination*, Commerce found the following companies to be cross-owned with Jiangsu Zhongji Lamination Materials Co., Ltd.: Shantou Wanshun Package Material Stock Co., Ltd.; Jiangsu Huafeng Aluminum Industry Co., Ltd.; and Jiangsu Zhongji Lamination Materials Co., (HK) Ltd. *Aluminum Foil from China Amended Final Determination and Order and Aluminum Foil from China Second Amended Final Determination and Amended Order* made no changes to Jiangsu Zhongji Lamination Materials Co., Ltd.'s cross-owned companies as described in *Aluminum Foil from China Final Determination*; see also *Certain Aluminum Foil from the People's Republic of China: Final Results of the Countervailing Duty Administrative Review; 2017–2018*, 86 FR 12171 (March 2, 2021) (*Aluminum Foil from China AR 2017–18 Final Results*) and accompanying Issue and Decision Memorandum at footnote 10. In *Aluminum Foil from China AR 2017–18 Final Results*, there were changes to Jiangsu Zhongji's cross-owned companies from *Aluminum Foil from China Final Determination*, "As discussed in the Preliminary Decision Memorandum, Commerce has found the following companies to be cross-owned with Jiangsu Zhongji Lamination Materials Co., Ltd.:

administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a). Timely written notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act, and 19 CFR 351.218.

Dated: June 21, 2023.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. History of the *Order*
- V. Legal Framework
- VI. Discussion of the Issues
 1. Likelihood of Continuation or Recurrence of a Countervailable Subsidy
 2. Net Countervailable Subsidy Rates Likely to Prevail
 3. Nature of the Subsidies
- VII. Final Results of Review
- VIII. Recommendation
- IX. Appendix: Calculation of Net Countervailable Subsidy Rates Likely to Prevail

[FR Doc. 2023–13671 Filed 6–27–23; 8:45 am]

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Jiangsu Zhongji Lamination Materials Co., (HK) Ltd. (Zhongji HK); Jiangsu Huafeng Aluminum Industry Co. Ltd. (Jiangsu Huafeng); Shantou Wanshun Material Stock Co., Ltd. (Shantou Wanshun); and Anhui Maximum Aluminum Industries Company Limited (Anhui Maximum). The subsidy rate applies to all cross-owned companies.

¹⁰ In *Aluminum Foil from China Final Determination*, Commerce found that Manakin Industries, LLC and Suzhou Manakin Aluminum Processing Technology Co., Ltd. (Suzhou Manakin), effectively function by joint operation as a trading company. Therefore, the subsidy rate for Manakin Industries, LLC also applies to Suzhou Manakin. *Aluminum Foil from China Amended Final Determination and Order and Aluminum Foil from China Second Amended Final Determination and Amended Order* made no changes to the determination that Manakin Industries, LLC and Suzhou Manakin effectively operate as a joint operation as a trading company, and therefore should receive the same rate, as described in *Aluminum Foil from China Final Determination*.

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648–XD113]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The MAFMC will hold a public joint meeting (webinar) of its River Herring and Shad (RH/S) Committee and Advisory Panel to review recent RH/S developments and develop recommendations for the MAFMC, including for the Atlantic mackerel fishery's RH/S cap.

DATES: The meeting will be held on Thursday, July 13, 2023, from 9 a.m. to 1 p.m.

ADDRESSES: Webinar connection information will be posted to the calendar prior to the meeting at www.mafmc.org.

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; www.mafmc.org.

FOR FURTHER INFORMATION CONTACT:

Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The RH/S Committee and Advisory Panel will review updated information on RH/S per the RH/S Update format last reviewed in October 2021. Recent publications regarding RH/S bycatch will also be reviewed. The Committee and Advisory Panel members will make recommendations including for the Atlantic mackerel fishery's RH/S cap, which is set by the MAFMC when catch limits for Atlantic mackerel are adopted. Public comments will also be taken.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: June 23, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–13772 Filed 6–27–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648–XD104]

Fisheries of the U.S. Caribbean; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 84 Data Scoping Webinar for U.S Caribbean Yellowtail Snapper and Stoplight Parrotfish.

SUMMARY: The SEDAR 87 assessment process of U.S. Caribbean yellowtail snapper and stoplight parrotfish will consist of a Data Workshop, and a series of assessment webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 84 Data scoping webinar will be held July 17, 2023, from 10 a.m. to 12 p.m., Eastern Time.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571–4366; email: Julie.neer@safmc.net.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) a series of assessment webinars, and (3) a Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions,

and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion during the Data scoping webinar are as follows:

Participants will discuss what data may be available for use in the assessment.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: June 23, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–13770 Filed 6–27–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Basic Requirements for Special Exception Permits and Authorizations To Take, Import, and Export Marine Mammals, Threatened and Endangered Species, and for Maintaining a Captive Marine Mammal Inventory Under Section 104 of the Marine Mammal Protection Act, the Fur Seal Act, and/or Section 10(a)(1)(A) of the Endangered Species Act**

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

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

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before August 28, 2023.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at NOAA.PRA@noaa.gov. Please reference OMB Control Number 0648-0084 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 Amy Sloan or Carrie Hubard, National Marine Fisheries Service (NMFS), Office of Protected Resources, Permits and Conservation Division, 1315 East-West Highway, Silver Spring, MD 20910 (301-427-8401), amy.sloan@noaa.gov or carrie.w.hubard@noaa.gov.

SUPPLEMENTARY INFORMATION:**I. Abstract**

The NMFS, Office of Protected Resources, Permits and Conservation

Division is proposing an extension and revision of the currently approved information collection OMB Control Number 0648-0084. The information collection request (IRC) is under the authority of the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*; MMPA), the Fur Seal Act (16 U.S.C. 1151 *et seq.*; FSA), and the Endangered Species Act (16 U.S.C. 1531 *et seq.*; ESA). This information collection applies to certain protected species for which NMFS is responsible: cetaceans (whales, dolphins and porpoises) and pinnipeds (seals and sea lions); and, for ESA scientific research and enhancement permits: smalltooth sawfish, sea turtles (in water), sturgeon (Atlantic and shortnose), and certain foreign ESA-listed species. This information collection may be used for future ESA-listed species.

MMPA Section 104 and ESA Section 10(a)(1)(A) Permit Applications

The MMPA, FSA, and ESA prohibit “take” (e.g., to harass or harm), import, and export of marine mammals and endangered and threatened species, with limited exceptions. Pursuant to Section 104 of the MMPA and Section 10(a)(1)(A) of the ESA, individuals, business or other for-profit organizations, not-for-profit institutions, and government agencies may obtain special exception permits to take, import, or export marine mammals or endangered or threatened species for scientific research or enhancement purposes. Section 104 of the MMPA also provides for Letters of Confirmation under a General Authorization for scientific research; permits for commercial and educational photography of marine mammals; and permits for capture and/or import of marine mammals for public display.

Persons or institutions seeking to take, import, or export protected species must apply for a permit or authorization and demonstrate the statutory and regulatory requirements are met. The regulations pertaining to permits and associated reporting under the MMPA and FSA are at 50 CFR part 216; the regulations for permit requirements under the ESA are at 50 CFR part 222. The required information in this collection is used by NMFS to make the determinations required by the MMPA, FSA, ESA, and their implementing regulations prior to issuing a permit or authorization; to establish appropriate conditions; to evaluate the impacts on protected species; and, to ensure compliance with the Acts.

Information required includes the name, affiliation, contact information and qualifications of the applicant and

others listed on the application; the purpose of the request; the species, age, sex, and number of animals; the proposed methods and mitigation to minimize impacts to the species; a description of the impacts to the species and environment; and the requested time frame of the permit. Permit and authorization holders must submit reports on the activities they carry out.

For this renewal, the only change we propose is to provide additional guidance to improve take number estimates and reporting. The intent is to improve the reasonableness of our applicant's take estimates and the accuracy of their subsequent reporting. In reviewing permit reports, we have found that the takes requested are, in many cases, substantially greater than that used. This new guidance will be included in all relevant application instructions.

MMPA Section 104 National Inventory of Marine Mammals

The MMPA requires NMFS to maintain an inventory of marine mammals in public display facilities and for those facilities to report certain information to NMFS' (via the National Inventory of Marine Mammals [NIMM]). The NIMM forms include an institutional contact form, a marine mammal data sheet (MMDS), and a transfer/transport notification form. Inventory information required by the MMPA includes the animal's name or other identification; sex; birth date; date animal enters and leaves a collection; source of the animal (e.g., stranding); where an animal is transferred or transported; and date and cause of death (when determined). Exporting facilities must provide documentation to NMFS that the recipient facility meets standards comparable to those required in the United States. The NIMM forms facilitate compliance with MMPA reporting requirements and allow NMFS to keep NIMM up to date. Based on public comment on the previous PRA notice, we simplified the blank MMDS to only include information necessary for reporting a birth, release, or death, and included definitions for the fields on the MMDS. We are not proposing any changes to the MMDS or the other NIMM forms at this time.

Prior to the previous PRA notice, NMFS published a **Federal Register** notice (84 FR 4443; February 15, 2019) and extension (84 FR 15593; April 16, 2019) seeking comments on implementing NIMM. After consideration of public comments (available at: <https://www.regulations.gov/docket?D=NOAA-NMFS-2019-0012>), we had proposed

certain inventory reporting revisions in the previous PRA notice. This included proposed revisions MMDS to (1) define birth and clarify that a birth must be reported if the marine mammal is born alive, no matter how long it lives; (2) clarify that stillbirths are not required to be reported; and, (3) standardize reporting of cause of death via a two-tier system. We received comments both for and against these proposed changes as well as comments about public access to NIMM. Commenters also asserted that the use of the February 15, 2019, **Federal Register** notice seeking comment on “proposed policies and procedures for the administration and maintenance of the online inventory database” did not clearly state that the agency would finalize these policies and procedures through the PRA process. These same commenters expressed concern about the agency’s proposal to exclude stillbirths from the “birth” definition.

The agency takes the views of our constituents seriously and because of the substantive comments received, we will not propose those changes to NIMM at this time. Instead, the agency will seek public comment on the final policies and procedures for NIMM through a separate process in the future.

II. Method of Collection

Permit applications, permit report form information, and inventory forms are available as downloadable Word or PDF versions online at <https://www.fisheries.noaa.gov/permits-and-forms#protected-resources> or via email. Respondents may submit all applications, forms, and reports by email or mail. Respondents may also submit scientific research and enhancement permit applications and Letters of Intent under the General Authorization via our online application system known as APPS (Authorizations and Permits for Protected Species; <https://apps.nmfs.noaa.gov>).

III. Data

OMB Control Number: 0648–0084.

Form Number(s): NOAA FORMs 89–880, 89–881, and 89–882.

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

Affected Public: Individuals; Business or other for-profit organizations; Not-for-profit institutions; State, Local, or Tribal government; Federal government.

Estimated Number of Respondents: 423.

Estimated Time per Response: The estimated average amount of time it takes to complete each information collection instrument is as follows.

Scientific research and enhancement permit applications, 50 hours; public display permit applications, 50 hours; protected species parts applications, 20 hours; photography permit applications, 10 hours; General Authorization Letters of Intent, 10 hours; major permit modification requests, 35 hours; minor permit modification requests, 3 hours; scientific research permit reports, 12 hours; scientific research parts only permit reports, 8 hours; General Authorization reports, 8 hours; public display permit reports, 2 hours; photography permit reports, 2 hours; public display inventory reporting, 2 hours; and general record keeping, 2 hours per each type.

Estimated Total Annual Burden Hours: 6,568.

Estimated Total Annual Cost to Public: \$80.00 in recordkeeping/reporting costs.

Respondent’s Obligation: Mandatory.

Legal Authority: MMPA (16 U.S.C. 1361 *et seq.*), FSA (16 U.S.C. 1151 *et seq.*), and ESA (16 U.S.C. 1531 *et seq.*).

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. 2023–13711 Filed 6–27–23; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD055]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Marine Site Characterization Surveys in the New York Bight

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

ACTION: Notice; issuance of an Incidental Harassment Authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to Attentive Energy LLC (AE) to incidentally harass marine mammals during marine site characterization surveys off of New York and New Jersey in the New York Bight.

DATES: This Authorization is effective from June 20, 2023 through June 19, 2024.

FOR FURTHER INFORMATION CONTACT: Karolyn Lock, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable>. In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the 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 proposed or, if the taking is limited to harassment, a notice of a proposed IHA is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as “mitigation”); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On December 28, 2022, NMFS received a request from AE for an IHA to take marine mammals incidental to conducting marine site characterization surveys in coastal waters off of New York and New Jersey in the New York Bight, specifically within the Bureau of Ocean Energy Management (BOEM) Commercial Lease of Submerged Lands

for Renewable Energy Development on the Outer Continental Shelf (Lease) Area OCS–A 0538 and associated export cable route (ECR) area. Following NMFS’ review of the application, the application was deemed adequate and complete on February 22, 2023. AE’s request is for take of small numbers of 15 species (16 stocks) of marine mammals by Level B harassment only. Neither AE nor NMFS expect serious injury or mortality to result from this activity and, therefore, an IHA is appropriate. There are no changes from the proposed IHA to the final IHA.

Description of Activity

Overview

AE plans to conduct marine site characterization surveys, including high-resolution geophysical (HRG) surveys, in coastal waters off of New Jersey and New York in the New York Bight, specifically within the BOEM Lease Area OCS–A 0538 and associated ECR area.

The planned marine site characterization surveys are designed to obtain data sufficient to meet BOEM guidelines for providing geophysical, geotechnical, and geohazard information for site assessment plan surveys and/or construction and operations plan development. The objective of the surveys is to support the site characterization, siting, and engineering design of offshore wind project facilities including wind turbine generators, offshore substations, and submarine cables within the Lease Area. Up to two vessels may conduct survey

efforts concurrently. Underwater sound resulting from AE’s marine site characterization survey activities, specifically HRG surveys, have the potential to result in incidental take of marine mammals in the form of Level B harassment.

Dates and Duration

The survey is planned to begin as soon as practicable and estimated to require 201 survey days across a maximum of two vessels operating concurrently within a single year. A “survey day” is defined as a 24-hour (hr) activity period in which active acoustic sound sources are used. It is expected that each vessel would cover approximately 170 kilometers (km) per day based on the applicant’s expectations regarding data acquisition efficiency, and there is up to 21,745 km (13,512 miles) of track line of survey effort planned; 14,025 km in the Lease Area and 7,720 km in the ECR area. The IHA would be effective for 1 year from the date of issuance.

Specific Geographic Region

AE’s survey activities would occur in coastal waters off of New York and New Jersey in the New York Bight, specifically within Lease Area OCS–A 0538 and the associated ECR area (Figure 1). The Survey Area (*i.e.*, the Lease Area and ECR) is between 1 and 65 meters (m) in water depth. The Lease Area does not include water depths below 30 m, only portions of the ECR area does (Figure 2).

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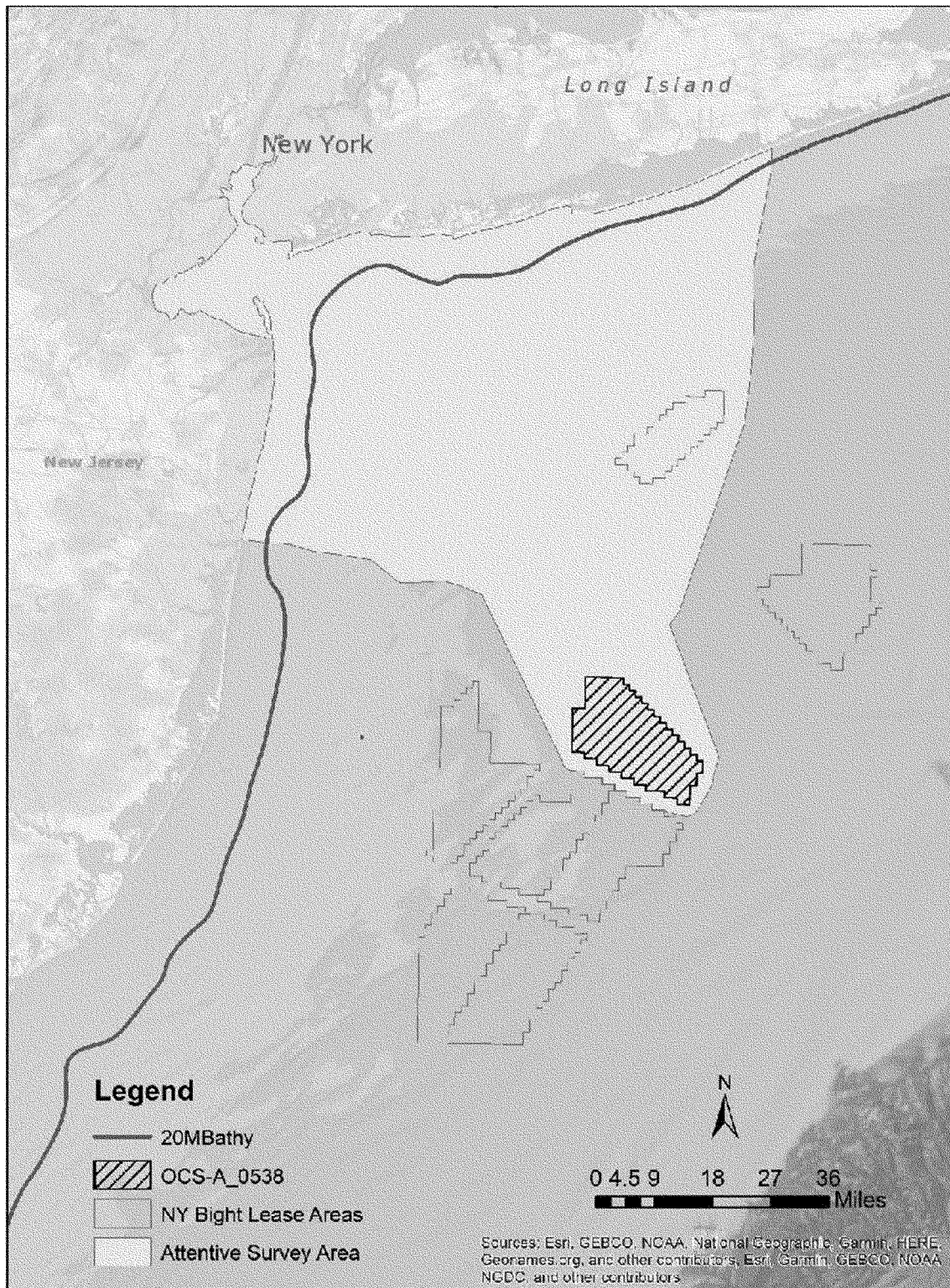


Figure 1 -- Survey Area



Figure 2 -- Survey Area with Bathymetric Contours Showing Water Depth

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Detailed Description of Specified Activity

AE's marine site characterization surveys include HRG surveys and geotechnical sampling activities within the Lease Area and the ECR area. The total HRG survey tracklines for the Survey Area is 21,745 km, with 14,025

km in the Lease Area and 7,720 km in the ECR Area. The geotechnical sampling activities, including use of vibracores and seabed core penetration tests, would occur during the same period as the HRG survey activities and would use an additional survey vessel. NMFS does not expect geotechnical sampling activities to present

reasonably anticipated risk of causing incidental take of marine mammals, and these activities are not discussed further in this notice.

AE plans to conduct HRG survey operations, including multibeam depth sounding, seafloor imaging, and medium penetration sub-bottom profiling (SBP). The HRG surveys will

include the use of seafloor mapping equipment with operating frequencies above 180 kilohertz (kHz) (*e.g.*, side-scan sonar (SSS), multibeam echosounders (MBES)); gradiometers that have no acoustic output; non-impulsive, parametric sub-bottom profilers (SBPs) with narrow beamwidth; and medium-penetration SBP equipment (*e.g.*, boomers and sparkers) with operating frequencies below 180 kilohertz (kHz). NMFS does not expect operation of the aforementioned survey equipment to result in take of marine mammals, and these activities are not discussed further in this notice.

The only acoustic sources planned for use during AE's HRG survey activities with expected potential to cause incidental take of marine mammals are the sparker and boomer. Sparkers and boomers are medium penetration, impulsive sources used to map deeper subsurface stratigraphy. Sparkers create omnidirectional acoustic pulses from 50 Hz to 4 kHz, are typically towed behind the vessel, and may be operated with different numbers of electrode tips to allow tuning of the acoustic waveform for specific applications. The sparker system planned for use is the Dual Geo-Spark 2000X (400 tip/800 J). A boomer is a broadband source operating in the 3.5 Hz to 10 kHz frequency range. The boomer system planned for use is the Geo-Boomer 300–500.

A detailed description of AE's planned HRG surveys is provided in the **Federal Register** notice for the proposed IHA (88 FR 24553, April 21, 2023). Since that time, no changes have been made to the planned HRG survey activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the detailed description of the specific activity.

Comments and Responses

A notice of NMFS' proposal to issue an IHA to AE was published in the **Federal Register** on April 21, 2023 (88 FR 24553). That notice described, in detail, AE's proposed activities, the marine mammal species that may be affected by the activities, and the anticipated effects on marine mammals. In that notice, we requested public input on the request for authorization described therein, our analyses, the proposed authorization, and any other aspect of the notice of proposed IHA, and requested that interested persons submit relevant information, suggestions, and comments. This proposed notice was available for a 30-day public comment period.

NMFS received eleven comment letters. Two of these comment letters were from non-governmental organizations: the Responsible Offshore Development Alliance (RODA) and Clean Ocean Action (COA), and one was from an elected local governmental official (Mayor of Borough of Seaside Park, New Jersey; Seaside Park). The remaining eight comments were from private citizens.

All comments from private citizens expressed general opposition to issuance of the IHA or to the underlying associated activities. We reiterate here that NMFS' proposed actions concerns only the authorization of marine mammal take incidental to the planned surveys—NMFS' authority under the MMPA does not extend to the surveys themselves or to wind energy development more generally. Many comments received request that NMFS not issue any IHAs related to wind energy development and/or expressed opposition for wind energy development generally without providing information relevant to NMFS' decision. We do not specifically address comments expressing general opposition to activities related to wind energy development or respond to comments that are out of scope of the proposed IHA (88 FR 24553), such as comments on other Federal agency processes and activities not planned under this IHA.

All substantive comments and NMFS' responses are provided below, and all comment letters are available online at <https://www.fisheries.noaa.gov/action/incidental-take-authorization-attentive-energy-llc-marine-site-characterization-surveys-0>. Please review the comment letters for full details regarding the comments and associated rationale.

Comment 1: Multiple commenters expressed concern that negative impacts to local fishermen and/or coastal communities as a result of a potentially adverse impact to marine mammals (*e.g.*, vessel strike resulting in death or severe injury) were not mentioned nor evaluated in this IHA. RODA specifically noted concern regarding existing fishery restrictions as a result of other North Atlantic right whale protections.

Response: Neither the MMPA nor our implementing regulations require NMFS to analyze impacts to other industries (*e.g.*, fisheries) or coastal communities from issuance of an Incidental Take Authorization (ITA). Nevertheless, as detailed in the proposed IHA notice, NMFS has analyzed the potential for adverse impacts such as vessel strikes to marine mammals, including North Atlantic right whales, as a result of AE's

planned site characterization survey activities and determined that no serious injury or mortality is anticipated. In fact, as discussed in the Negligible Impact Analysis and Determination section later in this document, no greater than low-level behavioral harassment is expected for any affected species. For North Atlantic right whales in particular, it is considered unlikely, as a result of the required precautionary shutdown zone (*i.e.*, 500 m versus the estimated maximum Level B harassment zone of 141 m), that the authorized take would occur at all. Thus, NMFS would also not anticipate the impacts raised in this comment as a result of issuing this IHA for site characterization survey activities to AE.

Comment 2: Multiple commenters expressed concern about an alleged lack of adequate analysis of cumulative impacts to marine mammals.

Response: Neither the MMPA nor NMFS' codified implementing regulations call for consideration of other unrelated activities and their impacts on populations. The preamble for NMFS' implementing regulations (54 FR 40338, September 29, 1989) states in response to comments that the impacts from other past and ongoing anthropogenic activities are to be incorporated into the negligible impact analysis via their impacts on the baseline. Consistent with that direction, NMFS has factored into its negligible impact analysis the impacts of other past and ongoing anthropogenic activities via their impacts on the baseline, *e.g.*, as reflected in the density/distribution and status of the species, population size and growth rate, and other relevant stressors. The 1989 final rule for the MMPA implementing regulations also addressed public comments regarding cumulative effects from future, unrelated activities. There NMFS stated that such effects are not considered in making findings under section 101(a)(5) concerning negligible impact. In this case, this IHA, as well as other IHAs currently in effect or proposed within the specified geographic region, are appropriately considered an unrelated activity relative to the others. The IHAs are unrelated in the sense that they are discrete actions under section 101(a)(5)(D), issued to discrete applicants.

Section 101(a)(5)(D) of the MMPA requires NMFS to make a determination that the take incidental to a "specified activity" will have a negligible impact on the affected species or stocks of marine mammals. NMFS' implementing regulations require applicants to include in their request a detailed description of

the specified activity or class of activities that can be expected to result in incidental taking of marine mammals (50 CFR 216.104(a)(1)). Thus, the “specified activity” for which incidental take coverage is being sought under section 101(a)(5)(D) is generally defined and described by the applicant. Here, AE was the applicant for the IHA, and we are responding to the specified activity as described in that application (and making the necessary findings on that basis).

Through the response to public comments in the 1989 implementing regulations, NMFS also indicated (1) that we would consider cumulative effects that are reasonably foreseeable when preparing a National Environmental Policy Act (NEPA) analysis, and (2) that reasonably foreseeable cumulative effects would also be considered under section 7 of the Endangered Species Act (ESA) for ESA-listed species, as appropriate. Accordingly, NMFS has written Environmental Assessments (EA) that addressed cumulative impacts related to substantially similar activities, in similar locations, e.g., the 2019 Avangrid EA for survey activities offshore North Carolina and Virginia; the 2017 Ocean Wind, LLC EA for site characterization surveys off New Jersey; and the 2018 Deepwater Wind EA for survey activities offshore Delaware, Massachusetts, and Rhode Island. Cumulative impacts regarding issuance of IHAs for site characterization survey activities such as those planned by AE have been adequately addressed under NEPA in prior environmental analyses that support NMFS’ determination that this action is appropriately categorically excluded from further NEPA analysis. NMFS independently evaluated the use of a categorical exclusion (CE) for issuance of AE’s IHA, which included consideration of extraordinary circumstances.

Separately, the cumulative effects of substantially similar activities in the northwest Atlantic Ocean have been analyzed in the past under section 7 of the ESA when NMFS has engaged in formal intra-agency consultation, such as the 2013 programmatic Biological Opinion for BOEM Lease and Site Assessment Rhode Island, Massachusetts, New York, and New Jersey Wind Energy Areas (<https://repository.library.noaa.gov/view/noaa/29291>). Analyzed activities include those for which NMFS issued previous IHAs (82 FR 31562, July 7, 2017; 83 FR 28808, June 21, 2018; 83 FR 36539, July 30, 2018; and 86 FR 26465, May 10, 2021), which are similar to those planned by AE under this current IHA

request. This Biological Opinion determined that NMFS’ issuance of IHAs for site characterization survey activities associated with leasing, individually and cumulatively, are not likely to adversely affect listed marine mammals. NMFS notes that, while issuance of this IHA is covered under a different consultation, this BiOp remains valid.

Comment 3: Multiple commenters urged NMFS to deny the proposed project and/or postpone any offshore wind (OSW) activities until NMFS determines effects of all OSW activities on marine mammals in the region and determines that the recent whale deaths are not related to OSW activities. Similarly, some commenters provided general concerns regarding recent whale stranding events on the Atlantic Coast, including speculation that the strandings may be related to wind energy development-related activities. However, the commenters did not provide any specific information supporting these concerns.

Response: NMFS authorizes take of marine mammals incidental to surveys but does not authorize the surveys themselves. Therefore, while NMFS has the authority to modify, suspend, or revoke an IHA if the IHA holder fails to abide by the conditions prescribed therein (including, but not limited to, failure to comply with monitoring or reporting requirements), or if NMFS determines that (1) the authorized taking is having or is likely to have more than a negligible impact on the species or stocks of affected marine mammals, or (2) the prescribed measures are likely not or are not effecting the least practicable adverse impact on the affected species or stocks and their habitat, it is not within NMFS’ jurisdiction to impose a moratorium on offshore wind development or to require surveys to cease on the basis of unsupported speculation.

NMFS reiterates that there is no evidence that noise resulting from offshore wind development-related site characterization surveys could potentially cause marine mammal stranding, and there is no evidence linking recent large whale mortalities and currently ongoing surveys. The commenters offer no such evidence. NMFS will continue to gather data to help us determine the cause of death for these stranded whales. We note the Marine Mammal Commission’s recent statement: “There continues to be no evidence to link these large whale strandings to offshore wind energy development, including no evidence to link them to sound emitted during wind development-related site

characterization surveys, known as HRG surveys. Although HRG surveys have been occurring off New England and the mid-Atlantic coast, HRG devices have never been implicated or causatively-associated with baleen whale strandings.” (Marine Mammal Commission Newsletter, Spring 2023).

There is an ongoing Unusual Mortality Event (UME) for humpback whales along the Atlantic coast from Maine to Florida, which includes animals stranded since 2016. Partial or full necropsy examinations were conducted on approximately half of the whales. Necropsies were not conducted on other carcasses because they were too decomposed, not brought to land, or stranded on protected lands (e.g., national and state parks) with limited or no access. Of the whales examined (roughly 90), about 40 percent had evidence of human interaction, either ship strike or entanglement. Vessel strikes and entanglement in fishing gear are the greatest human threats to large whales. The remaining 50 necropsied whales either had an undetermined cause of death (due to a limited examination or decomposition of the carcass), or had other causes of death including parasite-caused organ damage and starvation.

As discussed herein, HRG sources may behaviorally disturb marine mammals (e.g., avoidance the immediate area). These HRG surveys are very different from seismic airguns used in oil and gas surveys or tactical military sonar. They produce much smaller impact zones because, in general, they have lower source levels and produce output at higher frequencies. The area within which HRG sources might behaviorally disturb a marine mammal is orders of magnitude smaller than the impact areas for seismic airguns or military sonar. Any marine mammal exposure would be at significantly lower levels and shorter duration, which is associated with less severe impacts to marine mammals.

Comment 4: Multiple commenters expressed a concern that the proposed IHA would lead to mortality (death) of marine mammals as a result of AE’s project.

Response: NMFS emphasizes that there is no credible scientific evidence available suggesting that mortality and/or serious injury is a potential outcome of the planned survey activity. NMFS cannot authorize mortality or serious injury via an IHA. Additionally, such taking is prohibited under Condition 3(c) of the IHA and may result in modification, suspension, or revocation of the IHA. NMFS notes there has never

been a report of any serious injuries or mortalities of a marine mammal associated with site characterization surveys.

The best available science indicates that Level B harassment, or disruption of behavioral patterns, may occur as a result of AE's specified activities. We also refer to the Greater Atlantic Regional Fisheries Office (GARFO) 2021 Programmatic Consultation, which finds that these survey activities are in general not likely to adversely affect ESA-listed marine mammal species (*i.e.*, GARFO's analysis conducted pursuant to the ESA finds that marine mammals are not likely to be taken at all (as that term is defined under the ESA), much less be taken by serious injury or mortality). That document is found at <https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-take-reporting-programmatics-greater-atlantic#offshore-wind-site-assessment-and-site-characterization-activities-programmatic-consultation>.

Comment 5: Commenters claimed that NMFS did not provide a meaningful opportunity for public engagement and/or asserted that the review process for this IHA was too rapid and NMFS' due diligence was lacking.

Response: NMFS has satisfied the requirements of the MMPA, which requires that NMFS publish notice of a proposed authorization and request public comment for a period of 30 days. The notice of proposed IHA was published in the **Federal Register** on April 21, 2023 (88 FR 24553) and was open for a 30-day comment period (*i.e.*, through May 22, 2023). Following conclusion of the comment period, NMFS has thoroughly reviewed and duly considered all relevant comments received.

NMFS' ITA application and review process has numerous steps to ensure due diligence occurs for all ITA requests. On average, applications for IHAs take 5–8 months from application received to the final decisional date where an IHA is either issued or denied (50 CFR 216.104(d)). Following an application being deemed adequate and complete, the ITA application progresses through the NMFS authorization review and decisional process, which includes a public notice period of 30 days (50 CFR 216.104(b) and (c)). The public comment period allows for meaningful public engagement. The public comment period provides a mechanism for external input, including the opportunity for new scientific information relevant to the proposed activities, to be submitted for agency consideration. More information on the

authorization steps and timelines can be found at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>.

In this case, NMFS received AE's initial application on December 28, 2023 and completed several rounds of agency review and analysis before considering the application adequate and complete on February 22, 2023. NMFS drafted the **Federal Register** notice of the proposed IHA and proposed IHA, which went through additional rounds of internal review. The notice and proposed IHA were published in the **Federal Register** on April 21, 2023 (88 FR 24553) and was open for a 30-day comment period. NMFS reviewed all within-scope comments received for consideration in the final decisional process.

Comment 6: Commenters stated that NMFS was not utilizing the best available science when assessing impacts to marine mammals. Commenters also asserted NMFS had not fully considered the effect of the project on North Atlantic right whales (NARW).

Response: NMFS relied upon the best scientific evidence available, including, but not limited to, the draft 2022 Stock Assessment Reports (SAR), scientific literature, and Duke University's density model (Roberts *et al.*, 2022), in analyzing the impacts of AE's specified activities on marine mammals, including NARWs. While commenters suggest generally that NMFS consider the best scientific evidence available, none of the commenters provided additional scientific information for NMFS to consider.

NMFS determined that AE's surveys have the potential to take marine mammals by Level B harassment and does not anticipate or authorize mortality (death), serious injury, or Level A harassment of any marine mammal species, including NARW. Further, NMFS does not expect that the generally short-term, intermittent, and transitory nature of AE's marine site characterization survey activities will create conditions of acute or chronic acoustic exposure leading to long-term physiological stress responses in marine mammals.

Comment 7: RODA states that, to their knowledge, there are no resources easily accessible to the public to understand what authorizations are required for each of these activities (pre-construction surveys, construction, operations, monitoring surveys, *etc.*). RODA recommends that NMFS improve the transparency of this process and move away from what it refers to as a

“segmented phase-by-phase and project-by-project approach to IHAs”. RODA also requests a “comprehensive list/table of all Level A and Level B takes under currently approved Authorizations per project, as well as Level A and Level B takes per project being requested in all Authorization applications currently under review”.

Response: The MMPA and its implementing regulations allow upon request, the incidental take of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographic region. NMFS authorizes the requested incidental take of marine mammals if it finds that the taking would be of small numbers, have no more than a “negligible impact” on the marine mammal species or stock, and not have an “unmitigable adverse impact” on the availability of the species or stock for subsistence use. NMFS refers RODA to its website for more information on the marine mammal incidental take authorization process and timelines: <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>.

NMFS emphasizes that an IHA does not authorize the activity itself but authorizes the take of marine mammals incidental to the “specified activity” for which incidental take coverage is being sought. In this case, NMFS is responding to AE's request to incidentally take marine mammals while engaged in marine site characterization surveys and determining whether the necessary findings can be made based on AE's application. The authorization of AE's survey activities is not within NMFS' jurisdiction. NMFS refers RODA to BOEM's website: <https://www.boem.gov/renewable-energy>.

A list of all proposed and issued IHAs for renewable energy activities, such as AE's marine site characterization surveys, including the requested, proposed, and/or authorized take is available on the agency website at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable>.

Comment 8: A commenter expressed concern regarding the potential for increased uncertainty in estimates of marine mammal abundance resulting from wind turbine presence during aerial surveys and potential effects of NMFS' ability to continue using current aerial survey methods to fulfill its mission of precisely and accurately assessing protected species.

Response: NMFS has determined that OSW development projects may impact several Northeast Fisheries Science Center (NEFSC) surveys, including aerial surveys for protected species. NEFSC has developed a Federal survey mitigation program to mitigate the impacts to these surveys and is in the early stages of implementing this program. However, this impact is outside the scope of analysis related to the authorization of take incidental to AE's specified activity under the MMPA.

Comment 9: Multiple commenters expressed concerns with what they characterize as the high amount of increased vessel traffic associated with the OSW projects throughout the region in areas transited or utilized by certain protected resources, as well as concern for vessel noise and increased risk for vessel strikes.

Response: AE did not request authorization for take incidental to vessel strike during AE's marine site characterization survey. Nevertheless, NMFS analyzed the potential for vessel strikes to occur during the survey and determined that the potential for vessel strike is so low as to be discountable. For this IHA, NMFS did not authorize any take of marine mammals incidental to vessel strike resulting from the survey. If AE were to strike a marine mammal with a vessel, this would be an unauthorized take and a violation of the MMPA. This gives AE a strong incentive to operate its vessels with all due caution and to effectively implement the suite of vessel strike avoidance measures called for in the IHA. Section 4(m) in the issued IHA contains a suite of non-discretionary requirements pertaining to vessel strike avoidance, including vessel operation protocols and monitoring. NMFS takes seriously the risk of vessel strike and has prescribed measures sufficient to avoid the potential for vessel strike to the extent practicable.

To date, NMFS is not aware of any site characterization vessels from HRG surveys reporting a vessel strike within the United States. When considered in the context of low overall probability of any vessel strike by AE vessels, given the limited additional survey-related vessel traffic relative to existing traffic in the survey area, the comprehensive visual monitoring, and other additional mitigation measures described herein, NMFS believes these measures are sufficiently protective to avoid vessel strikes. These measures are described fully in the Mitigation section below, and include, but are not limited to: training for all vessel observers and captains, a requirement that all vessel

operators comply with 10 knots (18.5 km/hour) or less speed restrictions in any SMA, DMA or Slow Zone while underway, daily monitoring of North Atlantic Right Whale Sighting Advisory System, WhaleAlert app, and United States Coast Guard (USCG) Channel 16 for situational awareness regarding NARW presence in the survey area, communication protocols if whales are observed by any AE personnel, vessel operational protocol should any marine mammal be observed, and visual monitoring. Vessel speed mitigations are also briefly discussed in NMFS' response to *Comment 2*.

The potential for impacts related to an overall increase in the amount of vessel traffic due to OSW development is separate from the aforementioned analysis of potential for vessel strike during AE's specified survey activities and is not discussed further as it is outside the scope of this specific action.

Comment 10: A commenter asserted that additional clarification should be added to the IHA that explicitly states if weather or other conditions limit the range of observation, shutdown zones will be initiated. Multiple commenters also questioned the feasibility of the shutdown mitigation requirements in real-world conditions and what would occur if the authorized take levels were exceeded. Concerns were also asserted on the required mitigation measures, assessing the effectiveness of the mitigation measures, and reporting the use of the mitigation measures in real-time.

Response: In regards to a scenario where AE exceeds their authorized take levels, any further take would be unauthorized and, therefore, prohibited under the MMPA.

All mitigation measures stated in this notice and in the issued IHA are considered feasible. NMFS works with each ITA applicant, including AE, to ensure that project-specific mitigation measures are possible in real-world conditions. This includes shutdown zones when there is reduced visibility. As stated in the IHA condition 5(d), AE must ensure certain equipment is provided to protected species observers (PSOs), such as thermal (infrared) cameras, to allow PSOs to adequately complete their duties, including in reduced-visibility conditions. NMFS does not agree that additional wording is necessary within the IHA to further describe the requirement and implementation of shutdown zones. If NMFS determines during the effective period of the IHA that the prescribed measures are likely not or are not effecting the least practicable adverse impact on the affected species or stocks

and their habitat, NMFS may modify, suspend, or revoke the IHA. NMFS disagrees that the IHA's mitigation measures are insufficient.

NMFS reviews required reporting (see Monitoring and Reporting) and uses the information to evaluate the mitigation measure effectiveness. Additionally, the mitigation measures included in AE's IHA are not unique, and data from prior IHAs support the effectiveness of these mitigation measures. NMFS finds the level of reporting currently required is sufficient for managing the issued IHA and monitoring the affected stocks of marine mammals.

Comment 11: Commenters objected to NMFS' "small numbers" determination for the numbers of marine mammals taken by Level B harassment under AE's planned activities.

Response: NMFS disagrees with the commenters' arguments on the topic of small numbers. Although there is limited legislative history available to guide NMFS and an apparent lack of biological underpinning to the concept, we have worked to develop a reasoned approach to small numbers. NMFS explains the concept of "small numbers" in recognition that there could also be quantities of individuals taken that would correspond with "medium" and "large" numbers. As such, NMFS considers that one-third of the most appropriate population abundance number—as compared with the assumed number of individuals taken—is an appropriate limit with regard to "small numbers." This relative approach is consistent with the statement from the legislative history that "[small numbers] is not capable of being expressed in absolute numerical limits" (H.R. Rep. No. 97-228, at 19 (September 16, 1981)), and relevant case law (*Center for Biological Diversity v. Salazar*, 695 F.3d 893, 907 (9th Cir. 2012) (holding that the U.S. Fish and Wildlife Service reasonably interpreted "small numbers" by analyzing take in relative or proportional terms)). NMFS has made the necessary small numbers finding for all affected species and stocks in this case.

Comment 12: Several commenters expressed interest in understanding the outcome if the number of actual takes exceed the number authorized during construction of an offshore wind project (*i.e.*, would the project be stopped mid-construction or operation), and how offshore wind developers will be held accountable for impacts to protected species such that impacts are not inadvertently assigned to fishermen, should they occur. Lastly, RODA maintains that the OSW industry must be accountable for incidental takes from

construction and operations separately from the take authorizations for managed commercial fish stocks.

Response: NMFS reiterates that this IHA authorizes incidental take of marine mammals during marine site characterization survey activities and not offshore wind project construction and operation activities. Therefore, these comments are outside the scope of the proposed IHA. Fishing impacts generally center on entanglement in fishing gear, which is a very acute, visible, and severe impact. In contrast, the impacts incidental to AE’s site characterization survey activities are primarily acoustic in nature resulting in behavioral disturbance. Because of the difference in potential impacts (*i.e.*, physical versus auditory), any impacts resulting from AE’s survey activities would not be assigned to fishermen. The impacts of commercial fisheries on marine mammals and incidental take for said fishing activities are managed separately from those of non-commercial fishing activities such as offshore wind site characterization surveys, under MMPA section 118.

Comment 13: A commenter expressed concern over potential “masking” of NARW calls, which could reduce breeding and foraging opportunities or impair navigation and transiting.

Response: Fundamentally, the masking effects to any one individual whale from one survey are expected to be minimal. Masking is referred to as a chronic effect because one of the key harmful components of masking is its duration—the fact that an animal would have reduced ability to hear or interpret critical cues becomes much more likely to cause a problem the longer it is occurring. Also, inherent in the concept of masking is the fact that the potential for the effect is only present during the times that the animal and the source are in close enough proximity for the effect to occur (and further this time period would need to coincide with a time that the animal was utilizing sounds at the masked frequency) and, as our analysis (both quantitative and qualitative components) indicates, because of the relative movement of whales and

vessels, we do not expect these exposures with the potential for masking to be of a long duration within a given day. Further, because of the relatively low density of mysticetes, and relatively large area over which the vessels travel, we do not expect any individual whales to be exposed to potentially masking levels from these surveys for more than a few days in a year.

As noted above, any masking effects of this survey are expected to be limited and brief, if present. Given the likelihood of significantly reduced received levels beyond even short distances from the survey vessel, combined with the short duration of potential masking and the lower likelihood of extensive additional contributors to background noise offshore and within these short exposure periods, we believe that the incremental addition of the survey vessel is unlikely to result in more than minor and short-term masking effects, likely occurring to some small number of the same individuals captured in the estimate of behavioral harassment.

Comment 14: A commenter expressed concern about the use of multiple vessels concurrently performing the survey work and that vessel work should be limited to no more than one vessel performing acoustic surveying at a time within 200 miles (321.9 km) of other surveying vessels.

Response: NMFS appreciates the commenters’ concerns, but notes that no evidence is provided to substantiate this concern. NMFS believes that the authorized take numbers adequately account for the potential take that may result from the proposed survey work, inclusive of the concurrent use of surveying vessels.

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. NMFS fully considered all of this information, and we refer the reader to these descriptions instead of

reprinting the information here. Additional information regarding population trends and threats may be found in NMFS’ Stock Assessment Reports (SARs; www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments) and more general information about these species (*e.g.*, physical and behavioral descriptions) may be found on NMFS’ website at <https://www.fisheries.noaa.gov/find-species>.

Table 1 lists all species or stocks for which take is authorized for this activity and summarizes information related to the species or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS’ SARs). While no serious injury or mortality is authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species or stocks and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS’ stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All MMPA managed stocks in this region are assessed in NMFS’ U.S. Atlantic and Gulf of Mexico SARs. All values presented in Table 1 are the most recent available at the time of publication (draft 2022 SAR) and are available online at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>.

TABLE 1—SPECIES AND STOCKS LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) ¹	Stock abundance (CV, N _{min} , most recent abundance survey) ²	PBR	Annual M/SI ³
Order Artiodactyla—Infraorder Cetacea—Mysticeti (baleen whales)						
North Atlantic right whale	<i>Eubalaena glacialis</i>	Western Atlantic Stock	E/D, Y	338 (0; 332; 2020)	0.7	8.1
Humpback whale	<i>Megaptera novaeangliae</i>	Gulf of Maine	-/-; Y	1,396 (0; 1,380; 2016)	22	12.15
Fin whale	<i>Balaenoptera physalus</i>	Western North Atlantic Stock	E/D, Y	6,802 (0.24; 5,573; 2016)	11	1.8
Sei whale	<i>Balaenoptera borealis</i>	Nova Scotia Stock	E/D, Y	6,292 (1.02; 3,098; 2016)	6.2	0.8

TABLE 1—SPECIES AND STOCKS LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES—Continued

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) ¹	Stock abundance (CV, N _{min} , most recent abundance survey) ²	PBR	Annual M/SI ³
Minke whale	<i>Balaenoptera acutorostrata</i>	Canadian East Coastal Stock	-/, N	21,968 (0.31; 17,002; 2016)	170	10.6
Odontoceti (toothed whales, dolphins, and porpoises)						
Sperm whale	<i>Physeter macrocephalus</i>	North Atlantic Stock	E/D, Y	4,349 (0.28; 3,451; 2016)	3.9	0
Long-finned pilot whale	<i>Globicephala melas</i>	Western North Atlantic Stock	-/, N	39,215 (0.3; 30,627; 2016)	306	9
Atlantic white-sided dolphin	<i>Lagenorhynchus acutus</i>	Western North Atlantic Stock	-/, N	93,233 (0.71; 54,443; 2016)	544	27
Bottlenose dolphin	<i>Tursiops truncatus</i>	Western North Atlantic Off-shore Stock.	-/, N	62,851 (0.23; 51,914; 2016)	519	28
Bottlenose dolphin	<i>Tursiops truncatus</i>	Northern Migratory Coastal	-D, Y	6,639 (0.41; 4,759; 2016)	48	12.2–21.5
Common dolphin	<i>Delphinus delphis</i>	Western North Atlantic Stock	-/, N	172,974 (0.21, 145,216, 2016)	1,452	390
Atlantic spotted dolphin	<i>Stenella frontalis</i>	Western North Atlantic Stock	-/, N	39,921 (0.27; 32,032; 2016)	320	0
Risso's dolphin	<i>Grampus griseus</i>	Western North Atlantic Stock	-/, N	35,215 (0.19; 30,051; 2016)	301	34
Harbor porpoise	<i>Phocoena phocoena</i>	Gulf of Maine/Bay of Fundy Stock.	-/, N	95,543 (0.31; 74,034; 2016)	851	164
Order Carnivora—Pinnipedia						
Harbor seal	<i>Phoca vitulina</i>	Western North Atlantic Stock	-/, N	61,336 (0.08; 57,637; 2018)	1,729	339
Gray seal ⁴	<i>Halichoerus grypus</i>	Western North Atlantic Stock	-/, N	27,300 (0.22; 22,785; 2016)	1,458	4,453

¹ ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

² NMFS marine mammal stock assessment reports online at: www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments. CV is the coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable.

³ These values, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, ship strike).

⁴ NMFS' stock abundance estimate (and associated PBR value) applies to the U.S. population only. Total stock abundance (including animals in Canada) is approximately 451,600. The annual mortality and serious injury (M/SI) value given is for the total stock.

A detailed description of the species likely to be affected by AE's activities, including information regarding population trends, threats, and local occurrence, was provided in the **Federal Register** notice for the proposed IHA (88 FR 24553, April 21, 2023). Since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please also refer to NMFS' website (<https://www.fisheries.noaa.gov/find-species>) for generalized species accounts.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals

underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Not all marine mammal species have equal hearing capabilities (e.g., Richardson *et al.*, 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007, 2019) recommended that marine mammals be divided into hearing groups based on directly measured (behavioral or auditory evoked potential techniques) or estimated hearing ranges (behavioral response data, anatomical modeling, *etc.*). Note that no direct measurements of hearing ability have

been successfully completed for mysticetes (*i.e.*, low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in Table 2.

TABLE 2—MARINE MAMMAL HEARING GROUPS (NMFS, 2018)

Hearing group	Generalized hearing range*
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, <i>Kogia</i> , river dolphins, Cephalorhynchid, <i>Lagenorhynchus cruciger</i> & <i>L. australis</i>).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.*, all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.*, 2007) and PW pinniped (approximation).

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.*, 2006; Kastelein *et al.*, 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

A description of the potential effects of the specified activities on marine mammals and their habitat can be found in the **Federal Register** notice for the proposed IHA (88 FR 24553, April 21, 2023). There is no new information on the potential effects of the specified activities on marine mammals. Therefore, that information is not repeated here; please refer to the **Federal Register** notice (88 FR 24553, April 21, 2023).

Estimated Take

This section provides an estimate of the number of incidental takes authorized through the IHA, which informs both NMFS' "small numbers," and the negligible impact determinations.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines "harassment" as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes are by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to sound produced by the sparker or boomer. Based on the characteristics of the signals produced by the acoustic sources planned for use, Level A harassment is neither anticipated (even absent mitigation), nor authorized. As described previously, no serious injury or mortality is anticipated or authorized for this activity. Below, we describe how the take numbers are estimated.

For acoustic impacts, generally speaking, we estimate take by

considering: (1) acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) the number of days of activities. We note that while these factors can contribute to a basic calculation to provide an initial prediction of potential takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.*, previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the take estimates.

Acoustic Thresholds

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur permanent threshold shift (PTS) of some degree (equated to Level A harassment).

Level B Harassment—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source or exposure context (*e.g.*, frequency, predictability, duty cycle, duration of the exposure, signal-to-noise ratio, distance to the source), the environment (*e.g.*, bathymetry, other noises in the area, predators in the area), and the receiving animals (hearing, motivation, experience, demography, life stage, depth) and can be difficult to predict (*e.g.*, Southall *et al.*, 2007, 2021; Ellison *et al.*, 2012). Based on what the available science indicates and the practical need to use a threshold based on a metric that is both predictable and measurable for most activities, NMFS typically uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS generally predicts that marine mammals are likely to be behaviorally harassed in a manner considered to be Level B harassment when exposed to underwater anthropogenic noise above root-mean-squared pressure received levels (RMS SPL) of 120 dB (referenced to 1 micropascal (re 1 μ Pa)) for continuous (*e.g.*, vibratory pile-driving, drilling) and above RMS SPL 160 dB re 1 μ Pa for non-explosive impulsive (*e.g.*, seismic

airguns) or intermittent (*e.g.*, scientific sonar) sources.

Generally speaking, Level B harassment take estimates based on these behavioral harassment thresholds are expected to include any likely takes by temporary threshold shift (TTS) as, in most cases, the likelihood of TTS occurs at distances from the source less than those at which behavioral harassment is likely. TTS of a sufficient degree can manifest as behavioral harassment, as reduced hearing sensitivity and the potential reduced opportunities to detect important signals (conspecific communication, predators, prey) may result in changes in behavior patterns that would not otherwise occur. AE's planned activities include the use of impulsive (*i.e.*, boomer and sparker) sources, and therefore, the RMS SPL thresholds of 160 dB re 1 μ Pa is applicable.

Level A Harassment—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive).

The references, analysis, and methodology used in the development of the thresholds are described in NMFS' 2018 Technical Guidance, which may be accessed at www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.

AE's planned activity includes the use of impulsive (*i.e.*, boomer and sparker) sources. However, as discussed above, NMFS has concluded that Level A harassment is not a reasonably likely outcome for marine mammals exposed to noise through use of the sources planned for use here, and the potential for Level A harassment is not evaluated further in this document. Please see AE's application for details of a quantitative exposure analysis exercise, *i.e.*, calculated Level A harassment isopleths and estimated potential Level A harassment exposures. AE did not request authorization of take by Level A harassment, and NMFS is not authorizing take by Level A harassment.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that are used in estimating the area ensonified above the acoustic thresholds, including source levels and transmission loss coefficient.

NMFS has developed a user-friendly methodology for estimating the extent of the Level B harassment isopleths associated with relevant HRG survey equipment (NMFS, 2020). This methodology incorporates frequency and directionality (when relevant) to refine estimated ensonified zones. For acoustic sources that operate with different beamwidths, the maximum beamwidth was used, and the lowest frequency of the source was used when calculating the frequency-dependent absorption coefficient (Table 1). AE used 180-degree beamwidth in the calculation for the planned sparker as is appropriate for an omnidirectional source.

NMFS considers the data provided by Crocker and Fratantonio (2016) to represent the best available information on source levels associated with HRG survey equipment and, therefore, recommends that source levels provided by Crocker and Fratantonio (2016) be incorporated in the method described above to estimate isopleth distances to harassment thresholds. In cases where the source level for a specific type of HRG equipment is not provided in Crocker and Fratantonio (2016), NMFS recommends either the source levels provided by the manufacturer be used, or, in instances where source levels provided by the manufacturer are unavailable or unreliable, a proxy from Crocker and Fratantonio (2016) be used instead. Table 1 in the **Federal Register** notice for the proposed IHA (88 FR 24553, April 21, 2023), shows the HRG equipment type used during the planned surveys and the source levels associated with those HRG equipment types.

AE plans to use the Dual Geo-Spark 2000X (400 tip/800 J). For all source configurations, the maximum power expected to be discharged from the sparker source is 800 J. However, Crocker and Fratantonio (2016) did not measure the Dual Geo-Spark or a source with an energy of 800 J. A similar alternative system, the Applied Acoustics Dura-spark with a 400 tip, was measured by Crocker and Fratantonio (2016) with an input voltage of 500–2,000 J, and these measurements were used as a proxy for the Dual Geo-Spark. Table 1 in the **Federal Register** notice for the proposed IHA (88 FR 24553, April 21, 2023) shows the source parameters associated with this proxy. Using the measured source level of 203 dB RMS of the proxy, results of modeling indicated that the sparker would produce an estimated distance of 141 m to the Level B harassment isopleth.

AE additionally plans to use the Geo-Boomer 300–500. Crocker and Fratantonio (2016) did not measure the Geo-Boomer 300–500. A similar alternative system, Applied Acoustics S-Boom, was measured by Crocker and Fratantonio (2016) and the 500 J values were used as a proxy for the Geo-Boomer 300–500. Using the measured source level of 202 dB RMS of the proxy, results of modeling indicated that the boomer would produce an estimated distance of 51 m to the Level B harassment isopleth.

Results of modeling using the methodology described above indicated that, of the HRG survey equipment planned for use by the applicant that has the potential to result in Level B harassment of marine mammals, the Dual Geo-Spark 2000X would produce the largest distance to the Level B harassment isopleth (141 m). More detail is provided on the acoustic sources and methodology in the proposed IHA published in the **Federal Register** on April 21, 2023 (88 FR 24553).

Marine Mammal Occurrence

In this section, we provide information about the occurrence of marine mammals, including density or other relevant information, which will inform the take calculations.

Habitat-based density models produced by the Duke University Marine Geospatial Ecology Laboratory (Roberts *et al.*, 2016; Roberts and Halpin, 2022) represent the best available information regarding marine mammal densities in the survey area. These density data incorporate aerial and shipboard line-transect survey data from NMFS and other organizations and incorporate data from numerous physiographic and dynamic oceanographic and biological covariates, and controls for the influence of sea state, group size, availability bias, and perception bias on the probability of making a sighting. These density models were originally developed for all cetacean taxa in the U.S. Atlantic (Roberts *et al.*, 2016). Most recently, in 2022, models for all taxa were updated. More information is available online at <https://seamap.env.duke.edu/models/Duke/EC/>. Marine mammal density estimates in the survey area (animals/km²) were obtained using the most recent model results for all taxa.

For the exposure analysis, density data from Roberts and Halpin (2022) were mapped using a geographic information system (GIS). For the survey area, the monthly densities of each species as reported by Roberts and Halpin (2022) were averaged by season;

thus, a density was calculated for each species for spring, summer, fall, and winter. Density seasonal averages were calculated for both the Lease Area and the ECR Area for each species to assess the greatest average seasonal densities for each species. To be conservative, since the exact timing for the survey during the year is uncertain, the greatest average seasonal density calculated for each species was carried forward in the exposure analysis, with exceptions noted later in this discussion. Estimated greatest average seasonal densities (animals/km²) of marine mammal species that may be taken incidental to the planned survey can be found in Tables 6–1 and 6–2 of AE's IHA application. Below, we discuss how densities were assumed to apply to specific species for which the Roberts and Halpin (2022) models provide results at the genus or guild level.

There are two stocks of bottlenose dolphins that may be impacted by the surveys (Western North Atlantic Northern Migratory Coastal Stock (coastal stock) and the Western North Atlantic Offshore Stock (offshore stock)). However, Roberts and Halpin (2022) do not differentiate by stock. The Coastal Stock is assumed to generally occur in waters less than 20 m and the Offshore Stock in waters deeper than 20 m (65-ft) isobath.

The Lease Area is in waters deeper than 20 m and only the Offshore Stock would occur and could be potentially taken by survey effort in that area. For the ECR survey area, both stocks could occur in the area, so AE calculated separate mean seasonal densities for the portion to be surveyed that is less than 20 m in depth and for the portion that is greater than 20 m in depth to use for estimating take of the Coastal and Offshore Stocks of bottlenose dolphins, respectively. The total tracklines in waters deeper than 20 m, between the ECR and the lease area, are 20,305 km. The total tracklines in waters less than 20 m depth, only found in portions of the ECR, are 1,440 km. Therefore, different trackline totals were used to calculate take of the Coastal and Offshore Stocks of bottlenose dolphins (20,305 km trackline of Offshore Stock and 1,440 km trackline of the Coastal Stock). All other species analyzed used the total 21,745 km of trackline for calculations.

Furthermore, the Roberts and Halpin (2022) density model does not differentiate between the different pinniped species. For seals, given their size and behavior when in the water, seasonality, and feeding preferences, there is limited information available on species-specific distribution. Density

estimates of Roberts and Halpin (2022) include all seal species that may occur in the Western North Atlantic combined (*i.e.*, harbor, gray, hooded, and harp). For this IHA, only the harbor seals and gray seals are reasonably expected to occur in the survey area; densities of seals were split evenly between these two species.

Lastly, the Roberts and Halpin (2022) density model does not differentiate between the pilot whale species. While the exact latitudinal ranges of the two species are uncertain, only long-finned pilot whales are expected to occur in this project area due to their more northerly distribution and tolerance of shallower, colder shelf waters (Hayes *et al.*, 2022).

Take Estimation

Here, we describe how the information provided above is synthesized to produce a quantitative estimate of the take that is reasonably likely to occur and is authorized.

In order to estimate the number of marine mammals predicted to be exposed to sound levels that would result in harassment, radial distances to predicted isopleths corresponding to Level B harassment thresholds are calculated, as described above. The maximum distance (*i.e.*, 141-m distance

associated with the Dual Geo-Spark 2000X) to the Level B harassment criterion and the total length of the survey trackline are then used to calculate the total ensonified area, or zone of influence (ZOI) around the survey vessel.

AE proposes to conduct the survey, using either the boomer or sparker, for a total of 21,745 km of trackline, of which 14,025 km are in the Lease area and 7,720 km in the ECR area. Of the ECR survey trackline, 1,440 km are in waters less than 20 m depth. AE is requesting take based on the worst-case-scenario between the equipment planned, which is the use of only the Dual Geo-Spark 2000X—based on the largest estimated distance to the harassment criterion. Based on the maximum estimated distance to the Level B harassment threshold of 141-m (sparker) and the total survey length, the total ensonified area is 6,133 km². That is approximately 3,955 km² for the lease area and 2,177 km² in the ECR area with 407 km² in waters less than 20 m depth based on the following formula:

$$\text{Mobile Source ZOI} = (\text{Total survey length} \times 2r) + \pi r^2$$

Where total survey length is equal to the total distance of the survey track lines within the lease area; and r is

equal to the maximum radial distance from a given sound source to the Level B harassment threshold.

This is a conservative estimate as it assumes the HRG source that results in the greatest isopleth distance to the Level B harassment threshold would be operated at all times during the entire survey, which may not ultimately occur and assumes the worst case scenario is the scenario chosen for the surveys. The number of marine mammals expected to be incidentally taken during the total survey is then calculated by estimating the number of each species predicted to occur within the ensonified area (animals/km²), incorporating the greatest seasonal estimated marine mammal densities as described above. The product is then rounded, to generate an estimate of the total number of instances of harassment expected for each species over the duration of the survey. A summary of this method is illustrated in the following formula with the resulting take of marine mammals shown below in Table 3:

$$\text{Estimated Take} = D \times \text{ZOI}$$

Where: *D* is the greatest average seasonal species density (per km²); and *ZOI* is the maximum daily ensonified area to relevant thresholds.

TABLE 3—ESTIMATED TAKE NUMBERS AND TOTAL TAKE AUTHORIZED

Species	Ensonified area (km ²)	Density (animals/km ²)	Estimated take	Total take authorized	Percent of abundance ^c
North Atlantic right whale	6,133	0.001932	12	12	3.51
Humpback whale	6,133	0.003853	24	24	1.69
Fin whale	6,133	0.006256	38	38	0.56
Sei whale	6,133	0.001972	12	12	0.19
Minke whale	6,133	0.029226	179	179	0.82
Sperm whale	6,133	0.000447	3	3	0.06
Risso's dolphin	6,133	0.003695	23	23	0.06
Long-finned pilot whale	6,133	0.003363	21	21	0.05
Atlantic white-sided dolphin	6,133	0.033740	207	207	0.22
Common dolphin	6,133	0.335271	2,056	2,056	1.19
Atlantic spotted dolphin	6,133	0.014496	89	89	0.22
Bottlenose dolphin (W.N. Atlantic Offshore) ^a	5,727	0.304831	1,746	1,746	2.78
Bottlenose dolphin (Northern Migratory Coastal) ^b	407	0.956430	389	389	5.86
Harbor porpoise	6,133	0.178544	1,095	1,095	1.15
Harbor seal	6,133	^d 0.260186	1,596	1,596	2.60
Gray seal	6,133	^d 0.260186	1,596	1,596	^e 0.35

^a The ensonified area for the offshore stock is for ≤20 m water depth includes all the lease area and portions of the ECR.

^b The ensonified area for the migratory coastal stock is only the areas of <20 m water depth (found only in portions of the ECR).

^c Based on the 2022 draft marine mammal stock assessment reports (SAR).

^d These each represent 50 percent of a generic seal density value.

^e This abundance estimate is based on the total stock abundance (including animals in Canada). The NMFS stock abundance estimate for US population is only 27,300.

Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least

practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action).

NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse

impact upon the affected species or stocks, and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, NMFS considers two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost and impact on operations.

The following mitigation measures must be implemented during AE's planned marine site characterization surveys. Pursuant to section 7 of the ESA, AE would also be required to adhere to relevant Project Design Criteria (PDC) of the NMFS' Greater Atlantic Regional Fisheries Office (GARFO) programmatic consultation (specifically PDCs 4, 5, and 7) regarding geophysical surveys along the U.S. Atlantic coast (<https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-take-reporting-programmatics-greater-atlantic#offshore-wind-site-assessment-and-site-characterization-activities-programmatic-consultation>).

Visual Monitoring and Shutdown Zones

AE must employ independent, dedicated, trained PSOs, meaning that the PSOs must (1) be employed by a third-party observer provider, (2) have no tasks other than to conduct observational effort, collect data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements (including brief alerts regarding maritime hazards), and (3) have successfully completed an approved PSO training course appropriate for geophysical surveys. Visual monitoring must be performed by qualified, NMFS-approved PSOs. PSO resumes must be provided to NMFS for review and approval prior to the start of survey activities.

During survey operations (e.g., any day on which use of the sparker or

boomer sources is planned to occur, and whenever the sparker or boomer source is in the water, whether activated or not), a minimum of one visual marine mammal observer (PSO) must be on duty on each source vessel and conducting visual observations at all times during daylight hours (i.e., from 30 minutes prior to sunrise through 30 minutes following sunset). A minimum of two PSOs must be on duty on each source vessel during nighttime hours. Visual monitoring must begin no less than 30 minutes prior to ramp-up (described below) and must continue until one hour after use of the sparker or boomer source ceases.

Visual PSOs shall coordinate to ensure 360° visual coverage around the vessel from the most appropriate observation posts and shall conduct visual observations using binoculars and the naked eye while free from distractions and in a consistent, systematic, and diligent manner. PSOs shall establish and monitor applicable shutdown zones (see below). These zones shall be based upon the radial distance from the sparker or boomer source (rather than being based around the vessel itself).

Four shutdown zones are defined, depending on the species and context. An extended shutdown zone encompassing the area at and below the sea surface out to a radius of 500 m from the sparker or boomer source (0–500 m) is defined for NARW. For all other marine mammals, the shutdown zone encompasses a standard distance of 100 m (0–100 m) during the use of the sparker. For ESA-listed marine mammals during the use of the boomer, the shutdown zone is 100 m (0–100 m). For all non-ESA-listed marine mammals, the shutdown zone during the use of the boomer is 50 m (0–50 m). Any observations of marine mammals by crew members aboard any vessel associated with the survey shall be relayed to the PSO team.

Visual PSOs may be on watch for a maximum of 4 consecutive hours followed by a break of at least 1 hour between watches and may conduct a maximum of 12 hours of observation per 24-hour period.

Pre-Start Clearance and Ramp-Up

A ramp-up procedure, involving a gradual increase in source level output, is required at all times as part of the activation of the sparker and boomer sources when technically feasible. Operators should ramp up sparker and boomer to half power for 5 minutes and then proceed to full power. A 30-minute pre-start clearance observation period of the shutdown zones must occur prior to

the start of ramp-up. The intent of the pre-start clearance observation period (30 minutes) is to ensure no marine mammals are within the shutdown zones prior to the beginning of ramp-up. The intent of the ramp-up is to warn marine mammals of pending operations and to allow sufficient time for those animals to leave the immediate vicinity. All operators must adhere to the following pre-start clearance and ramp-up requirements:

- The operator must notify a designated PSO of the planned start of ramp-up as agreed upon with the lead PSO; the notification time should not be less than 60 minutes prior to the planned ramp-up in order to allow the PSOs time to monitor the shutdown zones for 30 minutes prior to the initiation of ramp-up (pre-start clearance). During this 30 minute pre-start clearance period the entire shutdown zone must be visible, except as indicated below.

- Ramp-ups shall be scheduled so as to minimize the time spent with the source activated.

- A visual PSO conducting pre-start clearance observations must be notified again immediately prior to initiating ramp-up procedures and the operator must receive confirmation from the PSO to proceed.

- Any PSO on duty has the authority to delay the start of survey operations if a marine mammal is detected within the applicable pre-start clearance zone.

- The operator must establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the acoustic source to ensure that mitigation commands are conveyed swiftly while allowing PSOs to maintain watch.

The pre-start clearance requirement is waived for small delphinids and pinnipeds. Detection of a small delphinid (individual belonging to the following genera of the Family Delphinidae: *Steno*, *Delphinus*, *Lagenorhynchus*, *Stenella*, and *Tursiops*) or pinniped within the shutdown zone does not preclude beginning of ramp-up, unless the PSO confirms the individual to be of a genus other than those listed, in which case normal pre-clearance requirements apply.

If there is uncertainty regarding identification of a marine mammal species (i.e., whether the observed marine mammal(s) belongs to one of the delphinid genera for which the pre-clearance requirement is waived), PSOs may use best professional judgment in making the decision to call for a shutdown.

- Ramp-up may not be initiated if any marine mammal to which the pre-start clearance requirement applies is within the shutdown zone. If a marine mammal is observed within the shutdown zone during the 30-minute pre-start clearance period, ramp-up may not begin until the animal(s) has been observed exiting the zones or until an additional time period has elapsed with no further sightings (30 minutes for all baleen whale species and sperm whales and 15 minutes for all other species).

- PSOs must monitor the shutdown zones 30 minutes before and during ramp-up, and ramp-up must cease and the source must be shut down upon observation of a marine mammal within the applicable shutdown zone.

- Ramp-up may occur at times of poor visibility, including nighttime, if appropriate visual monitoring has occurred with no detections of marine mammals in the 30 minutes prior to beginning ramp-up. Sparker or boomer activation may only occur at night where operational planning cannot reasonably avoid such circumstances.

If the acoustic source is shut down for brief periods (*i.e.*, less than 30 minutes) for reasons other than implementation of prescribed mitigation (*e.g.*, mechanical difficulty), it may be activated again without ramp-up if PSOs have maintained constant visual observation and no detections of marine mammals have occurred within the applicable shutdown zone. For any longer shutdown, pre-start clearance observation and ramp-up are required.

Shutdown

All operators must adhere to the following shutdown requirements:

- Any PSO on duty has the authority to call for shutdown of the sparker or boomer source if a marine mammal is detected within the applicable shutdown zone.

- The operator must establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the source to ensure that shutdown commands are conveyed swiftly while allowing PSOs to maintain watch.

- When the sparker or boomer source is active and a marine mammal appears within or enters the applicable shutdown zone, the source must be shut down. When shutdown is instructed by a PSO, the sparker or boomer source must be immediately deactivated and any dispute resolved only following deactivation.

- Four shutdown zones are defined, depending on the species and context. An extended shutdown zone encompassing the area at and below the

sea surface out to a radius of 500 m from the sparker or boomer source (0–500 m) is defined for NARW. For all other marine mammals, the shutdown zone encompasses a standard distance of 100 m (0–100 m) during the use of the sparker. For ESA-listed marine mammals during the use of the boomer, the shutdown zone is 100 m (0–100 m). For all non-ESA-listed marine mammals, the shutdown zone during use of the boomer is 50 m (0–50 m).

The shutdown requirement is waived for small delphinids and pinnipeds. If a small delphinid (individual belonging to the following genera of the Family Delphinidae: *Steno*, *Delphinus*, *Lagenorhynchus*, *Stenella*, and *Tursiops*) or pinniped is visually detected within the shutdown zone, no shutdown is required unless the PSO confirms the individual to be of a genus other than those listed, in which case a shutdown is required.

If there is uncertainty regarding identification of a marine mammal species (*i.e.*, whether the observed marine mammal(s) belongs to one of the delphinid genera for which shutdown is waived or one of the species with a larger shutdown zone), PSOs may use best professional judgment in making the decision to call for a shutdown.

Upon implementation of shutdown, the source may be reactivated after the marine mammal has been observed exiting the applicable shutdown zone or following a clearance period (30 minutes for all baleen whale species and sperm whales and 15 minutes for all other species) with no further detection of the marine mammal.

If a species for which authorization has not been granted, or a species for which authorization has been granted but the authorized number of takes have been met, approaches or is observed within the Level B harassment zone (141 m sparkers, 51 m boomers), shutdown must occur.

Vessel Strike Avoidance

Crew and supply vessel personnel must have access to and use an appropriate reference guide that includes identifying information on all marine mammals that may be encountered. Vessel operators must comply with the below measures except under extraordinary circumstances when the safety of the vessel or crew is in doubt or the safety of life at sea is in question. These requirements do not apply in any case where compliance would create an imminent and serious threat to a person or vessel or to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply.

Vessel operators and crews must maintain a vigilant watch for all marine mammals and slow down, stop their vessel(s), or alter course, as appropriate and regardless of vessel size, to avoid striking any marine mammals. A single marine mammal at the surface may indicate the presence of submerged animals in the vicinity of the vessel; therefore, precautionary measures should always be exercised. A visual observer aboard the vessel must monitor a vessel strike avoidance zone around the vessel (species-specific distances are detailed below). Visual observers monitoring the vessel strike avoidance zone may be third-party observers (*i.e.*, PSOs) or crew members, but crew members responsible for these duties must be provided sufficient training to (1) distinguish marine mammal from other phenomena and (2) broadly to identify a marine mammal as a NARW, other whale (defined in this context as sperm whales or baleen whales other than NARWs), or other marine mammals.

All survey vessels, regardless of size, must observe a 10-knot (18.52 km/h) speed restriction in specific areas designated by NMFS for the protection of NARWs from vessel strikes. These include all Seasonal Management Areas (SMA) established under 50 CFR 224.105 (when in effect), any dynamic management areas (DMA) (when in effect), and Slow Zones. See www.fisheries.noaa.gov/national/conservation/endangered-species-conservation/reducing-ship-strikes-north-atlantic-right-whales for specific detail regarding these areas.

- All vessels must reduce speed to 10 knots (18.52 km/h) or less when mother/calf pairs, pods, or large assemblages of cetaceans are observed near a vessel.

- All vessels must maintain a minimum separation distance of 500 m from NARWs, baleen whales (except humpback and minke), sperm whales, and any unidentified large whales. If a NARW, baleen whale (except humpback and minke), or an unidentified large whale is sighted within the relevant separation distance, the vessel must steer a course away at 10 kn (18.52 km/h) or less until the 500-m separation distance has been established. If a whale is observed but cannot be confirmed as a species other than a NARW, the vessel operator must assume that it is a NARW and take appropriate action.

- All vessels must maintain a minimum separation distance of 100 m from all humpback and minke whales.

- All vessels must, to the maximum extent practicable, attempt to maintain a minimum separation distance of 50 m from all other marine mammals, with an

understanding that at times this may not be possible (e.g., for animals that approach the vessel).

- When marine mammals are sighted while a vessel is underway, the vessel must take action as necessary to avoid violating the relevant separation distance (e.g., attempt to remain parallel to the animal’s course, avoid excessive speed or abrupt changes in direction until the animal has left the area, reduce speed and shift the engine to neutral). This does not apply to any vessel

towing gear or any vessel that is navigationally constrained.

Members of the PSO team will consult NMFS NARW reporting system and Whale Alert, daily and as able, for the presence of NARWs throughout survey operations, and for the establishment of DMAs and/or Slow Zones. It is AE’s responsibility to maintain awareness of the establishment and location of any such areas and to abide by these requirements accordingly.

Seasonal Operating Requirements

As described above, a section of the survey area partially overlaps with a portion of a NARW SMA off the port of New York/New Jersey. This SMA is active from November 1 through April 30 of each year. The survey vessel, regardless of length, would be required to adhere to vessel speed restrictions (<10 knots (18.52 km/h)) when operating within the SMA during times when the SMA is active (Table 4).

TABLE 4—NORTH ATLANTIC RIGHT WHALE DYNAMIC MANAGEMENT AREA (DMA) AND SEASONAL MANAGEMENT AREA (SMA) RESTRICTIONS WITHIN THE SURVEY AREAS

Survey area	Species	DMA restrictions	Slow zones	SMA restrictions
Lease Area	North Atlantic right whale (<i>Eubalaena glacialis</i>).	If established by NMFS, all of AE’s vessel will abide by the described restrictions		N/A.
ECR (within SMA)				November 1 through April 31 (Ports of New York/ New Jersey).
ECR (outside SMA)				N/A.

More information on Ship Strike Reduction for the NARW can be found at NMFS’ website: <https://www.fisheries.noaa.gov/national/endangered-species-conservation/reducing-vessel-strikes-north-atlantic-right-whales>.

Based on our evaluation of the applicant’s planned measures, as well as other measures considered by NMFS, NMFS has determined that the mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present while conducting the activities. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (e.g., presence, abundance, distribution, density);

- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or environment (e.g., source characterization, propagation, ambient noise); (2) affected species (e.g., life history, dive patterns); (3) co-occurrence of marine mammal species with the activity; or (4) biological or behavioral context of exposure (e.g., age, calving or feeding areas);

- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;

- How anticipated responses to stressors impact either: (1) long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;

- Effects on marine mammal habitat (e.g., marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and,

- Mitigation and monitoring effectiveness.

Monitoring Measures

Visual monitoring must be performed by qualified, NMFS-approved PSOs. AE must submit PSO resumes for NMFS review and approval prior to commencement of the survey. Resumes should include dates of training and any prior NMFS approval, as well as dates

and description of last experience, and must be accompanied by information documenting successful completion of an acceptable training course.

For prospective PSOs not previously approved, or for PSOs whose approval is not current, NMFS must review and approve PSO qualifications. Resumes should include information related to relevant education, experience, and training, including dates, duration, location, and description of prior PSO experience. Resumes must be accompanied by relevant documentation of successful completion of necessary training.

NMFS may approve PSOs as conditional or unconditional. A conditionally-approved PSO may be one who is trained but has not yet attained the requisite experience. An unconditionally-approved PSO is one who has attained the necessary experience. For unconditional approval, the PSO must have a minimum of 90 days at sea performing the role during a geophysical survey, with the conclusion of the most recent relevant experience not more than 18 months previous.

At least one of the visual PSOs aboard the vessel must be unconditionally-approved. One unconditionally-approved visual PSO shall be designated as the lead for the entire PSO team. This lead should typically be the PSO with the most experience, who would coordinate duty schedules and roles for the PSO team and serve as primary point of contact for the vessel

operator. To the maximum extent practicable, the duty schedule shall be planned such that unconditionally-approved PSOs are on duty with conditionally-approved PSOs.

At least one PSO aboard each acoustic source vessel must have a minimum of 90 days at-sea experience working in the role, with no more than 18 months elapsed since the conclusion of the at-sea experience. One PSO with such experience must be designated as the lead for the entire PSO team and serve as the primary point of contact for the vessel operator. (Note that the responsibility of coordinating duty schedules and roles may instead be assigned to a shore-based, third-party monitoring coordinator.) To the maximum extent practicable, the lead PSO must devise the duty schedule such that experienced PSOs are on duty with those PSOs with appropriate training but who have not yet gained relevant experience.

PSOs must successfully complete relevant training, including completion of all required coursework and passing (80 percent or greater) a written and/or oral examination developed for the training program.

PSOs must have successfully attained a bachelor's degree from an accredited college or university with a major in one of the natural sciences, a minimum of 30 semester hours or equivalent in the biological sciences, and at least one undergraduate course in math or statistics. The educational requirements may be waived if the PSO has acquired the relevant skills through alternate experience. Requests for such a waiver shall be submitted to NMFS and must include written justification. Alternate experience that may be considered includes, but is not limited to (1) secondary education and/or experience comparable to PSO duties; (2) previous work experience conducting academic, commercial, or government-sponsored marine mammal surveys; and (3) previous work experience as a PSO (PSO must be in good standing and demonstrate good performance of PSO duties).

AE must work with the selected third-party PSO provider to ensure PSOs have all equipment (including backup equipment) needed to adequately perform necessary tasks, including accurate determination of distance and bearing to observed marine mammals, and to ensure that PSOs are capable of calibrating equipment as necessary for accurate distance estimates and species identification. Such equipment, at a minimum, shall include:

- At least one thermal (infrared) image device suited for the marine environment;
- Reticule binoculars (*e.g.*, 7 × 50) of appropriate quality (at least one per PSO, plus backups);
- Global Positioning Units (GPS) (at least one plus backups);
- Digital cameras with a telephoto lens that is at least 300-mm or equivalent on a full-frame single lens reflex (SLR) (at least one plus backups). The camera or lens should also have an image stabilization system;
- Equipment necessary for accurate measurement of distances to marine mammal;
- Compasses (at least one plus backups);
- Means of communication among vessel crew and PSOs; and,
- Any other tools deemed necessary to adequately and effectively perform PSO tasks.

The equipment specified above may be provided by an individual PSO, the third-party PSO provider, or the operator, but AE is responsible for ensuring PSOs have the proper equipment required to perform the duties specified in the IHA.

The PSOs will be responsible for monitoring the waters surrounding the survey vessel to the farthest extent permitted by sighting conditions, including Shutdown Zones, during all HRG survey operations. PSOs will visually monitor and identify marine mammals, including those approaching or entering the established Shutdown Zones during survey activities. It will be the responsibility of the PSO(s) on duty to communicate the presence of marine mammals as well as to communicate the action(s) that are necessary to ensure mitigation and monitoring requirements are implemented as appropriate.

PSOs must be equipped with binoculars and have the ability to estimate distance and bearing to detect marine mammals, particularly in proximity to Shutdown Zones. Reticulated binoculars must also be available to PSOs for use as appropriate based on conditions and visibility to support the sighting and monitoring of marine mammals. During nighttime operations, appropriate night-vision devices (*e.g.*, night-vision goggles with thermal clip-ons and infrared technology) would be used. Position data would be recorded using hand-held or vessel GPS units for each sighting.

During good conditions (*e.g.*, daylight hours; Beaufort sea state (BSS) 3 or less), to the maximum extent practicable, PSOs must also conduct observations when the acoustic source is not operating for comparison of sighting

rates and behavior with and without use of the active acoustic sources and between acquisition periods, to the maximum extent practicable. Any observations of marine mammals by crew members aboard the vessel associated with the survey would be relayed to the PSO team.

Data on all PSO observations would be recorded based on standard PSO collection requirements (see *Reporting Measures*). This would include dates, times, and locations of survey operations; dates and times of observations, location and weather; details of marine mammal sightings (*e.g.*, species, numbers, behavior); and details of any observed marine mammal behavior that occurs (*e.g.*, noted behavioral disturbances). Members of the PSO team shall consult the NMFS NARW reporting system and Whale Alert, daily and as able, for the presence of NARWs throughout survey operations.

Reporting Measures

AE shall submit a draft comprehensive report to NMFS on all activities and monitoring results within 90 days of the completion of the survey or expiration of the IHA, whichever comes sooner. The report must describe all activities conducted and sightings of marine mammals, must provide full documentation of methods, results, and interpretation pertaining to all monitoring, and must summarize the dates and locations of survey operations and all marine mammal sightings (dates, times, locations, activities, associated survey activities). The draft report shall also include geo-referenced, time-stamped vessel tracklines for all time periods during which acoustic sources were operating. Tracklines should include points recording any change in acoustic source status (*e.g.*, when the sources began operating, when they were turned off, or when they changed operational status such as from full array to single gun or vice versa). GIS files shall be provided in Environmental Systems Research Institute, Inc. (ESRI) shapefile format and include the Coordinated Universal Time (UTC) date and time, latitude in decimal degrees, and longitude in decimal degrees. All coordinates shall be referenced to the WGS84 geographic coordinate system. In addition to the report, all raw observational data shall be made available. The report must summarize the information. A final report must be submitted within 30 days following resolution of any comments on the draft report. All draft and final marine mammal monitoring reports must be submitted to

PR.ITP.MonitoringReports@noaa.gov, *nmfs.gar.incidental-take@noaa.gov*, and *ITP.lock@noaa.gov*.

PSOs must use standardized electronic data forms to record data. PSOs shall record detailed information about any implementation of mitigation requirements, including the distance of marine mammal to the acoustic source and description of specific actions that ensued, the behavior of the animal(s), any observed changes in behavior before and after implementation of mitigation, and if shutdown was implemented, the length of time before any subsequent ramp-up of the acoustic source. If required mitigation was not implemented, PSOs should record a description of the circumstances. At a minimum, the following information must be recorded:

1. Vessel names (source vessel), vessel size and type, maximum speed capability of vessel;
2. Dates of departures and returns to port with port name;
3. PSO names and affiliations;
4. Date and participants of PSO briefings;
5. Visual monitoring equipment used;
6. PSO location on vessel and height of observation location above water surface;
7. Dates and times (Greenwich Mean Time) of survey on/off effort and times corresponding with PSO on/off effort;
8. Vessel location (decimal degrees) when survey effort begins and ends and vessel location at beginning and end of visual PSO duty shifts;
9. Vessel location at 30-second intervals if obtainable from data collection software, otherwise at practical regular interval;
10. Vessel heading and speed at beginning and end of visual PSO duty shifts and upon any change;
11. Water depth (if obtainable from data collection software);
12. Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions change significantly), including BSS and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon;
13. Factors that may contribute to impaired observations during each PSO shift change or as needed as environmental conditions change (*e.g.*, vessel traffic, equipment malfunctions); and
14. Survey activity information (and changes thereof), such as acoustic source power output while in operation, number and volume of airguns operating in an array, tow depth of an acoustic source, and any other notes of

significance (*i.e.*, pre-start clearance, ramp-up, shutdown, testing, shooting, ramp-up completion, end of operations, streamers, *etc.*).

15. Upon visual observation of any marine mammal, the following information must be recorded:

- a. Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);
- b. Vessel/survey activity at time of sighting (*e.g.*, deploying, recovering, testing, shooting, data acquisition, other);
- c. PSO who sighted the animal;
- d. Time of sighting;
- e. Initial detection method;
- f. Sightings cue;
- g. Vessel location at time of sighting (decimal degrees);
- h. Direction of vessel's travel (compass direction);
- i. Speed of the vessel(s) from which the observation was made;
- j. Identification of the animal (*e.g.*, genus/species, lowest possible taxonomic level or unidentified); also note the composition of the group if there is a mix of species;
- k. Species reliability (an indicator of confidence in identification);
- l. Estimated distance to the animal and method of estimating distance;
- m. Estimated number of animals (high/low/best);
- n. Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, *etc.*);
- o. Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars, or markings, shape and size of dorsal fin, shape of head, and blow characteristics);
- p. Detailed behavior observations (*e.g.*, number of blows/breaths, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior before and after point of closest approach);
- q. Mitigation actions; description of any actions implemented in response to the sighting (*e.g.*, delays, shutdowns, ramp-up, speed or course alteration, *etc.*) and time and location of the action;
- r. Equipment operating during sighting;
- s. Animal's closest point of approach and/or closest distance from the center point of the acoustic source; and,
- t. Description of any actions implemented in response to the sighting (*e.g.*, delays, shutdown, ramp-up) and time and location of the action.

If a NARW is observed at any time by PSOs or personnel on the project vessel, during surveys or during vessel transit, AE must report the sighting information

to the NMFS NARW Sighting Advisory System (866-755-6622) within 2 hours of occurrence, when practicable, or no later than 24 hours after occurrence. NARW sightings in any location may also be reported to the U.S. Coast Guard via channel 16 and through the WhaleAlert app (<https://www.whalealert.org>).

In the event that personnel involved in the survey activities discover an injured or dead marine mammal, the incident must be reported to NMFS as soon as feasible by phone (866-755-6622) and by email (*nmfs.gar.incidental-take@noaa.gov* and *PR.ITP.MonitoringReports@noaa.gov*). The report must include the following information:

1. Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
2. Species identification (if known) or description of the animal(s) involved;
3. Condition of the animal(s) (including carcass condition if the animal is dead);
4. Observed behaviors of the animal(s), if alive;
5. If available, photographs or video footage of the animal(s); and
6. General circumstances under which the animal was discovered.

In the event of a ship strike of a marine mammal by any vessel involved in the activities, AE must report the incident to NMFS by phone (866-755-6622) and by email (*nmfs.gar.incidental-take@noaa.gov* and *PR.ITP.MonitoringReports@noaa.gov*) as soon as feasible. The report would include the following information:

1. Time, date, and location (latitude/longitude) of the incident;
2. Species identification (if known) or description of the animal(s) involved;
3. Vessel's speed during and leading up to the incident;
4. Vessel's course/heading and what operations were being conducted (if applicable);
5. Status of all sound sources in use;
6. Description of avoidance measures/requirements that were in place at the time of the strike and what additional measures were taken, if any, to avoid strike;
7. Environmental conditions (*e.g.*, wind speed and direction, Beaufort sea state, cloud cover, visibility) immediately preceding the strike;
8. Estimated size and length of animal that was struck;
9. Description of the behavior of the marine mammal immediately preceding and/or following the strike;
10. If available, description of the presence and behavior of any other

marine mammals immediately preceding the strike;

11. Estimated fate of the animal (*e.g.*, dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared); and,

12. To the extent practicable, photographs or video footage of the animal(s).

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.*, population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be “taken” through harassment, NMFS considers other factors, such as the likely nature of any impacts or responses (*e.g.*, intensity, duration), the context of any impacts or responses (*e.g.*, critical reproductive time or location, foraging impacts affecting energetics), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS’ implementing regulations (54 FR 40338, September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the baseline (*e.g.*, as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, the majority of our analysis applies to all the species listed in Table 2, given that some of the anticipated effects of this project on different marine mammal stocks are expected to be relatively similar in nature. Where there are meaningful differences between species or stocks, or groups of species, in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat, they are included as separate subsections below. Specifically, we

provide additional discussion related to NARW and to other species currently experiencing UMEs.

NMFS does not anticipate that serious injury or mortality would occur as a result from HRG surveys, even in the absence of mitigation, and no serious injury or mortality is authorized. As discussed in the Potential Effects of Specified Activities on Marine Mammals and Their Habitat section, non-auditory physical effects, auditory physical effects, and vessel strike are not expected to occur. NMFS expects that all potential takes would be in the form of Level B harassment in the form of temporary avoidance of the area or decreased foraging (if such activity was occurring), reactions that are considered to be of low severity and with no lasting biological consequences (*e.g.*, Southall *et al.*, 2007; Ellison *et al.*, 2012).

In addition to being temporary, the maximum expected harassment zone around a survey vessel is 141-m. Therefore, the ensonified area surrounding each vessel is relatively small compared to the overall distribution of the animals in the area and their use of the habitat. Feeding behavior is not likely to be significantly impacted as prey species are mobile and are broadly distributed throughout the survey area; therefore, marine mammals that may be temporarily displaced during survey activities are expected to be able to resume foraging once they have moved away from areas with disturbing levels of underwater noise. Because of the temporary nature of the disturbance and the availability of similar habitat and resources in the surrounding area, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

There are no rookeries, mating or calving grounds known to be biologically important to marine mammals within the planned survey area and there are no feeding areas known to be biologically important to marine mammals within the survey area. There is no designated critical habitat for any ESA-listed marine mammals in the survey area.

North Atlantic Right Whales

The status of the NARW population is of heightened concern and, therefore, merits additional analysis. As noted previously, elevated NARW mortalities began in June 2017 and there is an active UME. Overall, preliminary findings attribute human interactions, specifically vessel strikes and entanglements, as the cause of death for

the majority of NARWs. As noted previously, the survey area overlaps a migratory corridor for NARWs that extends from Massachusetts to Florida and from the coast to beyond the shelf break. Due to the fact that the planned survey activities are temporary (will occur for up to 1 year) and the spatial extent of sound produced by the survey would be small relative to the spatial extent of the available migratory habitat in the BIA, NARW migration is not expected to be impacted by the survey. This important migratory area is approximately 269,488 km² in size (compared with the worst case scenario of approximately 6,133 km² of total estimated Level B harassment ensonified area associated with both the Lease Area and the ECR area surveys) and is comprised of the waters of the continental shelf offshore the East Coast of the United States, extending from Florida through Massachusetts.

Given the relatively small size of the ensonified area, it is unlikely that prey availability would be adversely affected by HRG survey operations. Required vessel strike avoidance measures will also decrease risk of ship strike during migration; no ship strike is expected to occur during AE’s planned activities. Additionally, only very limited take by Level B harassment of NARWs has been requested and is being authorized by NMFS as HRG survey operations are required to maintain and implement a 500-m shutdown zone. The 500-m shutdown zone for NARWs is conservative, considering the Level B harassment isopleth for the most impactful acoustic source (*i.e.*, sparker) is estimated to be 141-m, and thereby minimizes the intensity and duration of any potential incidents of behavioral harassment for this species. As noted previously, Level A harassment is not expected due to the small estimated zones in conjunction with the aforementioned shutdown requirements. NMFS does not anticipate NARWs takes that result from AE’s planned activities will impact annual rates of recruitment or survival. Thus, any takes that occur will not result in population level impacts.

Other Marine Mammal Species With Active UMEs

As noted previously, there are several active UMEs occurring in the vicinity of AE’s survey area. Elevated humpback whale mortalities have occurred along the Atlantic coast from Maine through Florida since January 2016. Of the cases examined, approximately half had evidence of human interaction (ship strike or entanglement). The UME does not yet provide cause for concern

regarding population-level impacts. Despite the UME, the relevant population of humpback whales (the West Indies breeding population, or distinct population segment (DPS)) remains stable at approximately 12,000 individuals.

Elevated numbers of harbor seal and gray seal mortalities were first observed between 2018–2020 and, as part of a separate UME, again in 2022. These have occurred across Maine, New Hampshire, and Massachusetts. Based on tests conducted so far, the main pathogen found in the seals is phocine distemper virus (2018–2020) and avian influenza (2022), although additional testing to identify other factors that may be involved in the UMEs is underway. The UMEs do not provide cause for concern regarding population-level impacts to any of these stocks. For harbor seals, the population abundance is over 60,000 and annual M/SI (339) is well below PBR (1,729) (Hayes *et al.*, 2023). The population abundance for gray seals in the United States is over 27,000, with an estimated abundance, including seals in Canada, of approximately 450,000. In addition, the abundance of gray seals is likely increasing in the U.S. Atlantic as well as in Canada (Hayes *et al.*, 2021; Hayes *et al.*, 2023).

Beginning in January 2017, elevated minke whale strandings have occurred along the Atlantic coast from Maine through South Carolina, with highest numbers in Massachusetts, Maine, and New York. This event does not provide cause for concern regarding population level impacts, as the likely population abundance is greater than 20,000 whales. This UME is no longer active and is pending closure.

The required mitigation measures are expected to reduce the number and/or severity of takes for all species listed in Table 2, including those with active UMEs, to the level of least practicable adverse impact. In particular, they would provide animals the opportunity to move away from the sound source before HRG survey equipment reaches full energy, thus preventing them from being exposed to sound levels that have the potential to cause injury. No Level A harassment is anticipated, even in the absence of mitigation measures, or authorized.

NMFS expects that takes would be in the form of short-term Level B harassment by way of brief startling reactions and/or temporary vacating of the area, or decreased foraging (if such activity was occurring)—reactions that (at the scale and intensity anticipated here) are considered to be of low severity, with no lasting biological

consequences. Since both the sources and marine mammals are mobile, animals would only be exposed briefly to a small ensonified area that might result in take. Additionally, required mitigation measures would further reduce exposure to sound that could result in more severe behavioral harassment.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect any of the species or stocks through effects on annual rates of recruitment or survival:

- No serious injury or mortality is anticipated or authorized;
- No Level A harassment (PTS) is anticipated, even in the absence of mitigation measures, or authorized;
- Foraging success is not likely to be significantly impacted as effects on species that serve as prey species for marine mammals from the survey are expected to be minimal;
- The availability of alternate areas of similar habitat value for marine mammals to temporarily vacate the ensonified areas during the planned survey to avoid exposure to sounds from the activity;

- Take is anticipated to be by Level B harassment only consisting of brief startling reactions and/or temporary avoidance of the ensonified area;
- Survey activities will occur in such a comparatively small portion of the BIA for the NARW migration that any avoidance of the area due to survey activities would not affect migration. In addition, mitigation measures require shutdown at 500 m (almost four times the size of the Level B harassment zone of 141 m) to minimize the effects of any Level B harassment take of the species; and,

- The mitigation measures, including visual monitoring and shutdowns, are expected to minimize potential impacts to marine mammals.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the planned activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted previously, only take of small numbers of marine mammals may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military

readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

NMFS authorizes incidental take by Level B harassment only of 15 marine mammal species with 16 managed stocks. The total amount of takes authorized is less than 6 percent relative to the best available population abundance for any of the 16 managed stocks (highest being for the Western North Atlantic Migratory Coastal Stock of Bottlenose dolphins) (Table 3). The take numbers authorized are considered conservative estimates for purposes of the small numbers determination as they assume all takes represent different individual animals, which is unlikely to be the case.

Based on the analysis contained herein of the planned activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals would be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

Section 7(a)(2) of the 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.

NMFS Office of Protected Resources (OPR) has authorized take of four species of marine mammals which are listed under the ESA, including the North Atlantic right, fin, sei, and sperm whale, and has determined that these activities fall within the scope of activities analyzed in NMFS Greater Atlantic Regional Fisheries Office's (GARFO) programmatic consultation regarding geophysical surveys along the U.S. Atlantic coast in the three Atlantic Renewable Energy Regions (completed June 29, 2021; revised September 2021).

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216-6A, NMFS must review our proposed action (*i.e.*, the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs 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 has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review.

Authorization

As a result of these determinations, NMFS has issued an IHA to AE for conducting marine site characterization surveys in coastal waters off of New York and New Jersey in the New York Bight for a period of 1 year, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The IHA can be found at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable>.

Dated: June 22, 2023.

Kimberly Damon-Randall,

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

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BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XD110]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold a two-day in-person meeting of its Standing, Reef Fish, Socioeconomic, and Ecosystem Scientific and Statistical Committees (SSC).

DATES: The meeting will be held Wednesday, July 19 through Thursday, July 20, 2023. The meeting will be held from 9 a.m. to 4:30 p.m., EDT on Wednesday, and from 8:30 a.m. to 4:30 p.m., EDT on Thursday.

ADDRESSES: The meeting will take place at the Gulf Council office. Registration information will be available on the Council's website by visiting www.gulfcouncil.org and clicking on the "meeting tab".

Council address: Gulf of Mexico Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348-1630.

FOR FURTHER INFORMATION CONTACT: Mr. Ryan Rindone, Lead Fishery Biologist, Gulf of Mexico Fishery Management Council; ryan.rindone@gulfcouncil.org; telephone: (813) 348-1630.

SUPPLEMENTARY INFORMATION:

Wednesday, July 19, 2023; 9 a.m.–4:30 p.m., EDT

The meeting will begin with Introductions and Adoption of Agenda, Approval of Verbatim Minutes and Meeting Summary from the May 2-4, 2023, meeting, and a review of the Scope of Work. The Committees will select an SSC Representative for the August 14-17, 2023, Gulf Council meeting in Austin, TX.

Following, the Committees will review SEDAR 81: Gulf of Mexico Migratory Group Spanish Mackerel Operational Assessment; presentation and background documentation and references will be provided to support SSC discussion. The Committees will receive an update on Marine Recreational Information Program (MRIP) Cumulative Estimate Reporting and discuss Technical Guidance for National Standard 1 Reference Points and Status Determinations, with

presentations, background documentation and references for SSC discussion. Public comment will be heard at the end of the day.

Thursday, July 20, 2023; 8:30 a.m.–4:30 p.m., EDT

The Committees will review and discuss an Evaluation of Interim Analysis Process, Part 2, conclude discussions for SEDAR 81 Evaluation and Projections, and review the Gulf of Mexico Migratory Group King Mackerel Interim Analysis; including presentations and background materials for SSC discussion.

The Committees will receive public comment, if any before addressing any items under Other Business.

—Meeting Adjourns

The meeting will also be broadcast via webinar. You may register for the webinar by visiting www.gulfcouncil.org and clicking on the SSC meeting on the calendar.

The Agenda is subject to change, and the latest version along with other meeting materials will be posted on www.gulfcouncil.org as they become available.

Although other non-emergency issues not on the agenda may come before the Scientific and Statistical Committees for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Scientific and Statistical Committee will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take-action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Kathy Pereira, (813) 348-1630, at least 5 days prior to the meeting date.

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

Dated: June 23, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023-13771 Filed 6-27-23; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648–XD086]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico

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

ACTION: Notice of issuance of Letter of Authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, its implementing regulations, and NMFS' MMPA Regulations for Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico (GOM), notification is hereby given that a Letter of Authorization (LOA) has been issued to LLOG Exploration Company (LLOG) for the take of marine mammals incidental to geophysical survey activity in the GOM.

DATES: The LOA is effective from July 1, 2023, through July 5, 2025.

ADDRESSES: The LOA, LOA request, and supporting documentation are available online at: www.fisheries.noaa.gov/action/incidental-take-authorization-oil-and-gas-industry-geophysical-survey-activity-gulf-mexico. In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Rachel Wachtendonk, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:**Background**

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible

impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined “negligible impact” in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

On January 19, 2021, we issued a final rule with regulations to govern the unintentional taking of marine mammals incidental to geophysical survey activities conducted by oil and gas industry operators, and those persons authorized to conduct activities on their behalf (collectively “industry operators”), in Federal waters of the U.S. GOM over the course of 5 years (86 FR 5322, January 19, 2021). The rule was based on our findings that the total taking from the specified activities over the 5-year period will have a negligible impact on the affected species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of those species or stocks for subsistence uses. The rule became effective on April 19, 2021.

Our regulations at 50 CFR 217.180 *et seq.* allow for the issuance of LOAs to industry operators for the incidental take of marine mammals during geophysical survey activities and prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat (often referred to as mitigation), as well as requirements pertaining to the monitoring and reporting of such taking. Under 50 CFR 217.186(e), issuance of an LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations and a determination that the amount of take

authorized under the LOA is of no more than small numbers.

Summary of Request and Analysis

LLOG plans to conduct one of the following vertical seismic profile (VSP) survey types: Zero Offset, Offset, Walkaway VSP, and/or Checkshots within Alaminos Canyon Block 380. The survey area has water depths of 1,000 to 2,000 m (4,000 to 6,500 feet). LLOG plans to use either a 12-element, 2,400 cubic inch (in³) airgun array, or a 6-element, 1,500 in³ airgun array. The survey is planned to occur for up to five days during the period from July 1, 2023, to July 5, 2025. Please see LLOG's application for additional detail.

Consistent with the preamble to the final rule, the survey effort proposed by LLOG in its LOA request was used to develop LOA-specific take estimates based on the acoustic exposure modeling results described in the preamble (86 FR 5322, January 19, 2021). In order to generate the appropriate take number for authorization, the following information was considered: (1) survey type; (2) location (by modeling zone¹); (3) number of days; and (4) season.² The acoustic exposure modeling performed in support of the rule provides 24-hour exposure estimates for each species, specific to each modeled survey type in each zone and season.

No VSP surveys were included in the modeled survey types, and use of existing proxies (*i.e.*, 2D, 3D NAZ, 3D WAZ, Coil) is generally conservative for use in evaluation of VSP survey effort. Summary descriptions of these modeled survey geometries are available in the preamble to the proposed rule (83 FR 29212, June 22, 2018). Coil was selected as the best available proxy survey type because the spatial coverage of the planned survey is most similar to that associated with the coil survey pattern.

For the planned survey, the seismic source array will be deployed in one of the following forms: Zero Offset VSP—deployed from a drilling rig at or near the borehole, with the seismic receivers (*i.e.*, geophones) deployed in the borehole on wireline at specified depth intervals; Offset VSP—in a fixed position deployed from a supply vessel on an offset position; Walkaway VSP—attached to a line, or a series of lines, towed by a supply vessel; 3D VSP—moving along a spiral or line swaths towed by a supply vessel or using a

¹ For purposes of acoustic exposure modeling, the GOM was divided into seven zones. Zone 1 is not included in the geographic scope of the rule.

² For purposes of acoustic exposure modeling, seasons include Winter (December–March) and Summer (April–November).

source vessel; or Checkshots—similar to Zero Offset VSP, typically hung from a platform and a sensor placed at a few depths in the well, where only the first energy arrival is recorded. All possible source assemblages except for 3D VSP will be stationary. If 3D VSP is used as the survey design, the area that would be covered would be up to three times the total depth of the well centered around the well head. The coil survey pattern in the model was assumed to cover approximately 144 kilometers squared (km²) per day (compared with approximately 795 km², 199 km², and 845 km² per day for the 2D, 3D NAZ, and 3D WAZ survey patterns, respectively). Among the different parameters of the modeled survey patterns (e.g., area covered, line spacing, number of sources, shot interval, total simulated pulses), NMFS considers area covered per day to be most influential on daily modeled exposures exceeding Level B harassment criteria. Because LLOG's planned survey is expected to cover either no additional area as a stationary source, or at most up to three times the total depth of the well centered around the well head, the coil proxy is most representative of the effort planned by LLOG in terms of predicted Level B harassment.

In addition, all available acoustic exposure modeling results assume use of a 72 element, 8,000 in³ array. Thus, estimated take numbers for this LOA are considered conservative due to the differences in both the airgun array (maximum 12 elements and 2,400 in³), and in daily survey area planned by LLOG (as mentioned above), as compared to those modeled for the rule.

The survey is planned to occur in Zone 6. The survey could take place in any season. Therefore, the take estimates for each species are based on the season that has the greater value for the species (i.e., winter or summer).

Additionally, for some species, take estimates based solely on the modeling yielded results that are not realistically likely to occur when considered in light of other relevant information available during the rulemaking process regarding marine mammal occurrence in the GOM. The approach used in the acoustic exposure modeling, in which seven modeling zones were defined over the U.S. GOM, necessarily averages fine-scale information about marine mammal distribution over the large area of each modeling zone. This can result in unrealistic projections regarding the likelihood of encountering particularly rare species and/or species not expected to occur outside particular habitats. Thus, although the modeling conducted for the rule is a natural starting point for

estimating take, our rule acknowledged that other information could be considered (see, e.g., 86 FR 5322, (January 19, 2021), discussing the need to provide flexibility and make efficient use of previous public and agency review of other information and identifying that additional public review is not necessary unless the model or inputs used differ substantively from those that were previously reviewed by NMFS and the public). For this survey, NMFS has other relevant information reviewed during the rulemaking that indicates use of the acoustic exposure modeling to generate a take estimate for Rice's whales and killer whales produces results inconsistent with what is known regarding their occurrence in the GOM. Accordingly, we have adjusted the calculated take estimates for those species as described below.

NMFS' final rule described a "core habitat area" for Rice's whales (formerly known as GOM Bryde's whales)³ located in the northeastern GOM in waters between 100–400 m depth along the continental shelf break (Rosel *et al.*, 2016). However, whaling records suggest that Rice's whales historically had a broader distribution within similar habitat parameters throughout the GOM (Reeves *et al.*, 2011; Rosel and Wilcox, 2014). In addition, habitat-based density modeling identified similar habitat (i.e., approximately 100–400 m water depths along the continental shelf break) as being potential Rice's whale habitat (Roberts *et al.*, 2016), although the core habitat area contained approximately 92 percent of the predicted abundance of Rice's whales. See discussion provided at, e.g., 83 FR 29228, 83 FR 29280 (June 22, 2018); 86 FR 5418 (January 19, 2021).

Although Rice's whales may occur outside of the core habitat area, we expect that any such occurrence would be limited to the narrow band of suitable habitat described above (i.e., 100–400 m) and that, based on the few available records, these occurrences would be rare. LLOG's planned activities will occur in water depths of approximately 1,000–2,000 m in the central GOM. Thus, NMFS does not expect there to be the reasonable potential for take of Rice's whale in association with this survey and, accordingly, does not authorize take of Rice's whale through the LOA.

³ The final rule refers to the GOM Bryde's whale (*Balaenoptera edeni*). These whales were subsequently described as a new species, Rice's whale (*Balaenoptera ricei*) (Rosel *et al.*, 2021).

Killer whales are the most rarely encountered species in the GOM, typically in deep waters of the central GOM (Roberts *et al.*, 2015; Maze-Foley and Mullin, 2006). As discussed in the final rule, the density models produced by Roberts *et al.* (2016) provide the best available scientific information regarding predicted density patterns of cetaceans in the U.S. GOM. The predictions represent the output of models derived from multi-year observations and associated environmental parameters that incorporate corrections for detection bias. However, in the case of killer whales, the model is informed by few data, as indicated by the coefficient of variation associated with the abundance predicted by the model (0.41, the second-highest of any GOM species model; Roberts *et al.*, 2016). The model's authors noted the expected non-uniform distribution of this rarely-encountered species (as discussed above) and expressed that, due to the limited data available to inform the model, it "should be viewed cautiously" (Roberts *et al.*, 2015).

NOAA surveys in the GOM from 1992–2009 reported only 16 sightings of killer whales, with an additional 3 encounters during more recent survey effort from 2017–2018 (Waring *et al.*, 2013; www.boem.gov/gommapps). Two other species were also observed on fewer than 20 occasions during the 1992–2009 NOAA surveys (Fraser's dolphin and false killer whale⁴). However, observational data collected by protected species observers (PSOs) on industry geophysical survey vessels from 2002–2015 distinguish the killer whale in terms of rarity. During this period, killer whales were encountered on only 10 occasions, whereas the next most rarely encountered species (Fraser's dolphin) was recorded on 69 occasions (Barkaszi and Kelly, 2019). The false killer whale and pygmy killer whale were the next most rarely encountered species, with 110 records each. The killer whale was the species with the lowest detection frequency during each period over which PSO data were synthesized (2002–2008 and 2009–2015). This information qualitatively informed our rulemaking process, as discussed at 86 FR 5322, 86 FR 5334 (January 19, 2021), and similarly informs our analysis here.

The rarity of encounter during seismic surveys is not likely to be the product of high bias on the probability of detection. Unlike certain cryptic species

⁴ However, note that these species have been observed over a greater range of water depths in the GOM than have killer whales.

with high detection bias, such as *Kogia* spp. or beaked whales, or deep-diving species with high availability bias, such as beaked whales or sperm whales, killer whales are typically available for detection when present and are easily observed. Roberts *et al.* (2015) stated that availability is not a major factor affecting detectability of killer whales from shipboard surveys, as they are not a particularly long-diving species. Baird *et al.* (2005) reported that mean dive durations for 41 fish-eating killer whales for dives greater than or equal to 1 minute in duration was 2.3–2.4 minutes, and Hooker *et al.* (2012) reported that killer whales spent 78 percent of their time at depths between 0–10 m. Similarly, Kvadsheim *et al.* (2012) reported data from a study of 4 killer whales, noting that the whales performed 20 times as many dives 1–30 m in depth than to deeper waters, with an average depth during those most common dives of approximately 3 m.

In summary, killer whales are the most rarely encountered species in the GOM and typically occur only in particularly deep water. This survey would take place in deep waters that would overlap with depths in which killer whales typically occur. While this information is reflected through the density model informing the acoustic exposure modeling results, there is relatively high uncertainty associated with the model for this species, and the acoustic exposure modeling applies mean distribution data over areas where the species is in fact less likely to occur. In addition, as noted above in relation to the general take estimation methodology, the assumed proxy source (72-element, 8,000-in³ array) results in a significant overestimate of the actual potential for take to occur. NMFS' determination in reflection of the information discussed above, which informed the final rule, is that use of the generic acoustic exposure modeling results for killer whales will generally

result in estimated take numbers that are inconsistent with the assumptions made in the rule regarding expected killer whale take (86 FR 5322, 86 FR 5403, January 19, 2021). In this case, use of the acoustic exposure modeling produces an estimate of two killer whale exposures. Given the foregoing, it is unlikely that any killer whales would be encountered during this 5-day survey, and accordingly no take of killer whales is authorized through this LOA.

In addition, in this case, use of the exposure modeling produces results that are smaller than average GOM group sizes for multiple species (Maze-Foley and Mullin, 2006). NMFS' typical practice in such a situation is to increase exposure estimates to the assumed average group size for a species in order to ensure that, if the species is encountered, exposures will not exceed the authorized take number. However, other relevant considerations here lead to a determination that increasing the estimated exposures to average group sizes would likely lead to an overestimate of actual potential take. In this circumstance, the very short survey duration (maximum of 5 days) and relatively small Level B harassment isopleths produced through use of the (at most) 12-element, 2,400-in³ airgun array (compared with the modeled 72-element, 8,000 in³ array) mean that it is unlikely that certain species would be encountered at all, much less that the encounter would result in exposure of a greater number of individuals than is estimated through use of the exposure modeling results. As a result, in this case NMFS has not increased the estimated exposure values to assumed average group sizes in authorizing take.

Based on the results of our analysis, NMFS has determined that the level of taking expected for this survey and authorized through the LOA is consistent with the findings made for the total taking allowable under the regulations for the affected species or stocks of marine mammals. See Table 1

in this notice and Table 9 of the rule (86 FR 5322, January 19, 2021).

Small Numbers Determination

Under the GOM rule, NMFS may not authorize incidental take of marine mammals in an LOA if it will exceed "small numbers." In short, when an acceptable estimate of the individual marine mammals taken is available, if the estimated number of individual animals taken is up to, but not greater than, one-third of the best available abundance estimate, NMFS will determine that the numbers of marine mammals taken of a species or stock are small. For more information please see NMFS' discussion of the MMPA's small numbers requirement provided in the final rule (86 FR 5322, 86 FR 5438, January 19, 2021).

The take numbers for authorization, which are determined as described above, are used by NMFS in making the necessary small numbers determinations through comparison with the best available abundance estimates (see discussion at 86 FR 5322, 86 FR 5391, January 19, 2021). For this comparison, NMFS' approach is to use the maximum theoretical population, determined through review of current stock assessment reports (SAR; www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments) and model-predicted abundance information (<https://seamap.env.duke.edu/models/Duke/GOM/>). For the latter, for taxa where a density surface model could be produced, we use the maximum mean seasonal (*i.e.*, 3-month) abundance prediction for purposes of comparison as a precautionary smoothing of month-to-month fluctuations and in consideration of a corresponding lack of data in the literature regarding seasonal distribution of marine mammals in the GOM. Information supporting the small numbers determinations is provided in Table 1.

TABLE 1—TAKE ANALYSIS

Species	Authorized take ¹	Abundance ²	Percent abundance
Rice's whale	0	51	n/a
Sperm whale	121	2,207	5.5
<i>Kogia</i> spp	³ 27	4,373	0.6
Beaked whales	454	3,768	12.1
Rough-toothed dolphin	86	4,853	1.8
Bottlenose dolphin	253	176,108	0.1
Clymene dolphin	329	11,895	2.8
Atlantic spotted dolphin	104	74,785	0.1
Pantropical spotted dolphin	761	102,361	0.7
Spinner dolphin	⁴ 18	25,114	0.1
Striped dolphin	84	5,229	0.1
Fraser's dolphin	⁴ 29	1,665	1.8
Risso's dolphin	63	3,764	1.7

TABLE 1—TAKE ANALYSIS—Continued

Species	Authorized take ¹	Abundance ²	Percent abundance
Melon-headed whale	163	7,003	2.3
Pygmy killer whale	38	2,126	1.8
False killer whale	63	3,204	2.0
Killer whale	0	267	n/a
Short-finned pilot whale	96	1,981	4.8

¹ Scalar ratios were not applied in this case due to brief survey duration.

² Best abundance estimate. For most taxa, the best abundance estimate for purposes of comparison with take estimates is considered here to be the model-predicted abundance (Roberts *et al.*, 2016). For those taxa where a density surface model predicting abundance by month was produced, the maximum mean seasonal abundance was used. For those taxa where abundance is not predicted by month, only mean annual abundance is available. For Rice's whale and killer whale, the larger estimated SAR abundance estimate is used.

³ Includes 1 take by Level A harassment and 26 takes by Level B harassment.

⁴ Modeled exposure estimate less than assumed average group size (Maze-Foley and Mullin, 2006).

Based on the analysis contained herein of LLOG's proposed survey activity described in its LOA application and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the affected species or stock sizes (*i.e.*, less than one-third of the best available abundance estimate) and therefore the taking is of no more than small numbers.

Authorization

NMFS has determined that the level of taking for this LOA request is consistent with the findings made for the total taking allowable under the incidental take regulations and that the amount of take authorized under the LOA is of no more than small numbers. Accordingly, we have issued an LOA to LLOG authorizing the take of marine mammals incidental to its geophysical survey activity, as described above.

Dated: June 23, 2023.

Kimberly Damon-Randall,

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

[FR Doc. 2023-13737 Filed 6-27-23; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XC903]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Marine Site Characterization Surveys Off New Jersey and New York

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

ACTION: Notice; proposed incidental harassment authorization; request for

comments on proposed authorization and possible renewal.

SUMMARY: NMFS has received a request from Atlantic Shores Offshore Wind Bight, LLC (Atlantic Shores) for authorization to take marine mammals incidental to marine site characterization surveys offshore of New Jersey and New York in the Bureau of Ocean Energy Management (BOEM) Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS) Lease Area OCS-A 0541 and associated export cable route (ECR) area. NMFS is requesting comments on its proposal to issue an incidental harassment authorization to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible one-time, 1-year renewal that could be issued under certain circumstances and if all requirements are met, as described in the Request for Public Comments at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorization and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than July 28, 2023.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Written comments should be submitted via email to *ITP.Taylor@noaa.gov*.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments, including all attachments, must not exceed a 25-megabyte file size. All comments received are a part of the public record and will generally be posted online at <https://www.fisheries.noaa.gov/permit/>

incidental-take-authorizations-under-marine-mammal-protection-act without change. All personal identifying information (*e.g.*, name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

Electronic copies of the original application and supporting documents (including NMFS **Federal Register** notices of the original proposed and final authorizations, and the previous IHA), as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>. In case of problems accessing these documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT: Jessica Taylor, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Background

The activities described in Atlantic Shores' request, the overall survey duration, the project location, and the acoustic sources proposed for use are identical to what was previously analyzed in support of the IHA issued by NMFS to Atlantic Shores for 2022 site characterization surveys (2022 IHA) (87 FR 38067, June 27, 2022; 87 FR 50293, August 16, 2022). All proposed mitigation, monitoring, and reporting requirements remain the same. While Atlantic Shores' planned activity would qualify for renewal of the 2022 IHA, due to the availability of updated marine mammal density data (<https://seamap.env.duke.edu/models/Duke/EC/>), which NMFS has determined represents the best available scientific data, NMFS has determined to proceed with a new IHA process rather than a renewal, providing a 30-day period for

the public to comment on this proposed action.

Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to allow Atlantic Shores to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible 1-year Renewal IHA that could be issued under certain circumstances and if all requirements are met, as described in the Request for Public Comments at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorization and agency responses will be summarized in the final notice of our decision.

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the 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 incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to in shorthand as “mitigation”); and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.*, the issuance of an IHA) with respect to potential impacts on the human environment. This action

is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs 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 has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

We will review all comments submitted in response to this notification prior to concluding our NEPA process or making a final decision on the IHA request.

Summary of Request

On March 20, 2023, NMFS received a request from Atlantic Shores for an IHA to take marine mammals incidental to high-resolution geophysical (HRG) marine site characterization surveys offshore of New Jersey and New York in the areas of BOEM Commercial Lease of Submerged Lands for Renewable Energy Development on the OCS Lease Area OCS A–0541 and associated ECR area. Following NMFS’ review of the application, Atlantic Shores submitted a revised request on April 7, 2023. The application (the 2023 request) was deemed adequate and complete on April 20, 2023. Atlantic Shores’ request is for take of 15 species of marine mammals, by Level B harassment only. Neither Atlantic Shores nor NMFS expect serious injury or mortality to result from this activity and, therefore, an IHA is appropriate. Take by Level A harassment (injury) is considered unlikely, even absent mitigation, based on the characteristics of the signals produced by the acoustic sources planned for use.

NMFS has previously issued a similar IHA to Atlantic Shores. On April 8, 2022, NMFS received a request from Atlantic Shores for an IHA to take marine mammals incidental to marine site characterization surveys offshore of New Jersey and New York, in the area of Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf Lease Areas OCS–A 0541 and the associated ECR area. Atlantic Shores requested authorization to take small numbers of 15 species (comprising 15 stocks) of marine mammals by Level B harassment only. NMFS published a notice of the proposed IHA in the **Federal Register** on June 27, 2022 (87 FR 30867). After a 30-day public

comment period and consideration of all public comments received, we subsequently issued the 2022 IHA, which is effective from August 10, 2022, to August 9, 2023 (87 FR 50293, August 16, 2022).

Atlantic Shores completed a subset of the survey work under the 2022 IHA. This request is identical to the 2022 IHA.

However, Duke University’s Marine Geospatial Ecology Laboratory released updated marine mammal density information for all species in the project area (<https://seamap.env.duke.edu/models/Duke/EC/>), and NMFS determined it would issue a proposed IHA rather than undertake the renewal process. In evaluating the 2023 request and to the extent deemed appropriate, NMFS also relies on the information presented in notices associated with issuance of the 2022 IHA (87 FR 38067, June 27, 2022; 87 FR 50293, August 16, 2022).

Atlantic Shores conducted the required marine mammal mitigation and monitoring and did not exceed authorized levels of take under previous IHAs issued for surveys offshore of New York and New Jersey (see 85 FR 21198, April 16, 2020 and 86 FR 21289, April 22, 2021). These previous monitoring results are available to the public on our website: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-atlantic-shores-offshore-wind-llc-marine-site-characterization>.

Description of the Proposed Activity and Anticipated Impacts

Overview

Atlantic Shores proposes to conduct HRG marine site characterization surveys in BOEM Lease Area OCS–A 0541 and along the ECR off of New Jersey and New York. The purpose of the proposed surveys is to obtain an assessment of seabed (geophysical, geotechnical, and geohazard), ecological, and archeological conditions within the footprint of a planned offshore wind facility development area. Surveys are also conducted to support engineering design and to map unexploded ordnance. As many as three survey vessels may operate concurrently as part of the proposed surveys. During survey effort, the vessels would operate at a maximum speed of 3.5 knots (kns) (6.5 kilometers (km)). Underwater sound resulting from Atlantic Shores’ proposed activities has the potential to result in incidental take of marine mammals in the form of Level B harassment.

Dates and Duration

The proposed activity is estimated to require up to 360 survey days using a maximum of three vessels operating concurrently over the course of the 1-year period of effectiveness of the proposed IHA (Table 1). A “survey day” is defined as a 24-hour activity period in which active acoustic sound sources are used. This schedule is inclusive of any inclement weather downtime and crew transfers. It is expected that each vessel would cover approximately 55 km of track line per day based on

Atlantic Shores’ data acquisition efficiency expectations.

TABLE 1—PROPOSED SURVEY DAYS

Survey areas	Number of active survey days expected
Lease Survey Area (OCS–A 541)	180
ECR Survey Area	180

Specified Geographic Region

Atlantic Shores’ proposed activities would occur in the Northwest Atlantic

Ocean within Federal and state waters offshore of New York and New Jersey in BOEM Lease Area OCS–A 0541 and along the associated potential ECR (Figure 1). Overall, the survey area is approximately 1,375,710 acres (5,567.3 km²) and extends from approximately 11 nautical miles (nm) (20 km) to 40 nm (74 km) offshore of New York and New Jersey. In general, the survey area spans from Sandy Hook Bay to Ocean City, New Jersey. No nearshore surveys are planned.

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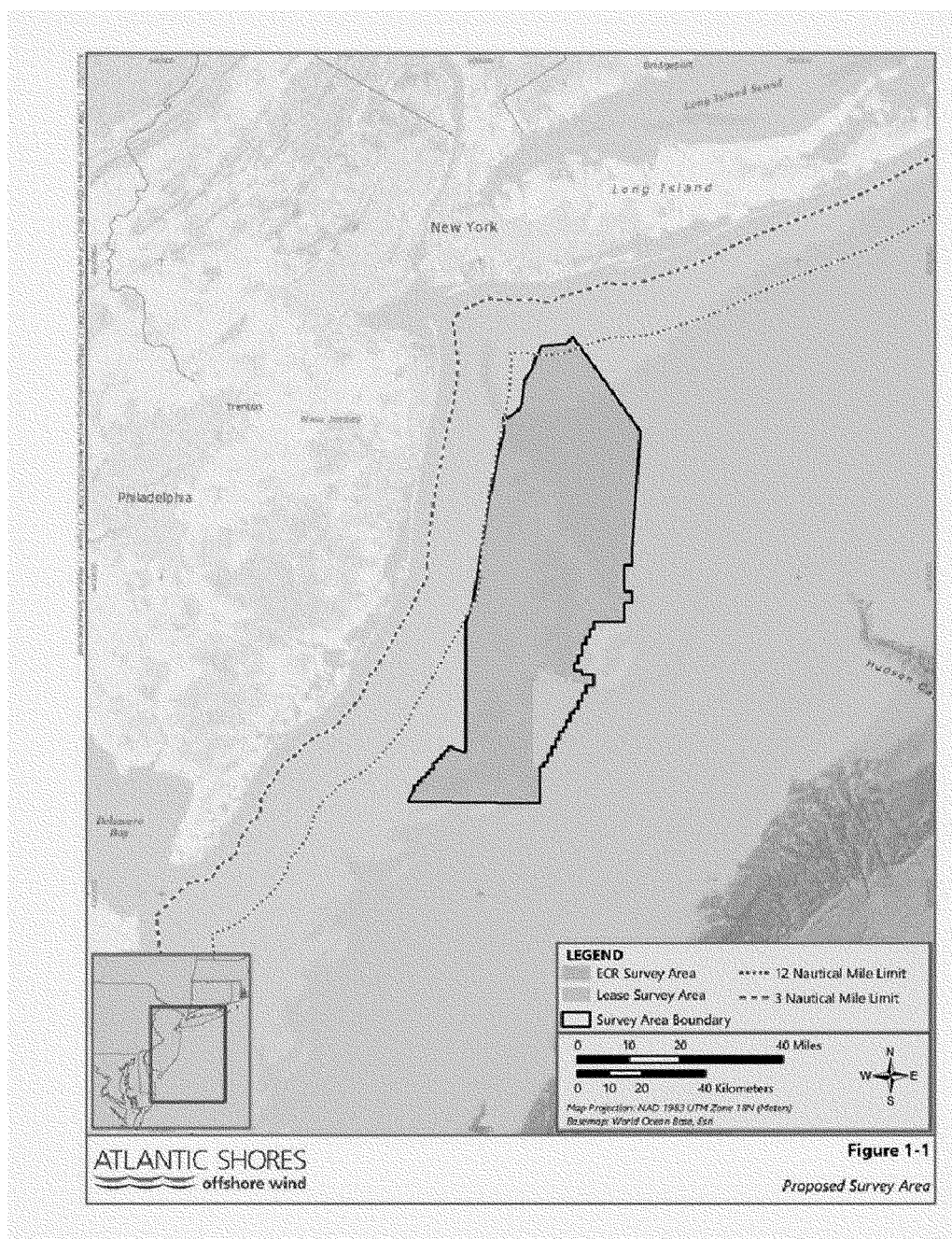


Figure 1 -- Map of the Proposed Survey Area

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Detailed Description of the Action

A detailed description of the proposed survey activities can be found in the previous **Federal Register** notices (87 FR 38067, June 27, 2022; 87 FR 50293, August 16, 2022) and supplementary documents, available online at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-atlantic-shores-offshore-wind-bight-llc-marine-site>. The specific geographic region;

duration (360 total survey days); and nature of specified activities, including the types of HRG equipment planned for use (sparkers and CHIRPs), daily trackline distances (55 km per day), and number of survey vessels (up to three operating concurrently) are identical to those described in the previous notices.

Atlantic Shores plans to conduct geotechnical surveys, which consists of identical activities (*i.e.*, drilling of sample boreholes, deep cone penetration tests (CPTs), and shallow CPTs) previously described in its

application for the 2022 IHA (87 FR 38067, June 27, 2022; 87 FR 50293, August 16, 2022). Consistent with NMFS' previous analysis of these activities, no take of marine mammals is expected to occur as a result of geotechnical survey activities. As a result, these activities will not be discussed further herein.

Description of Marine Mammals

A description of the marine mammals in the area of the activities can be found in the previous documents and notices

for the 2022 IHA (87 FR 38067, June 27, 2022; 87 FR 50293, August 16, 2022), which remain applicable to this proposed IHA. NMFS reviewed the most recent draft Stock Assessment Reports (SARs, found on NMFS' website at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>), up-to-date information on relevant Unusual Mortality Events (UMEs; <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-unusual-mortality-events>), and recent scientific literature and determined that no new information affects our original analysis of impacts under the 2022 IHA.

NMFS notes that, since issuance of the 2022 IHA, a new SAR is available for the North Atlantic right whale (NARW). Estimated abundance for the species declined from 368 to 338. However, this change does not affect our analysis of impacts, as described under the 2022 IHA.

Potential Effects on Marine Mammals and Their Habitat

A description of the potential effects of the specified activities on marine mammals and their habitat may be found in the documents supporting the 2022 IHA (87 FR 38067, June 27, 2022; 87 FR 50293, August 16, 2022). At present, there is no new information on potential effects that would impact our analysis.

Estimated Take

A detailed description of the methods used to estimate take anticipated to occur incidental to the project is found in the previous **Federal Register** notices (87 FR 38067, June 27, 2022; 87 FR 50293, August 16, 2022). The methods of estimating take are identical to those used in the 2022 IHA. Atlantic Shores updated the marine mammal densities based on new information (Roberts *et al.*, 2016; Roberts *et al.*, 2023), available online at: <https://seamap.env.duke.edu/>

models/Duke/EC/. We refer the reader to Table 6 in Atlantic Shores' 2023 IHA request for specific density values used in the analysis. The IHA request is available online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable>.

The take that NMFS proposes to authorize can be found in Table 2, which presents the results of Atlantic Shores' density-based calculations for the survey area. For comparative purposes, we have provided the 2022 IHA authorized take (87 FR 50293, August 16, 2022). NMFS notes that take by Level A harassment was not requested nor does NMFS anticipate that it could occur. Therefore, NMFS has not proposed to authorize any take by Level A harassment. Mortality or serious injury is neither anticipated to occur nor proposed for authorization.

TABLE 2—SUMMARY OF TAKE NUMBERS PROPOSED FOR AUTHORIZATION

Species	Scientific name	Stock	Abundance	2022 Authorized take	2023 Proposed IHA take proposed for authorization ¹	Max percent population
North Atlantic right whale	<i>Eubalaena glacialis</i>	Western Atlantic	338	24	5	1.5
Humpback whale	<i>Megaptera novaeangliae</i>	Gulf of Maine	1,396	8	⁶ 8 (16)	1.2
Fin whale	<i>Balaenoptera physalus</i>	Western North Atlantic	6,802	16	9	<1
Sei whale ²	<i>Balaenoptera borealis</i>	Nova Scotia	6,292	2	4	<1
Minke whale	<i>Balaenoptera acutorostrata</i>	Canadian East Coastal	21,968	8	46	<1
Sperm whale ²	<i>Physeter macrocephalus</i>	Western Atlantic	4,349	3	2	<1
Long-finned pilot whale ³	<i>Globicephala melas</i>	Western North Atlantic	39,215	20	8 (20)	<1
Bottlenose dolphin	<i>Tursiops truncatus</i>	Western North Atlantic Offshore Stock	62,851	232	179	<1
Common dolphin	<i>Delphinus delphis</i>	Western North Atlantic	172,974	911	588	<1
Atlantic white-sided dolphin	<i>Lagenorhynchus acutus</i>	Western North Atlantic	93,233	108	63	<1
Atlantic spotted dolphin	<i>Stenella frontalis</i>	Western North Atlantic	39,921	100	42 (100)	<1
Risso's dolphin	<i>Grampus griseus</i>	Western North Atlantic	35,215	30	7 (30)	<1
Harbor porpoise	<i>Phocoena phocoena</i>	Gulf of Maine/Bay of Fundy	95,543	357	281	<1
Harbor seal ⁴	<i>Phoca vitulina</i>	Western North Atlantic	61,336	263	374	<1
Gray seal ^{4,5}	<i>Halichoerus grypus</i>	Western North Atlantic	27,300	263	374	1.37

¹ Parentheses denote proposed take authorization where different from calculated take estimates. Increases from calculated values are based on average group size for the following species: humpback whale, King *et al.*, 2021; long-finned pilot whale and Risso's dolphin, NOAA, 2022; and Atlantic spotted dolphin, Jefferson *et al.*, 2008.

² Where calculated takes for a species in a given survey area were less than 1 individual, the number was rounded up to 1 take in each survey area.

³ Roberts *et al.* (2023) only provides density estimates for pilot whales as a guild. Given the project's location, NMFS assumes that all take will be of long-finned pilot whales.

⁴ Roberts *et al.* (2023) only provides density estimates for seals without differentiating by species. Harbor seals and gray seals are assumed to occur equally in the survey area; therefore, density values were split evenly between the 2 species, *i.e.*, total estimated take for "seals" is 748.

⁵ NMFS' stock abundance estimate (and associated PBR value) applies to U.S. population only. Total stock abundance (including animals in Canada) is approximately 451,600.

⁶ According to recent findings that humpback whales were the most commonly sighted species in the New York Bight (King *et al.*, 2021), the number of modeled exposures (4) for each of the lease area and ECR is multiplied by an average whale size of 2 for a total of 8 estimated takes in the lease area and 8 estimated takes in the ECR. The total request (16) represents the sum of estimated take in the lease area (8) and ECR (8).

Description of Proposed Mitigation, Monitoring and Reporting Measures

The mitigation, monitoring, and reporting measures proposed here are identical to those included in the **Federal Register** notice announcing the final 2022 IHA and the discussion of the least practicable adverse impact included in that document remains accurate. As described in the previous

Federal Register notices (87 FR 38067, June 27, 2022; 87 FR 50293, August 16, 2022), NMFS determined that issuance of the 2022 IHA to Atlantic Shores was within the scope of the NOAA Fisheries Greater Atlantic Regional Office (GARFO) programmatic consultation regarding geophysical surveys along the U.S. Atlantic coast in the three Atlantic Renewable Energy Regions (NOAA

GARFO, 2021; <https://www.fisheries.noaa.gov/new-england-mid-atlantic/consultations/section-7-take-reporting-programmatics-greater-atlantic#offshore-wind-site-assessment-and-site-characterization-activities-programmatic-consultation>). NMFS similarly concludes that the currently proposed survey activities are within scope of the consultation, and thus will

require adherence to the relevant Project Design Criteria (PDC) (specifically PDCs 4, 5, and 7).

Additionally, on August 1, 2022, NMFS announced proposed changes to the existing NARW vessel speed regulations to further reduce the likelihood of mortalities and serious injuries to endangered NARWs from vessel collisions, which are a leading cause of the species' decline and a primary factor in an ongoing Unusual Mortality Event (87 FR 46921, August 1, 2023). Should a final vessel speed rule be issued and become effective during the effective period of this IHA (or any other MMPA incidental take authorization), the authorization holder would be required to comply with any and all applicable requirements contained within the final rule. Specifically, where measures in any final vessel speed rule are more protective or restrictive than those in this or any other MMPA authorization, authorization holders would be required to comply with the requirements of the rule. Alternatively, where measures in this or any other MMPA authorization are more restrictive or protective than those in any final vessel speed rule, the measures in the MMPA authorization would remain in place. The responsibility to comply with the applicable requirements of any vessel speed rule would become effective immediately upon the effective date of any final vessel speed rule and, when notice is published of the effective date, NMFS would also notify Atlantic Shores if the measures in the speed rule were to supersede any of the measures in the MMPA authorization such that they were no longer applicable.

Establishment of Shutdown Zones (SZ)—Marine mammal SZs would be established around the HRG survey equipment and monitored by NMFS-approved protected species observers (PSOs) during HRG surveys as follows:

- A 500-m SZ for North Atlantic right whales during use of specified acoustic sources (impulsive: Sparkers; non-impulsive: Non-parametric sub-bottom profilers); and,
- 100-m SZ for all other marine mammals (excluding North Atlantic right whales) during use of specified acoustic sources (except as specified below). The only exception for this is for pinnipeds (seals) and small delphinids (*i.e.*, those from the genera *Delphinus*, *Lagenorhynchus*, *Stenella* or *Tursiops*).

If a marine mammal is detected approaching or entering the SZs during the HRG survey, the vessel operator would adhere to the shutdown procedures described below to

minimize noise impacts on the animals. During use of acoustic sources with the potential to result in marine mammal harassment (sparkers and non-parametric sub-bottom profilers; *i.e.*, anytime the acoustic source is active, including ramp-up), occurrences of marine mammals within the monitoring zone (but outside the SZs) must be communicated to the vessel operator to prepare for potential shutdown of the acoustic source.

Visual Monitoring—Monitoring must be conducted by qualified PSOs who are trained biologists, with minimum qualifications described in the **Federal Register** notices for the 2022 project (87 FR 38067, June 27, 2022; 87 FR 50293, August 16, 2022). Atlantic Shores must have one PSO on duty during the day and a minimum of two NMFS-approved PSOs must be on duty and conducting visual observations when HRG equipment is in use at night. Visual monitoring must begin no less than 30 minutes prior to ramp-up of HRG equipment and continue until 30 minutes after use of the acoustic source. PSOs must establish and monitor the applicable clearance zones, SZs, and vessel separation distances as described in the 2022 IHA (87 FR 38067, June 27, 2022; 87 FR 50293, August 16, 2022). PSOs must coordinate to ensure 360-degree visual coverage around the vessel from the most appropriate observation posts, and must conduct observations while free from distractions and in a consistent, systematic, and diligent manner. PSOs are required to estimate distances to observed marine mammals. It is the responsibility of the Lead PSO on duty to communicate the presence of marine mammals as well as to communicate action(s) that are necessary to ensure mitigation and monitoring requirements are implemented as appropriate.

Pre-Start Clearance—Marine mammal clearance zones (CZs) would be established around the HRG survey equipment and monitored by NMFS-approved protected species observers (PSOs) prior to use of sparkers and non-parametric sub-bottom profilers as follows:

- 500-m CZ for all ESA-listed species; and,
- 100-m CZ for all other marine mammals.

Prior to initiating HRG survey activities, Atlantic Shores should implement a 30-minute pre-start clearance period. The operator must notify a designated PSO of the planned start of ramp-up where the notification time should not be less than 60 minutes prior to the planned ramp-up to allow the PSOs to monitor the CZs for 30

minutes prior to the initiation of ramp-up. Prior to ramp-up beginning, Atlantic Shores would receive confirmation from the PSO that the CZs are clear prior to preceding. Any PSO on duty has the authority to delay the start of survey operations if a marine mammal is detected within the applicable pre-start clearance zones.

During this 30-minute period, the entire CZ must be visible. The exception to this would be in situations where ramp-up must occur during periods of poor visibility (inclusive of nighttime) as long as appropriate visual monitoring has occurred with no detections of marine mammals in 30 minutes prior to the beginning of ramp-up. Acoustic source activation must only occur at night where operational planning cannot reasonably avoid such circumstances.

If a marine mammal is observed within the relevant CZs during the pre-start clearance period, initiation of HRG survey equipment must not begin until the animal(s) has been observed exiting the respective clearance zone, or until an additional period has elapsed with no further sighting (*i.e.*, minimum 15 minutes for small odontocetes and seals; 30 minutes for all other species). The pre-start clearance requirement includes small delphinids. PSOs must also continue to monitor the zone for 30 minutes after survey equipment is shut down or survey activity has concluded.

Ramp-Up of Survey Equipment—When technically feasible, a ramp-up procedure must be used for geophysical survey equipment capable of adjusting energy levels at the start or re-start of survey activities. The ramp-up procedure must be used at the beginning of HRG survey activities in order to provide additional protection to marine mammals near the project area by allowing them to detect the presence of the survey and vacate the area prior to the commencement of survey equipment operation at full power. Ramp-up of the survey equipment must not begin until the relevant SZs has been cleared by the PSOs, as described above. HRG equipment operators must ramp up acoustic sources to half power for 5 minutes and then proceed to full power. If any marine mammals are detected within the SZs prior to or during ramp-up, the HRG equipment must be shut down (as described below).

Shutdown Procedures—If an HRG source is active and a marine mammal is observed within or entering a relevant SZ (as described above), an immediate shutdown of the HRG survey equipment is required. When shutdown is called for by a PSO, the acoustic source must

be immediately deactivated and any dispute resolved only following deactivation. Any PSO on duty has the authority to delay the start of survey operations or to call for shutdown of the acoustic source if a marine mammal is detected within the applicable SZ. The vessel operator must establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the HRG source(s) to ensure that shutdown commands are conveyed swiftly while allowing PSOs to maintain watch. Subsequent restart of the HRG equipment may only occur after the marine mammal has been observed exiting the relevant SZ, or, until an additional period has elapsed with no further sighting of the animal within the relevant SZ.

Upon implementation of shutdown, the HRG source may be reactivated after the marine mammal that triggered the shutdown has been observed exiting the applicable SZ or, following a clearance period of 15 minutes for small odontocetes and seals and 30 minutes for all other species with no further observation of the marine mammal(s) within the relevant SZ. If the HRG equipment is shut down for brief periods (*i.e.*, less than 30 minutes) for reasons other than mitigation (*e.g.*, mechanical or electronic failure), the equipment may be re-activated as soon as is practicable at full operational level, without 30 minutes of pre-clearance, only if PSOs have maintained constant visual observation during the shutdown and no visual detections of marine mammals occurred within the applicable SZs during that time. For a shutdown of 30 minutes or longer, or if visual observation was not continued diligently during the pause, pre-clearance observation is required, as described above. The acoustic source(s) must be deactivated when not acquiring data or preparing to acquire data, except as necessary for testing. Unnecessary use of the acoustic source shall be avoided.

The shutdown requirement is waived for pinnipeds (seals) and certain genera of small delphinids (*i.e.*, *Delphinus*, *Lagenorhynchus*, *Stenella*, or *Tursiops*) under certain circumstances. If a delphinid(s) from these genera is visually detected within the SZ, shutdown would not be required. If there is uncertainty regarding identification of a marine mammal species (*i.e.*, whether the observed marine mammal(s) belongs to one of the delphinid genera for which shutdown is waived), PSOs must use best professional judgment in making the decision to call for a shutdown.

If a species for which authorization has not been granted, or a species for which authorization has been granted but the authorized number of takes have been met, approaches or is observed within the area encompassing the Level B harassment isopleth (141 m), shutdown must occur.

Vessel Strike Avoidance—Atlantic Shores must comply with vessel strike avoidance measures as described in the **Federal Register** notice for the 2022 IHA (87 FR 50293, August 16, 2022). This includes speed restrictions (10 kn (5.14 m/s) or less) when mother/calf pairs, pods, or large assemblages of cetaceans are spotted near a vessel; species-specific vessel separation distances; appropriate vessel actions when a marine mammal is sighted (*e.g.*, avoid excessive speed, remain parallel to animal's course, *etc.*); and monitoring of the NMFS North Atlantic Right Whale reporting system and WhaleAlert daily.

Throughout all phases of the survey activities, Atlantic Shores must monitor NOAA Fisheries North Atlantic right whale reporting systems for the establishment of a dynamic management area (DMA). If NMFS establishes a DMA in the surrounding area, including the project area or export cable routes being surveyed, Atlantic Shores is required to abide by the 10-kn speed restriction.

Seasonal Operating Requirements—Atlantic Shores will conduct HRG survey activities in the vicinity of a North Atlantic right whale Mid-Atlantic seasonal management area (SMA). Activities must comply with the seasonal mandatory speed restriction period for this SMA (November 1 through April 30) for any survey work or transit within this area.

Training—Project-specific training is required for all vessel crew prior to the start of survey activities.

Reporting—PSOs must record specific information as described in the **Federal Register** notice of the issuance of the 2022 IHA (87 FR 50293, August 16, 2022). Within 90 days after completion of survey activities, Atlantic Shores must provide NMFS with a monitoring report, which must include summaries of recorded takes and estimates of the number of marine mammals that may have been harassed.

In the event of a ship strike or discovery of an injured or dead marine mammal, Atlantic Shores must report the incident to the Office of Protected Resources (OPR), NMFS and to the New England/Mid-Atlantic Regional Stranding Coordinator as soon as feasible. The report must include the information listed in the **Federal Register** notice of the issuance of the

initial IHA (87 FR 50293, August 16, 2022).

Preliminary Determinations

Atlantic Shores' HRG survey activities are unchanged from those analyzed in support of the 2022 IHA. The effects of the activity, taking into consideration the proposed mitigation and related monitoring measures, remain unchanged from those evaluated in support of the 2022 IHA, regardless of the minor increases in estimated take for two marine mammal species (humpback whale and minke whale). NMFS expects that all potential takes would be short-term Level B behavioral harassment in the form of temporary avoidance of the area or decreased foraging (if such activity was occurring), reactions that are considered to be of low severity and with no lasting biological consequences (*e.g.*, Southall *et al.*, 2007). In addition to being temporary, the maximum expected harassment zone around a survey vessel is 141 m from use of the AA Dura-spark sparker. Although this distance is assumed for all survey activity evaluated here and in estimating take numbers proposed for authorization, in reality, much of the survey activity would involve use of non-impulsive acoustic sources with a reduced acoustic harassment zone of up to 56 m, producing expected effects of particularly low severity. The ensounded area surrounding each vessel is extremely small compared to the overall distribution of the animals in the area and the available habitat.

Feeding behavior is not likely to be significantly impacted as prey species are mobile and are broadly distributed throughout the survey area; therefore, marine mammals that may be temporarily displaced during survey activities are expected to be able to resume foraging once they have moved away from areas with disturbing levels of underwater noise. Because of the temporary nature of the disturbance and the availability of similar habitat and resources in the surrounding area, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-term consequences for individual marine mammals or their populations. Even considering the increased estimated take for some species, the impacts of these lower severity exposures are not expected to accrue to a degree that the fitness of any individuals would be impacted and, therefore, no impacts on the annual rates of recruitment or survival would result.

As previously discussed in the 2022 IHA (87 FR 50293, August 16, 2022),

impacts from the survey are expected to be localized to the specific area of activity and only during periods when Atlantic Shores' acoustic sources are active. There are no rookeries, mating or calving grounds, or any feeding areas known to be biologically important to marine mammals within the proposed survey area. There is no designated critical habitat for any marine mammals listed under the Endangered Species Act (ESA) in the survey area.

As noted for the 2022 IHA (87 FR 50293, August 16, 2022), the survey area overlaps a migratory corridor biologically important area (BIA) and migratory route seasonal management area (SMA) (Port of New Jersey/New York) for North Atlantic right whales. As the survey activities would be temporary and the spatial acoustic footprint produced by the survey would be very small relative to the spatial extent of the available migratory habitat in the BIA (269,448 km²), NMFS does not expect North Atlantic right whale migration to be impacted by the survey. Required vessel strike avoidance measures would also decrease risk of ship strike during migration; no ship strike is expected to occur during Atlantic Shores' proposed activities. Atlantic Shores would be required to comply with seasonal speed restrictions of these SMAs, and in any dynamic management area (DMA), should NMFS establish one (or more) in the proposed survey area. Additionally, Atlantic Shores requested, and NMFS proposes, to authorize only five takes by Level B harassment of North Atlantic right whales. This amount is less than the 24 Level B harassment takes authorized in the 2022 IHA due to the updated Duke University density data (Roberts *et al.*, 2023).

Although take by Level B harassment of North Atlantic right whales has been proposed for authorization by NMFS, we anticipate such take may not actually occur, and should it occur, we anticipate a very low level of harassment because Atlantic Shores is required to maintain a shutdown zone of 500 m if a North Atlantic right whale is observed. The takes proposed for authorization account for any missed animals wherein the survey equipment is not shut down immediately. As shutdown would be called for immediately upon detection (if the whale is within 500 m), it is likely the exposure time would be very limited and received levels would not be much above the harassment threshold. Further, the 500-m SZ for North Atlantic right whales is conservative, considering the Level B harassment isopleth for the most impactful acoustic

source (*i.e.*, AA Dura-spark sparker) is estimated to be 141 m, and thereby minimizes the potential for behavioral harassment of this species. As noted previously, Level A harassment is not expected due to the small permanent threshold shift (PTS) zones associated with HRG equipment types proposed for use. NMFS does not anticipate North Atlantic right whale takes that would result from Atlantic Shores' activities would impact annual rates of recruitment or survival. Thus, any takes that occur would not result in population level impacts.

We also note that our findings for other species with active UMEs that were previously described for the 2022 IHA remain applicable to this project. Therefore, in conclusion, 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 preliminarily determined the following: (1) the required mitigation measures would effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the proposed authorized takes would have a negligible impact on the affected marine mammal species or stocks; (3) the proposed authorized takes represent small numbers of marine mammals relative to the affected stock abundances; (4) Atlantic Shores' activities would not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action; and (5) appropriate monitoring and reporting requirements are included.

Endangered Species Act

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.

NMFS is proposing to authorize the incidental take of four species of marine mammals which are listed under the ESA, the North Atlantic right, fin, sei, and sperm whale, and has determined that this activity falls within the scope of activities analyzed in NMFS Greater Atlantic Regional Fisheries Office's programmatic consultation regarding geophysical surveys along the U.S.

Atlantic coast in the three Atlantic Renewable Energy Regions (completed June 29, 2021; revised September 2021).

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to Atlantic Shores for conducting high-resolution geophysical site characterization surveys off New Jersey and New York for a period of 1 year, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>.

Request for Public Comments

We request comment on our analyses (included in both this document and the referenced documents supporting the 2022 IHA (ITA application; issued IHA; and **Federal Register** notices including 87 FR 38067, June 27, 2022; 87 FR 50293, August 16, 2022)), the proposed authorization, and any other aspect of this notice of proposed IHA for the HRG marine site characterization surveys. We also request comment on the potential for renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

On a case-by-case basis, NMFS may issue a one-time, 1-year renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical activities as described in the Description of the Proposed Activity and Anticipated Impacts section of this notice is planned, or (2) the activities as described in the Description of the Proposed Activity and Anticipated Impacts section of this notice would not be completed by the time the IHA expires and a renewal would allow for completion of the activities beyond that described in the *Dates and Duration* section of this notice, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to the needed renewal IHA effective date (recognizing that the renewal IHA expiration date cannot extend beyond 1 year from expiration of the initial IHA).

- The request for renewal must include the following:

- (1) An explanation that the activities to be conducted under the requested renewal IHA are identical to the activities analyzed under the initial

IHA, are a subset of the activities, or include changes so minor (e.g., reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take).

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

- Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: June 23, 2023.

Kimberly Damon-Randall,

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

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BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XD056]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Phase II of the Richmond-San Rafael Bridge Restoration Project

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

ACTION: Notice; proposed incidental harassment authorization; request for comments on proposed authorization and possible renewal.

SUMMARY: NMFS has received a request from the California Department of Transportation (Caltrans) for authorization to take marine mammals incidental to Phase II of the Richmond-San Rafael Bridge Restoration Project in Richmond, CA. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible one-time, 1-year renewal that could be issued under certain circumstances and if all

requirements are met, as described in Request for Public Comments at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorization and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than July 28, 2023.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service and should be submitted via email to ITP.cockrell@noaa.gov.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments, including all attachments, must not exceed a 25-megabyte file size. All comments received are a part of the public record and will generally be posted online at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>. In case of problems accessing these documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT: Craig Cockrell, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the 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 proposed or, if the taking is limited to

harassment, a notice of a proposed IHA is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as “mitigation”); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216-6A, NMFS must review our proposed action (*i.e.*, the issuance of an IHA) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs 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 has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

Summary of Request

On December 28, 2022, NMFS received a request from Caltrans for an IHA to take marine mammals incidental to construction activities to restore portions of the Richmond-San Rafael Bridge. Following NMFS’ review of the application, Caltrans submitted a revised version on April 14, 2023, which was deemed adequate and

complete on May 11, 2023. Caltrans' request is for take of harbor seals (*Phoca vitulina*) by Level B harassment only. Neither Caltrans nor NMFS expect serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of Proposed Activity

Overview

Caltrans would conduct construction activities to restore a portion of the Richmond-San Rafael Bridge. Prior to restoration work Caltrans would install a debris containment system to ensure contaminants from construction are not deposited into San Francisco Bay. During the deployment and retrieval of the containment system disturbance (i.e., Level B harassment) of harbor seals may occur. Once the debris containment system is deployed the restoration work on the bridge is not expected to result in any takes of marine mammals, as the

containment system is expected to shield seals from disturbance as a result of visual and acoustic stimuli. Takes of harbor seals would occur at the nearby Castro Rocks haulout. The Richmond-San Rafael Bridge is located in the northern portion of San Francisco Bay and is located between Richmond, CA and San Rafael, CA. The debris containment system would be used on Piers 52–57 and the proposed action area is approximately 3.5 square miles (9.2 square kilometers). Work on the bridge would be conducted throughout the year once the debris containment system is in place. The deployment and retrieval of the containment system would only occur during between August 1 and March 30 to avoid pupping and molting seasons of harbor seals.

Dates and Duration

The proposed IHA would be effective from August 1, 2023 to March 30, 2024.

It is expected that the debris containment system would take up to 20 days to deploy and 10 days to remove (30 total days). The debris containment system would only be deployed during daylight hours but restoration work would occur throughout the day and night following deployment.

Specific Geographic Region

Located in the northern reaches of San Francisco Bay, the eastern portion of Richmond-San Rafael Bridge is surrounded by the industrial complex of the Chevron Richmond Refinery. Castro Rocks is an important haulout location for harbor seals in San Francisco Bay. The nearest outcropping of Castro Rocks, where harbor seals are known to haulout, is located approximately 21.3 meters (m) from Pier 55, and the farthest outcropping is located approximately 145 m from Pier 52.

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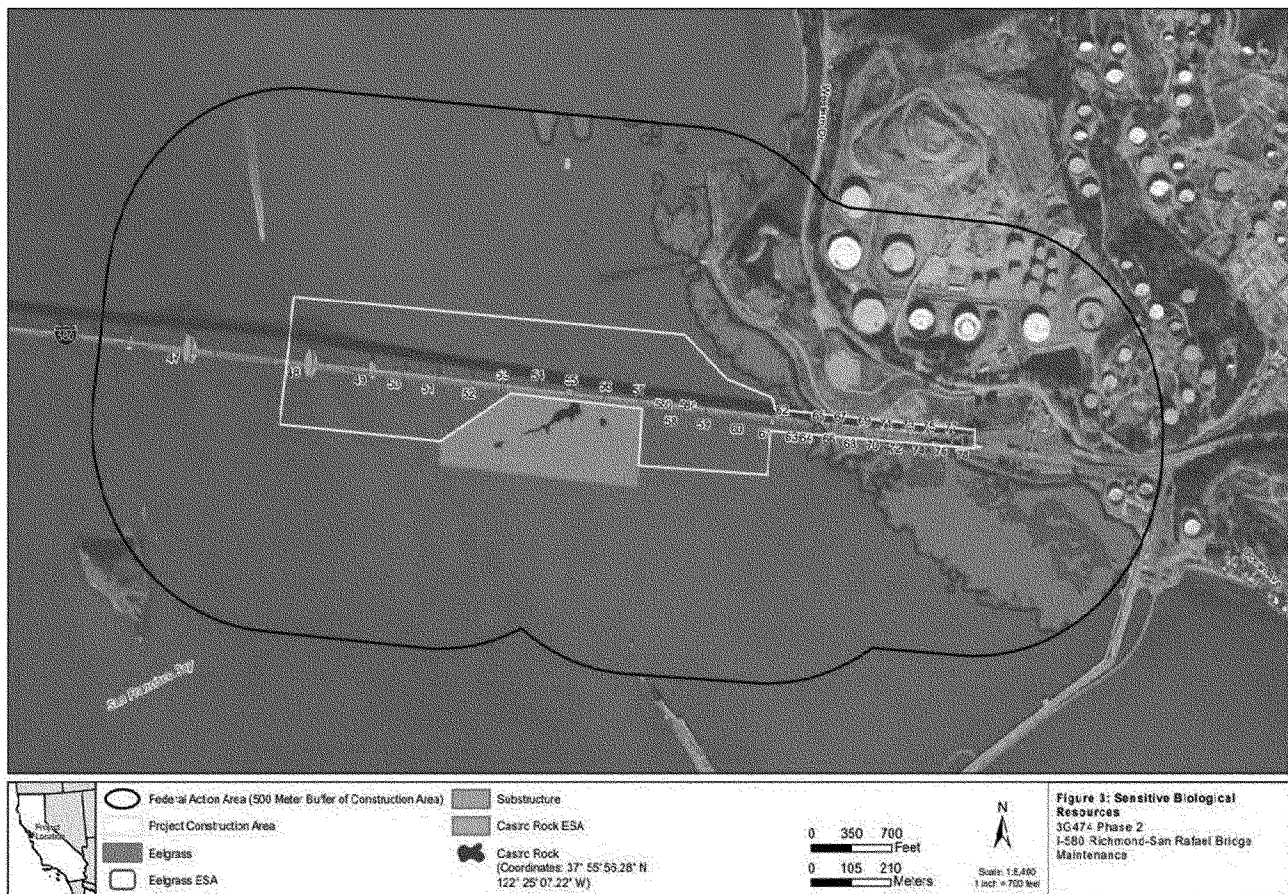


Figure 1 -- Project Location of the Richmond-San Rafael Bridge

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Detailed Description of the Specified Activity

The restoration improvements to the Richmond-San Rafael Bridge include sandblasting, cleaning, and painting of the upper and lower deck and repair of the road deck and expansion joints on the lower deck. To remove the existing paint from the bridge sandblasting and rotary sanding would be completed using compressed air and power sanders. Primer and paint would then be applied using a pneumatic paint sprayer. All of the paint removal and painting work would rely on a generator and an air compressor from a barge on the north side of the bridge.

Localized spalled road deck concrete would be repaired and damaged concrete will be removed using pneumatic air chisels. All exposed rebar would be sandblasted prior to placement of new structural concrete in the spalled area. Bridge joints would be replaced on the lower deck of the bridge. Replacement of the bridge joints would involve concrete saws to remove the old joint.

All of these activities have the potential to emit sound in the vicinity of Castro Rocks. Although sound would be produced by the construction activities, the deployment of a debris containment system would attenuate the sound and block any visual disturbance from reaching Castro Rocks. All construction activities would be conducted within the debris containment system. As such, the deployment and removal of the debris containment system is expected to be

the only activity that would result in takes of harbor seals hauled out at Castro Rocks. The visibility of workers in the project area during the installation and removal of the debris containment system would likely cause behavioral reactions such as flushing from the haul-out, not hauling out, head alerts, or moving farther from the disturbance to forage.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see Proposed Mitigation and Proposed Monitoring and Reporting).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. NMFS fully considered all of this information, and we refer the reader to these descriptions in materials that are referenced in the document, instead of reprinting the information. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SARs; www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments) and more general information about these species (e.g., physical and behavioral descriptions) may be found on NMFS' website (<https://www.fisheries.noaa.gov/find-species>).

Table 1 lists all species or stocks for which take is expected and proposed to

be authorized for this activity, and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no serious injury or mortality is anticipated or proposed to be authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species or stocks and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. All managed stocks in this region are assessed in NMFS' Pacific SARs, and NMFS has reviewed the most current information for the species. All values presented in Table 1 are the most recent available at the time of publication and are available online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>.

TABLE 1—SPECIES LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) ¹	Stock abundance (CV, N _{min} , most recent abundance survey) ²	PBR	Annual M/SI ³
Order Carnivora—Pinnipedia						
<i>Family Phocidae (earless seals):</i>						
Harbor seal	<i>Phoca vitulina</i>	California	N	30,968 (N/A, 27,348, 2012).	1,641	43

¹ Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

² NMFS marine mammal stock assessment reports online at: <https://www.nmfs.noaa.gov/pr/sars/>. CV is coefficient of variation; Nmin is the minimum estimate of stock abundance. In some cases, CV is not applicable.

³ These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range.

As indicated above, harbor seals temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur. While California sea lions, Steller sea lions, northern elephant seals, northern fur seals, harbor porpoise, bottlenose dolphins, gray whales, and humpback

whales have been documented in the area, the temporal and/or spatial occurrence of these species is such that take is not expected to occur, and they are not discussed further beyond the explanation provided here. For pinnipeds in the aforementioned list, there are no other documented haulouts

close to the project area. Since no in-water work is proposed there would be no effects on these species potentially present in the water during this work. For the cetacean species listed above, no take is expected for those species due to the lack of in-water work planned for this project.

Harbor Seal

Pacific harbor seals are distributed from Baja California north to the Aleutian Islands of Alaska. Seals primarily haulout on remote mainland and island beaches, reefs, and estuary areas. At haulouts, they will congregate to rest, socialize, breed, and molt. Haulouts are relatively consistent from year to year (Kopec and Harvey, 1995), and females have been documented to return to their own natal haulout when breeding (Green *et al.*, 2006).

The Pacific harbor seal population experienced an increase from 1981–2004, followed by a steady decrease from between 2005–2010. The maximum statewide count showed that the California stock sharply declined in 2009 and 2012 (Duncan 2019). Caltrans conducted extensive marine mammal surveys in San Francisco Bay before and during seismic retrofit on the Richmond-San Rafael Bridge from 1998–2002. Caltrans determined that a minimum of 500 harbor seals occur within San Francisco Bay (Green *et al.*, 2002), an estimate that agrees with more recent seal counts (Lowry *et al.*, 2008; Codde *et al.*, 2020). The California harbor seal stock may be stabilizing at or near carrying capacity, although conservation concerns such as vessel strikes, disturbance, fishing gear entanglement, and habitat loss are still a concern in the San Francisco Bay area (Duncan 2019).

The nearest major haulout site to the project area is Castro Rocks, located approximately 21.3 meters from Pier 55 of the bridge, and the farthest outcropping is located approximately 145 meters from Pier 52 of the bridge. Use of Castro Rocks as a haulout site has been increasing over the years (Codde *et al.*, 2020). Given the close proximity of Castro Rocks to the project area it is likely seals would be present on the rocks during construction. There are also smaller numbers of harbor seals have also been reported to haulout on the western Brother Island, approximately 3.35 kilometers to the north of the bridge.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section provides a discussion of the ways in which components of the specified activity may impact marine mammals and their habitat. The Estimated Take of Marine Mammals section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The Negligible Impact Analysis and Determination section considers the content of this section, the

Estimated Take of Marine Mammals section, and the Proposed Mitigation section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and whether those impacts are reasonably expected to, or reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The visual stimuli generated by the deployment and removal of the debris containment system has the potential to cause Level B harassment of pinnipeds hauled out at Castro Rocks. This section includes a summary and discussion of the ways that the types of stressors associated with the specified activity (personnel presence while assembling the containment system) have been observed to impact marine mammals.

The appearance of personnel may have the potential to cause Level B harassment of any harbor seals hauled out at Castro Rocks during the time of installation or removal of the debris containment system. Disturbance may result in reactions from harbor seals ranging from becoming alert to the presence of personnel (*e.g.*, turning the head, assuming a more upright posture) to flushing from the haulout site into the water or not hauling out at all. NMFS does not consider the lesser reactions to constitute behavioral harassment, or takes by Level B harassment. NMFS rather assumes that harbor seals that flee some distance or change the speed or direction of their movement in response to the presence of personnel are behaviorally harassed, and thus subject to take by Level B harassment. Animals that respond to the presence of workers by becoming alert, but do not move or change the nature of locomotion as described, are not considered to have been subject to behavioral harassment.

There are other ways in which disturbance, as described previously, could result in more than Level B harassment of marine mammals. They are most likely to be consequences of stampeding, a potentially dangerous occurrence in which large numbers of animals succumb to mass panic and rush away from a stimulus. However, NMFS does not expect this to occur at the project area. Caltrans will take precautions, such as establishment of a non-disturbance buffer within 400 feet (121 meters) of Castro Rocks on the south side of bridge, steering watercraft so as not to approach marine mammal haulout sites, and a requirement that watercraft maintain a slow steady speed when passing by Castro Rocks. Furthermore, the debris containment system would be installed outside of the

pupping and molting season to ensure no impacts to pups at Castro Rocks.

Monitoring efforts from a 2001 seismic retrofit project at the same site found that on average there were 0.16 construction related disturbance events (flushes) per hour of field time caused by construction related disturbances during daytime monitoring at Castro Rocks (Green *et al.*, 2004). Construction-related disturbances at Castro Rocks consisted of two main factors: watercraft in the area of the haulout site and construction activities including jackhammering, rivet work, and the movement of cranes on barges near the haulout site (Green *et al.*, 2004). Construction noise and activity from this project are considerably less than the seismic retrofit project due to the lack of jackhammering, rivet work and construction activities at water level. Once the scaffolding and debris containment system is installed on the lower bridge deck, the work area will be screened, and take by Level B harassment due to ongoing construction activities inside the containment system is not anticipated.

Given the nature of the proposed activities (*i.e.*, installation and removal of the debris containment system) in conjunction with proposed mitigation measures, NMFS is confident that any anticipated effects would be in the form of behavioral disturbance only. NMFS considers the risk of injury, serious injury, or mortality to marine mammals to be extremely unlikely.

There are no habitat modifications associated with the proposed activity. The debris containment system, construction waste, or watercraft (including barges) would not make contact with Castro Rocks. Thus, NMFS does not expect that the proposed activity would have any effects on marine mammal habitat and NMFS expects that there will be no long- or short-term physical impacts to pinniped habitat on Castro Rocks.

Estimated Take of Marine Mammals

This section provides an estimate of the number of incidental takes proposed for authorization through this IHA, which will inform both NMFS' consideration of "small numbers," and the negligible impact determinations.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines "harassment" as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal

stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to the novel stimulus of the installation and removal of the debris containment system. Based on the nature of the activity, Level A harassment is neither anticipated nor proposed to be authorized.

As described previously, no serious injury or mortality is anticipated or proposed to be authorized for this activity. Below, we describe how the proposed take numbers are estimated.

Marine Mammal Occurrence and Take Estimates

In this section, we provide information about the occurrence of marine mammals, including density or other relevant information, which will inform the take calculations. We will also describe how this information is brought together to produce a quantitative take estimate for each species.

Castro Rocks is the largest harbor seal haulout site in northern San Francisco Bay and is the second largest pupping site in San Francisco Bay (Kopeck and Harvey 1995). The harbor seal pupping season is from April to July in San Francisco Bay. Seals are present on the haulout year round during medium to low tides (Green *et al.*, 2004). Recent observations at the Castro Rocks haulout site reported approximately 300 seals during the pupping and molting seasons (Codde and Allen, 2020). The highest mean number of harbor seals observed at Castro Rocks during recent annual National Park Service surveys was 237 seals observed in 2019 (Codde and Allen, 2013, 2015, 2017, 2020; Codde 2020).

Caltrans expects to harass approximately 300 harbor seals per day during the installation and removal of the debris containment system. It is expected to take 30 days for Caltrans to complete this process. Based on these assumptions Caltrans requested authorization of 9,000 takes by Level B harassment of harbor seals while hauled out. NMFS concurs with this request.

Proposed Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of

taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, NMFS considers two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, and impact on operations.

Mitigation for Marine Mammals and Their Habitat

Caltrans proposes to implement the following measures during Phase II of the Richmond-San Rafael Bridge Restoration Project:

(1) Seasonal Work Restrictions: installation or removal of the debris containment system must not occur between Piers 52–57 from April 1–July 31 due to the pupping and molting period of harbor seals.

(2) Work must not take place outside of the containment system on the bridge between Piers 52–57 from April 1 to July 31.

(3) A non-disturbance buffer will be established within 400 feet (121 meters) of Castro Rocks on the south side of bridge.

(4) Staging of barges will not be allowed in the project area.

(5) Routes for watercraft to reach work locations would be predetermined in consultation with the project biologist to avoid harassment or take of marine mammals hauled out at Castro Rocks.

(6) No piles may be driven or vibrated to create staging locations for any watercraft. Barges and vessels would be tethered to the existing concrete bridge piers.

Based on our evaluation of the applicant's proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present while conducting the activities. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.*, presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or environment (*e.g.*, source characterization, propagation, ambient noise); (2) affected species (*e.g.*, life history, dive patterns); (3) co-occurrence of marine mammal species with the activity; or (4) biological or behavioral context of exposure (*e.g.*, age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;

- How anticipated responses to stressors impact either: (1) long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (e.g., marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and,
- Mitigation and monitoring effectiveness.

Caltrans will monitor to collect data on marine mammal behavior, counts of the individuals observed, and the frequency of the observations. Caltrans will collect sighting data and observations on behavioral responses to construction for marine mammal species observed in the region of activity during the period of construction. All observers will be trained in the identification of marine mammals and marine mammal behaviors.

- Protected species observers (PSOs) must be independent observers (i.e., not construction personnel). All PSOs must have the ability to conduct field observations and collect data according to assigned protocols, be experienced in field identification of marine mammals and their behaviors. Caltrans must

submit their resumes to NMFS for approval;

- Biological monitoring must occur 5 days prior to the Project's start date, to establish baseline observations.
- Observation periods will encompass different tide levels and hours of the day. Monitoring of marine mammals around the construction site will be conducted using binoculars as necessary.
- The proposed location of the PSOs will be at a monitoring platform positioned on Pier 55 of the Richmond-San Rafael Bridge, at the closest pier of the Richmond-San Rafael Bridge to Castro Rocks. Pier 55 is approximately 21 meters from the nearest rock at Castro Rocks harbor seal colony.

Data Collection

Caltrans will record detailed information about counts and behaviors of all marine mammal species observed, times of observations, construction activities that occurred, any visual disturbances, and weather conditions, with particular focus on harbor seals at Castro Rocks. PSOs will use approved data forms to record the following information:

- Observation position and start and end times of observations;

- Weather conditions (sunny/cloudy, wind speed, fog, visibility), temperature, tide level, current, and sea state;
- Species counts (including with or without pup, and, if possible, sex and age classes of any observed marine mammal species);
- Identifying marks or color (scars, red pelage, etc.);
- Position relative to Richmond-San Rafael bridge (distance and direction);
- Movement (direction and relative speed);
- Behavior (logging (resting at the surface), swimming, spyhopping (raising above the water surface to view the area), foraging, etc.);
- Duration of sighting or times of multiple sightings of the same individual; and
- Details of any marine mammal behavioral disturbances, including information regarding the activity (e.g. disturbance from the containment system installation and removal or construction related disturbance within or outside the containment system), the type of behavioral response to the disturbance (flushing or head posturing), and the rate of disturbance on Castro Rocks. Disturbance events must be categorized according to the 3-point scale as shown in Table 2.

TABLE 2—LEVELS OF PINNIPED BEHAVIORAL DISTURBANCE

Level	Type of response	Definition
1	Alert	Seal head orientation or brief movement in response to disturbance, which may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, changing from a lying to a sitting position, or brief movement of less than twice the animal's body length.
2*	Movement	Movements in response to the source of disturbance, ranging from short withdrawals at least twice the animal's body length to longer retreats over the beach, or if already moving a change of direction of greater than 90 degrees.
3*	Flush	All retreats (flushes) to the water.

* Only observations of disturbance Levels 2 and 3 are recorded as takes.

Reporting Measures

Caltrans shall submit a draft report to NMFS within 90 days of the completion of marine mammal monitoring, or 60 days prior to the issuance of any subsequent IHA for this project (if required), whichever comes first. The annual report would detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed. If no comments are received from NMFS within 30 days, the draft final report will become final. If comments are received, a final report must be submitted up to 30 days after receipt of comments. All PSO datasheets and/or raw sighting data must be submitted with the draft marine mammal report.

Reports shall contain the following information:

- Dates and times (begin and end) of all marine mammal monitoring;
- Construction activities occurring during each daily observation period including: (a) what type of restoration work is being completed, and (b) the total duration of work completed;
- PSO locations during monitoring; and
- Environmental conditions during monitoring periods (at beginning and end of PSO shift and whenever conditions change significantly), including sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance.

Upon observation of a marine mammal, the following information must be reported:

- Name of PSO who sighted the animal(s) and PSO location and activity at time of sighting;
- Time of sighting;
- Identification of the animal(s) (e.g., genus/species, lowest possible taxonomic level, or unidentified), and PSO confidence in identification;
- Distance and location of each observed marine mammal relative to the bridge restoration work;
- Estimated number of animals by species (min/max/best estimate);
- Estimated number of animals by cohort (adults, pups, and group composition, etc.);

- Description of any marine mammal behavioral observations (*e.g.*, observed behaviors such as feeding or traveling), including an assessment of behavioral responses thought to have resulted from the activity (*e.g.*, no response or changes in behavioral state such as flushing or head posturing); and

- Detailed information about implementation of any mitigation measures, a description of specified actions that ensured, and resulting changes in behavior of the animal(s), if any.

Reporting Injured or Dead Marine Mammals

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA (if issued), such as an injury (Level A harassment), serious injury or mortality (*e.g.*, ship-strike, gear interaction, and/or entanglement), Caltrans would immediately cease the specified activities and immediately report the incident to the Office of Protected Resources (*PR.ITP.MonitoringReports@noaa.gov*) and the West Coast Regional Stranding Coordinator. The report would include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved (if applicable);
- Vessel's speed during and leading up to the incident (if applicable);
- Description of the incident;
- Status of all sound source used in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (*e.g.*, wind speed and direction, sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the prohibited take. NMFS would work with Caltrans to determine necessary actions to minimize the likelihood of further prohibited take and ensure MMPA compliance. Caltrans would not be able to resume their activities until notified by NMFS via letter, email, or telephone.

In the event that Caltrans discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.*, in less

than a moderate state of decomposition as described in the next paragraph), Caltrans would immediately report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator. The report would include the same information identified in the section above. Activities would be able to continue while NMFS reviews the circumstances of the incident. NMFS would work with Caltrans to determine whether modifications in the activities are appropriate.

In the event that Caltrans discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.*, previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Caltrans would report the incident to Office of Protected Resources, NMFS, and West Coast Regional Stranding Coordinator, within 24 hours of the discovery. Caltrans would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. Construction activities would be permitted to continue.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.*, population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be "taken" through harassment, NMFS considers other factors, such as the likely nature of any impacts or responses (*e.g.*, intensity, duration), the context of any impacts or responses (*e.g.*, critical reproductive time or location, foraging impacts affecting energetics), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338, September 29, 1989), the impacts from other past and

ongoing anthropogenic activities are incorporated into this analysis via their impacts on the baseline (*e.g.*, as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

NMFS does not expect Caltrans' construction activities to cause long-term behavioral disturbance that would negatively impact an individual animal's fitness, or result in injury, serious injury, or mortality. Although the installation and deployment of the debris containment system may disturb harbor seals hauled out at Castro Rocks, NMFS expects those impacts to be of short duration (20 days for installation and 10 day for removal) with minimal effect to the animals. Minor and brief responses including short-duration startle reactions, are not likely to constitute disruption of behavioral patterns, such as migration, nursing, breeding, feeding, or sheltering.

The harbor seal stock for which incidental take authorization is proposed is not listed as threatened or endangered under the ESA or determined to be strategic or depleted under the MMPA. The proposed mitigation and monitoring measures, including the establishment of seasonal work schedules, a non-disturbance buffer around Castro Rocks, and watercraft routes, would minimize disturbance of seals on Castro Rocks and make Level A harassment unlikely. Therefore, the proposed mitigation and monitoring measures are expected to eliminate the potential for Level A harassment as well as reduce the amount and intensity for Level B harassment. The construction activities analyzed here are similar to, or less impactful than, numerous construction activities conducted in other similar locations which have occurred with no reported injuries or mortality to marine mammals, and no known long-term adverse consequences from behavioral harassment.

Anticipated and authorized takes are expected to be limited to short-term Level B harassment (behavioral disturbance) as construction activities will occur over the course of 30 days. Effects on individuals taken by Level B harassment, based upon reports in the literature as well as monitoring from other similar activities, may include increased swimming speeds, increased surfacing time, or decreased foraging (*e.g.*, Thorson and Reyff 2006). Individual animals, even if taken multiple times, would likely move away from the visual disturbance of the debris containment system installation and

removal. Repeated exposures of individuals to this visual disturbance that could cause Level B harassment are unlikely to considerably disrupt foraging behavior or result in significant decrease in fitness, reproduction, or survival for the affected individuals. In all, there would be no adverse impacts to the stock as a whole.

There is no unusual mortality event (UME) currently associated with the harbor seal stock and there are no Biologically Important Areas or known important habitat, aside from Castro Rocks itself, within the project area. While essential fish habitat (EFH) for several fish species does exist in the proposed project area, the proposed activities would not modify existing marine mammal habitat since there is no in-water work. This construction activity should not impact marine mammals' foraging opportunities.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect any of the species or stocks through effects on annual rates of recruitment or survival:

- No serious injury or mortality is anticipated or authorized;
- Anticipated impacts of Level B harassment include temporary behavior modifications;
 - Short duration and intermittent nature of the debris containment system deployment and removal;
 - The specified project area is very small relative to the overall habitat ranges of the species and do not include habitat areas of special significance (Biologically Important Areas);
 - The lack of anticipated significant or long-term effects to marine mammal habitat;
 - The presumed efficacy of the mitigation measures in reducing the effects of the specified activity; and,
 - Monitoring reports from other construction work in San Francisco Bay have documented little to no effect on individuals of the same species impacted by the specified activities.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on the affected marine mammal stock.

Small Numbers

As noted previously, only take of small numbers of marine mammals may

be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The amount of take NMFS proposes to authorize in this IHA is below one-third of the estimated stock abundance for harbor seals (see Estimated Take of Marine Mammals). The take percentage of the estimated stock of harbor seals, if all estimated take events are assumed to occur to new individuals, would be 29.1 percent. However, this take estimate is assumed to represent repeated takes of the same individuals over time and, therefore, the take estimate represents a significantly smaller actual percentage of the total stock. It is expected that approximately 300 harbor seals are hauled out on Castro Rocks on any given day during the project. The majority of these 300 individuals are expected to be comprised of the same animals during the duration of the project. Therefore, it can be reasonably expected that the percentage of individuals of the overall stock of harbor seals is closer to approximately 1 percent.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals would be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

Section 7(a)(2) of the 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.

No incidental take of ESA-listed species is proposed for authorization 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.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to Caltrans for conducting Phase II of the Richmond-San Rafael Bridge Restoration Project in Richmond, CA from August 1, 2023 to March 30, 2024, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>.

Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this notice of proposed IHA for the proposed Phase II of the Richmond-San Rafael Bridge Restoration Project. We also request comment on the potential renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform decisions on the request for this IHA or a subsequent renewal IHA.

On a case-by-case basis, NMFS may issue a one-time, 1-year renewal IHA following notice to the public providing an additional 15 days for public comments when (1) up to another year of identical or nearly identical activities as described in the Description of Proposed Activity section of this notice is planned or (2) the activities as described in the Description of Proposed Activity section of this notice would not be completed by the time the IHA expires and a renewal would allow for completion of the activities beyond that described in the *Dates and Duration* section of this notice, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to the needed renewal IHA effective date (recognizing that the renewal IHA expiration date cannot extend beyond 1 year from expiration of the initial IHA).

- The request for renewal must include the following:

(1) An explanation that the activities to be conducted under the requested renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.*, reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take).

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: June 23, 2023.

Kimberly Damon-Randall,

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

[FR Doc. 2023–13751 Filed 6–27–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Final Revised Management Plan for the Grand Bay National Estuarine Research Reserve

AGENCY: Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of approval of the final revised management plan for the Grand Bay National Estuarine Research Reserve.

SUMMARY: Notice is hereby given that the Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce approves the revised

management plan for the Grand Bay National Estuarine Research Reserve in Mississippi. In accordance with the Coastal Zone Management Act and its implementing regulations, the Mississippi Department of Marine Resources revised the Grand Bay Reserve's management plan, which replaces the plan previously approved in 2018.

ADDRESSES: The approved Grand Bay Reserve management plan can be downloaded or viewed at <https://grandbayner.org/management-plan/>. The document is also available by sending a written request to the point of contact identified below (see **FOR FURTHER INFORMATION**).

FOR FURTHER INFORMATION CONTACT: Contact Matt Chasse of NOAA's Office for Coastal Management, by email at matt.chasse@noaa.gov, or phone at 240–628–5417.

SUPPLEMENTARY INFORMATION: Pursuant to 15 CFR 921.33(c), a State must revise the management plan for a research reserve at least every five years. Changes to a reserve's management plan may be made only after receiving written approval from NOAA. NOAA approves changes to management plans via notice in the **Federal Register**. On February 2, 2022, NOAA issued a notice in the **Federal Register** announcing a thirty-day public comment period for the proposed revision of the management plan for the Grand Bay National Estuarine Research Reserve (87 FR 5799). Appendix 16 of the plan contains a summary of written and oral comments received, and an explanation of how comments were incorporated into the final version of the management plan.

The management plan outlines the reserve's strategic goals and objectives; administrative structure; programs for conducting research and monitoring, education, and training; resource protection, restoration, and manipulation plans; public access and visitor use plans; consideration for future land acquisition; and facility development to support reserve operations. In particular, this updated management plan focuses on addressing specific research priorities including restoration effectiveness monitoring; understating physical and hydrological processes within the reserve; sources and impacts of contaminants; and the socio-economic impacts of ecosystem restoration. There is also an added focus related to monitoring programs as a valued regional and national reference site through the use of abiotic parameters, sentinel sites, atmospheric mercury, and restoration monitoring.

Furthermore, the plan prioritizes improving public access and the visitor experience through enhanced trail and debris management efforts, and a greater focus on habitat restoration, especially upland habitats (wet pine savannas and flatwoods) and along the marsh upland interface. Much of the effort in this plan is linked to the multi-year Grand Bay Land Acquisition and Habitat Management project.

The reserve's training program will design trainings around priority issues and a new focus area: transferring skills and knowledge relating to flood mitigation to nearby disadvantaged communities. Education programming will have a continued emphasis on place-based learning for students, teachers, non-traditional audiences (*i.e.*, artists, veterans, seniors and others). New, non-traditional audiences will be added with programs that focus on pre-K audiences, people with disabilities, additional programs for seniors, and other groups. These new programs will create opportunities for people who do not typically use the reserve or participate in reserve events.

Since the last management plan, the reserve has prioritized the comprehensive management of upland and estuarine resources at a landscape scale. Public trails were created or maintained, and boat access was improved. The reserve also has actively used fire management to restore wet pine savanna in collaboration with State and Federal partners. The revised management plan will serve as the guiding document for the 18,049-acre research reserve for the next five years.

Furthermore, no reserve boundary or acreage changes are incorporated into the updated management plan.

NOAA reviewed the environmental impacts of the Grand Bay revised management plan and determined that this action is categorically-excluded from further analysis under the National Environmental Policy Act, consistent with NOAA Administrative Order 216–6A.

Authority: 16 U.S.C. 1451 *et seq.*; 15 CFR 921.33.

John R. King,

Chief, Business Operations Division, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2023–13673 Filed 6–27–23; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648–XD102]

Caribbean Fishery Management Council's Outreach and Education Advisory Panel; Public Meeting

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

ACTION: Notice of a public hybrid meeting.

SUMMARY: The Caribbean Fishery Management Council's (Council) Outreach and Education Advisory Panel (OEAP) will hold a public hybrid meeting to address the items contained in the tentative agenda included in the **SUPPLEMENTARY INFORMATION**.

DATES: The OEAP public hybrid meeting will be held on July 19, 2023, from 9:30 a.m. to 5 p.m., AST.

ADDRESSES: The OEAP public hybrid meeting will be held at the Courtyard Isla Verde Beach Resort, 7012 Boca de Cangrejos Avenue, Carolina, Puerto Rico.

You may join the OEAP public hybrid meeting (via Zoom) from a computer, tablet or smartphone by entering the following address:

Join Zoom Meeting <https://us02web.zoom.us/j/84039986774?pwd=SUhDc1hXeFloQWF3ajVtL2ZHRGN3Zz09>

us02web.zoom.us/j/84039986774?pwd=SUhDc1hXeFloQWF3ajVtL2ZHRGN3Zz09

84039986774?pwd=SUhDc1hXeFloQWF3ajVtL2ZHRGN3Zz09

Meeting ID: 840 3998 6774

Passcode: 179728

One tap mobile

+17879667727,,

84039986774#,,,,*179728# Puerto Rico

+19399450244,,

84039986774#,,,,*179728# Puerto Rico

Dial by your location

+1 787 966 7727 Puerto Rico

+1 939 945 0244 Puerto Rico

+1 787 945 1488 Puerto Rico

+1 309 205 3325 US

+1 312 626 6799 US (Chicago)

+1 346 248 7799 US (Houston)

+1 360 209 5623 US

+1 386 347 5053 US

+1 507 473 4847 US

+1 564 217 2000 US

+1 646 931 3860 US

+1 669 444 9171 US

+1 669 900 6833 US (San Jose)

+1 689 278 1000 US

+1 719 359 4580 US

+1 929 205 6099 US (New York)

+1 253 205 0468 US

+1 253 215 8782 US (Tacoma)

+1 301 715 8592 US (Washington DC)

+1 305 224 1968 US

Meeting ID: 840 3998 6774

Passcode: 179728

Find your local number: <https://us02web.zoom.us/j/84039986774>

us02web.zoom.us/j/84039986774

FOR FURTHER INFORMATION CONTACT:

Miguel Rolón, Executive Director, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903; telephone: (787) 398–3717.

SUPPLEMENTARY INFORMATION: The following items included in the tentative agenda will be discussed:

July 19, 2023

9:30 a.m.

—Call to Order

—Adoption of Agenda

9:45 a.m.–10:15 a.m.

—OEAP Chairperson's Report

—Updates:

—Meetings and Webinars Attended:

CFMC 181st Meeting, Ponce, PR

—DAP Workshops, St. Croix, U.S.V.I.

and Puerto Rico for Outreach &

Education Materials for the IBFMPs

—EEJ Focus Group

—SSC EBFM TAP Joint Meeting

—NOAA Caribbean

—MREP

—Illustrated Booklet on Climate Change and U.S. Caribbean Fisheries

10:15 a.m.–10:20 a.m.

—Break

10:20 a.m.–11 a.m.

—Update on Status of the Fishery

Ecosystem Plan (FEP)—Liajaj

Rivera

—Outreach Materials on MPAs in

Puerto Rico—Vilmarie Román

11 a.m.–12 p.m.

—Update on Island-Based Fishery

Management Plans

—Fact Sheets on IBFMP

12 p.m.–1 p.m.

—Lunch Break

1 p.m.–5 p.m.

—OEAP Recommendations of Outreach

Strategies on IBFMPs for Puerto

Rico, St. Thomas/St. John, and St.

Croix, U.S.V.I.

—Liaisons Recommendations

—Liaisons Reports:

—Wilson Santiago—Puerto Rico

—Nicole Greaux—St. Thomas,

U.S.V.I.

—Mavel Maldonado—St. Croix,

U.S.V.I.

—CFMC Facebook, Instagram and

YouTube Communications with

Stakeholders

—Other Business

The order of business may be adjusted as necessary to accommodate the completion of agenda items. The meeting will begin on July 19, 2023, at 9:30 a.m., and will end on July 19, 2023, at 5 p.m., AST. Other than the start time, interested parties should be aware that discussions may start earlier or later than indicated, at the discretion of the Chair. In addition, the meeting may be completed prior to the date established in this notice.

Special Accommodations

For any additional information on this public hybrid meeting you may contact Diana Martino, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico, 00918–1903; telephone: (787) 226–8849.

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

Dated: June 23, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–13768 Filed 6–27–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648–XD095]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico

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

ACTION: Notice of modification to expiration date of Letter of Authorization (LOA).

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, its implementing regulations, and NMFS' MMPA Regulations for Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico (GOM), notification is hereby given that NMFS has modified the expiration date of a LOA issued to Echo Offshore, L.L.C. (Echo) for the take of marine mammals incidental to geophysical survey activity in the GOM.

DATES: This LOA is effective through December 31, 2023.

ADDRESSES: The LOA, LOA request, and supporting documentation are available online at: www.fisheries.noaa.gov/action/incidental-take-authorization-oil-and-gas-industry-geophysical-survey-activity-gulf-mexico. In case of problems accessing these documents, please call the contact listed below (see **FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Rachel Wachtendonk, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined “negligible impact” in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

On January 19, 2021, we issued a final rule with regulations to govern the unintentional taking of marine mammals incidental to geophysical survey activities conducted by oil and gas industry operators, and those

persons authorized to conduct activities on their behalf (collectively “industry operators”), in Federal waters of the U.S. GOM over the course of 5 years (86 FR 5322, January 19, 2021). The rule was based on our findings that the total taking from the specified activities over the 5-year period will have a negligible impact on the affected species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of those species or stocks for subsistence uses. The rule became effective on April 19, 2021.

Our regulations at 50 CFR 217.180 *et seq.* allow for the issuance of LOAs to industry operators for the incidental take of marine mammals during geophysical survey activities and prescribe the permissible methods of taking and other means of affecting the least practicable adverse impact on marine mammal species or stocks and their habitat (often referred to as mitigation), as well as requirements pertaining to the monitoring and reporting of such taking. Under 50 CFR 217.186(e), issuance of an LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations and a determination that the amount of take authorized under the LOA is of no more than small numbers.

NMFS issued an LOA to Echo on January 5, 2023, for the take of marine mammals incidental to a two-dimensional (2D) high resolution seismic survey in Lease Block G14576 (Main Pass Area 91) effective through June 30, 2023. Please see the **Federal Register** notice of issuance (88 FR 4973, January 26, 2023) for additional detail regarding the LOA and the survey activity.

Echo initially anticipated that the activity would occur at some point between January 5 and June 30, 2023. Echo subsequently conveyed to NMFS that the survey would occur later than previously expected. Echo has requested modification to the expiration date of the LOA (from June 30, 2023, to December 31, 2023) to account for any potential delays. There are no other changes to Echo’s planned activity. Since issuance of the LOA, no survey work has occurred.

Authorization

NMFS has changed the expiration date of the LOA from June 30, 2023 to December 31, 2023. There are no other changes to the LOA as described in the January 26, 2023, **Federal Register** notice of issuance (88 FR 4973): the specified survey activity; estimated take by incidental harassment; and small

numbers analysis and determination remain unchanged and are herein incorporated by reference.

Dated: June 22, 2023.

Kimberly Damon-Randall,
Director, Office of Protected Resources,
National Marine Fisheries Service.

[FR Doc. 2023–13717 Filed 6–27–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD103]

Caribbean Fishery Management Council; Public Meeting

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

ACTION: Notice of public hybrid meeting.

SUMMARY: The Caribbean Fishery Management Council’s (Council) Puerto Rico District Advisory Panel (PR–DAP) will hold a public hybrid meeting to discuss the items contained in the tentative agenda included in the **SUPPLEMENTARY INFORMATION**.

DATES: The PR–DAP public hybrid meeting will be held on July 18, 2023, from 9:30 a.m. to 4:30 p.m., Atlantic Standard Time (AST).

ADDRESSES: The meeting will be held at the Courtyard by Marriott Isla Verde Resort, 7012 Boca de Cangrejos Avenue, Carolina, Puerto Rico 00979.

You may join the PR–DAP public hybrid meeting (via Zoom) from a computer, tablet or smartphone by entering the following addresses:

Join Zoom Meeting: DAP–PR <https://us02web.zoom.us/j/88004907357?pwd=ZnRPL0g4ekMzWHRJUzA1K1FoRnV0dz09>

Meeting ID: 880 0490 7357

Passcode: 849982

One tap mobile

+17879451488,,
88004907357#,,,,*849982# Puerto Rico

+17879667727,,
88004907357#,,,,*849982# Puerto Rico

Dial by your location:

- +1 787 945 1488 Puerto Rico
- +1 787 966 7727 Puerto Rico
- +1 939 945 0244 Puerto Rico
- +1 669 444 9171 US

Meeting ID: 880 0490 7357

Passcode: 849982

Find your local number: <https://us02web.zoom.us/j/88004907357?pwd=ZnRPL0g4ekMzWHRJUzA1K1FoRnV0dz09>

FOR FURTHER INFORMATION CONTACT: Miguel Rolón, Executive Director,

Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918-1903; telephone: (787) 398-3717.

SUPPLEMENTARY INFORMATION: The items included in the tentative agenda are:

July 18, 2023

9:30 a.m.–11 a.m.

—How to Improve Data Collection Analysis for Puerto Rico Fisheries—Adyan Rios, SEFSC

11 a.m.–12 p.m.

—The Southeast Region's Equity and Environmental Justice Strategy Implementation Plan for Underserved Communities: and Examination of Barriers and Development of Actionable Solutions—Heather Blough, NOAA Fisheries/SERO

12 p.m.–1 p.m.

—Lunch Break

1 p.m.–1:30 p.m.

—Status of Marine Reserve Areas in Puerto Rico—Liajaj Rivera, CFMC

1:30 p.m.–4:30 p.m.

—Other Business

Other than the starting date and time the order of business may be adjusted as necessary to accommodate the completion of agenda items, at the discretion of the Chair. The meeting will begin on July 18, 2023 at 9:30 a.m. AST, and will end on July 18, 2023, at 4:30 p.m. AST.

Special Accommodations

For any additional information on this public hybrid meeting, you may contact Diana Martino, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918-1903; telephone: (787) 226-8849.

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

Dated: June 23, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023-13769 Filed 6-27-23; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Electronic Monitoring Systems for Atlantic Highly Migratory Species (HMS)

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

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

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before August 28, 2023.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at NOAA.PRA@noaa.gov. Please reference OMB Control Number 0648-0372 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 Cliff Hutt, Fisheries Management Specialist, National Marine Fisheries Service (NMFS), Highly Migratory Species (HMS) Management Division, 1315 East-West Highway, SSMC3, Silver Spring, MD 20910; 301-427-8503; or cliff.hutt@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for renewal and extension without revision of a current information collection request (ICR) 0648-0372 Electronic Monitoring Systems for Atlantic HMS. This renewal and extension is separate from the temporary ICR associated with Amendment 15 to the 2006 Consolidated Atlantic HMS Fishery

Management Plan (0648-BI10), which is considering substantial revisions to 0648-0372. Amendment 15 will not be finalized before the current ICR expires, necessitating this separate renewal effort.

Vessel monitoring systems (VMS) and other electronic monitoring systems collect important information on fishing effort, catch, and the geographic location of fishing effort and catch for certain sectors of the Atlantic HMS fleet. Data collected through these systems are used in both domestic and international fisheries management, including for law enforcement, stock assessments, and quota management purposes. Atlantic HMS vessels required to use VMS are pelagic longline, bottom longline (directed shark permit holders in North Carolina, South Carolina, and Virginia), and gillnet (directed shark permit holders consistent with the requirements of the Atlantic large whale take reduction plan requirements at 50 CFR 229.39(h)) vessels. In addition to VMS, pelagic longline vessels are also required to have electronic monitoring systems to monitor catch and account for bluefin tuna interactions, and, when appropriate, monitoring the harvest of shortfin mako sharks.

NMFS Office of Law Enforcement monitors fleet adherence to gear- and time-area restrictions with VMS position location data. Gear restricted areas and time-area closures are important. Atlantic HMS management tools that have been implemented to reduce bycatch of juvenile swordfish, sea turtles, and bluefin tuna, among other species. Electronic monitoring data from the pelagic longline fleet are used by NMFS to accurately monitor bluefin tuna catch by the pelagic longline fleet, to ensure compliance with Individual Bluefin Quota (IBQ) limits and requirements, and to ensure that the Longline category bluefin tuna quota is not over-harvested. Additionally, electronic monitoring is used to verify disposition of retained shortfin mako sharks, when retention is allowed, consistent with binding international agreements. VMS reporting of bluefin tuna catch is used to monitor IBQ allocations in real-time.

Atlantic HMS fisheries are managed under the dual authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the Atlantic Tunas Conservation Act (ATCA). Under the MSA, management measures must be consistent with the National Standards, and fisheries must be managed to maintain optimum yield, rebuild overfished fisheries, and prevent overfishing. Under ATCA, the Secretary

of Commerce shall promulgate regulations, as necessary and appropriate, to implement measures adopted by the International Commission for the Conservation of Atlantic Tunas (ICCAT).

II. Method of Collection

First-time VMS respondents must install a VMS unit and submit an activation checklist to NMFS via mail. Hail-out, hail-in, hourly position reports, and bluefin tuna catch reports must be submitted to NMFS electronically via the VMS communication system. First-time electronic monitoring respondents must have an electronic monitoring system installed by a NMFS contractor. Except when the hard drive is at capacity after one trip or otherwise stated by NMFS in writing, electronic monitoring data must be submitted after every other pelagic longline trip by mailing computer hard drives to the designated NMFS contractor.

III. Data

OMB Control Number: 0648–0372.

Form Number(s): None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 154.

Estimated Time Per Response: 4 hours for initial VMS installation; 5 minutes per VMS initial activation checklist; 2 minutes per hail-out/hail-in declaration; 6 hours for initial electronic monitoring installation; 1 hour for camera boom installation; 5 minutes for pelagic longline bluefin tuna catch records; 1 minute for dockside review of bluefin tuna catch records; 1 hour for electronic monitoring data retrieval.

Estimated Total Annual Burden Hours: 3,305 hours.

Estimated Total Annual Cost to Public: \$238,862.

Respondent's Obligation: Mandatory.
Legal Authority: Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 *et seq.*).

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. 2023–13752 Filed 6–27–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–P–2023–0033]

Grant of Interim Extension of the Term of U.S. Patent No. 7,517,522; Recombinant ADAMTS13 (rADAMTS13), a Recombinant A Disintegrin and Metalloprotease With Thrombospondin Type-1 Motifs 13

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

ACTION: Notice of interim patent term extension.

SUMMARY: The United States Patent and Trademark Office has issued an order granting a one-year interim extension of the term of U.S. Patent No. 7,517,522 ('522 patent).

FOR FURTHER INFORMATION CONTACT: Ali Salimi, Senior Legal Advisor, Office of Patent Legal Administration, at 571–272–0909 or ali.salimi@uspto.gov.

SUPPLEMENTARY INFORMATION: 35 U.S.C. 156 generally provides that the term of a patent may be extended for a period of up to five years, if the patent claims a product, or a method of making or using a product, that has been subject to certain defined regulatory review. 35

U.S.C. 156(d)(5) generally provides that the term of such a patent may be extended for no more than five interim periods of up to one year each, if the approval phase of the regulatory review period is reasonably expected to extend beyond the expiration date of the patent.

On June 15, 2023, The Regents of the University of Michigan, the owner of record of the '522 patent, timely filed an application under 35 U.S.C. 156(d)(5) for an interim extension of the term of the '522 patent. The '522 patent claims a method of using the product recombinant ADAMTS13 (rADAMTS13), a recombinant A disintegrin and metalloprotease with thrombospondin type-1 motifs 13. The application for interim patent term extension indicates that a Biologics License Application No. 125795/0 was submitted to the Food and Drug Administration (FDA) on March 17, 2023, and that the FDA's review thereof is ongoing.

Review of the interim patent term extension application indicates that, except for permission to market or use the product commercially, the '522 patent would be eligible for an extension of the patent term under 35 U.S.C. 156. Because it appears the approval phase of the regulatory review period will continue beyond the expiration date of the patent, *i.e.*, June 30, 2023, interim extension of the '522 patent's term under 35 U.S.C. 156(d)(5) is appropriate.

An interim extension under 35 U.S.C. 156(d)(5) of the term of U.S. Patent No. 7,517,522 is granted for a period of one year from the original expiration date of the '522 patent.

Robert Bahr,

Deputy Commissioner for Patents, United States Patent and Trademark Office.

[FR Doc. 2023–13707 Filed 6–27–23; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent to Extend Collection; 3038–0097; Process for Review of Swaps for Mandatory Clearing

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission ("Commission" or "CFTC") is announcing an opportunity for public comment on the proposed renewal of a collection of certain

information by the agency. Under the Paperwork Reduction Act (“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. This notice solicits comments on reporting and recordkeeping requirements relating to information management requirements for derivatives clearing organizations.

DATES: Comments must be submitted on or before August 28, 2023.

ADDRESSES: You may submit comments, identified by OMB Control No. 3038–0097, by any of the following methods:

- The Agency’s website, at <http://comments.cftc.gov/>. Follow the instructions for submitting comments through the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

• *Hand Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method and identify that it is for the renewal of Collection Number 3038–0097. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <http://www.cftc.gov>.

FOR FURTHER INFORMATION CONTACT: Daniel O’Connell, Special Counsel, (202) 418–5583, doconnell@cftc.gov; Division of Clearing and Risk, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501 *et seq.*, 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 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, the CFTC is publishing

notice of the proposed extension of the currently approved collection of information listed below. 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.

Title: Process for Review of Swaps for Mandatory Clearing (OMB Control No. 3038–0097). This is a request for an extension of a currently approved information collection.

Abstract: The Commodity Exchange Act and Commission regulations require a derivatives clearing organization (“DCO”) that wishes to accept a swap for clearing to be eligible to clear the swap and to submit the swap to the Commission for a determination as to whether the swap is required to be cleared. Commission regulation 39.5 sets forth the process for these submissions. The Commission will use the information in this collection to determine whether a DCO that wishes to accept a swap for clearing is eligible to clear the swap and whether the swap should be required to be cleared.

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of 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.

You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission’s regulations.¹

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission

¹ 17 CFR 145.9.

from <https://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the information collection request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: The respondent burden for this collection is estimated to be as follows:

Respondents/Affected Entities: Derivatives clearing organizations.

Estimated Number of Respondents: 15.

Estimated Average Burden Hours per Respondent: 40 hours.

Estimated Total Annual Burden Hours: 600 hours.

Frequency of Collection: On occasion; a DCO is only required to make a one-time submission before it first accepts a swap for clearing.

There are no capital costs or operating and maintenance costs associated with this collection.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: June 22, 2023.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2023–13705 Filed 6–27–23; 8:45 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 88 FR 40790, June 22, 2023.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 12:00 noon EDT, Monday, June 26, 2023.

CHANGES IN THE MEETING: The meeting has been canceled.

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, Secretary of the Commission, 202–418–5964.

Authority: 5 U.S.C. 552b.

Dated: June 23, 2023.

Christopher Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2023–13811 Filed 6–26–23; 11:15 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Technology Advisory Committee

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of meeting.

SUMMARY: The Commodity Futures Trading Commission (CFTC) announces that on July 18, 2023, from 12:00 p.m. to 4:30 p.m. Eastern Daylight Time, the Technology Advisory Committee (TAC or Committee) will hold an in-person public meeting at the CFTC's Washington, DC headquarters with options for the public to attend virtually. At this meeting, the TAC will discuss digital assets and blockchain technology, cybersecurity, and emerging and evolving technologies.

DATES: The meeting will be held on July 18, 2023, from 12:00 p.m. to 4:30 p.m. Eastern Daylight Time. Please note that the meeting may end early if the TAC has completed its business. Members of the public who wish to submit written statements in connection with the meeting should submit them by July 25, 2023.

ADDRESSES: The meeting will take place in the Conference Center at the CFTC's headquarters, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. You may submit public comments, identified by "Technology Advisory Committee," through the CFTC website at <https://comments.cftc.gov>. Follow the instructions for submitting comments through the Comments Online process on the website. If you are unable to submit comments online, contact Anthony Biagioli, Designated Federal Officer, via the contact information listed below to discuss alternate means of submitting your comments. Any statements submitted in connection with the committee meeting will be made available to the public, including publication on the CFTC website, <https://www.cftc.gov>.

FOR FURTHER INFORMATION CONTACT: Anthony Biagioli, TAC Designated Federal Officer, Commodity Futures Trading Commission, 2600 Grand Boulevard, Suite 210, Kansas City, MO 64108; (816) 960-7722; or abiagioli@cftc.gov.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public with seating on a first-come, first-served basis. Members of the public may also listen to the meeting by telephone by calling a domestic or international toll or toll-free number to connect to a live, listen-only audio feed. Call-in participants should be prepared to provide their first name, last name, and affiliation.

Domestic Numbers: +1 669 254 5252, +1 646 964 1167, +1 646 828 7666, +1 551 285 1373, +1 669 216 1590, +1 415

449 4000, 833 568 8864 (Toll Free), or 833 435 1820 (Toll Free).

International Numbers: Will be posted on the CFTC's website, <https://www.cftc.gov>, on the page for the meeting, under Related Links.

Call-In/Webinar ID: 161 823 4274.

Pass Code/Pin Code: 180834.

Members of the public may also view a live webcast of the meeting via the <https://www.cftc.gov> website. The meeting agenda may change to accommodate other TAC priorities. For agenda updates, please visit [https://www.cftc.gov/About/AdvisoryCommittees/TAC#:~:text=The%20Technology%20Advisory%20Committee%20\(TAC,of%20technology%20in%20the%20markets](https://www.cftc.gov/About/AdvisoryCommittees/TAC#:~:text=The%20Technology%20Advisory%20Committee%20(TAC,of%20technology%20in%20the%20markets).

After the meeting, a transcript of the meeting will be published through a link on the CFTC's website, <https://www.cftc.gov>. Persons requiring special accommodations to attend the meeting because of a disability should notify the contact person above.

(Authority: 5 U.S.C. 1009(a)(2).)

Dated: June 23, 2023.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2023-13734 Filed 6-27-23; 8:45 am]

BILLING CODE 6351-01-P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Wednesday, June 28, 2023; 2:00 p.m.

PLACE: The meeting will be held virtually and in person at Bethesda, MD.

STATUS: Commission Meeting—Closed to the Public.

MATTERS TO BE CONSIDERED: Briefing Matter.

CONTACT PERSON FOR MORE INFORMATION: Alberta E. Mills, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, 301-504-7479 (Office) or 240-863-8938 (Cell).

Dated: June 23, 2023.

Alberta E. Mills,

Commission Secretary.

[FR Doc. 2023-13808 Filed 6-26-23; 11:15 am]

BILLING CODE 6355-01-P

DEPARTMENT OF EDUCATION

[Docket ID ED-FSA-2023-0085]

Privacy Act of 1974; System of Records

AGENCY: Federal Student Aid, U.S. Department of Education.

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the U.S. Department of Education (Department) publishes this notice of a modified system of records entitled the "National Student Loan Data System" (NSLDS) (18-11-06). The information contained in this system is maintained for various purposes relating to aid applicants and recipients. These include determining aid applicants' and recipients' eligibility for Federal student financial assistance under the programs authorized by title IV of the Higher Education Act of 1965, as amended (HEA); assisting institutions of higher education participating in and administering the title IV, HEA programs by verifying the eligibility of aid recipients for, and tracking, Federal student loans; and assisting the Department's oversight and administration of the title IV, HEA programs, including evaluating their effectiveness.

DATES: Submit your comments on this modified system of records notice on or before July 28, 2023.

This modified system of records notice will become applicable upon publication in the **Federal Register** on June 28, 2023, unless it needs to be changed as a result of public comment. The Department will publish any changes to the modified system of records notice resulting from public comment.

ADDRESSES: Comments must be submitted via the Federal eRulemaking Portal at [regulations.gov](https://www.regulations.gov). However, if you require an accommodation or cannot otherwise submit your comments via [regulations.gov](https://www.regulations.gov), please contact the program contact listed under **FOR FURTHER INFORMATION CONTACT**. The Department will not accept comments submitted by fax or by email, or comments submitted after the comment period closes. To ensure that the Department does not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

• *Federal eRulemaking Portal:* Go to www.regulations.gov to submit your comments electronically. Information

on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the “FAQ” tab.

Privacy Note: The Department’s policy is to make comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov*. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Valerie Sherrer, Director, Partner System Integration Division, Program Technical and Business Support, Partner Participation and Oversight Directorate, Federal Student Aid, U.S. Department of Education, UCP, 830 First St. NE, Room 41F1, Washington, DC 20202–5454. Telephone: 202 377 3547. Email: *Valerie.Sherrer@ed.gov*.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), you may call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Introduction

In accordance with the Privacy Act, the Department proposes to modify the system of records notice entitled, “National Student Loan Data System (NSLDS)” (18–11–06), which was last published in full in the **Federal Register** on September 22, 2022 (87 FR 57873).

The Department is modifying this system of records notice by making a global change to delete and replace “store” or “stored” with “maintain” or “maintained,” as applicable, to better align with the terminology used in the Privacy Act.

The Department is modifying this system of records notice by making a global change to delete and replace “borrowers” with “aid recipients,” to be more consistent with previous changes.

The Department is modifying the section entitled “SYSTEM LOCATION” as follows:

(i) To update the description of the Amazon Web Services (AWS) from a “computer” to “hosting” center to better align with industry terminology; and

(ii) To update the address of ASM Research from Niagara Falls, NY, to Fairfax, VA.

The Department is modifying the section entitled “PURPOSE(S) OF THE SYSTEM” relating to applicants and recipients of aid under title IV of the HEA as follows:

(i) Purpose (5) is updated to include approved Prison Education Programs (PEPs) (the FAFSA Simplification Act allows for expanding access to Federal Pell Grants to include Federal and State penal facilities’ approved educational programs), and money earned by students under the Federal Work-Study (FWS) Program; and

(ii) Purpose (8) is updated to replace the references to “postsecondary institutions” and “postsecondary institution” with “postsecondary institutions and programs” to clarify the Department’s evaluation of postsecondary institutions’ instructional programs for effectiveness for use in consumer tools.

The Department is modifying the section entitled “PURPOSE(S) OF THE SYSTEM” relating to the institutions of higher education (also referred to herein as “educational institutions” or “postsecondary institutions”) participating in and administering the title IV, HEA programs as follows:

(i) Purpose (13) is updated to replace the references to “postsecondary institutions” and “postsecondary institution” with “postsecondary institutions and programs” to clarify the Department’s evaluation of postsecondary institutions’ instructional programs for effectiveness for use in consumer tools; and

(ii) Purpose (14) is updated to delete and replace “challenge” with “ensure the accuracy of” to clarify the purpose of providing data for gainful employment performance metrics.

The Department is modifying the section entitled “PURPOSE(S) OF THE SYSTEM” relating to the Department’s oversight and administration of title IV, HEA programs as follows:

(i) Purpose (2) is updated to delete and replace “studies and policy development” with “analysis and development, and the implementation and evaluation of educational policies in relation to title IV, HEA programs”;

(ii) Purpose (9) is updated to clarify that this system assists in the calculation of metrics related to other title IV, HEA educational programs than just gainful employment programs; and

(iii) Purpose (17) is added to provide title IV, HEA loan information to support the calculation of payment amounts under Income-Driven Repayment (IDR) plans.

The Department is modifying the fourth paragraph of the section entitled “CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM” to indicate that the system contains records on aid recipients under the FWS Program and the Federal Supplemental Educational Opportunity Grant (FSEOG) Program.

The Department is modifying the section entitled “CATEGORIES OF RECORDS IN THE SYSTEM” as follows:

(i) The Department added a new note that explains that the Federal Tax Information (FTI) the Department will directly obtain from the Internal Revenue Service (IRS) under the Fostering Undergraduate Talent by Unlocking Resources for Education (FUTURE) Act will not be maintained in this system of records but in a separate system of records entitled the “FUTURE Act System (FAS)” (18–11–23), for which the Department will publish a system of records notice in the **Federal Register**;

(ii) Category (1) is updated to replace “driver’s license information” with “driver’s license number and State of issuance;”

(iii) Category (2) is updated to include an incarcerated student indicator flag for identification and tracking of aid recipients;

(iv) Category (4) is updated to clarify that driver’s license details consist of driver’s license number and State of issuance;

(v) Category (7) is updated to include “Student Aid Index (SAI),” which corresponds with the new definition as defined in Section 473(a) of the HEA, as amended by the FAFSA Simplification Act and the FAFSA Simplification Act Technical Corrections Act;

(vi) Category (8) is updated to add the spouse of an independent aid applicant or aid recipient, the parent(s) of a dependent aid applicant, and starting with award year 2024–2025, the parents’ college attendance status;

(vii) Category (9) is updated to include if the IDR aid applicant or aid recipient (or spouse, where applicable), provided consent/affirmative approval both to redisclose Federal Tax Information (FTI) of such individuals pursuant to clauses (iii), (iv), (v), and (vi) of section 6103(l)(13)(D) of the Internal Revenue Code (IRC) of 1986 and for disclosure under section 494(a) of the HEA (20 U.S.C. 1098h(a)) of information to the IRS for the IRS to disclose FTI to the Department as part

of a matching program to determine eligibility for, or repayment obligations under, IDR plans under title IV of the HEA with respect to loans under part D (Direct Loan program) of title IV of the HEA; to include repayment amount; and to delete and replace “borrower” with “aid recipient”;

(viii) Category (10) is updated to include FSEOG and for Federal Pell Grants, approved PEPs (the FAFSA Simplification Act allows for expanding access to Federal Pell Grants to include Federal and State penal facilities’ approved educational programs) to track aid recipients;

(ix) Category (11) is updated to include earnings amounts under the FWS Program to track individuals with FWS; and

(x) Category (19) is updated to clarify that the system includes information provided and generated through customer interactions with contact center support via inbound and outbound channels (phone, chat, webform, email, customer satisfaction survey, fax, physical mail, and digital engagement platforms), including chat transcripts, email communications, audio recordings of customer calls, and screen recordings of contact center desktop support during customer interactions.

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 Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit

your search to documents published by the Department.

Richard Cordray,
Chief Operating Officer, Federal Student Aid.

For the reasons discussed in the preamble, the Chief Operating Officer, Federal Student Aid, U.S. Department of Education (Department) publishes a notice of a modified system of records to read as follows:

SYSTEM NAME AND NUMBER:

National Student Loan Data System (NSLDS) (18–11–06).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Director, Partner Systems Integration Division, Program Technical and Business Support Group, Partner Management and Support Services, Partner Participation and Oversight, Federal Student Aid (FSA), U.S. Department of Education, Union Center Plaza (UCP), 830 First St. NE, Room 41F1, Washington, DC 20202–5454.

Amazon Web Services (AWS) Government Cloud, 410 Terry Ave., North Seattle, WA 98109–5210. (This is the hosting center for the NSLDS application, where all electronic NSLDS information is processed and maintained.)

Accenture, 22451 Shaw Rd., Sterling, VA 20166–4319. (This is Accenture’s main program office.)

Accenture DC, 820 First St. NE, Washington, DC 20202–4227. (This location is an alternate Accenture work site to support NSLDS.)

Accenture Federal Services, 10931 Laureate Dr., San Antonio, TX 78249. (This location is an alternate Accenture work site to support NSLDS.)

NTT Global Data Centers Americas, 44664 Guilford Dr., Ashburn, VA 20147 and 2008 Lookout Dr., Garland, TX 75044. (NSLDS call recordings are maintained at these locations.)

Oracle Service Cloud, 500 Eldorado Blvd., Broomfield, CO 80021. (Provides customer case management and reporting capabilities to NSLDS Help Desk Customer Service Representatives (CSRs) and has the capability to track and maintain NSLDS inquiries, which allows CSRs to respond to these cases/inquiries.)

The following three listings are the locations of the NSLDS Customer Service Centers:

ASM Research, 4050 Legato Rd., #1100, Fairfax, VA 22033;

Senture, LLC, 4255 W. Highway 90, Monticello, KY 42633–3398; and

Veteran Call Center, LLC, 53 Knightsbridge Rd., Suite 216, Piscataway, NJ 08854–3925.

SYSTEM MANAGER(S):

Director, Partner Systems Integration Division, Program Technical and Business Support Group, Partner Participation and Oversight Directorate, Federal Student Aid, U.S. Department of Education, UCP, 830 First St. NE, Room 41F1, Washington, DC 20202–5454.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The authority under which the system is maintained includes sections 101, 102, 132(i), 485, and 485B of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1001, 1002, 1015a(i), 1092, and 1092b), section 431(2) and (3) of the General Education Provisions Act (20 U.S.C. 1231a(2)–(3)), and the Higher Education Relief Opportunities for Students Act of 2003 (20 U.S.C. 1098bb) (including any waivers or modifications that the Secretary of Education deems necessary to make to any statutory or regulatory provision applicable to the student financial assistance programs under title IV of the HEA to achieve specific purposes listed in the section in connection with a war, other military operation, or a national emergency). The collection of Social Security numbers (SSNs) of individuals who are covered by this system is authorized by 31 U.S.C. 7701 and Executive Order 9397 (November 22, 1943), as amended by Executive Order 13478 (November 18, 2008).

PURPOSE(S) OF THE SYSTEM:

The information contained in this system is maintained for the following purposes relating to applicants and recipients of aid under title IV of the HEA:

(*Note:* Different parts of the HEA use the terms “discharge,” “cancellation,” or “forgiveness” to describe when a aid recipient’s loan amount is reduced in whole or in part by the Department. To reduce complexity, this system of records notice uses the term “discharge” to include all three terms (“discharge,” “cancellation,” and “forgiveness”), including, but not limited to, discharges of student loans made pursuant to specific benefit programs. At times, the system of records notice may refer by name to a specific benefit program, such as the “Public Service Loan Forgiveness” program; such specific references are not intended to exclude any such program benefits from more general references to loan discharges.)

(1) to determine the eligibility of aid applicants and recipients for Federal student financial aid programs authorized by title IV of the HEA;

(2) to report changes in aid applicant and recipient enrollment status and enrollment in gainful employment programs;

(3) to track aid recipients who owe title IV, HEA obligations (debtors);

(4) to maintain information on the status of student loans;

(5) to maintain information on awards to students under the Federal Pell Grant program (including approved Prison Education Programs (PEPs) (the FAFSA Simplification Act allows for expanding access to Federal Pell Grants to include Federal and State penal facilities' approved educational programs), the Academic Competitiveness Grant (ACG) program, the National Science and Mathematics Access to Retain Talent (National SMART) Grant program, the Teacher Education Assistance for College and Higher Education (TEACH) Grant program, the Federal Supplemental Educational Opportunity Grant (FSEOG) program, the Iraq and Afghanistan Service Grant program,, and money earned under the Federal Work Study (FWS) Program;

(6) to provide aid recipients and NSLDS users with loan refund and discharge details;

(7) to identify qualifying individuals and inform them about title IV, HEA benefits, including total and permanent disability (TPD) discharges, Public Service Loan Forgiveness (PSLF), and benefits under the Servicemembers Civil Relief Act (SCRA), 50 U.S.C. 3901–4043, to streamline the process for applying for loans and benefits, and to recoup payments or delinquent debts under the title IV, HEA programs;

(8) to provide consumer tools to the public to better evaluate the effectiveness of postsecondary institutions and programs, considering their costs, financial aid, loan repayment rates, completion rates, median debts, and the aggregate earnings of title IV, HEA aid recipients who were enrolled at postsecondary institutions and programs participating in the title IV, HEA programs, so that the public can make informed decisions about which postsecondary institutions and programs to attend;

(9) to enable the Department, or other Federal, State, Tribal, or local government agencies, to investigate, respond to, or resolve complaints concerning the practices or processes of the Department and/or the Department's contractors, or to investigate, respond to, or resolve aid recipients' requests for assistance or relief with regard to title IV, HEA program funds;

(10) to conduct testing, analysis, or take other administrative actions needed

to prepare for or execute programs under title IV of the HEA; and

(11) to process income eligibility information and documentation for aid applicants and recipients, or applicable aid applicants' and recipients' parents or spouses, pertaining to the discharge of eligible loans under title IV, HEA programs.

The information in the NSLDS is also maintained for the following purposes relating to institutions of higher education (also referred to herein as "educational institutions" or "postsecondary institutions") participating in and administering the title IV, HEA programs:

(1) to permit Department staff, Department contractors, guaranty agencies, eligible lenders, and eligible institutions of higher education to verify the eligibility of a student, potential student, or parent for loans or Pell Grants or Pell Grant disbursements;

(2) to provide student aggregate loan calculations to educational institutions;

(3) to determine default rates for educational institutions, guaranty agencies, and lenders;

(4) to prepare electronic financial aid histories on aid applicants and recipients for educational institutions, guaranty agencies, Department staff, and Department contractors;

(5) to alert educational institutions of changes in students' financial aid eligibility via the Transfer Student Monitoring process;

(6) to assist Department staff, Department contractors and agents, guaranty agencies, the Department of Justice (DOJ), educational institutions, lenders, and servicers in collecting debts arising from the receipt of title IV, HEA funds;

(7) to assess title IV, HEA program activities by guaranty agencies, educational institutions, lenders, and servicers;

(8) to display organizational contact information provided by educational institutions, guaranty agencies, lenders, and servicers;

(9) to provide reporting capabilities for educational institutions, guaranty agencies, lenders, and servicers for use in title IV, HEA administrative functions and for the Department or other Federal, State, Tribal, or local agencies for use in oversight and compliance;

(10) to provide financial institutions and servicers, Department staff, and Department contractors with contact information on loan holders for use in the collection of loans;

(11) to provide educational institutions and servicers with information to resolve overpayments of Pell, ACG, National SMART, TEACH,

Iraq and Afghanistan Service Grants, and FSEOG grants;

(12) to obtain data on and to report on students in a gainful employment program for the purposes of establishing whether a particular gainful employment program is successfully preparing students to be gainfully employed and making this information available to the educational institution;

(13) to provide consumer tools, such as the College Scorecard, that are designed to simplify information that prospective students receive about costs, financial aid, loan repayment rates, completion rates, median debts, and aggregate earnings of title IV, HEA aid recipients who were enrolled at postsecondary institutions and

programs participating in the title IV, HEA programs so that prospective students can make informed decisions about which postsecondary institutions and programs to attend; and

(14) to provide data for educational institutions to ensure the accuracy of their gainful employment performance metrics.

The information maintained in this system is also maintained for the following purposes relating to the Department's oversight and administration of the title IV, HEA programs:

(1) to assist audit and program review planning;

(2) to support research, analysis and development, and the implementation and evaluation of educational policies in relation to title IV, HEA programs;

(3) to conduct budget analysis and program review planning;

(4) to provide information that supports the Department's compliance with the Federal Credit Reform Act of 1990, as amended (CRA) (2 U.S.C. 661 *et seq.*);

(5) to ensure only authorized users access the NSLDS database and to maintain a history of the aid applicant and recipient information reviewed;

(6) to track the Department's interest in loans funded through the Ensuring Continued Access to Student Loans Act of 2008 (ECASLA) (Pub. L. 110–227);

(7) to track TEACH grants that have been converted to loans;

(8) to track eligibility for PSLF;

(9) to assist in the calculation of metrics related to gainful employment and other title IV, HEA educational programs;

(10) to provide data for program oversight and strategic decision-making in the administration of higher education programs;

(11) to track eligibility for Direct Subsidized Loans and interest subsidy based upon the level of study,

Classification of Instructional Programs (CIP) code, and published length of the educational program in which a student is enrolled;

(12) to evaluate the effectiveness of an institution's education programs, and help provide information to the public at the institutional and programmatic level on this effectiveness;

(13) to verify that Federal, State, local, and Tribal statutory, regulatory, and program requirements are met by educational and financial institutions, Federal Loan Servicers, the Federal Perkins Loan Servicer, and guaranty agencies;

(14) to help governmental entities at the Federal, State, Tribal, and local levels exercise their supervisory and administrative powers (including, but not limited to, licensure, examination, discipline, regulation, or oversight of educational institutions, Department contractors, guaranty agencies, eligible lenders, and third-party servicers) or to investigate, respond to, or resolve complaints regarding the practices or processes of the Department and/or the Department's contractors, or to update information or correct errors contained in Department records regarding an aid recipient's title IV, HEA program funds;

(15) to provide information to support web-based access to aid applicant's and recipient's title IV, HEA program data including enrollment;

(16) to track loan transfers from one holder or servicer to another; and

(17) to provide title IV, HEA loan information to support the calculation of monthly payment amounts under Income-Driven Repayment (IDR) plans.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on individual title IV, HEA aid applicants and recipients.

This system also contains information on the parent(s) of a dependent aid applicant or recipient and the spouse of a married aid applicant or recipient.

In addition, this system contains records on aid recipients and endorsers who received, or signed the promissory note for a loan(s) under one of the programs authorized under title IV of the HEA, including:

(1) the William D. Ford Direct Loan Program (Direct Loan) Program, including Federal Direct Unsubsidized and Subsidized Stafford/Ford Loans, Federal Direct Consolidation Loans, and Federal Direct PLUS Loans;

(2) the Federal Family Education Loan (FFEL) Program,

(3) the Federal Insured Student Loan (FISL) Program,

(4) the Federal Perkins Loan Program (including National Defense Student

Loans, National Direct Student Loans, and Perkins Expanded Lending and Income Contingent Loans) (Perkins Loans).

This system also contains records on aid recipients of Federal Pell Grants, ACG, National SMART Grants, TEACH Grants, Iraq and Afghanistan Service Grants, the FWS Program, and FSEOGs, as well as on individuals who owe an overpayment on a Federal Pell Grant, an ACG, a TEACH Grant, a National SMART Grant, a FSEOG, an Iraq and Afghanistan Service Grant, or a Federal Perkins Loan.

Further, this system contains student enrollment information for individuals who have received title IV, HEA student assistance, as well as Master Conduit Loan Program Data, Master Loan Participation Program (LPP) Data, and loan-level detail on FFEL Subsidized, Unsubsidized, and Grad and Parent PLUS loans funded through those programs.

This system also contains records on students who are title IV, HEA aid recipients and who attended, or who are attending, a gainful employment program at a postsecondary institution.

Lastly, this system contains records from 2014–2021 on the level of study, CIP code, and published length of an educational program in which a student receiving title IV, HEA Federal student aid was enrolled to limit his or her eligibility for Direct Subsidized Loans to no more than 150 percent of the published length of the educational program in which the student was enrolled, and to determine when a aid recipient who enrolled after reaching the 150 percent limit would have been responsible for the accruing interest on outstanding Direct Subsidized Loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

Note: The Federal Tax Information (FTI) that the Department will obtain directly from the Internal Revenue Service (IRS) under the Fostering Undergraduate Talent by Unlocking Resources for Education (FUTURE) Act will be maintained in a separate system of records entitled the "FUTURE Act System (FAS)" (18–11–23);

Records in the NSLDS include, but are not limited to:

(1) aid applicant and recipient identifier information, including SSN, name, date of birth, physical address, phone number, email address, and driver's license number and State of issuance;

(2) aid applicant demographic information, including an aid applicant's parent's and spouse's demographic information (if applicable), student enrollment, incarcerated

student indicator flag, list of participating title IV, HEA institutions of higher education selected by the aid applicant to receive the Free Application for Federal Student Aid (FAFSA®) data along with residency plans, and the financial profile of an applicant and an aid applicant's parent(s) or spouse, as reported and calculated through the FAFSA form; and processing flags, indicators, rejections, and overrides;

(3) information on the aid recipient's loan(s) covering the period from the origination of the loan through final payment, consolidation, discharge, or other final disposition, including details such as loan amount, disbursements, balances, loan status, repayment plan payments and related information, collections, claims, deferments, forbearances, refunds, and discharges;

(4) information on an aid applicant's or recipient's endorser or co-signer of a PLUS loan application from the origination of the loan through final payment, consolidation, discharge, or other final disposition, including details such as co-signer SSN, name, date of birth, driver's license number and State of issuance (if reported), active-duty status (if applicable and reported), email address, address, phone number, and relevant loan information with respect to the loan on which they are the endorser or co-signer;

(5) for students who began a program of study that prepares them for gainful employment in a recognized occupation pursuant to sections 1001 and 1002 of the HEA ("gainful employment program"), student identifiers including the student's SSN, date of birth, and name, student enrollment information including the Office of Postsecondary Education identification number (OPE ID number) of the institution, the CIP code for the gainful employment program in which the student enrolled, and, if the student completed the program, the completion date and the CIP code of the completed program, the level of study, the amount of the student's private educational loan debt, the amount of institutionally provided financing owed by the student, and whether the student matriculated to a higher credentialed program at the same institution or another institution;

(6) aggregated income information on graduates and non-completers of a particular gainful employment program, and the median loan debt incurred by students enrolled in the gainful employment program, regardless of whether they completed the program;

(7) student demographic information, such as dependency status, citizenship, veteran status, marital status, gender,

income and asset information (including income and asset information on the student's spouse, if married), and expected family contribution or Student Aid Index (SAI);

(8) information on the parent(s) of a dependent aid applicant or aid recipient or the spouse of an independent aid applicant or aid recipient, including name, date of birth, SSN, marital status, email address, highest level of schooling completed and starting with award year 2024–2025, the parents' college attendance status, and income and asset information;

(9) information related to an aid applicant's or recipient's application for title IV, HEA benefits, including information relating to IDR or PSLF eligibility such as current income; family size; repayment plan selections; employer name; dates of employment; employment status; if the IDR aid applicant or aid recipient (or spouse, where applicable), provided consent/affirmative approval both to disclose Federal Tax Information (FTI) of such individuals pursuant to clauses (iii), (iv), (v), and (vi) of section 6103(l)(13)(D) of the Internal Revenue Code (IRC) of 1986 and under subsection 494(a) of the HEA (20 U.S.C. 1098h(a)) of information to the IRS for the IRS to disclose FTI to the Department as part of a matching program to determine eligibility for, or repayment obligations under, IDR plans under title IV of the HEA with respect to loans under part D (Direct Loan program) of title IV of the HEA; repayment amount; and information about the aid recipient's spouse, if the aid applicant or recipient is married;

(10) Federal Pell Grant, FSEOG, ACG Grant, National SMART Grant, TEACH Grant, and Iraq and Afghanistan Service Grant amounts, dates of disbursement, and for Federal Pell Grants, approved PEPs (the FAFSA Simplification Act allows for expanding access to Federal Pell Grants to include Federal and State penal facilities' approved educational programs);

(11) Federal Pell Grant, ACG Grant, National SMART Grant, TEACH Grant, Iraq and Afghanistan Service Grant, FSEOG, Federal Perkins Loan Program overpayment amounts and/or earning amounts under the FWS Program;

(12) Information maintained by a guaranty agency, including, demographic, contact, and identifier information, a aid applicant's FFEL loan(s), and the lender(s), holder(s), and servicer(s) of the borrower's FFEL loan(s);

(13) NSLDS user profiles that include name, SSN, date of birth, employer, and NSLDS username;

(14) information concerning the date of any default on loans and the aggregated loan data to support cohort default rate calculations for educational institutions, financial institutions, and guaranty agencies;

(15) pre- and post-screening results used to determine a student's or parent's aid eligibility;

(16) information on financial institutions participating in the loan participation and sale programs established by the Department under ECASLA, including the collection of: ECASLA loan-level funding amounts, dates of ECASLA participation for financial institutions, dates and amounts of loans sold to the Department under ECASLA, and the amount of loans funded by the Department's programs but repurchased by the lender;

(17) information on the student's educational institution, level of study, the CIP code, and published length for the program in which the student enrolled for an institution or programs of studies at the institution;

(18) information obtained pursuant to matching programs or other information exchanges with Federal and State agencies and other administrators of Federal funds and programs to assist in identifying individuals who may be eligible for aid applicant's or recipient's benefits related to their title IV, HEA loans or other title IV, HEA obligations, including TPD discharges, loan deferments, interest rate reductions, PSLF, and other Federal and State loan repayment or discharge benefits, or for the purpose of recouping payments or delinquent debts under title IV, HEA programs; and

(19) Information provided and generated through customer interactions with contact center support via inbound and outbound channels (phone, chat, webform, email, customer satisfaction survey, fax, physical mail, and digital engagement platforms). Information includes, but is not limited to: chat transcripts, email communications, audio recordings of customer calls, and screen recordings of contact center desktop support during customer interactions.

RECORD SOURCE CATEGORIES:

Information is obtained from other Federal, State, local, and Tribal agencies, other administrators of Federal funds and programs, guaranty agencies, educational institutions, financial institutions and servicers, aid applicants and recipients, parents and spouses of applicable aid applicants and recipients, and designated co-signers and endorsers.

Information is also obtained from other Department systems, or their successor systems, such as the Federal Loan Servicers (covered by the system of records entitled "Common Services for Borrowers (CSB)"); Debt Management Collection System (covered by the system of records entitled "Common Services for Borrowers (CSB)"); Common Origination and Disbursement System (covered by the system of records entitled "Common Origination and Disbursement (COD) System"); Financial Management System (covered by the system of records entitled "Financial Management System (FMS)"); Student Aid internet Gateway, Participant Management System (covered by the system of records entitled "Student Aid internet Gateway (SAIG), Participation Management System"); Postsecondary Education Participants System (covered by the system of records entitled "Postsecondary Education Participants System"); and all systems covered by the system of records entitled "Aid Awareness and Application Processing." Information in this system also may be obtained from other persons or entities from which data is obtained under routine uses set forth below.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records notice without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act of 1974, as amended (Privacy Act), under a computer matching agreement.

(1) *Program Disclosures.* The Department may disclose records to the specified users for the following program purposes:

(a) To verify the identity of the applicant involved, the accuracy of the record, or to assist with the determination of program eligibility and benefits, as well as institutional program eligibility, the Department may disclose records to the applicant, guaranty agencies, educational institutions, financial institutions and servicers, and to Federal and State agencies;

(b) To support default rate calculations and/or provide information on aid recipients' current loan status, the Department may disclose records to

guaranty agencies, educational institutions, financial institutions and servicers, and State agencies;

(c) To determine if educational programs lead to gainful employment in a recognized occupation, the Department may disclose records to educational institutions;

(d) To provide financial aid history information to aid in their administration of title IV, HEA programs, the Department may disclose records to educational institutions, guaranty agencies, loan holders, or servicers;

(e) To support auditors and program reviewers in planning and carrying out their assessments of title IV, HEA program compliance, the Department may disclose records to guaranty agencies, educational institutions, financial institutions and servicers, and to Federal, State, and local agencies;

(f) To support governmental researchers and policy analysts, the Department may disclose records to governmental organizations at the Federal, State, or local level, using safeguards for system integrity and provided that the recipient agrees to establish and maintain safeguards to protect the security and confidentiality of the disclosed records;

(g) To support Federal budget analysts in the development of budget needs and forecasts, the Department may disclose records to the Congressional Budget Office (CBO) and to Federal and State agencies;

(h) To assist in locating holders of loan(s), the Department may disclose records to guaranty agencies, educational institutions, financial institutions and servicers, and Federal agencies;

(i) To assist analysts in assessing title IV, HEA program participation by guaranty agencies, educational institutions, and financial institutions and servicers, the Department may disclose records to Federal and State agencies;

(j) To assist loan holders in locating aid recipients, the Department may disclose records to guaranty agencies, educational institutions, financial institutions that hold an interest in the loan and their servicers, and to Federal agencies;

(k) To assist with meeting requirements under the CRA, the Department may disclose records to Federal agencies;

(l) To assist program administrators with tracking refunds and discharges of title IV, HEA loans, the Department may disclose records to guaranty agencies, educational institutions, financial

institutions and servicers, and to Federal and State agencies;

(m) To enforce the terms of a loan, assist in the collection of a loan, or assist in the collection of an aid overpayment, the Department may disclose records to guaranty agencies, loan servicers, educational institutions and financial institutions, to the DOJ and private counsel retained by the DOJ, and to other Federal, State, local, or Tribal agencies;

(n) To assist the Department in tracking loans funded under ECASLA, the Department may disclose records to Federal agencies;

(o) To obtain data needed to assist the Department in evaluating the effectiveness of an institution's education programs and to provide the public with greater transparency about the level of economic return of an educational institution and their programs that receive title IV, HEA program assistance, the Department may disclose records to educational institutions and to Federal and State agencies, including the Social Security Administration and the U.S. Department of the Treasury; and

(p) To help Federal, State, Tribal, and local governmental entities exercise their supervisory and administrative powers (including licensure, examination, discipline, regulation, or oversight of educational institutions, Department contractors, guaranty agencies, eligible lenders, and third-party servicers) or to investigate, respond to, or resolve complaints submitted regarding the practices or processes of the Department and/or the Department's contractors, the Department may disclose records to governmental entities at the Federal, State, Tribal, and local levels. These records may include all aspects of records relating to loans and grants made under title IV of the HEA, to permit these governmental entities to verify compliance with debt collection, consumer protection, financial, and other applicable statutory, regulatory, or local requirements. Before making a disclosure to these Federal, State, local, or Tribal governmental entities, the Department will require them to maintain safeguards consistent with the Privacy Act to protect the security and confidentiality of the disclosed records.

(2) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency,

whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, Executive Order, rule, regulation, or order issued pursuant thereto.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosure.*

(a) *Introduction.* In the event that one of the following parties listed in subparagraphs (i) through (v) is involved in judicial or administrative litigation or ADR, or has an interest in such litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department or any of its components; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity where the DOJ agrees to or has been requested to provide or arrange for representation of the employee; or

(iv) Any Department employee in his or her individual capacity where the Department requests representation for or has agreed to represent the employee; or

(v) The United States, where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to the judicial or administrative litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Adjudicative Disclosure.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear or to a person or entity designated by the Department or otherwise empowered to resolve or mediate disputes is relevant and necessary to judicial or administrative litigation or ADR, the Department may disclose those records as a routine use to the adjudicative body, person, or entity.

(d) *Disclosure to Parties, Counsel, Representatives, and Witnesses.* If the Department determines that disclosure of certain records is relevant and necessary to judicial or administrative litigation or ADR, the Department may disclose those records as a routine use to the party, counsel, representative, or witness.

(4) *Freedom of Information Act (FOIA) or Privacy Act Advice Disclosure.* The Department may

disclose records to the DOJ or the Office of Management and Budget (OMB) if the Department seeks advice regarding whether records maintained in this system of records are required to be disclosed under the FOIA or the Privacy Act.

(5) *Contract Disclosure.* If the Department contracts with an entity to perform any function that requires disclosing records to the contractor's employees, the Department may disclose the records to those employees. As part of such a contract, the Department shall require the contractor to agree to establish and maintain safeguards to protect the security and confidentiality of the disclosed records.

(6) *Congressional Member Disclosure.* The Department may disclose records to a Member of Congress in response to an inquiry from the Member made at the written request of and on behalf of the individual whose records are being disclosed. The Member's right to the information is no greater than the right of the individual who requested it.

(7) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies or their Agents or Contractors, Professional Organizations, or the Department's Contractors.* The Department may disclose a record to a Federal, State, local, Tribal or other public agency or an agent or contractor of such a public agency, a professional organization, or a Department contractor, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(8) *Employee Grievance, Complaint, or Conduct Disclosure.* If a record is relevant and necessary to a grievance, complaint, or disciplinary proceeding involving a present or former employee of the Department, the Department may disclose a record from this system of

records during the course of investigation, fact-finding, mediation, or adjudication to any party to the grievance, complaint, or action to the party's counsel or representative, to a witness, or to a designated fact-finder, mediator, or other person designated to resolve issues or decide the matter.

(9) *Labor Organization Disclosure.* The Department may disclose records from this system of records to an arbitrator to resolve disputes under a negotiated grievance procedure or to officials of labor organizations recognized under 5 U.S.C. 71 when relevant and necessary to their duties of exclusive representation.

(10) *Disclosure to the DOJ.* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(11) *Disclosure to the OMB or CBO for CRA Support.* The Department may disclose records to OMB or CBO as necessary to fulfill CRA requirements in accordance with 2 U.S.C. 661b.

(12) *Disclosure in the Course of Responding to Breach of Data.* The Department may disclose records from this system to appropriate agencies, entities, and persons when: (a) The Department suspects or has confirmed that there has been a breach of the system of records; (b) the Department has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Department (including its information systems, programs and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(13) *Disclosure in Assisting Another Agency in Responding to a Breach of Data.* The Department may disclose records from this system to another Federal agency or Federal entity, when the Department determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(14) *Disclosure to the National Archives and Records Administration (NARA).* The Department may disclose records from this system of records to NARA for the purpose of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose the following information to a consumer reporting agency regarding a valid overdue claim of the Department: (1) the name, address, taxpayer identification number, and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined in 15 U.S.C. 1681a(f) and 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The records are maintained electronically.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

In order for users to retrieve aid applicant or recipient information, they must supply the respective SSN, name, and date of birth.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are primarily retained and disposed of in accordance with ED Records Schedule 051: FSA National Student Loan Data System (NSLDS) (DAA-0441-2017-0004) (ED 051). The Department has submitted amendments to ED 051 for NARA's consideration and will not destroy records covered by ED 051 until such amendments are in effect, as applicable.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Authorized users: Access to the system is limited to authorized NSLDS program personnel and contractors responsible for administering the NSLDS program. Authorized personnel include Department employees and officials, financial and fiscal management personnel, computer personnel, and program managers who have responsibilities for implementing the NSLDS program. Read-only users:

Read-only access is given to servicers, holders, financial/fiscal management personnel, and institutional personnel.

Physical safeguards: Magnetic tapes, disc packs, computer equipment, and other forms of data are maintained in areas where fire and life safety codes are strictly enforced. Security guards are staffed 24 hours a day, seven days a week, to perform random checks on the physical security of the record storage areas.

Procedural safeguards: A password is required to access the terminal, and a data set name controls the release of data to only authorized users. In addition, all sensitive data is encrypted using Oracle Transparent Data Encryption functionality. Access to records is strictly limited to those staff members trained in accordance with the Privacy Act and Automatic Data Processing (ADP) security procedures. Contractors are required to maintain confidentiality safeguards with respect to these records. Contractors are instructed to make no further disclosure of the records except as authorized by the System Manager and permitted by the Privacy Act. All individuals who have access to these records receive appropriate ADP security clearances.

Department personnel make site visits to ADP facilities for the purpose of ensuring that ADP security procedures continue to be met. Privacy Act and ADP system security requirements are specifically included in contracts. The NSLDS project directors, project officers, and the system manager oversee compliance with these requirements.

In accordance with the Federal Information Security Management Act of 2002 (FISMA), as amended by the Federal Information Security Modernization Act of 2014, every Department system must receive a signed Authorization to Operate (ATO) from a designated Department official. The ATO process includes a rigorous assessment of security controls, a plan of actions and milestones to remediate any identified deficiencies, and a continuous monitoring program.

FISMA controls implemented are comprised of a combination of management, operational, and technical controls, and include the following control families: access control, awareness and training, audit and accountability, security assessment and authorization, configuration management, contingency planning, identification and authentication, incident response, maintenance, media protection, physical and environmental protection, planning, personnel security, privacy, risk assessment,

system and services acquisition, system and communications protection, system and information integrity, and program management.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, you must contact the system manager with the necessary particulars such as your name, date of birth, SSN, the name of the school or lender from which the loan or grant was obtained, and any other identifying information requested by the Department while processing the request, to distinguish between individuals with the same name. Requests by an individual for access to a record must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

Contesting Record Procedures:

If you wish to contest the content of a record in the system of records, you must contact the system manager with the necessary particulars such as your name, date of birth, SSN, the name of the school or lender from which the loan or grant was obtained, and any other identifying information requested by the Department while processing the request, to distinguish between individuals with the same name. You must also identify the specific item(s) to be changed, and provide a justification for the change, including any supporting documentation. Requests to amend a record must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.7.

NOTIFICATION PROCEDURES:

If you wish to determine whether a record exists regarding you in this system of records, you must contact the system manager with the necessary particulars such as your name, date of birth, SSN, the name of the school or lender from which the loan or grant was obtained, and any other identifying information requested by the Department while processing the request, to distinguish between individuals with the same name. Requests for notification about whether the system of records contains information about an individual must meet the requirements of the regulations at 34 CFR 5b.5, including proof of identity.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

The System of Records entitled the "National Student Loan Data System" (18-11-06) was last modified and

published in full on September 22, 2022 (87 FR 57873).

[FR Doc. 2023-13697 Filed 6-27-23; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

[Docket ID ED-2023-FSA-0076]

Privacy Act of 1974; System of Records

AGENCY: Federal Student Aid, U.S. Department of Education.

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the U.S. Department of Education (Department) publishes this notice of a modified system of records entitled "Common Origination and Disbursement (COD) System" (18-11-02). The information contained in this system is maintained for various purposes relating to aid applicants and recipients including determining their eligibility for Federal student financial assistance under the programs authorized by title IV of the Higher Education Act of 1965, as amended (HEA); institutions of higher education participating in and administering title IV, HEA programs; and the Department's oversight of title IV, HEA programs.

DATES: Submit your comments on this modified system of records notice on or before July 28, 2023.

This modified system of records notice will become applicable upon publication in the **Federal Register** on June 28, 2023, except for the new routine use (1)(l) that is outlined in the section entitled "ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES," which will be effective on July 28, 2023, unless it needs to be changed as a result of public comment. The Department will publish any changes to the modified system of records notice resulting from public comment.

ADDRESSES: Comments must be submitted via the Federal eRulemaking Portal at regulations.gov. However, if you require an accommodation or cannot otherwise submit your comments via regulations.gov, please contact the program contact person listed under **FOR FURTHER INFORMATION CONTACT**. The Department will not accept comments submitted by fax or by email, or comments submitted after the comment period closes. To ensure that the Department does not receive

duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

Federal eRulemaking Portal: Go to www.regulations.gov to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the “FAQ” tab.

Privacy Note: The Department’s policy is to make comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Shannon Mahan, Acting Director, Program Delivery Services Group, Union Center Plaza, room 64E1, 830 First Street NE, Washington, DC 20202–5454. Telephone: 202–377–3019. Email: Shannon.Mahan@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), you may call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

In accordance with the Privacy Act, the Department proposes to modify the system of records notice entitled, “Common Origination and Disbursement (COD) System” (18–11–02), which was last published in full in the **Federal Register** on September 13, 2022 (87 FR 56015).

The Department is modifying this system of records by making a global change to delete and replace “store” or “stored” with “maintain” or “maintained”, as applicable, to better align with the terminology used in the Privacy Act.

The Department is modifying the section entitled “SYSTEM LOCATION” as follows:

(i) To update the description of the Amazon Web Services (AWS) from a

“computer” to “hosting” center to better align with industry terminology; and

(ii) To update the address of ASM Research from Niagara Falls, NY, to Fairfax, VA.

The Department is modifying the section entitled “AUTHORITY FOR THE MAINTENANCE OF THE SYSTEM” to add “the FAFSA Simplification Act (Title VII, Division FF of Pub. L. 116–260) (including, but not limited to the following Sections of the FAFSA Simplification Act:

Subsection 702(m), which amends Section 483 of the HEA, and Section 703 that amends Section 401 of the HEA), and the FAFSA Simplification Act Technical Corrections Act (Division R of the Consolidated Appropriations Act, 2022 (Pub. L. 117–103))” to improve the financial aid application experience and expand title IV, HEA eligibility.

The Department is modifying the section entitled “PURPOSE(S) OF THE SYSTEM” relating to aid applicants and recipients under title IV of the HEA as follows:

(i) The list of data and documentation maintained in the COD System set forth in purpose (2) is expanded to include alternative documentation of income (ADOI), as an alternative to Federal Tax Information (FTI), used to support the calculation of a monthly payment amount for Income-Driven Repayment (IDR) plans;

(ii) Purpose (7) is updated to identify an aid recipient who applies to repay or recertifies their eligibility to repay, an eligible lender-held Federal Family Education Loan (FFEL);

(iii) New purpose (13) is added to identify an aid recipient who received a Federal Supplemental Education Opportunity Grant (FSEOG) or who earned money under the Federal Work-Study (FWS) program for use in the calculation of the Student Aid Index (SAI) and to assist with expenditure reporting on the Fiscal Operations Report and Application to Participate (FISAP);

(v) New purpose (14) is added to enable an aid recipient to complete a Public Service Loan Forgiveness (PSLF) application using the “PSLF Help Tool” and to maintain the aid recipient’s PSLF qualifying employer’s information including, but not limited to, authorizing official’s name, title, phone number, email address, and digital signature (including time and date stamp); and

(vi) New purpose (15) is added to identify whether an aid recipient (and where applicable the spouse), who is applying for or recertifies eligibility for an IDR plan has or has not provided consent/affirmative approval both to

redisclose Federal Tax Information (FTI) of such individuals pursuant to clauses (iii), (iv), (v), and (vi) of section 6103(l)(13)(D) of the Internal Revenue Code (IRC) of 1986 and under subsection 494(a) of the HEA (20 U.S.C. 1098h(a)) for the purpose of determining eligibility for, or repayment obligations under, IDR plans under title IV of the HEA with respect to loans under part D of the HEA (the Direct Loan program), and redisclosure of FTI under IRC § 6103(l)(13)(A) and (C).

The Department is modifying the section entitled “PURPOSE(S) OF THE SYSTEM” relating to institutions of higher education (also referred to herein as “educational institutions”) participating in and administering title IV, HEA programs by adding new purpose (7) to allow an institution of higher education to report an aid recipient’s receipt of a FSEOG or earnings under the FWS program, which will be used in the SAI calculation and to assist with expenditure reporting on the FISAP.

The Department is modifying the section entitled “PURPOSE(S) OF THE SYSTEM” relating to the Department’s administration and oversight of title IV, HEA programs as follows:

(i) Purpose (9) is being updated to include the implementation and evaluation of education policies in relation to title IV, HEA programs to better clarify the purpose;

New purpose (12) is being added to assist eligible lenders in processing IDR plan requests for eligible aid recipients by providing the calculated monthly payment amounts. The Department is modifying the section entitled “CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM” as follows:

(i) The FWS and the FSEOG Programs are added as new categories (10) and (11), respectively;

(ii) The last phrase in the last paragraph is relocated, with some modifications, to the “CATEGORIES OF RECORDS IN THE SYSTEM” to better describe the cohort default rates described therein are categories of records, not individuals, in the system; and

(iii) A new last paragraph is added to include a PSLF qualifying employer’s authorizing official who has certified an aid recipient’s employment.

The Department is modifying the section entitled “CATEGORIES OF RECORDS IN THE SYSTEM” as follows:

(i) The Department is adding a new note that explains that the FTI the Department will directly obtain from the Internal Revenue Service (IRS) under the Fostering Undergraduate Talent by

Unlocking Resources for Education (FUTURE) Act will not be maintained in this system of records but in a separate system of records, which will be covered by a system of records notice entitled “FUTURE Act System (FAS)” (18–11–23) that the Department will publish in the **Federal Register**;

(ii) Category (2) is modified to include the incarcerated student indicator flag and the consent/affirmative approval both to redisclose Federal Tax Information (FTI) of such individuals pursuant to clauses (iii), (iv), (v), and (vi) of section 6103(l)(13)(D) of the Internal Revenue Code (IRC) of 1986 and for disclosure under section 494(a) of the HEA (20 U.S.C. 1098h(a)) to determine eligibility for, or repayment obligations under, IDR plans pursuant to subsection 494(a) of the HEA (20 U.S.C. 1098h(a));

(iii) Category (4) is modified to include FSEOGs, approved Prison Education programs (PEPs) (the FAFSA Simplification Act allows for expanding access to Federal Pell Grants to include Federal and State penal facilities’ approved PEPs), and information about the FWS program, including the amount of FWS amounts and category/type of FWS employment;

(iv) Category (9) is modified to include records related to a request by an applicant for a Federal Direct PLUS Loan for a credit appeal including credit check details, adverse credit history, credit bureau information, and the appeal decision;

(v) Category (10) is modified to include paper or electronic requests to repay, “annual recertification of eligibility for”, “ADOI”, and “IDR monthly payment amount based on the plan selection (as applicable)” to expand the category of records collected;

(vi) New category (15) is being added to include information provided and generated through customer interactions with contact center support via inbound and outbound channels (phone, chat, webform, email, customer satisfaction survey, fax, physical mail, and digital engagement platforms). Information includes, but is not limited to: chat transcripts, email communications, audio recordings of customer calls, and screen recordings of contact center desktop support during customer interactions;

(vii) New category (16) is being added to include borrower defense (BD) information including an uniquely generated internal system case ID, a uniquely generated BD case number for Department, educational institution and student tracking, Office of Postsecondary Education Identification

Number (OPEID), and the applicable regulatory year and provision (*i.e.*, 1995, 2016, or 2020) under which the BD case is being processed; and

(viii) The Department is adding two new paragraphs at the end of the section to explain that the system also contains an aid recipient’s PSLF qualifying employer’s information (including, but not limited to, authorizing official’s name, title, phone number, email address, and digital signature (including time and date stamp)) and NSLDS cohort default rates calculated by the National Student Loan Data system from guaranty agency-reported and Federal Loan Servicer-reported data at the institution level.

The Department is modifying the section “RECORD SOURCE CATEGORIES” as follows:

(i) A new fourth paragraph is added to explain the process by which the Department obtains the PSLF qualifying employer’s information including, but not limited to, authorizing official name, title, phone number, email address, and digital signature (including time and date stamp), through DocuSign (a secure digital software used by the Department to obtain and document digital signatures) as a service for the aid recipient and the aid recipient’s PSLF qualifying employer for the purpose of processing the aid recipient’s PSLF application; and

(ii) In the fifth paragraph, category (1) is updated from the Central Processing System (CPS) (covered by the Department’s Privacy Act system of records notice entitled “Federal Student Aid Application File” (18–11–01)) to the Student Aid internet Gateway (SAIG) (covered by the Department’s Privacy Act system of records notice entitled “Student Aid internet Gateway (SAIG), Participation Management System” (18–11–10)); category (5), covering the Customer Engagement Management System (CEMS) (covered by the Department’s Privacy Act system of records notice entitled “Customer Engagement Management System (CEMS)” (18–11–11)), is deleted; new category (6) is added to include the Federal Tax Information Module (FTIM) (covered by the Department’s Privacy Act system of records notice entitled “FUTURE Act System (FAS)” (18–11–23)); new category (7) is added to include the Person Authentication Service (PAS) (covered by the Department’s Privacy Act system of records notice entitled “Person Authentication Service (PAS)” (18–11–12)); and new category (8) is added to include the FAFSA Processing System (covered by the Department’s Privacy Act system of records notice entitled

“Aid Awareness and Application Processing” (AAAP) (18–11–21)).

The Department is modifying the section entitled “ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES” to add new routine use (1)(l) to enable the Department to disclose records including, but not limited to, monthly payment amounts and ADOIs, to eligible lenders to assist such lenders in processing an aid recipient’s IDR plan. The Department is modifying the section entitled “POLICIES AND PRACTICES FOR STORAGE OF RECORDS” to indicate that the Department maintains Alternative Documentation Of Income (ADOI) and to include paper or electronic requests to repay for Direct Loan or Department-held Perkins or FFEL.

The Department is modifying the section entitled “POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS” to include the BD case number as a why to access a record.

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 Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Richard Cordray,
Chief Operating Officer, Federal Student Aid.

For the reasons discussed in the preamble, the Chief Operating Officer, Federal Student Aid (FSA) of the U.S. Department of Education (Department) publishes a modified system of records notice to read as follows:

SYSTEM NAME AND NUMBER:

Common Origination and Disbursement (COD) System (18–11–02).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Program Management Services, Federal Student Aid (FSA), Union Center Plaza (UCP), Room 64E1, 830 First St. NE, Washington, DC 20202–5454.

Amazon Web Services (AWS) Government Cloud, 1200 12th Ave., Suite 1200, Seattle, WA 98114. (This is the Hosting Center for the COD application, where all electronic COD information is processed and maintained.)

Accenture, 22451 Shaw Rd., Sterling, VA 20166–4319. (The COD Sterling Cloud-based operations is located here.)

Accenture DC, 820 First St. NE, Washington, DC 20202–4227. (This is the COD operations center.)

Accenture Federal Services, 10931 Laureate Dr., San Antonio, TX 78249. (This is the COD support center.)

Atlanta Federal Records Center, National Archives and Records Administration (NARA), 4712 Southpark Blvd., Ellenwood, GA 30294. (This is where Direct Loan paper promissory notes (also referred to as master promissory notes or MPNs), Endorser Addenda, and Power of Attorney documents are maintained.)

NTT Global Data Centers Americas (Raging Wire), 44664 Guilford Dr., Ashburn, VA 20147. (This is a datacenter for contact center technical infrastructure.)

NTT Global Data Centers Americas (Raging Wire), 2008 Lookout Dr., Garland, TX 75044. (This is a datacenter for contact center technical infrastructure.)

The following three listings are the locations of the COD Customer Service Centers:

ASM Research, 4050 Legato Road, #1100, Fairfax, VA 22033. (This center images and maintains all the Direct Loan paper MPNs and Endorser Addenda);

Senture, LLC, 4255 W Highway 90, Monticello, KY 42633–3398; and

Veteran Call Center, 53 Knightsbridge Rd., Suite 216, Piscataway, NJ 08854–3925.

SYSTEM MANAGER(S):

Director, COD System, Program Delivery Services Group, Federal Student Aid (FSA), U.S. Department of Education (Department), Union Center Plaza (UCP), Room 64E1, 830 First Street NE, Washington, DC 20202–5454.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The authority under which the system is maintained is title IV of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1070 *et seq.*), the Higher Education Relief Opportunities for Students Act of 2003 (20 U.S.C. 1098(b) (including any waivers or modifications that the Secretary of Education deems necessary to make to any statutory or regulatory provision applicable to the student financial assistance programs under title IV of the HEA to achieve specific purposes listed in the section in connection with a war, other military operation, or a national emergency), the FAFSA Simplification Act (Title VII, Division FF of Pub. L. 116–260) (including but not limited to the following sections of the FAFSA Simplification Act: subsection 702(m), which amends section 483 of the HEA, and section 703, which amends section 401 of the HEA), and the FAFSA Simplification Act Technical Corrections Act (Division R of the Consolidated Appropriations Act, 2022 (Pub. L. 117–103)).

PURPOSE(S) OF THE SYSTEM:

The information contained in this system is maintained for the following purposes related to aid applicants and recipients under title IV of the HEA:

Note: Different parts of the HEA use the terms “discharge,” “cancellation,” or “forgiveness” to describe when a borrower’s loan amount is reduced in whole or in part by the Department. To reduce complexity, this system of records notice uses the term “discharge” to include all three terms (“discharge,” “cancellation,” and “forgiveness”), including, but not limited to, discharges of student loans made pursuant to specific benefit programs. At times, the system of records notice may refer by name to a specific benefit program, such as the “Public Service Loan Forgiveness” program; such specific references are not intended to exclude any such program benefits from more general references to loan discharges.

(1) To determine aid applicants’ and recipients’ eligibility for and benefits under title IV, HEA programs, including, but not limited to, receiving a loan, grant, or scholarship, and obtaining discharge of eligible loans under title IV of the HEA;

(2) To maintain data and documentation, including, but not limited to, promissory notes and other agreements that evidence the existence of a legal obligation to repay funds disbursed under title IV, HEA programs and alternative documentation of income (ADOI) used to support the

calculation of a monthly payment amount IDR plans;

(3) To identify whether an aid recipient may have received title IV, HEA program funds at more than one educational institution for the same enrollment period in violation of title IV, HEA program regulations;

(4) To identify whether an aid recipient may have exceeded title IV, HEA program fund award limits in violation of title IV, HEA program regulations;

(5) To identify an aid applicant or recipient who completed an electronic Direct Consolidation Loan Application and promissory note or a Special Direct Consolidation Loan application and promissory note;

(6) To identify an aid applicant or recipient who completed entrance and exit counseling in the Direct Loan or Teacher Education Assistance for College and Higher Education (TEACH) Grant programs;

(7) To identify an aid recipient who apply to repay, or recertifies their eligibility to repay, a Direct Loan, a Department-held Perkins loan, a Department- or an eligible lender-held Federal Family Education Loan (FFEL) Program loan under an IDR plan;

(8) To track student enrollments by educational program for purposes of determining educational program outcomes, including using that information to obtain average earnings of students by educational program from another Federal agency;

(9) To maintain a qualifying employer database to allow aid recipients who apply for Public Service Loan Forgiveness (PSLF), Temporary Expanded Public Service Loan Forgiveness (TEPSLF), or the limited PSLF waiver to search for and select their PSLF qualifying employer;

(10) To enable the Department, or other Federal, State, Tribal, or local government agencies, to investigate, respond to, or resolve complaints concerning the practices or processes of the Department and/or the Department’s contractors, and to investigate, respond to, or resolve aid applicant and recipient requests for assistance or relief regarding title IV, HEA program funds;

(11) To enable an aid applicant, recipient, and, where applicable, an endorser, to initiate online credit checks when they complete the electronic Federal Direct PLUS Loan Application or an Endorser Addendum (*Note:* If an applicant for a Federal Direct PLUS Loan is determined to be ineligible for a loan because they have an adverse credit history, they may still get a loan if they have a qualified endorser or complete a credit appeal);

(12) To identify an aid recipient obligated to repay title IV, HEA program funds pursuant to various maintained data and documentation such as promissory notes, applications, and agreements;

(13) To identify an aid recipient who received a Federal Supplemental Education Opportunity Grant (FSEOG) or who earned money under the Federal Work-Study (FWS) program for use in the calculation of the Student Aid Index (SAI) and to assist with expenditure reporting on the Fiscal Operations Report and Application to Participate (FISAP);

(14) To enable an aid recipient to complete a PSLF application using the "PSLF Help Tool" and to maintain the aid recipient's PSLF qualifying employer's information including, but not limited to, authorizing official's name, title, phone number, email address, and digital signature (including time and date stamp); and

(15) To identify whether an aid recipient (and where applicable the spouse) who is applying or recertifies eligibility for an IDR plan has or has not provided consent/affirmative approval both to redisclose Federal Tax Information (FTI) of such individuals pursuant to clauses (iii), (iv), (v), and (vi) of section 6103(l)(13)(D) of the Internal Revenue Code (IRC) of 1986 and under subsection 494 (a) of the HEA (20 U.S.C. 1098h(a)) for the purpose of determining eligibility for, or repayment obligations under, IDR plans under title IV of the HEA with respect to loans under part D of the HEA (the Direct Loan Program), and redisclosure of FTI under IRC § 6103(l)(13)(A) and (C).

The information in this system is also maintained for the following purposes relating to institutions of higher education (also referred to herein as "educational institutions") participating in and administering title IV, HEA programs:

(1) To enable an institution of higher education to reconcile, on an aggregate and recipient-level basis, the amount of title IV, HEA program funds that an institution received for disbursements it made to, or on behalf of, eligible students (including reconciling verification codes, reconciling the funds received with disbursements made by type of funds received, and making necessary adjustments);

(2) To enable an institution of higher education to request online credit checks on an aid applicant, recipient, or endorser in connection with the determination of the aid applicant's eligibility for a title IV, HEA Federal Direct PLUS Loan;

(3) To assist an institution of higher education, a software vendor, or a third-party servicer with questions about title IV, HEA program funds;

(4) To assist an institution of higher education with student loan default prevention;

(5) To reconcile an institution of higher education's cash drawdowns from the U.S. Department of the Treasury with its reported disbursements and to ensure that the institution of higher education receives the appropriate amount of funds during the respective time period;

(6) To collect Campus-Based expenditure information for the previous award year and the ability to apply for Campus-Based program funds using the FISAP;

(7) To enable an institution of higher education to report an aid recipient's receipt of a FSEOG or earnings under the FWS program, which will be used in the SAI calculation and to assist with expenditure reporting on the FISAP.

The information in this system is also maintained for the following purposes relating to the Department's administration and oversight of title IV, HEA programs:

(1) To support the investigation of possible fraud and abuse and to detect and prevent fraud and abuse in title IV, HEA programs;

(2) To confirm that an institution of higher education, or a program offered by an institution of higher education, is eligible to receive title IV, HEA program funds, and to limit student aid eligibility for ineligible institutions or programs accordingly;

(3) To set and adjust program funding authorization levels for each institution;

(4) To enforce institutional compliance with Department reporting deadlines;

(5) To apply appropriate title IV, HEA funding controls;

(6) To ensure that Federal, State, local, and Tribal statutory, regulatory, contractual, and program requirements are met by educational and financial institutions, and the Department's contractors including Federal Loan Servicers and the Federal Perkins Loan Servicer;

(7) To help governmental entities at the Federal, State, Tribal, and local levels to exercise their supervisory and administrative powers (including, but not limited to, licensure, examination, discipline, regulation, or oversight of educational institutions, Department contractors, guaranty agencies, eligible lenders, and third-party servicers); to investigate, respond to, or resolve complaints regarding the practices or processes of the Department and/or the

Department's contractors; and to update information or correct errors contained in Department records regarding title IV, HEA program funds;

(8) To provide reporting capabilities for educational institutions, guaranty agencies, lenders, Department contractors including Federal Loan Servicers, and the Federal Perkins Loan Servicer for use in title IV, HEA administrative functions, and for use by the Department or Federal, State, Tribal, or local agencies for oversight and compliance;

(9) To support research, analysis, and development, and the implementation and evaluation of educational policies in relation to title IV, HEA programs;

(10) To support the Department in detecting and mitigating improper payments in title IV, HEA programs;

(11) To conduct testing, analysis, or take other administrative actions needed to prepare for or execute programs under title IV of the HEA; and

(12) To assist eligible lenders in processing IDR plan requests for eligible aid recipients by providing the calculated monthly payment amounts.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records of aid applicants, aid applicants' parents, spouses of aid applicants, and where applicable, endorsers, who apply for title IV, HEA programs including, but not limited to, the:

- (1) Federal Pell Grant Program;
- (2) Federal Perkins Loans Program;
- (3) Academic Competitiveness Grant (ACG) Program;
- (4) National Science and Mathematics Access to Retain Talent (National SMART) Grant Program;
- (5) TEACH Grant Program;
- (6) Iraq and Afghanistan Service Grant (IASG) Program;
- (7) Direct Loan Program, which includes Federal Direct Stafford/Ford Loans, Federal Direct Unsubsidized Stafford/Ford Loans, Federal Direct PLUS Loans, and Federal Direct Consolidation Loans;
- (8) FFEL Program;
- (9) Federal Insured Student Loan (FISL) Program;
- (10) FWS Program; and
- (11) FSEOG Program.

The COD System also contains records of aid recipients under title IV of the HEA, parents of dependent aid applicants or recipients and the spouse of independent applicant or recipient. The COD System also maintains records on a PSLF qualifying employer's authorizing official who has certified an aid recipient's employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Note: The Federal Tax Information (FTI) that the Department will obtain directly from the Internal Revenue Service (IRS) under the Fostering Undergraduate Talent by Unlocking Resources for Education (FUTURE) Act will be maintained in a separate system of records, which will be covered by a system of records notice entitled "FUTURE Act System (FAS)" (18–11–23) that the Department will publish in the **Federal Register**.

Records in the COD System include, but are not limited to, the following data about aid applicants and recipients, endorsers, aid applicants' and recipients' parents, and spouses of aid applicants and recipients who are part of an aid applicant's title IV, HEA aid application or receive title IV, HEA aid:

(1) Identifier information, including name, Social Security number (SSN), date of birth (DOB), mailing address, email address, driver's license number, and telephone number;

(2) Aid applicant and recipient demographic information, including demographic information of the aid applicant's and recipient's parent(s) and aid applicant's and recipient's spouse (if applicable), incarcerated student indicator flag, expected student enrollment, list of participating title IV, HEA institutions of higher education designated by the aid applicant to receive the Free Application For Federal Student Aid (FAFSA®) form data along with residency plans, and the financial profile of an aid applicant, an aid applicant's parent(s), or an aid applicant's spouse, as reported and calculated through the FAFSA form, and to also include processing flags, indicators, rejections, and overrides; and the consent/affirmative approval to disclose personally identifiable information to the IRS and to obtain FTI in order to determine eligibility for, or repayment obligations under, IDR plans pursuant to subsection 494 (a) of the HEA (20 U.S.C. 1098h(a));

(3) Aid recipient's loan information including information about Direct Loans, FFEL program loans, Perkins loans, and FISL program loans. This includes information about the period from the origination of the loan through final payment, and milestones, including, but not limited to: discharge, consolidation, or other final disposition including details such as loan amount, date of disbursement, disbursement amounts, balances, loan status, repayment plan and related information, collections, claims, deferments, forbearances, refunds, and guaranty agencies, lender(s), holder(s), and

servicer(s) of an aid recipient's FFEL program loan(s);

(4) Information about Federal grant aid recipients, including recipients of Pell Grants, ACG, National SMART Grants, TEACH Grants, Iraq and Afghanistan Service Grants, and FSEOGs, including grant amounts, grant awards, verification status, lifetime eligibility used (LEU), IASG eligible veteran's dependent indicator, Children of Fallen Heroes Scholarship eligibility indicator, Pell Grant additional eligibility indicator, approved Prison Education programs (PEPs) (the FAFSA Simplification Act allows for expanding access to Federal Pell Grants to include Federal and State penal facilities' approved PEPs; and information about the FWS program, including the amount of FWS earnings and category/type of FWS employment;

(5) Pell Grant collection status indicator and overpayment collection information;

(6) Promissory notes including promissory note identification numbers, loan type, current servicer, principal balance, and the accrued interest for Direct Loans, Federal Direct PLUS Loans, or Department-held FFEL program loans;

(7) TEACH Agreements to Serve;

(8) Direct Loan Entrance Counseling forms, Federal Student Loan Exit Counseling forms, Federal Direct PLUS Loan Counseling forms, the Annual School Loan Acknowledgement (ASLA), Federal Direct PLUS Loan Requests, endorser addendums, and counseling in the Direct Loan and TEACH Grant programs, such as the date that the aid applicant completed counseling;

(9) Credit report information for Federal Direct PLUS Loan applicants, recipients, and endorsers and if applicable, documents related to a Federal Direct PLUS Loan applicant's request for a credit appeal including credit check details, adverse credit history, credit bureau information, and applicant provided appeal support documentation and the Department's appeal decision,

(10) Aid applicant, endorser, or spouse identifier information for a paper or electronic request to repay or annual recertification of an Direct Loan or Department-held Perkins or FFEL loans or annual recertification of eligibility for, an IDR plan, such as SSN; the date that the IDR plan application was completed; ADOI; IDR monthly payment amount based on the plan selection (as applicable); and current loan balances;

(11) Electronic Direct Consolidation Loan or Special Direct Consolidation Loan aid recipient identifier

information, such as the aid recipient's SSN, the date that the aid recipient completed the Federal Direct Consolidation Loan application and promissory note, and current loan balances;

(12) Information concerning the date of any default on a loan;

(13) Demographic and contact information for aid recipient accounts that the Department places with the Federal Loan Servicer(s) for collection of the aid recipient's title IV, HEA loans;

(14) Information obtained pursuant to matching programs or other information exchanges with Federal and State agencies, and other external entities, to assist in identifying aid recipients who may be eligible for benefits related to their title IV, HEA loans or other title IV, HEA obligations, including, but not limited to, Total and Permanent Disability discharges, loan deferments, interest rate reductions, PSLF, and other Federal and State loan repayment, discharge benefits, or for the purpose of recouping payments or delinquent debts under title IV, HEA programs;

(15) Information provided and generated through customer interactions with contact center support via inbound and outbound channels (phone, chat, webform, email, customer satisfaction survey, fax, physical mail, and digital engagement platforms). Information includes, but is not limited to: chat transcripts, email communications, audio recordings of customer calls, and screen recordings of contact center desktop support during customer interactions; and

(16) Borrower defense (BD) information including a uniquely generated internal system case ID, a uniquely generated BD case number for Department, educational institution and student tracking, Office of Postsecondary Education Identification Number (OPEID), and the applicable regulatory year and provisions (*i.e.*, 1995, 2016, or 2020) under which the BD case is being processed.

The system also contains the following data about students provided by institutions of higher education that participate in an experiment under the Experimental Sites Initiative: award year, experiment number, OPEID, student SSN, student last name, and any data collection instrument elements authorized under the Information Collection Request associated with each experiment.

The system also contains records from 2014–2021 on the level of study, Classification of Instructional Program code (field of study), and published length of an educational program in which a student receiving title IV, HEA

Federal student aid was enrolled to limit their eligibility for Direct Subsidized Loans to no more than 150 percent of the published length of the educational program in which the student was enrolled, and to determine when an aid recipient who enrolled after reaching the 150 percent limit would have been responsible for the accruing interest on outstanding Direct Subsidized Loans.

The system also contains an aid recipient's PSLF qualifying employer's information including, but not limited to, authorizing official's name, title, phone number, email address, and digital signature (including time and date stamp).

Finally, the system maintains cohort default rates (CDRs) calculated by the National Student Loan Data System (NSLDS) from guaranty agency-reported and Federal Loan Servicer-reported data at the institution level.

RECORD SOURCE CATEGORIES:

This system includes records obtained from aid applicants and recipients, aid applicants' and recipients' parents, and spouses of aid applicants and recipients who are part of an applicant's or recipient's title IV, HEA aid application, or who have received title IV, HEA program assistance. These records include information provided by applicants for and recipients of title IV, HEA program assistance, via, for example, Federal Direct Consolidation Loan or Special Direct Loan Consolidation application forms and promissory notes, the parents of dependent aid applicants and recipients, and the spouses of aid applicants and recipients who request to repay a Direct Loan, or recertifies their eligibility for, an IDR plan.

This system also includes Federal grant and Direct Loan origination and disbursement records provided to the Department by institutions of higher education or their agents. The system also receives completion information for Direct Loan and TEACH Grant program counseling through *Studentaid.gov* (the student-facing portion of the website) or from institutions of higher education, or both.

The system also receives information on Federal Direct PLUS Loan applicants, recipients, and endorsers from consumer reporting agencies.

Information is also obtained from other Federal, State, Tribal, and local agencies, guaranty agencies, consumer reporting agencies, educational institutions, financial institutions, servicers.

Information is also obtained about a PSLF qualifying employer through

DocuSign (a secure digital software used by the Department to obtain and document digital signatures). The process through which the Department obtains the information using DocuSign is as follows:

(1) The aid recipient completes the PSLF application via the "Helptool," which includes the employer's name and email address;

(2) The Department sends the information to DocuSign; and DocuSign sends an email to the employer, which includes a randomly generated code;

(3) If the employer does not opt out, the employer logs in to DocuSign with the randomly generated code to ensure the employer is accessing the correct recipient certification in DocuSign;

(4) The employer certifies the aid recipient's employment, provides the employer's authorizing official's name, title, email address, and phone number, and electronically signs the PSLF certification; and

DocuSign returns to the Department the PSLF qualifying employer's information. Information is also obtained from other Department systems, including the following systems, or their successor systems:

(a) The Student Aid Internet Gateway (SAIG) (covered by the Department's Privacy Act of 1974, as amended (Privacy Act) system of records notice entitled "Student Aid Internet Gateway, Participant Management System" (18-11-10));

(b) The National Student Loan Data System (NSLDS) (covered by the Department's Privacy Act of 1974, as amended (Privacy Act) system of records notice entitled "National Student Loan Data System" (18-11-06));

(c) The Financial Management System (FMS) (covered by the Department's Privacy Act system of records notice entitled "Financial Management System (FMS)" (18-11-17));

(d) The Postsecondary Education Participants System (PEPS) (covered by the Department's Privacy Act system of records notice entitled "Postsecondary Education Participants System (PEPS)" (18-11-09));

(e) The Common Services for Borrowers (CSB) system (covered by the Department's Privacy Act system of records notice entitled "Common Services for Borrowers (CSB)" (18-11-16));

(f) The Federal Tax Information Module (FTIM) (covered by the Department's Privacy Act system of records notice entitled "FUTURE Act System (FAS)" (18-11-23));

(g) The Person Authentication Service (PAS) (covered by the Department's Privacy Act system of records notice

entitled "Person Authentication Service (PAS)" (18-11-12)); and

(h) The FAFSA Processing System (covered by the Department's Privacy Act system of records notice entitled "Aid Awareness and Application Processing (AAAP)" (18-11-21)).

The system may also obtain information from other persons or entities from which data is obtained following a disclosure under the routine uses set forth below.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. The Department may make these disclosures on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act, under a computer matching agreement.

(1) *Program Disclosures.* The Department may disclose records from the system of records for the following program purposes:

(a) To assist with the determination of program eligibility and benefits, the Department may disclose records to institutions of higher education, financial institutions, third-party servicers, and Federal, State, Tribal, or local agencies;

(b) To maintain data that supports the existence of a legal obligation to repay funds disbursed under title IV, HEA programs, including documentation such as promissory notes and other agreements, the Department may disclose records to institutions of higher education, third-party servicers, and Federal agencies;

(c) To identify whether an aid recipient may have received title IV, HEA program funds at more than one institution of higher education for the same enrollment period in violation of title IV, HEA regulations, the Department may disclose records to institutions of higher education, third-party servicers, and Federal, State, or local agencies;

(d) To identify whether an aid recipient may have exceeded the award limits under title IV, HEA program funds in violation of title IV, HEA regulations, the Department may disclose records to institutions of higher education, third-party servicers, and Federal agencies;

(e) To enable institutions of higher education to reconcile, on an aggregate

and recipient-level basis, the amount of title IV, HEA program funds that an institution received with the disbursements it made to, or on behalf of, eligible students (including reconciling verification codes, reconciling the funds received with disbursements made by type of funds received, and making necessary corrections and adjustments), the Department may disclose records to institutions of higher education, third-party servicers, and Federal, State, or local agencies;

(f) To enable an institution of higher education to request online credit checks of aid applicants, aid recipients, or endorsers as part of the process for determining the eligibility of aid applicants and recipients for a title IV, HEA Federal Direct PLUS Loan, disclosures may be made to institutions of higher education, third-party servicers, consumer reporting agencies, and Federal agencies;

(g) To assist individuals, institutions of higher education, third-party servicers, or software vendors with questions about title IV, HEA program funds, disclosures may be made to institutions of higher education, software vendors, third-party servicers, and Federal, State, or local agencies;

(h) To support the investigation of possible fraud and abuse and to detect and prevent fraud and abuse in title IV, HEA program funds, disclosures may be made to institutions of higher education, third-party servicers, and Federal, State, local, or Tribal agencies;

(i) To assist institutions of higher education with student loan default prevention, disclosures may be made to institutions of higher education as to whether an aid applicant or recipient has completed required counseling in the Direct Loan or TEACH Grant programs;

(j) To assist the Department in determining eligibility for a Federal Direct PLUS Loan, disclosures may be made to consumer reporting agencies;

(k) To help Federal, State, Tribal, and local governmental entities exercise their supervisory and administrative powers (including, but not limited to licensure, examination, discipline, regulation, or oversight of educational institutions, Department contractors, guaranty agencies, eligible lenders, and third-party servicers) or to investigate, respond to, or resolve complaints submitted regarding the practices or processes of the Department and/or the Department's contractors, the Department may disclose records to governmental entities at the Federal, State, Tribal, and local levels. These records may include all aspects of

records relating to loans and grants made under title IV of the HEA, to permit these governmental entities to verify compliance with debt collection, consumer protection, financial, and other applicable statutory, regulatory, or local requirements. Before making a disclosure to these Federal, State, local, or Tribal governmental entities, the Department will require them to maintain safeguards consistent with the Privacy Act to protect the security and confidentiality of the disclosed records;

(l) To assist an eligible lender in processing an aid recipient's IDR plan, the Department may disclose records, including, but not limited to, the calculated monthly payment amount based on the IDR plan selected and ADOIs, to eligible lenders.

(2) *Congressional Member Disclosure.* The Department may disclose the records of an individual to a member of Congress or the member's staff when necessary to respond to an inquiry from the member made at the written request of that individual and on behalf of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(3) *Enforcement Disclosure.* If information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with investigating or prosecuting that violation or charged with enforcing or implementing the statute, regulation, or order issued pursuant thereto.

(4) *Litigation and Alternative Dispute Resolution (ADR) Disclosure.*

(a) *Introduction.* In the event that one of the following parties listed in subparagraphs (i) through (v) is involved in judicial or administrative litigation or ADR, or has an interest in judicial or administrative litigation or ADR, the Department may disclose certain records from this system of records to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department or any of its components;

(ii) Any Department employee in his or her official capacity;

(iii) Any Department employee in his or her individual capacity if the U.S. Department of Justice (DOJ) has been requested to or has agreed to provide or arrange for representation of the employee;

(iv) Any Department employee in his or her individual capacity when the Department has agreed to represent the employee; and

(v) The United States when the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to DOJ.* If the Department determines that disclosure of certain records to DOJ is relevant and necessary to judicial or administrative litigation or ADR, the Department may disclose those records as a routine use to DOJ.

(c) *Adjudicative Disclosure.* If the Department determines that it is relevant and necessary to judicial or administrative litigation or ADR to disclose certain records from this system of records to an adjudicative body before which the Department is authorized to appear or to a person or an entity designated by the Department or otherwise empowered to resolve or mediate disputes, the Department may disclose those records as a routine use to the adjudicative body, person, or entity.

(d) *Disclosure to Parties, Counsel, Representatives, and Witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative, or witness is relevant and necessary to judicial or administrative litigation or ADR, the Department may disclose those records as a routine use to the party, counsel, representative, or witness.

(5) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose information from this system of records to a Federal, State, or local agency, or to another public authority or professional organization, maintaining civil, criminal, or other relevant enforcement or other pertinent records, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action; the issuance of a security clearance; the letting of a contract; or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies or their Agents and Contractors, Professional Organizations, or the Department's Contractors.* The Department may disclose records to a Federal, State, local, or other public agency or an agent or contractor of such a public agency, professional organization, or the Department's contractor in connection with the hiring or retention of an employee or other personnel action; the issuance of a security clearance; the reporting of an

investigation of an employee; the letting of a contract; or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(6) *Employee Grievance, Complaint, or Conduct Disclosure.* If a record is relevant and necessary to a grievance, complaint, or disciplinary proceeding involving a present or former employee of the Department, the Department may disclose the record in the course of investigation, fact-finding, or adjudication to any party to the grievance, complaint, or action; to the party's counsel or representative; to a witness; or to a designated fact-finder, mediator, or other person designated to resolve issues or decide the matter. The disclosure may only be made during the course of investigation, fact-finding, or adjudication.

(7) *Labor Organization Disclosure.* The Department may disclose a record to an arbitrator to resolve disputes under a negotiated grievance procedure or to officials of a labor organization recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation.

(8) *Freedom of Information Act (FOIA) and Privacy Act Advice Disclosure.* The Department may disclose records to the DOJ or the Office of Management and Budget (OMB) if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA or the Privacy Act.

(9) *Disclosure to the DOJ.* The Department may disclose records to DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(10) *Contract Disclosure.* If the Department contracts with an entity to perform any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. As part of such a contract, the Department shall require the contractor to agree to establish and maintain safeguards to protect the security and confidentiality of the disclosed records.

(11) *Research Disclosure.* The Department may disclose records to a researcher if the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to the functions or purposes of this system of records. The Department may disclose records from this system of

records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to agree to establish and maintain safeguards to protect the security and confidentiality of the disclosed records.

(12) *Disclosure to OMB and the Congressional Budget Office (CBO) for Federal Credit Reform Act (CRA) Support.* The Department may disclose records to OMB and CBO as necessary to fulfill CRA requirements in accordance with 2 U.S.C. 661b.

(13) *Disclosure in the Course of Responding to a Breach of Data.* The Department may disclose records from this system of records to appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that there has been a breach of the system of records; (b) the Department has determined that as a result of the suspected or confirmed breach, there is a risk of harm to individuals, the Department (including its information systems, programs, and operations), the Federal government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(14) *Disclosure in Assisting another Agency in Responding to a Breach of Data.* The Department may disclose records from this system to another Federal agency or Federal entity, when the Department determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(15) *Disclosure to the National Archives and Records Administration (NARA).* The Department may disclose records from this system of records to NARA for the purpose of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency

the following information regarding a valid, overdue claim of the Department:

(1) The name, address, taxpayer identification number, and other information necessary to establish the identity of the individual responsible for the claim;

(2) The amount, status, and history of the claim; and

(3) The program under which the claim arose.

The Department may disclose the information specified in this section under 5 U.S.C. 552a(b)(12) and the procedures contained in 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined at 15 U.S.C. 1681a(f) and 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The Department electronically maintains, for the entire Federal Student Aid lifecycle from application through loan payoff, student and applicant demographic, and title IV, HEA aid data such as, but not limited to, FFEL program, FISL program, and Perkins loan records, on hard disk at the AWS Government Cloud in Seattle, Washington. The Department maintains electronic master promissory notes, electronic Special Direct Consolidation Loan opportunity applications and promissory notes, paper or electronic requests to repay or a recertification a Direct Loan or Department-held Perkins or FFEL under an IDR plan, and Federal Direct Consolidation Loan applications, ADOLs, and promissory notes on hard disk at the AWS Government Cloud in Seattle, Washington. Paper Direct Loan promissory notes and endorser addendums are maintained in locked vaults in ASM Research in Niagara Falls, New York, and at the NARA-operated Atlanta Federal Records Center near Atlanta, Georgia. Data obtained from the paper promissory notes are maintained on hard disks at the AWS Government Cloud in Seattle, Washington. This data is referred to as metadata and is used by the system to link promissory notes to aid recipient data. The Department also creates and maintains electronic images of the paper promissory notes at the ASM Research facility in Niagara Falls, New York. For information on the maintenance of other documents, see the section entitled "SYSTEM LOCATION."

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records in the COD System are retrieved by the individual's SSN or name, BD case number, or by the institution's OPEID.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

All records are retained and disposed of in accordance with Department Records Schedule 072: FSA Application, Origination, and Disbursement Records (DAA-0441-2013-0002) (ED 072). ED 072 is being amended, pending approval by NARA. Records will not be destroyed until NARA-approved amendments to ED 072 are in effect, as applicable.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Physical access to the sites of the Department's contractors, where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the buildings for their employee or visitor badge.

In accordance with the Department's Administrative Communications System Directive ACSD-OFO-013 entitled "Contractor Employee Personnel Security Screenings," all contract and Department personnel who have facility access and system access must undergo a security clearance investigation. Individuals requiring access to Privacy Act data are required to hold, at a minimum, a moderate-risk security clearance level. These individuals are required to undergo periodic screening at five-year intervals.

In addition to undergoing security clearances, contract and Department employees are required to complete security awareness training on an annual basis. Annual security awareness training is required to ensure that contract and Department users are appropriately trained in safeguarding Privacy Act data.

The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department and contract staff on a "need-to-know" basis and controls individual users' ability to access and alter records within the system. All users of this system of records are given unique user identification. The Department's FSA Information Security and Privacy Policy requires the enforcement of a complex password policy. In addition to the enforcement of the complex password policy, users are required to change their password at least every 90 days in accordance with the Department's information technology standards.

In accordance with the Federal Information Security Management Act of 2002 (FISMA), as amended by the Federal Information Security Modernization Act of 2014, every

Department system must receive a signed Authorization to Operate (ATO) from a designated Department official. The ATO process includes a rigorous assessment of security and privacy controls, a plan of actions and milestones to remediate any identified deficiencies, and a continuous monitoring program.

Security and privacy controls implemented are comprised of a combination of management, operational, and technical controls, and include the following control families: access control, awareness and training, audit and accountability, security assessment and authorization, configuration management, contingency planning, identification and authentication, incident response, maintenance, media protection, physical and environmental protection, planning, personnel security, privacy, risk assessment, system and services acquisition, system and communications protection, system and information integrity, and program management.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, contact the system manager at the address listed above. You must provide necessary particulars of your name, DOB, SSN, and any other identifying information requested by the Department while processing the request to distinguish between individuals with the same name.

Requests by an individual for access to a record must meet the requirements in 34 CFR 5b.5.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of your personal record within the system of records, contact the system manager at the address listed above and provide your name, DOB, and SSN. Identify the specific items to be changed and provide a written justification for the change.

Requests to amend a record must meet the requirements in 34 CFR 5b.7.

NOTIFICATION PROCEDURES:

If you wish to determine whether a record exists regarding you in the system of records, contact the system manager at the address listed above. You must provide necessary particulars such as your name, DOB, SSN, and any other identifying information requested by the Department while processing the request to distinguish between individuals with the same name. Requests must meet the requirements in 34 CFR 5b.5.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

The system of records entitled "Common Origination and Disbursement (COD) System" (18-11-02) was last modified and published in full in the **Federal Register** on September 13, 2022 (87 FR 56015-56025). Prior to this, the Department modified and published in full this system of records notice in the **Federal Register** on August 16, 2019 (84 FR 41979-41987). The Department renamed its previous system of records entitled, "Recipient Financial Management System" (RFMS) (18-11-02), as the "Common Origination and Disbursement (COD) System" (18-11-02), on September 27, 2010 (75 FR 59242-59246). The Department previously published the RFMS system of records notice on June 4, 1999 (64 FR 30106, 30161-30162).

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BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2023-SCC-0114]

Agency Information Collection Activities; Comment Request; Evaluation of the Professional Learning Resources of the REL NW Toolkit for Using Technology To Support Postsecondary Student Learning

AGENCY: Institute of Education Sciences (IES), 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 August 28, 2023.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-2023-SCC-0114. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the [regulations.gov](http://www.regulations.gov) site is not available to the public for any reason, the Department will temporarily accept comments at ICDocketMgr@ed.gov.

Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Manager of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W203, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Heidi Gansen, 202–245–6765.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. 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: Evaluation of the Professional Learning Resources of the REL NW Toolkit for Using Technology to Support Postsecondary Student Learning.

OMB Control Number: 1850–NEW.

Type of Review: A new ICR.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 13,177.

Total Estimated Number of Annual Burden Hours: 1,280.

Abstract: The current authorization for the Regional Educational

Laboratories (REL) program is under the Education Sciences Reform Act of 2002, Part D, Section 174, (20 U.S.C. 9564), administered by the Department of Education, Institute of Education Sciences (IES), National Center for Education Evaluation and Regional Assistance (NCEE). The central mission and primary function of the RELs is to support applied research and provide technical assistance to state and local education agencies within their region (ESRA, Part D, section 174[f]). The REL program's goal is to partner with educators and policymakers to conduct work that is change-oriented and supports meaningful local, regional, or state decisions about education policies, programs, and practices to improve outcomes for students.

The Regional Educational Laboratory Northwest is developing a toolkit based on the Using Technology to Support Postsecondary Student Learning What Works Clearinghouse (WWC) Practice Guide to support student learning in community college contexts. Community college instructors, across all disciplines, including those who teach in person, hybrid (remote and in person), and online courses, are the primary audience for the Toolkit.

This toolkit's efficacy evaluation will collect information about the professional learning resources, organized as the eAcademy: Professional Learning for Using Technology to Enhance Learning, that will comprise the main component of the Toolkit. In the efficacy study, the eAcademy will be offered to instructors in community colleges in Oregon. The evaluation of the eAcademy includes two parts: first, using a random assignment design, researchers will examine the impact of the eAcademy on instructor knowledge, teaching practices, and student outcomes. Second, researchers will collect implementation data to understand fidelity of implementation, treatment contrast, and how the eAcademy influences instructor and student outcomes.

The research questions include: What is the impact of the eAcademy on instructors' awareness of technology tools for learning, knowledge of how to use technology for learning, and comfort using education technologies to support student learning, what is the impact of the eAcademy on instructors' use of technology to support student learning, and what is the impact of the eAcademy on student engagement, interaction, course completion, and persistence to the next quarter?

The goals of the program evaluation include documenting the content of

eAcademy (topics covered and activities provided), the way the eAcademy is implemented, and the treatment dosage to understand fidelity of implementation. The evaluation study will provide further insight into how the eAcademy is related to instructor- and student-level outcomes, and the implementation study will document treatment contrast between the eAcademy and other available professional resources. eAcademy participation data will be used to affirm whether instructors in the treatment group accessed the professional resources and instructors in the control group did not.

Findings from the implementation study may be used to improve future iterations of the eAcademy and to update the WWC Practice Guide recommendations. They may also generate ideas for new approaches to professional development that lead to better outcomes.

Dated: June 23, 2023.

Juliana Pearson,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2023–13735 Filed 6–27–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP19–14–002]

Mountain Valley Pipeline, LLC; Notice of Request for Extension of Time

Take notice that on June 15, 2023, Mountain Valley Pipeline, LLC (Mountain Valley), requested that the Federal Energy Regulatory Commission (Commission) grant an extension of time until June 18, 2026, to complete construction of the MVP Southgate Project (Southgate Project) and place the Southgate Project facilities into service, as authorized in the June 18, 2020 Order Issuing Certificate (Certificate Order),¹ under Section 7 of The Natural Gas Act.

On June 24, 2022, Mountain Valley filed a motion requesting a four-year extension of time, until October 13, 2026, to construct and place into service the Mountain Valley Pipeline Project (Mainline System) and the Greene

¹ *Mountain Valley Pipeline, LLC*, 171 FERC ¶ 61,232 (2020), *order on reh'g*, 172 FERC ¶ 61,261 (2020), *aff'd sub. nom.*, *Sierra Club, et al. v. FERC*, 38 F.4th 220 (D.C. Cir. 2022).

Interconnect.² The extension of time for the Mainline System was granted on August 23, 2022.³

Mountain Valley states that construction and completion of the Mainline System has been delayed due to persistent litigation and resultant repetitive permitting processes. The Southgate Project has experienced its own permitting delays, some of which is directly tied to Mainline System permitting.⁴

Mountain Valley asserts that even if the Southgate Project had all of its permits, the Mainline System permitting delays would have prevented Mountain Valley from commencing construction of the Southgate Project under the terms of the Certificate Order. In its request Mountain Valley avers that the circumstances have changed because President Biden signed legislation that will expedite the completion of the Mainline System.⁵ Mountain Valley affirms that it is awaiting permits from the U.S. Army Corps of Engineers and approval from the Commission to resume full construction of the Mainline System. Mountain Valley is targeting to complete construction and commence service on the Mainline System by the end of 2023. After resolving Mainline System permitting, Mountain Valley plans to resume its permitting efforts for the Southgate Project.

This notice establishes a 15-calendar day intervention and comment period deadline. Any person wishing to comment on Mountain Valley's request for an extension of time may do so. No reply comments or answers will be considered. If you wish to obtain legal status by becoming a party to the proceedings for this request, you should, on or before the comment date stated below, file a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10).

As a matter of practice, the Commission itself generally acts on requests for extensions of time to complete construction for Natural Gas Act facilities when such requests are contested before order issuance. For

those extension requests that are contested,⁶ the Commission will aim to issue an order acting on the request within 45 days.⁷ The Commission will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension.⁸ The Commission will not consider arguments that re-litigate the issuance of the certificate order, including whether the Commission properly found the project to be in the public convenience and necessity and whether the Commission's environmental analysis for the certificate complied with the National Environmental Policy Act.⁹ At the time a pipeline requests an extension of time, orders on certificates of public convenience and necessity are final and the Commission will not re-litigate their issuance.¹⁰ The OEP Director, or his or her designee, will act on all of those extension requests that are uncontested.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room. For assistance, contact FERC at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

The Commission strongly encourages electronic filings of comments in lieu of paper using the "eFile" link at <http://www.ferc.gov>. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The 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.

Comment Date: 5:00 p.m. Eastern Time on July 7, 2023.

Kimberly D. Bose,
Secretary.

[FR Doc. 2023-13759 Filed 6-27-23; 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: RP23-376-000.
Applicants: Florida Public Utilities Company, Chesapeake Utilities Corporation—Central Florida Gas Division.

Description: Joint Request of Florida Public Utilities Company, et al. for Extension of Limited Waiver et al.
Filed Date: 6/22/23.

Accession Number: 20230622-5021.
Comment Date: 5 p.m. ET 7/5/23.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <https://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

² *Mountain Valley Pipeline, LLC*, June 24, 2022 Request for Extension of Time. The Mountain Valley Pipeline Project was certificated in Docket No. CP16-10-000 and amended in Docket No. CP21-477-000. The Greene Interconnect Project was authorized in Docket No. CP19-477-000 pursuant to Mountain Valley's blanket certificate.

³ *Mountain Valley Pipeline, LLC*, 180 FERC ¶ 61,117 (2022).

⁴ *Mountain Valley Pipeline, LLC v. N.C. Dep't of Env't Quality*, 990 F.3d 818, 833 (4th Cir. 2021).

⁵ Fiscal Responsibility Act of 2023, H.R. 3746, 118th Cong. § 324 (2023).

⁶ Contested proceedings are those where an intervenor disputes any material issue of the filing. 18 CFR 385.2201(c)(1) (2022).

⁷ *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 40 (2020).

⁸ *Id.* at P 40.

⁹ Similarly, the Commission will not re-litigate the issuance of an NGA section 3 authorization, including whether a proposed project is not inconsistent with the public interest and whether the Commission's environmental analysis for the permit order complied with NEPA.

¹⁰ *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144, at P 40 (2020).

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Dated: June 22, 2023.

Kimberly D. Bose,
Secretary.

[FR Doc. 2023-13760 Filed 6-27-23; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16-355-004; ER16-141-006; ER15-255-005; ER10-2032-010; ER10-2033-010; ER15-190-021; ER12-2313-007; ER10-1330-009; ER18-2466-002; ER18-2465-002; ER19-2343-003; ER17-2336-007; ER18-1343-015.

Applicants: Carolina Solar Power, LLC, Shoreham Solar Commons LLC, 2018 ESA Project Company, LLC, Potter Road Powerhouse LLC, Federal Way Powerhouse LLC, North Allegheny Wind, LLC, Laurel Hill Wind Energy, LLC, Duke Energy Renewable Services, LLC, Duke Energy Ohio, Inc., Duke Energy Kentucky, Inc., Duke Energy Beckjord Storage, LLC, Conetoe II Solar, LLC, Colonial Eagle Solar, LLC.

Description: Supplement to December 20, 2022, Triennial Market Power Analysis for Northeast Region of Duke MBR Sellers.

Filed Date: 6/20/23.

Accession Number: 20230620-5241.

Comment Date: 5 p.m. ET 7/11/23.

Docket Numbers: ER22-1731-002.

Applicants: Southwest Power Pool, Inc.

Description: Compliance filing: Settlement Compliance Filing of MRES in Response to May 23 Order to be effective 7/1/2022.

Filed Date: 6/22/23.

Accession Number: 20230622-5019.

Comment Date: 5 p.m. ET 7/13/23.

Docket Numbers: ER23-1653-001.

Applicants: Jersey Central Power & Light Company, PJM Interconnection, L.L.C.

Description: Tariff Amendment: Jersey Central Power & Light Company submits tariff filing per 35.17(b): JCPL Responses to Deficiency Letter in ER23-1653 to be effective 6/17/2023.

Filed Date: 6/22/23.

Accession Number: 20230622-5035.

Comment Date: 5 p.m. ET 7/13/23.

Docket Numbers: ER23-1730-001.

Applicants: Pacific Gas and Electric Company.

Description: Tariff Amendment: Amendment to Q1 2023 Quarterly Filing of CCSF's WDT SA (SA 275) to be effective 3/31/2023.

Filed Date: 6/22/23.

Accession Number: 20230622-5069.

Comment Date: 5 p.m. ET 7/13/23.

Docket Numbers: ER23-1876-001.

Applicants: Public Service Company of Colorado.

Description: Tariff Amendment: 2023-06-22-TSGT-Fox Run Bndry Agrmt-743—Errata Filing to be effective 7/11/2023.

Filed Date: 6/22/23.

Accession Number: 20230622-5102.

Comment Date: 5 p.m. ET 7/13/23.

Docket Numbers: ER23-2207-000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Notice of Cancellation of ISA, Service Agreement No. 5616; Queue No. AD1-143 to be effective 8/23/2023.

Filed Date: 6/22/23.

Accession Number: 20230622-5027.

Comment Date: 5 p.m. ET 7/13/23.

Docket Numbers: ER23-2208-000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original WMPA, Service Agreement No. 6972; Queue No. AF1-167 to be effective 8/1/2023.

Filed Date: 6/22/23.

Accession Number: 20230622-5032.

Comment Date: 5 p.m. ET 7/13/23.

Docket Numbers: ER23-2209-000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: § 205(d) Rate Filing: Initial Filing of Service Agreement No. 913 to be effective 5/30/2023.

Filed Date: 6/22/23.

Accession Number: 20230622-5034.

Comment Date: 5 p.m. ET 7/13/23.

Docket Numbers: ER23-2210-000.

Applicants: El Paso Electric Company.

Description: § 205(d) Rate Filing: Rate Schedule No. 361 Cost Reimbursement Agreement between SunZia and El Rio Sol to be effective 5/31/2023.

Filed Date: 6/22/23.

Accession Number: 20230622-5046.

Comment Date: 5 p.m. ET 7/13/23.

Docket Numbers: ER23-2211-000.

Applicants: El Paso Electric Company.

Description: Tariff Amendment: Termination of Service Agreement No. 346, EPE—La Mesa PV I LLC SGIA As Amended to be effective 6/5/2023.

Filed Date: 6/22/23.

Accession Number: 20230622-5051.

Comment Date: 5 p.m. ET 7/13/23.

Docket Numbers: ER23-2212-000.

Applicants: New York Independent System Operator, Inc., Consolidated Edison Company of New York, Inc.

Description: § 205(d) Rate Filing: New York Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): Con Edison Proposed FR Template and Protocols in Rate Schedules 10 and 19 to be effective 8/22/2023.

Filed Date: 6/22/23.

Accession Number: 20230622-5080.

Comment Date: 5 p.m. ET 7/13/23.

Docket Numbers: ER23-2213-000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 2491R11 Evergy Kansas Central, Inc. NITSA NOA to be effective 9/1/2023.

Filed Date: 6/22/23.

Accession Number: 20230622-5081.

Comment Date: 5 p.m. ET 7/13/23.

Docket Numbers: ER23-2214-000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA and ICISA, Service Agreement Nos. 6947 and 6948; Queue No. AD2-066 to be effective 8/21/2023.

Filed Date: 6/22/23.

Accession Number: 20230622-5099.

Comment Date: 5 p.m. ET 7/13/23.

Docket Numbers: ER23-2215-000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3675R4 Doniphan Electric Cooperative Assn, Inc. NITSA NOA to be effective 9/1/2023.

Filed Date: 6/22/23.

Accession Number: 20230622-5106.

Comment Date: 5 p.m. ET 7/13/23.

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: <https://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

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Dated: June 22, 2023.

Kimberly D. Bose,
Secretary.

[FR Doc. 2023-13761 Filed 6-27-23; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23-2201-000]

Star Light and Power LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Star Light and Power LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application 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 July 12, 2023.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

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 22, 2023.

Kimberly D. Bose,
Secretary.

[FR Doc. 2023-13757 Filed 6-27-23; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 906-040]

Cushaw Hydro, LLC; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-capacity Amendment of License.

b. *Project No:* 906-040.

c. *Date Filed:* April 27, 2023.

d. *Applicant:* Cushaw Hydro, LLC (licensee).

e. *Name of Project:* Cushaw Hydroelectric Project.

f. *Location:* The project is located along the James River, in Bedford and Amherst counties, Virginia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a-825r.

h. *Applicant Contact:* Mark Fendig, Managing Partner, Cushaw Hydro, LLC, P.O. Box 113, Coleman Falls, VA 24536, (540) 320-6762, mfendig@aisva.net.

i. *FERC Contact:* Chris Chaney, (202) 502-6778, christopher.chaney@ferc.gov.

j. Deadline for filing comments, motions to intervene, and protests is 30 days from the issuance of this notice by the Commission.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. The first page of any filing should include the docket number P-906-040. Comments emailed

to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The licensee proposes to: (1) replace the intake trash racks; (2) replace the trash rack cleaning system; (3) replace the turbine stop log gates; (4) add a crane structure on the intake platform upstream of the powerhouse; and (5) add a catwalk on the downstream side of the powerhouse. As proposed, the licensee would conduct the work during the low flow period between August and November 2023.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1-866-208-3676 or email FERCOnlineSupport@ferc.gov, for TTY, call (202) 502-8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO

INTERVENE" as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

p. 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 22, 2023.

Kimberly D. Bose,
Secretary.

[FR Doc. 2023-13762 Filed 6-27-23; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23-2200-000]

Electra Sparks, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Electra Sparks, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application 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 July 12, 2023.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at FERCOnlineSupport@ferc.gov or call toll-free, (866) 208-3676 or TTY, (202) 502-8659.

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Dated: June 22, 2023.

Kimberly D. Bose,
Secretary.

[FR Doc. 2023–13758 Filed 6–27–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER23–2203–000]

Wildflower Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Wildflower Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application 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 July 12, 2023.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all

interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

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 22, 2023.

Kimberly D. Bose,
Secretary.

[FR Doc. 2023–13756 Filed 6–27–23; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Request for Candidates To Serve as a Non-Federal Member of the Federal Accounting Standards Advisory Board

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) is currently seeking candidates (candidates must not currently be Federal employees) to serve as a non-Federal member of FASAB. FASAB is the body designated to establish generally accepted accounting principles for Federal Government entities. Generally, non-Federal Board members are selected from the general financial community, the accounting and auditing community, or the academic community. The Board

generally meets for two days every other month in Washington, DC. Members are compensated for 24 days per year based on current Federal executive salaries. Travel expenses are reimbursed in accordance with federal travel regulations.

DATES: Please submit your resume by August 27, 2023.

ADDRESSES: Responses may be sent to fasab@fasab.gov or Ms. Monica R. Valentine, Executive Director, 441 G Street NW, Suite 1155, Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: Ms. Monica R. Valentine, Executive Director, 441 G Street NW, Suite 1155, Washington, DC 20548, or call (202) 512–7350.

Authority: 31 U.S.C. 3511(d); Federal Advisory Committee Act, 5 U.S.C. 1001–1014.

Dated: June 22, 2023.

Monica R. Valentine,
Executive Director.

[FR Doc. 2023–13669 Filed 6–27–23; 8:45 am]

BILLING CODE 1610–02–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX, OMB 3060–1247; FR ID 149897]

Information Collections 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 (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to

further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before August 28, 2023. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email PRA@fcc.gov and to nicole.ongele@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418-2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-XXXX.
Title: Federal Advisory Committee Demographic Data.

Form Number: FCC Form 5649.
Type of Review: New information collection.

Respondents: Individuals or Households.

Number of Respondents and Responses: 525 respondents, 525 responses.

Estimated Time per Response: 0.166 hours.

Frequency of Response: On occasion and biennial reporting requirements.

Obligation to Respond: Voluntary.

Total Annual Burden: 87 hours.

Total Annual Cost: No Cost.

Needs and Uses: This collection will be submitted as a new collection after this 60-day comment period to the Office of Management and Budget (OMB) in order to obtain the full three-year clearance. Consistent with Executive Order 14035, the FCC developed this form for members and applicants to voluntarily complete. The FCC will review, analyze and evaluate the demographic data received and the information will assist in the FCC's efforts to pursue opportunities, consistent with applicable law, to increase diversity, equity, inclusion and accessibility on its external advisory committees. Review, analysis, and evaluation of this data, in the aggregate, will inform the FCC's assessment of the membership of and applications to its federal advisory committees.

OMB Control Number: 3060-1247.

Title: Part 32 Uniform System of Accounts.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 949 respondents; 1,944 responses.

Estimated Time per Response: 20-40 hours.

Frequency of Response: On occasion, and annual reporting requirements; recordkeeping requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 10, 201, 219-220, 224, and 403 of the Communications Act of 1934, as amended; 47 U.S.C. 160, 201, 219-220, 224, and 403.

Total Annual Burden: 69,820 hours.

Total Annual Cost: No cost.

Needs and Uses: On February 24, 2017, the Commission released the *Part 32 Order*, WC Docket No. 14-130, CC Docket No. 80-286, FCC 17-15, which minimized the compliance burdens imposed by the Uniform System of Accounts (USOA) on price cap and rate-of-return telephone companies, while ensuring that the Commission retains access to the information it needs to fulfill its regulatory duties. The Commission consolidated Class A and Class B accounts by eliminating the current classification of carriers, which divides incumbent LECS into two classes for accounting purposes based on annual revenues. Carriers subject to Part 32's USOA are now only required to keep Class B accounts.

Pursuant to the *Part 32 Order*, price cap carriers may elect to use generally accepted accounting principles (GAAP) for all regulatory accounting purposes if they: (1) Establish an "Implementation Rate Difference" (IRD) which is the difference between pole attachment rates calculated under Part 32 and under GAAP as of the last full year preceding the carrier's initial opting out of Part 32 accounting requirements; and (2) adjust their annually-computed GAAP-based pole attachment rates by the IRD for a period of 12 years after the election. Alternatively, price cap carriers may elect to use GAAP accounting for all purposes other than those associated with pole attachment rates and continue to use the Part 32 accounts and procedures applicable to pole attachment rates for up to 12 years. A price cap carrier may be required to submit pole attachment accounting data to the Commission for three years following the effective date of the rule

permitting a price cap carrier to elect GAAP accounting. If a pole attaché informs the Commission of a suspected problem with pole attachment rates, the Commission will require the price cap carrier to file its pole attachment data for the state in question. This requirement may be extended for an additional three years, if necessary.

The Commission reduced the accounting requirements for telephone companies with a continuing obligation to comply with Part 32 in a number of areas. Telephone companies may: (1) Carry an asset at its purchase price when it was acquired, even if its value has increased or declined when it goes into regulated service; (2) reprice an asset at market value after a merger or acquisition consistent with GAAP; (3) use GAAP principles to determine Allowance-for-Funds-Used-During Construction; and (4) employ the GAAP standard of materiality. Rate-of-return carriers receiving cost-based support must determine materiality consistent with the general materiality guidelines promulgated by the Auditing Standards Board. Price cap carriers with a continuing Part 32 accounting obligation must maintain continuing property records necessary to track substantial assets and investments in an accurate, auditable manner. The carriers must make such property information available to the Commission upon request. Carriers subject to Part 32 must continue to comply with the USOA's depreciation procedures and its rules for cost of removal-and-salvage accounting.

Pursuant to the October 24, 2018 *Rate-of-Return Business Data Services Report and Order*, WC Docket No. 17-144, FCC 18-146, rate-of-return carriers currently receiving model-based or other fixed high-cost support may voluntarily elect to transition their business services offerings from rate-of-return to incentive regulation. Thus, electing carriers that choose to use GAAP instead of the Uniform System of Accounts are relieved of virtually all of the filing and recordkeeping requirements of the Uniform System of Accounts, with the sole exception of the same data provisioning requirements for the calculation of pole attachment rates as price cap carriers.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023-13777 Filed 6-27-23; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0031, OMB 3060–0110; FR ID 150161]

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 28, 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 Number: 3060–0110.

Title: FCC Form 2100, Application for Renewal of Broadcast Station License, LMS Schedule 303–S.

Form Number: FCC 2100, LMS Schedule 303–S.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not for profit institutions; State, Local or Tribal Governments.

Number of Respondent and Responses: 5,126 respondents, 5,126 responses.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i), 303, 307 and 308 of the Communications Act of 1934, as amended, and Section 204 of the Telecommunications Act of 1996.

Estimated Time per Response: 0.5 hours–12 hours.

Frequency of Response: Every eight-year reporting requirement; Third party disclosure requirement.

Total Annual Burden: 14,868 hours.

Total Annual Costs: \$3,994,164.

Obligation of Response: Required to obtain or retain benefits. The statutory authority for the collection is contained Sections 154(i), 303, 307 and 308 of the Communications Act of 1934, as amended, and Section 204 of the Telecommunications Act of 1996.

Needs and Uses: On May 12, 2020, the Commission adopted Amendment of Section 73.3580 of the Commission’s Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580, Second Report and Order, MB Docket Nos. 17–254, 17–105, & 05–6, FCC 20–65 (rel. May 13, 2020). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Some stations that were previously required to post public notice in a local newspaper, must now post notice online, either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing. Stations that are required to make on-air announcements of the filing of certain applications, including applications for the renewal of broadcast licenses, must continue to do so, but the announcements are shorter and direct viewers and listeners to the application as filed and displayed in either the station’s Online Public Inspection File or another Commission database. A total of six on-air announcements are required, at least one per week and no more than one per day or two per week, to be broadcast between 7:00 a.m. and 11:00 p.m. local time, Monday through Friday, beginning after the application is accepted for filing. The Commission also clarified low-power FM (LPFM) stations’ obligations to provide local public notice, and amended section 73.801 of the rules (47 CFR 73.801, listing FCC rules that apply to the LPFM service) to include the local public notice rule, 47 CFR 73.3580. Upon Adoption of the 2020 Public Notice Second Report and Order, this submission was sent to OMB for approval of the modified third-party disclosure requirements for this Information Collection. The changes pertaining to this Information Collection and to 47 CFR 73.3580 adopted in the

2020 Public Notice Second Report and Order, did not necessitate changes to Schedules 314 or 315, nor did they affect the substance, burden hours, or costs of completing the forms. The rule changes did, however, reduce burdens and costs associated with filing the application.

Control Number: 3060–0031.

Title: Form 2100, Schedule 314—Application for Consent to Assignment of Broadcast Station Construction Permit or License; Form 2100, Schedule 315—Application for Consent to Transfer Control of Entity Holding Broadcast Station Construction Permit or License.

Form Number: FCC Form 2100, Schedules 314 and 315.

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: 4,920 respondents and 13,160 responses.

Estimated Time per Response: 0.075 to 7 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in Sections 154(i), 303(b) and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 17,159 hours.

Total Annual Cost: \$51,493,759.

Needs and Uses: Upon adoption, submission was made to the Office of Management and Budget (OMB) for the approval of information collection requirements contained in the Commission's Reexamination of the Comparative Standards and Procedures for Licensing Noncommercial Educational Broadcast Stations and Low Power FM Stations, Report and Order, FCC 19–127, 34 FCC Rcd 12519 (2019) (NCE LPFM Report and Order), adopted December 10, 2019, and released on December 11, 2019. In the NCE LPFM Report and Order the Commission revised its rules and procedures for considering competing applications for new and major modifications to noncommercial educational full-service FM and full-power television (NCE), and low power FM (LPFM) broadcast stations. The changes were designed to improve the comparative selection and licensing procedures, expedite the initiation of new service to the public, eliminate unnecessary applicant burdens, and reduce the number of

appeals of NCE comparative licensing decisions.

First, to improve the NCE comparative process, the NCE LPFM Report and Order: (1) Eliminated the governing document requirements for established local applicants and applicants claiming diversity points; (2) established a uniform divestiture pledge policy; (3) expanded the tie-breaker criteria and revises the procedures for allocating time in mandatory time-sharing situations; and (4) clarified and modified the “holding period” rule.

Second, the NCE LPFM Report and Order adopted the following changes to the LPFM comparative process: (1) Prohibited amendments that attempt to cure past unauthorized station violations; (2) authorized time-sharing discussions prior to tentative selectee designations; and (3) established procedures for remaining tentative selectees following dismissal of point aggregation time-share agreements.

Third, the NCE LPFM Report and Order adopted the following general changes: (1) Defined which applicant board changes are major changes; (2) clarified the reasonable site assurance requirements; (3) streamlined construction deadline tolling procedures and notification requirements; (4) lengthened the LPFM construction period; and (5) eliminated restrictions on the assignment and transfer of LPFM authorizations.

Specifically, pertaining to this Information Collection and NCE and LPFM stations, the Commission removed the restrictive LPFM station three-year “holding period” certification from CDBS Forms 314 and 315, and revised the relevant rules, 47 CFR 73.865 and 73.7005, the forms, and corresponding instructions, as follows:

(1) Changed all references to “holding period” to “maintenance of comparative qualifications,” and requiring NCE stations awarded by the point system to certify satisfying the four-year “maintenance of comparative qualifications” period;

(2) required LPFM applicants to certify that it has been at least 18 months since the station's initial construction permit was granted in accordance with 47 CFR 73.865(c);

(3) required LPFM applicants to certify that the assignment/transfer of the LPFM authorization satisfies the consideration restrictions of 47 CFR 73.865(a)(1);

(4) required LPFM authorizations awarded by the LPFM comparative point system, to indicate whether the LPFM station has operated on-air for at least four years since grant;

(5) required NCE applicants to certify that the proposed acquisition comports with 47 CFR 73.7005(c) diversity requirements, based on any “diversity of ownership” points awarded in an NCE points system analysis.

Moreover, the NCE LPFM Report and Order will increase the number of applicants eligible to file Schedules 314 and 315 by eliminating both the absolute prohibition on the assignment/transfer of LPFM construction permits and the three-year holding period restriction on assigning LPFM licenses. The elimination of these restrictions will benefit the LPFM service by increasing the likelihood that LPFM permits will be constructed, provide new service to communities, and help make the LPFM stations more viable.

Upon adoption, the Commission, submitted to OMB for the approval of information collection requirements contained in the Amendment of Section 73.3580 of the Commission's Rules Regarding Public Notice of the Filing of Applications; Modernization of Media Regulation Initiative; Revision of the Public Notice Requirements of Section 73.3580, Second Report and Order, MB Docket Nos. 17–254, 17–105, & 05–6, FCC 20–65 (adopted May 12, 2020, rel. May 13, 2020) (2020 Public Notice Second Report and Order). The Commission adopted new, streamlined procedures for stations to provide public notice of the filing of certain applications. Stations, including commercial stations filing assignment and transfer applications, that were previously required to post public notice in a local newspaper, must now post notice online either on the station website or a website affiliated with the station, its licensee, or its parent entity, or else must post notice on a publicly accessible, locally targeted website, for 30 continuous days following acceptance of the application for filing. Stations, including those filing assignment and transfer applications, that are required to make on-air announcements of the filing of certain applications, must continue to do so, but the announcements are shorter and direct viewers and listeners to the application as filed and displayed in either the station's Online Public Inspection File or another Commission database. A total of six on-air announcements are required, at least one per week and no more than one per day or two per week, to be broadcast between 7:00 a.m. and 11:00 p.m. local time, Monday through Friday, beginning after the application is accepted for filing.

The changes pertaining to this Information Collection and to 47 CFR

73.3580 adopted in the 2020 Public Notice Second Report and Order, did not necessitate changes to Schedules 314 or 315, nor did they affect the substance, burden hours, or costs of completing the forms. The rule changes did, however, reduce burdens and costs associated with filing the application.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–13778 Filed 6–27–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Savings and Loan Holding Company

The notificants listed below have applied under the Change in Bank Control Act (“Act”) (12 U.S.C. 1817(j)) and of the Board’s Regulation LL (12 CFR 238.31) to acquire shares of a savings and loan holding company. The factors that are considered in acting on the notices 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 July 13, 2023.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414. Comments can also be sent electronically to

Comments.applications@chi.frb.org:

1. *PyraMax Bank, FSB Employee Stock Ownership Plan Trust, Greenfield, Wisconsin; the Principal Trust Company, as trustee, Wilmington, Delaware;* to acquire voting shares of 1895 Bancorp of Wisconsin, Inc., and thereby indirectly acquire voting shares

of PyraMax Bank, F.S.B., both of Greenfield, Wisconsin.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023–13749 Filed 6–27–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Meeting for Software Developers on the Common Formats for Patient Safety Data Collection

AGENCY: Agency for Healthcare Research and Quality (AHRQ), Department of Health and Human Services (HHS).

ACTION: Notice of public meeting.

SUMMARY: AHRQ coordinates the development of sets of standardized definitions and formats (Common Formats) that make it possible to collect, aggregate, and analyze uniformly structured information about health care quality and patient safety for local, regional, and national learning. The Common Formats include technical specifications to facilitate the collection of electronically comparable data by Patient Safety Organizations (PSOs) and other entities. Additional information about the Common Formats can be obtained through AHRQ’s PSO website at <https://pso.ahrq.gov/common-formats> and the PSO Privacy Protection Center’s website at https://www.psoppc.org/psoppc_web/publicpages/commonFormatsOverview. The purpose of this notice is to announce a meeting to discuss implementation of the Common Formats with software developers and other interested parties. This meeting is designed as an interactive forum where software developers can provide input on use of the formats. AHRQ especially requests participation by and input from those entities which have used AHRQ’s technical specifications and implemented, or plan to implement, the Common Formats electronically.

DATES: The meeting will be held from 2:00 to 3:00 p.m. Eastern on Thursday, July 20, 2023.

ADDRESSES: The meeting will be held virtually.

FOR FURTHER INFORMATION CONTACT: Dr. Hamid Jalal, Medical Officer, Center for Quality Improvement and Patient Safety, AHRQ, 5600 Fishers Lane, Rockville, MD 20857; Telephone (toll free): (866) 403–3697; Telephone (local):

(301) 427–1111; TTY (toll free): (866) 438–7231; TTY (local): (301) 427–1130; Email: psa@ahrq.hhs.gov.

SUPPLEMENTARY INFORMATION:

Background

The Patient Safety and Quality Improvement Act of 2005, 42 U.S.C. 299b–21 to 299b–26 (Patient Safety Act), and the related Patient Safety and Quality Improvement Final Rule, 42 CFR part 3 (Patient Safety Rule), published in the **Federal Register** on November 21, 2008, 73 FR 70731–70814, provide for the Federal listing of Patient Safety Organizations (PSOs), which collect, aggregate, and analyze confidential information (patient safety work product) regarding the quality and safety of health care delivery.

The Patient Safety Act requires PSOs, to the extent practical and appropriate, to collect patient safety work product from providers in a standardized manner that permits valid comparisons of similar cases among similar providers. (42 U.S.C. 299b–24(b)(1)(F)). The Patient Safety Act also authorizes the development of data standards, known as the Common Formats, to facilitate the aggregation and analysis of non-identifiable patient safety data collected by PSOs and reported to the network of patient safety databases (NPSD). (42 U.S.C. 299b–23(b)). The Patient Safety Act and Patient Safety Rule can be accessed at: <http://www.pso.ahrq.gov/legislation/>.

AHRQ has issued Common Formats for Event Reporting (CFER) for three settings of care—hospitals, nursing homes, and community pharmacies. AHRQ has also issued Common Formats for Event Reporting—Diagnostic Safety (CFER–DS) designed for use in all healthcare settings.

Federally listed PSOs can meet the requirement to collect patient safety work product in a standardized manner to the extent practical and appropriate by using AHRQ’s Common Formats. The Common Formats are also available in the public domain to encourage their widespread adoption. An entity does not need to be listed as a PSO or working with one to use the Common Formats. However, the Federal privilege and confidentiality protections only apply to information developed as patient safety work product by providers and PSOs working under the Patient Safety Act.

Agenda, Registration, and Other Information About the Meeting

The Agency for Healthcare Research and Quality (AHRQ) will be hosting this fully virtual meeting to discuss

implementation of the Common Formats with members of the public, including software developers and other interested parties. Agenda topics will include discussion of ICD-11's incorporation of patient safety. Active participation and discussion by meeting participants is encouraged.

AHRQ requests that interested persons send an email to SDMeetings@infinityconferences.com for registration information. Before the meeting, an agenda and logistical information will be provided to registrants.

Dated: June 22, 2023.

Marquita Cullom,

Associate Director.

[FR Doc. 2023-13716 Filed 6-27-23; 8:45 am]

BILLING CODE 4160-90-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Child Care and Development Fund Plan Preprint for States/Territories for FFY 2025-2027 (ACF-118) and Extension of Child Care and Development Fund Plan Preprint for States/Territories for FFY 2022-2024 (OMB #0970-0114)

AGENCY: Office of Child Care; Administration for Children and

Families; U.S. Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Administration for Children and Families (ACF) is requesting an extension without changes of the form ACF-118: Child Care and Development Fund Plan Preprint for States/Territories for FFY 2022-2024 (OMB #0970-0114, expiration 02/29/2024), and an additional 3-year extension of the form ACF-118: Child Care and Development Fund Plan Preprint for States/Territories for FFY 2025-2027. There are changes requested to the form ACF-118: Child Care and Development Fund Plan Preprint for States/Territories for FFY 2025-2027 to improve formatting, collect additional information about program implementation, and streamline questions.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: You can obtain copies of the proposed collection of information and submit comments by emailing infocollection@acf.hhs.gov. Identify all requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The Child Care and Development Fund (CCDF) Plan (the

Plan) for States and Territories is required from each CCDF Lead agency in accordance with Section 658E of the Child Care and Development Block Grant Act of 1990 (CCDBG Act), as amended, CCDBG Act of 2014 (Pub. L. 113-186), and 42 U.S.C. 9858. The Plan, submitted on the ACF-118, is required triennially and remains in effect for 3 years. The Plan provides ACF and the public with a description of and assurance about the states' and territories' child care programs. These Plans are the applications for CCDF funds.

At this time, the ACF Office of Child Care (OCC) is proposing an extension of the approval of the currently approved CCDF Plan Preprint for FFY 2022-2024 to allow states and territories to continue to submit amendments through September 30, 2024, as required. There are no changes proposed to the FFY 2022-2024 Plan Preprint. In addition, OCC is requesting comments on the proposed CCDF Plan Preprint for FFY 2025-2027. Updates were made to clarify questions, enhance the ability to align data with OCC monitoring data, reflect equity and other OCC priorities, ensure alignment with federal requirements, and facilitate grantee submission in the Child Care Automated Reporting System (CARS) data system.

Respondents: State and Territory Lead Agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
Child Care and Development Fund for States and Territories (ACF-118)	56	0.33	200	3,696	1,232

Estimated Total Annual Burden Hours: 1,232; however, since Plans are required triennially, and remain in effect for 3 years, the actual *Total Burden Hours* is 3,696.

Comments: The Department specifically requests 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 shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: Pub. L. 113-186 and 42 U.S.C. 9858.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2023-13676 Filed 6-27-23; 8:45 am]

BILLING CODE 4184-87-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Judicial, Court, and Attorney Measures of Performance: Feedback and Implementation (New Collection)

AGENCY: Children's Bureau, Administration for Children and Families, United States Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Children's Bureau, Administration for Children and

Families (ACF), United States Department of Health and Human Services, is proposing to collect data for a new descriptive study, Judicial, Court, and Attorney Measures of Performance (JCAMP): Feedback and Implementation. This expands on earlier work around technical assistance, as approved under Office of Management and Budget #: 0970–0593.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: You can obtain copies of the proposed collection of information and submit comments by emailing infocollection@acf.hhs.gov. Identify all requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: This study will expand on a collection from field testing sites that informed the development of a suite of measures and tools, which became the JCAMP (OMB #0970–0970–0593¹). The data collection proposed here will further those efforts now that that suite of documents has been released. Specifically, this effort will (1) collect information from JCAMP implementation teams to understand their experiences with JCAMP implementation support, and (2) collect information from parents and children with child welfare cases, foster/kinship caregivers, judges, case workers, parent attorneys, children’s attorneys, and child welfare agency attorneys to gather information for JCAMP measures selected for use by jurisdictions (jurisdictions will collect only the data

elements relevant to them). This will be accomplished using eleven instruments:

JCAMP Feedback Survey: Members of JCAMP implementation teams will answer questions about their experiences with JCAMP written materials, technical assistance, and the eJCAMP online platform.

Parent Experience Survey: A brief survey that collects data post-hearing about parent experiences in court including, strategies used by judges to engage families, satisfaction with their legal representation, and collects demographic information.

Parent Court Experience Question Bank: This question bank includes options for items to include on a survey of parents with child welfare cases. Sites will select items that align with their chosen JCAMP measures. It is expected that surveys created from this bank will include up to 30 questions.

Parent Focus Group Guide: This focus group guide includes questions for parents with child welfare cases about their experiences with the child welfare court process.

Youth Post-Hearing Short Survey: This brief survey asks youth about their experiences immediately following hearings and collects demographic information (for example to allow assessment of equity aspects of judicial and legal practice and differences among age groups).

Youth Experience Survey: This survey collects information from youth with child welfare cases about their experiences with the child welfare court process and collects demographic information (for example to allow assessment of equity aspects of judicial and legal practice and differences among age groups).

Youth Court Experience Question Bank: This question bank includes

options for items to include on a survey of youth with child welfare cases. Sites will select items that align with their chosen JCAMP measures. It is expected that surveys created from this bank will include up to 30 questions.

Youth Focus Group Guide: This focus group guide includes questions for youth with child welfare cases about their experiences with the child welfare court process.

Caregiver Survey: This survey collects information from adults caring for children with child welfare cases about their experiences with the child welfare court process and demographic information.

Stakeholder Survey: This survey collects data regarding judges’ and attorneys’ experiences in court including, persons present at hearings, judicial engagement strategies used with parents, children, and caregivers, the practices of parent, child, and agency attorneys during hearings, typical timelines to permanency, and case processing activities.

Stakeholder Focus Group Guide: This focus group guide asks judges, parent attorneys, children’s attorneys, and child welfare agency attorneys their perceptions of the child welfare court system, including how families are engaged, how families receive due process, the quality of legal representation, safety decision-making, and permanency decision-making.

Other than the JCAMP Feedback Survey, all other instruments will be used for jurisdiction program and practice improvements.

Respondents: Respondents consist of Court Improvement Program administrators and staff, parents, youth, adult caregivers, judges, case workers, parent attorneys, children’s attorneys, and agency attorneys.

ANNUAL BURDEN ESTIMATES

Instrument	Annual number of respondents	Annual number of responses per respondent	Average burden hours per response	Annual burden hours
JCAMP Feedback Survey	100	1	0.25	25
Parent Experience Survey	250	1	0.17	42.5
Parent Court Experience Question Bank	250	1	0.17	42.5
Parent Focus Group Guide	80	1	1	80
Youth Post-Hearing Survey Short	250	1	0.08	20
Youth Experience Survey	250	1	0.17	42.5
Youth Court Experience Question Bank	250	1	0.17	42.5
Youth Focus Group Guide	80	1	1	80
Caregiver Survey	250	1	0.08	20
Stakeholder Survey	1,500	1	0.17	255
Stakeholder Focus Group Guide	400	1	1	400

¹ https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202203-0970-010.

Estimated Total Annual Burden Hours: 1,050.

Comments: The Department specifically requests 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 shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: Section 5106, Public Law 111-320, the Child Abuse Prevention and Treatment Act Reauthorization Act of 2010, and titles IV-B and IV-E of the Social Security Act.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2023-13677 Filed 6-27-23; 8:45 am]

BILLING CODE 4184-29-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2023-N-0895]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Imports and Electronic Import Entries

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 28, 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 0910-0046. 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, PRASStaff@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.

Imports and Electronic Import Entries

OMB Control Number 0910-0046—Revision

This information collection supports Agency regulations found in 21 CFR part 1, subparts D (21 CFR 1.70 through 1.81) and E (21 CFR 1.83 through 1.101), governing FDA import activities and related Agency guidance. Specifically, the regulations prescribe the required data elements that respondents must submit when importing, or offering for import, an FDA-regulated article into the United States. Review of the data elements allows FDA to continue to meet its responsibilities pertaining to current submission requirements established by the U.S. Customs and Border Protection (CBP) related to the submission of entry information in using its Automated Commercial Environment (ACE) system, or any CBP-authorized electronic data interchange system. The regulations were recently revised through rulemaking to include data elements associated with import entries for veterinary devices (RIN 0910-AH66).

Respondents (ACE filers) submit important and useful information about FDA-regulated products being imported or offered for import into the United States so that we may effectively and efficiently review products and determine their admissibility. In addition, and as set forth in the regulations, certain product types are subject to additional data elements (for example, 21 CFR 1.77 prescribes additional data elements for radiation-emitting products), as well as those data elements applicable to all products.

The information collection also includes our weekly entry filing program (WEF). More detailed information on Foreign Trade Zones (FTZ)/WEF, is available at <https://www.fda.gov/industry/import-basics/foreign-trade-zones-weekly-entry-filing>.

The WEF program allows entry filers to file a single entry estimating the amount of merchandise anticipated to be removed from an FTZ and offered for U.S. consumption during a 7-day period. To participate, we recommend respondents who wish to file a weekly entry of FDA-regulated products with CBP to first request a preliminary assessment from FDA. As part of the assessment, we also recommend submitting specific data elements, as discussed in the assessment. The information helps us appropriately route submissions within the Agency. Information on whether a product is stored or manufactured in the zone is necessary for FDA to determine the applicable admissibility requirements. The FTZ and port information is necessary to ensure that basic requirements in 19 CFR part 146 are met. The importer of record (IOR) and manufacturer FDA establishment identification number information is requested by FDA to expedite the admissibility review. Requests to participate in the WEF process are submitted to the FDA Import Division Office covering the intended port of entry.

The information collection also includes our Import Trade Auxiliary Communication System (ITACS). ITACS is used by the import trade community and was implemented to improve communication with FDA. By utilizing ITACS, respondents to the information collection have the ability to establish an account and electronically check the status of FDA-regulated entries and lines, submit entry documentation, submit the location of goods availability for those lines targeted for examination by FDA, and check the estimated laboratory analysis completion dates for lines that have been sampled. For further information regarding ITACS, please visit our website at <https://www.fda.gov/industry/import-systems/itacs>.

The information collection also includes burden associated with the use of Form FDA 766 entitled "Application for Authorization to Relabel or Recondition Non-compliant Articles" as the collection instrument for 21 CFR 1.95. Form FDA 766 facilitates collection of information associated with certain general enforcement provisions for importing FDA-regulated articles into the United States. The form is available at <https://www.fda.gov/industry/actions-enforcement/reconditioning>.

Relatedly, we are revising the information collection to include burden associated with the use of proposed electronic Form FDA 5054

entitled “New Inquiry Form—Import Compliance Branch.” Currently, general drug import inquiries are submitted by email in random format. We have developed Form FDA 5054 with accompanying instructions to facilitate responding to drug import inquiries, as well as to track receipts and responses. We have designed the form to interface with current Agency IT systems for optimal utility.

Finally, the information collection includes burden associated with recommendations found in the procedural Agency guidance entitled “Pre-Launch Activities Importation Requests (PLAIR),” (March 2022). Historically, when applicants with a pending new drug application, abbreviated new drug application, or Center for Drug Evaluation and Research-regulated biologics licensing application (information collection associated with these submissions is currently approved under OMB control number 0910–0001) sought to import unapproved finished dosage form drug products into the United States in preparation for market launch, we considered such requests, informally

referred to as “PLAIRs,” on a case-by-case basis. Since implementing the PLAIR program in 2013, interest continues to increase, so we have developed a more formalized process as discussed in the guidance. The guidance is available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/pre-launch-activities-importation-requests-plair> and was issued consistent with our good guidance practice regulations in 21 CFR 10.115, which provide for public comment on Agency guidance documents at any time. The guidance instructs that PLAIR submissions should be made using the applicant’s letterhead and submitted by email to CDER-OC-PLAIR@fda.hhs.gov in a file compatible with Portable Document Format (PDF).

Description of Respondents: Respondents to the information collection are domestic and foreign importers of FDA-regulated articles being imported or offered for import into the United States and entry filers who submit import entries on behalf of these importers.

In the **Federal Register** of April 10, 2023 (88 FR 21195) we published a 60-day notice requesting public comment on the proposed collection of information. One comment was received suggesting FDA underestimated burden that might be attributable to transactional data entry and necessary preparation. We note that included in our estimate is the time we believe necessary for associated recordkeeping, and that we assume certain recordkeeping attendant to import activities is usual and customary. At the same time, we have increased our estimate associated with the preparation of line-item data to reflect this comment. Another comment suggested FDA invest in utility enhancements that might improve that Agency’s electronic interface with importers’ systems. We appreciate this comment and continue to make process improvements including upgrades in automated technology as our limited resources permit.

We estimate the burden of the information collection as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ^{1 2}

21 CFR part 1, Subpart D	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Importers submission of data elements (preparing the required information).	95,307	10.14	967,069	0.08 (5 minutes)	77,366
Entry filers (unique lines only)	4,133	10,804	44,656,657	0.04466 (2.68 minutes) ..	1,994,336
WEF participants	10	1	10	0.87 (52 minutes)	9
ITACS; creation of new account	500	1	1	0.5 (30 minutes)	250
Form FDA 766 as required under 21 CFR 1.95	324	1	324	0.25 (15 minutes)	81
Form FDA 5054	1,000	1	1,000	.083 (5 minutes)	83
Submissions in accordance w/PLAIR	80	4	320	16	5,120
Total			45,625,381		2,077,245

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

² Numbers have been rounded to reflect electronic submission data.

Table 1, rows 1 and 2, reflects annual average filing submissions through December 31, 2022. An IOR may be the owner or purchaser of the article being imported or offered for import, or a customs broker licensed by CBP under 19 U.S.C. 1641 who has been designated by the owner, purchaser, or consignee to file the import entry. There is only one IOR per entry.

As reflected in table 1, row 3, we estimate 10 respondents will submit WEFs. Persons wishing to file weekly entries of FDA-regulated products are encouraged to provide the information identified so that FDA can conduct a preliminary admissibility assessment of the associated products and firms. This submission typically contains the

information FDA requests for multiple products (*i.e.*, the respondent wishes to file weekly entries for multiple products and submits the information for each product together). Generally, submissions involving multiple products are significantly less burdensome on a per-product basis. Depending on the product and scale of submission, this estimated burden may fluctuate. Filers submitting in ACE typically use software that is developed to specifically automate and expedite the entry submission process and allows filers to automatically upload entry information. While the WEF submission includes an initial one-time submission burden, we expect reduced burden over a long term because filers can

subsequently submit one entry covering multiple withdrawals from the FTZ in any given 7-day period.

As reflected in table 1, row 4, we estimate that 500 new ITACS accounts will be created annually. Since developing and implementing ITACS, we have adjusted this estimate downward to reflect the transition from initial program interest to average annual maintenance-level numbers.

As reflected in table 1, row 5, we estimate the submission of 324 Forms FDA 766 in conjunction with FDA-regulated products. This figure is based on Agency import data and our experience with the information collection. We assume it takes respondents 15 minutes to complete and

submit Form FDA 766. Although current instructions communicate that four copies be submitted (one copy to be returned to respondent), we plan to update the form to reduce this number.

Based on inquiries already received and processed by FDA, we anticipate 1,000 respondents will annually submit Form 5054 pertaining to general drug import information, as reflected in table 1, row 6.

As shown in table 1, row 7, we estimate 80 respondents to the PLAIR program annually, an increase of 10 since our last evaluation of the information collection. At the same time, we estimate one fewer submission per respondent to correspond with a decrease in submissions received by FDA.

Cumulatively these changes and adjustments result in an increase of 3,067,493 responses and 161,161 hours annually.

Dated: June 23, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023-13729 Filed 6-27-23; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2018-D-2613]

Presenting Quantitative Efficacy and Risk Information in Direct-to-Consumer Promotional Labeling and Advertisements; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled “Presenting Quantitative Efficacy and Risk Information in Direct-to-Consumer (DTC) Promotional Labeling and Advertisements.” This guidance provides recommendations for presenting quantitative efficacy and risk information in DTC promotional labeling and advertisements for prescription human drug and biological products and prescription animal drugs and in DTC promotional labeling for over-the-counter (OTC) animal drugs (collectively, “promotional communications”). FDA is issuing this guidance to describe the Agency’s recommendations for how manufacturers, distributors, and packers

(collectively, “firms”) that include quantitative efficacy or risk information about their drugs in DTC promotional communications can make the language and presentation more consumer-friendly. This guidance finalizes the draft guidance of the same title issued in October 2018.

DATES: The announcement of the guidance is published in the **Federal Register** on June 28, 2023.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA-2018-D-2613 for “Presenting Quantitative Efficacy and Risk Information in Direct-to-Consumer

(DTC) Promotional Labeling and Advertisements.” Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- *Confidential Submissions—*To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993-0002; the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research,

Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993-0002; or the Policy and Regulations Staff (HFV-6), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT:

Christine Bradshaw, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 3203, Silver Spring, MD 20993-0002, 301-796-1200, CDER-OPDP-RPM@fda.hhs.gov; Diane Maloney, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993-0002, 240-402-7911; or Kathryn Dennehy, Center for Veterinary Medicine (HFV-245), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301-837-7554, Kathryn.Dennehy@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled “Presenting Quantitative Efficacy and Risk Information in Direct-to-Consumer (DTC) Promotional Labeling and Advertisements.” This guidance describes recommendations for how firms including quantitative efficacy or risk information about their drugs¹ in DTC promotional communications can make the language and presentation more consumer-friendly. While this guidance focuses on quantitative presentations of efficacy and risk information, firms may wish to refer to these principles and recommendations for quantitative presentations of other product benefits (keeping in mind that any such presentation of other product benefits must comply with applicable statutory and regulatory requirements).

When describing efficacy and risk information about a drug in promotional communications, firms generally have flexibility regarding how they present this information as long as the presentation is not false or misleading and complies with other applicable statutory and regulatory requirements. FDA understands that firms may experience challenges when

determining how to present quantitative efficacy or risk information in their DTC promotional communications so that consumers have an opportunity to attend to, understand, and use the information to form accurate perceptions about their drugs. Therefore, FDA is issuing this guidance to provide recommendations for presenting quantitative efficacy and risk information in DTC promotional communications and to encourage firms to follow these recommendations when including such information in their DTC promotional communications.

The guidance covers the following topics for presenting quantitative efficacy and risk information in DTC promotional communications, based on current research findings related to communicating health information:

- Providing quantitative efficacy or risk information for the control group, when applicable;
- Presenting probability information in terms of absolute frequencies, percentages, and relative frequencies;
- Formatting quantitative efficacy or risk information; and
- Using visual aids to illustrate quantitative efficacy or risk information.

This guidance finalizes the draft guidance entitled “Presenting Quantitative Efficacy and Risk Information in Direct-to-Consumer Promotional Labeling and Advertisements” issued on October 17, 2018 (83 FR 52484). FDA considered comments received on the draft guidance as the guidance was finalized. Changes from the draft to the final guidance include clarifying considerations for quantitative efficacy or risk presentations across various media types and providing additional explanations regarding specific concepts and examples that were included in the draft guidance. In addition, editorial and organizational changes were made to improve clarity.

This guidance is being issued consistent with FDA’s good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on “Presenting Quantitative Efficacy and Risk Information in Direct-to-Consumer Promotional Labeling and Advertisements.” It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This guidance document recommends information collection activity subject to review and approval by the Office of

Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521). Burden that may be attributable to recommendations for presenting quantitative efficacy and risk information in direct-to-consumer promotional labeling and advertisements as discussed in Section III of the guidance document is approved under OMB control number 0910-0686. The guidance document also refers to previously approved FDA collections of information. The collections of information in 21 CFR 202.1 have been approved under OMB control number 0910-0686.

III. Electronic Access

Persons with access to the internet may obtain the guidance at <https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs>, <https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances>, <https://www.fda.gov/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/default.htm>, <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>, or <https://www.regulations.gov>.

Dated: June 23, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023-13775 Filed 6-27-23; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2023-D-2370]

Patient-Matched Guides to Orthopedic Implants; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled “Patient-Matched Guides to Orthopedic Implants.” This draft guidance document provides recommendations regarding information that should be included in regulatory submissions for patient-matched guides to orthopedic implants. This draft guidance also provides recommendations that manufacturers should consider when developing their design process for these device types.

¹ The term “drugs” in the guidance refers to prescription human drug and biological products and to prescription and OTC animal drugs.

This draft guidance is intended to promote clarity and transparency as to expectations regarding submission recommendations for orthopedic patient-matched guides. Following such recommendations may increase efficiency and consistency in review. This draft guidance is not final nor is it for implementation at this time.

DATES: Submit either electronic or written comments on the draft guidance by August 28, 2023 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2023-D-2370 for "Patient-Matched

Guides to Orthopedic Implants." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled "Patient-Matched Guides to Orthopedic Implants" to the Office of Policy, Center for Devices and

Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Michel Janda, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4428, Silver Spring, MD 20993-0002, 301-796-6395.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry and FDA staff entitled "Patient-Matched Guides to Orthopedic Implants." FDA has developed this guidance document for members of industry who submit and FDA staff who review premarket submissions for patient-matched guides for orthopedic implants. Patient-matched guides are intended to assist in the execution of a pre-surgical plan concurred upon by the patient's healthcare professional to position an orthopedic implant in a way consistent with the implant's indicated use. This draft guidance is intended to promote clarity and transparency as to expectations regarding submission recommendations for orthopedic patient-matched guides. Following such recommendations may increase efficiency and consistency in review. Additionally, this draft guidance provides recommended best practices regarding certain elements of the design process.

This draft guidance was part of the 2015 initiative to incorporate stakeholder feedback during guidance development (80 FR 1424, January 9, 2015) available at <https://www.federalregister.gov/documents/2015/01/09/2015-00115/medical-device-user-fee-and-modernization-act-notice-to-public-of-website-location-of-fiscal-year>. Specific questions were posed to solicit input into the context of the guidance and comments were collected through Docket No. FDA-2012-N-1021.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on "Patient-Matched Guides to Orthopedic Implants." It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at <https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/guidance-documents-medical-devices-and-radiation-emitting-products>. This guidance document is also available at <https://www.regulations.gov> or <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>.

Persons unable to download an electronic copy of “Patient-Matched Guides to Orthopedic Implants” may send an email request to CDRH-Guidance@fda.hhs.gov to receive an electronic copy of the document. Please use the document number GUI01400006 and complete title to identify the guidance you are requesting.

III. Paperwork Reduction Act of 1995

While this guidance contains no new collection of information, it does refer to

previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in the following FDA regulations, guidance, and forms have been approved by OMB as listed in the following table:

21 CFR Part	Topic	OMB Control No.
807, subpart E	Premarket notification	0910–0120
820	Current Good Manufacturing Practice (CGMP); Quality System (QS) Regulation	0910–0073
812	Investigational Device Exemption	0910–0078
814, subparts A through E	Premarket approval	0910–0231
800, 801, and 809	Medical Device Labeling Regulations	0910–0485

Dated: June 22, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–13730 Filed 6–27–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–D–0939]

Prohibition on Wholesaling Under Section 503B of the Federal Food, Drug, and Cosmetic Act; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled “Prohibition on Wholesaling Under Section 503B of the Federal Food, Drug, and Cosmetic Act.” This draft guidance describes FDA’s interpretation of, and policies concerning, the statutory prohibition on wholesaling for certain compounded drugs. This draft guidance also describes examples of how FDA intends to apply the statutory wholesaling provision.

DATES: Submit either electronic or written comments on the draft guidance on or before August 28, 2023 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance. Please note that late, untimely filed comments will not be considered.

Electronic comments must be submitted on or before August 28, 2023. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of August 28, 2023. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

ADDRESSES: You may submit comments on any guidance at any time as follows.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the

manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA–2023–D–0939 for “Prohibition on Wholesaling Under Section 503B of the Federal Food, Drug, and Cosmetic Act.” Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- *Confidential Submissions—*To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in

its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)). Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Dominic Markwordt, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 5104, Silver Spring, MD 20993, 301-796-3100, Dominic.Markwordt@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled “Prohibition on Wholesaling Under Section 503B of the Federal Food, Drug, and Cosmetic Act.” This draft guidance describes FDA’s interpretation of, and policies concerning, the prohibition on wholesaling in section 503B of the FD&C Act (21 U.S.C. 353b). This draft guidance also describes examples of

how FDA intends to apply section 503B of the FD&C Act’s wholesaling provision.

Section 503B of the FD&C Act describes the conditions that must be satisfied for human drugs compounded by an outsourcing facility to be exempt from the following three sections of the FD&C Act: section 505 (21 U.S.C. 355) (concerning the approval of drugs under new drug applications or abbreviated new drug applications); section 502(f)(1) (21 U.S.C. 352(f)(1)) (concerning the labeling of drugs with adequate directions for use); and section 582 (21 U.S.C. 360eee-1) (concerning drug supply chain security requirements).

Pursuant to section 503B(a)(8) of the FD&C Act, one of the conditions that must be met for a drug compounded by an outsourcing facility to qualify for the exemptions in section 503B of the FD&C Act is that the drug will not be sold or transferred by an entity other than the outsourcing facility that compounded the drug. However, the wholesaling provision does not prohibit administration of a drug in a health care setting or dispensing a drug pursuant to a prescription executed in accordance with section 503(b)(1) of the FD&C Act. The statutory prohibition on wholesaling in section 503B(a)(8) of the FD&C Act helps to ensure that compounding is based on individual patient need, which, in turn, reduces the overall risk of patient harm and helps to preserve the integrity of the U.S. drug approval process. It also helps to preserve the integrity of the U.S. drug supply chain. This prohibition, like other conditions in section 503B of the FD&C Act, preserves important distinctions between outsourcing facilities, which are intended to compound drugs for patients whose medical needs cannot be met by approved drugs, from conventional manufacturers, which generally engage in mass manufacturing of FDA-approved drug products.

This draft guidance is being issued consistent with FDA’s good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on the “Prohibition on Wholesaling Under Section 503B of the Federal Food, Drug, and Cosmetic Act.” It does not establish any rights for any person and is not binding on FDA or the public. An alternative approach than what is described in the guidance can be used if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this draft guidance contains no collection of information, it does refer to

previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR part 207 pertaining to registration of producers of drugs and listing of drugs in commercial distribution have been approved under OMB control number 0910-0045. The collections of information in 21 CFR parts 210 and 211 pertaining to current good manufacturing practice have been approved under OMB control number 0910-0139. The collections of information pertaining to postmarketing adverse drug experience reporting have been approved under OMB control number 0910-0230. The collections of information for adverse event reporting and human drug compounding under section 503B of the FD&C Act have been approved under OMB control number 0910-0800.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>, <https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs> or <https://www.regulations.gov>.

Dated: June 23, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023-13767 Filed 6-27-23; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2023-N-2226]

Gemini Laboratories, LLC, et al.; Withdrawal of Approval of One New Drug Application for OXANDRIN (Oxandrolone) Tablets and Four Abbreviated New Drug Applications for Oxandrolone Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is withdrawing approval of the new drug application (NDA) for OXANDRIN (oxandrolone) tablets, 2.5 milligrams (mg) and 10 mg, held by Gemini Laboratories, LLC (Gemini). Gemini

voluntarily requested withdrawal of this application and waived its opportunity for a hearing. In addition, FDA is withdrawing approval of four abbreviated new drug applications (ANDAs) for oxandrolone tablets from multiple ANDA holders. Upsher-Smith Laboratories, LLC (Upsher-Smith), Par Pharmaceutical, Inc. (Par), and Sandoz

Inc. (Sandoz) voluntarily requested withdrawal of their respective applications and waived their opportunity for a hearing.

DATES: Approval is withdrawn as of June 28, 2023.

FOR FURTHER INFORMATION CONTACT: Alexandria Fujisaki, Center for Drug Evaluation and Research, Food and

Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6222, Silver Spring, MD 20993-0002, 301-796-3600, Alexandria.Fujisaki@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: The applicants and their respective drugs and applications are included in the following table.

Application No.	Drug	Applicant
NDA 013718	Oxandrin (oxandrolone) Tablets, 2.5 mg and 10 mg	Gemini, 400 Crossing Blvd., 5th Floor, Bridgewater, NJ 08807.
ANDA 076761	Oxandrolone Tablets, 2.5 mg	Upsher-Smith Laboratories, LLC, 6701 Evenstad Dr., Maple Grove, MN 55369.
ANDA 076897	Oxandrolone Tablets, 2.5 mg and 10 mg	Sandoz Inc., 100 College Rd. West, Princeton, NJ 08540.
ANDA 077827	Oxandrolone Tablets, 2.5 mg and 10 mg	Par Pharmaceutical, Inc., c/o Endo, 1400 Atwater Dr., Malvern, PA 19355.
ANDA 078033	Oxandrolone Tablets, 10 mg	Upsher-Smith Laboratories, LLC, 6701 Evenstad Dr., Maple Grove, MN 55369.

In a letter dated March 26, 2019, Gemini requested that FDA withdraw approval of NDA 013718 for OXANDRIN (oxandrolone) tablets, 2.5 mg and 10 mg, under § 314.150(c) (21 CFR 314.150(c)), stating that the product was no longer being marketed. Subsequently, on December 16, 2022, FDA notified Gemini and other holders of approved applications that the Agency believes a potential problem associated with oxandrolone tablets is sufficiently serious that the drug products should be removed from the market, and to enable withdrawal of approval of their applications under § 314.150(d).

The anabolic steroid OXANDRIN (oxandrolone) tablets, 2.5 mg and 10 mg, under NDA 013718, is indicated as follows: “as adjunctive therapy to promote weight gain after weight loss following extensive surgery, chronic infections, or severe trauma, and in some patients who without definite pathophysiologic reasons fail to gain or to maintain normal weight, to offset the protein catabolism associated with prolonged administration of corticosteroids, and for the relief of the bone pain frequently accompanying osteoporosis.”¹ FDA initially approved NDA 013718 in 1964.

In January 1984, FDA’s Endocrinologic and Metabolic Drugs Advisory Committee met and discussed anabolic steroids. The advisory committee unanimously concluded that

there was no evidence of efficacy for oxandrolone.²

As communicated in the product labeling, multiple safety warnings and precautions are associated with the use of oxandrolone tablets including peliosis hepatis, sometimes associated with liver failure and intra-abdominal hemorrhage; liver cell tumors, sometimes fatal; and blood lipid changes that are known to be associated with increased risk of atherosclerosis.³ Per the labeling, additional warnings with using this product include the risks associated with cholestatic hepatitis, hypercalcemia in patients with breast cancer, and increased risk for the development of prostatic hypertrophy and prostatic carcinoma in geriatric patients.⁴

Based on FDA’s review of currently available data and information regarding the safety and effectiveness of oxandrolone tablets, the Agency believes that the potential problems associated with oxandrolone tablets are sufficiently serious that the drug should be removed from the market.

After FDA notified Gemini that it believes the potential problems associated with the drug are sufficiently serious that the drug should be removed from the market pursuant to § 314.150(d), Gemini requested in a letter dated December 19, 2022 that FDA withdraw approval of NDA 013718 under § 314.150(d). Gemini waived its opportunity for a hearing. In a letter dated December 23, 2022, Sandoz requested that FDA withdraw approval

of ANDA 076897 under § 314.150(d). Sandoz waived its opportunity for a hearing. In a letter dated January 5, 2023, Par requested that FDA withdraw approval of ANDA 077827 under § 314.150(d). Par waived its opportunity for a hearing. In separate letters dated January 6, 2023, Upsher-Smith requested that FDA withdraw approval of ANDAs 078033 and 076761 under § 314.150(d). Upsher-Smith waived its opportunity for a hearing.

Therefore, for the reasons discussed above, which the applicants do not dispute in their letters requesting withdrawal of approval under § 314.150(d), FDA’s approval of NDA 013718 and ANDAs 076897, 077827, 078033, and 076761, and all amendments and supplements thereto, are withdrawn (see DATES). Distribution of Gemini’s OXANDRIN (oxandrolone) tablets, 2.5 mg and 10 mg; Sandoz’s oxandrolone tablets 2.5 mg and 10 mg; Par’s oxandrolone tablets, 2.5 mg and 10 mg; or Upsher-Smith’s oxandrolone tablets, 2.5 mg and 10 mg, into interstate commerce without an approved application is illegal and subject to regulatory action (see sections 505(a) and 301(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(a) and 331(d)).

Dated: June 23, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023-13733 Filed 6-27-23; 8:45 am]

BILLING CODE 4164-01-P

¹ See OXANDRIN (oxandrolone) tablets, NDA 013718, product labeling, (rev. June 2005), available at https://www.accessdata.fda.gov/drugsatfda_docs/label/2005/013718s0231bl.pdf.

² See minutes from the January 24 to 25, 1984, advisory committee meeting discussing anabolic steroids, at pg. 7.

³ See OXANDRIN (oxandrolone) tablets, NDA 013718, product labeling, (rev. June 2005).

⁴ Id.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS-0990-0419]

Agency Information Collection Request. 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before July 28, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Sherrette Funn, Sherrette.Funn@hhs.gov or (202) 264-0041, or PRA@HHS.GOV. When submitting comments or

requesting information, please include the document identifier 0990-0419-30D and project title for reference.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency’s functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: Acquisition Regulation Clause Patent Rights and Rights in Data.

Type of Collection: Extension.
OMB No: 0990-0419.

Abstract: The Department of Health and Human Services; Office of the Assistant Secretary for Financial Resources, Office of Acquisitions, Acquisition Policy Division is requesting an approval by OMB for an extension of a previously approved information collection request, Acquisition Regulation Clause Patent Rights and Rights in Data. HHS found

that systematically, over a period of several years, when Determination of Exceptional Circumstances (DEC) were executed, additional legal protection for the patent and data rights of third parties beyond those covered by FAR 27.306 were necessary. A DEC is executed consistent with the policy and objectives of the Bayh-Dole Act, 35 U.S.C. 200, *et seq.*, to ensure that subject inventions made under contracts and subcontracts (at all tiers) are used in a manner to promote free competition and enterprise without unduly encumbering future research and discovery; to encourage maximum participation of small business firms in federally supported research and development efforts; to promote collaboration between commercial concerns and nonprofit organizations including universities; to ensure that the Government obtains sufficient rights in federally supported inventions to meet its needs; to protect the public against nonuse or unreasonable use of inventions; and in the case of fulfilling the mission of the U.S. Department of Health and Human Services, to ultimately to benefit the public health.

Likely Respondents: administrative, technical, legal and management personnel.

ESTIMATED ANNUALIZED BURDEN TABLE

Type of respondent and hours for each	Number of respondents	Number of responses per respondent	Average burden per response (hours)	Total burden hours
Technical (4); Legal (2); Management (2)	63	1	8	504
Technical (8); Legal (2); Management (2)	63	1	12	756
Technical (8); Legal (3); Management (1)	63	3	12	2,268
Technical (8); Legal (4); Management (2)	63	3	14	2,646
Technical (6); Legal (2); Management (2)	63	1	10	630
Technical (4); Legal (2); Management (2)	63	1	8	504
Administrative (8)	63	3	8	1,512
Administrative (2); Management (1)	63	3	3	567
Technical (4); Legal (2); Management (2)	63	3	8	1,512
Total				10,899

Sherrette A. Funn,
Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.

[FR Doc. 2023-13783 Filed 6-27-23; 8:45 am]

BILLING CODE 4150-04-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 Member Conflict: HIV/AIDS Interventions and Population and Public Health Approaches.

Date: July 20, 2023.

Time: 11:30 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: Shahrazad Mavandadi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496-4792, shahrazad.mavandadi@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel RFA-NR-23-003: Impact of COVID-19 Pandemic-related Food and Housing Policies in Health Disparity Populations.

Date: July 21, 2023.

Time: 10:30 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Maria De Jesus Diaz Perez, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1000G, Bethesda, MD 20892, (301) 496-4227, diazperez2@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 22, 2023.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023-13724 Filed 6-27-23; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Frederick National Laboratory Advisory Committee to the National Cancer Institute.

The meeting will be held virtually and is open to the public. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting. The meeting will be videocast and can be accessed from the NIH Videocasting and Podcasting website (<https://videocast.nih.gov>).

Name of Committee: Frederick National Laboratory Advisory Committee to the National Cancer Institute.

Date: July 10, 2023.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: Ongoing and new activities at the Frederick National Laboratory for Cancer Research.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Rockville, MD 20850 (Virtual Meeting).

Contact Person: Wlodek Lopaczynski, M.D., Ph.D., Assistant Director, Office of the Director, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 9609 Medical Center Drive, Seventh Floor, West Tower, Room 7W514, Bethesda, MD 20892, (240) 276-6458, lopacw@mail.nih.gov.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: FNLAC: <https://deainfo.nci.nih.gov/advisory/fac/fac.htm>, where an agenda and any additional information for the meeting will be posted when available.

This notice is being published less than 15 days prior to the meeting due to scheduling difficulties.

(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 23, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023-13740 Filed 6-27-23; 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; Review of Support for Conferences and Scientific Meetings (R13).

Date: July 27, 2023.

Time: 1:00 p.m. to 3:00 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: Lisa A. Dunbar, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, MSC 6200, Room 3AN18D, Bethesda, Maryland 20892, 301-594-2849, dunbar@mail.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 23, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023-13726 Filed 6-27-23; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; 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 Child Health and Human Development Special Emphasis Panel; Archived Data and Specimen in Maternal and Pediatric HIV/AIDS Research (R21—Clinical Trial Not Allowed).

Date: June 27, 2023.

Time: 10:00 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Rockledge Drive, Room 2125C, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Magnus A. Azuine, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2125C, Bethesda, MD 20892, (301) 480-4645, magnus.azuine@nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.865, Research for Mothers and Children, National Institutes of Health, HHS)

Dated: June 22, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023-13702 Filed 6-27-23; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health 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 of the National Institute of Environmental Health Sciences.

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 of Environmental Health Sciences Special Emphasis Panel; Career Development and Pathway to Independence in Biomedical/Clinical Research Career Awards K99/R00.

Date: July 11, 2023.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Environmental Health Sciences, Keystone Building, 530

Davis Drive, Durham, NC 27709 (Virtual Meeting).

Contact Person: Beverly W. Duncan, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Room 3130, Durham, NC 27713, (240) 353-6598, beverly.duncan@nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Review of the Transition to Independent Environmental Health Research Career Award (K01/K23) Applications.

Date: July 12, 2023.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Durham, NC 27709 (Virtual Meeting).

Contact Person: Beverly W. Duncan, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Room 3130, Durham, NC 27713, (240) 353-6598, beverly.duncan@nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; NIEHS Support for Conferences and Scientific Meetings.

Date: July 18, 2023.

Time: 10:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Durham, NC 27709 (Virtual Meeting).

Contact Person: Alfonso R. Latoni, Ph.D., Chief and Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, Research Triangle Park, NC 27709, 984-287-3279, alfonso.laton@nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Exploratory Grants for Climate Change and Health Research Center Development.

Date: August 1-3, 2023.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Durham, NC 27709 (Virtual Meeting).

Contact Person: Linda K. Bass, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat'l Institute of Environmental

Health Sciences, P.O. Box 122233, MD EC-30, Research Triangle Park, NC 27709, (984) 287-3236, bass@niehs.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: June 23, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023-13722 Filed 6-27-23; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice To Announce Tribal Consultation for an All of Us Research Program Update and To Discuss the Program's Policies and Protections Around Data Access and Use Statement for Fiscal Year 2023

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The U.S. Department of Health and Human Services (HHS), National Institutes of Health (NIH) hereby gives notice that the *All of Us* Research Program will be hosting a virtual Tribal Consultation with American Indian and Alaska Native (AI/AN) Federally Recognized Tribes. The consultation will include an update on our approach to Tribal engagement, discussion about integrating data from self-identified AI/AN participants in the program's data platform, the *All of Us* Research Hub at <https://www.researchallofus.org>, and program planning.

DATES: Thursday, September 28, 2023, from 1 to 3:00 p.m. ET. Written Tribal testimony is due by October 28, 2023.

ADDRESSES: Registration links are available on our Tribal Engagement website at <https://allofus.nih.gov/tribalengagement>.

Elected Tribal Officials are encouraged to submit written testimony to AOUTribal@nih.gov. Please submit on Tribal letterhead by October 28, 2023, with the subject line "*All of Us* Tribal consultation written response."

FOR FURTHER INFORMATION CONTACT: Dr. Joshua Denny *AOUtribal@nih.gov*, 301–827–9737. More information is available at <https://allofus.nih.gov/tribalengagement>. The *All of Us* Tribal Engagement team may also be reached by email at *AOUtribal@nih.gov*, or by mail at *All of Us* Research Program, Division of Engagement and Outreach, Tribal Engagement, NIH, 6710–B Rockledge Drive, 4th Floor, Bethesda, MD 20817.

SUPPLEMENTARY INFORMATION:

I. Background Information

The *All of Us* Research Program aims to accelerate health research and medical breakthroughs to enable an era of precision medicine for all. *All of Us* is committed to ensuring the program reflects the diversity of the United States.

In the 21st Century Cures Act (Pub. L. 114–255), Congress authorized NIH to carry out the Precision Medicine Initiative, which includes the *All of Us* Research Program. The law provides NIH with critical tools and resources to advance biomedical research across the spectrum, from foundational basic research studies to advanced clinical trials of promising new therapies, in part through the establishment of a diverse cohort of individuals to support the goals of *All of Us*.

II. Tribal Virtual Informational Presentations and Discussions With Tribal Communities

In June 2023, *All of Us* held four information and discussion sessions virtually to continue to engage with Tribal Nations and rural and urban AI/AN communities. Recorded sessions will be made available at <https://allofus.nih.gov/about/diversity-and-inclusion/tribal-engagement>.

III. Questions

A. Management and Sharing of Self-Identified AI/AN Data (Without Tribal Affiliation)

1. Integrating information from self-identified AI/AN participants in our data platform, the *All of Us* Research Hub at <https://www.researchallofus.org>.

(a) How can the program augment the current policies and protections for self-identified AI/AN participant data so that it can be shared with researchers?

(b) What additional policies or guidance would you like *All of Us* to consider around the use of data from self-identified AI/AN participants?

2. Honoring Tribal sovereignty when working with self-identified AI/AN individuals who consent to participate.

(a) What kinds of protective practices and measures can be implemented to

avoid infringing upon Tribal sovereignty when collecting or working with individual participant data?

(b) How should the program manage and share data from self-identified AI/AN individuals who choose to participate in the program, including those who are living off Tribal lands and/or who are not affiliated with a federally recognized Tribe?

B. Tribal Engagement and Outreach

1. Possible future marketing efforts in zip codes that overlap on Tribal land and areas bordering Tribal land.

(a) How should the program guide engagement and outreach efforts where zip codes overlap with Tribal land?

2. Program activities for individual participants on Tribal land.

(a) What protocol should be followed when individual participants request program materials to be mailed to them or request home visits on Tribal lands?

C. Program Planning Activities

1. Future inclusion of children in the *All of Us* Research Program.

(a) What unique considerations are there for the future inclusion of AI/AN infants, children, and adolescents as participants in the program, given that a child's parent or legal guardian must be a current participant?

(b) What unique considerations are there for family-based enrollment in the research program (e.g., parent or legal guardian participating with their child)?

(c) What specific factors should be taken into account when enrolling families in the research program, considering the possibility of kinship caregivers or non-traditional child care arrangements for the child?

2. AI/AN traditional blessing ceremony for biosamples of participants who withdraw from the program.

(a) How should the program proceed in conducting a traditional blessing ceremony for the participants who self-identify as AI/AN and request a blessing ceremony prior to the biosample disposition?

Dated: June 22, 2023.

Tara A. Schwetz,

Acting Principal Deputy Director, National Institutes of Health.

[FR Doc. 2023–13750 Filed 6–27–23; 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 and 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; NIH Support for Conferences and Scientific Meetings (Parent R13 Clinical Trial Not Allowed).

Date: August 1–2, 2023.

Time: 9:00 a.m. to 5:00 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 3G11, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Barry J. Margulies, 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 3G11, Rockville, MD 20852, (301) 761–7956, barry.margulies@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 23, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–13725 Filed 6–27–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; 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 of Neurological Disorders and Stroke Special Emphasis Panel; Review of conference grant applications (R13).

Date: July 18, 2023.

Time: 9:00 a.m. to 5:30 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: Tatiana Pasternak, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Rockville, MD 20852, 301-496-9223, tatiana.pasternak@nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; NINDS Summer Research R25 Review.

Date: July 20, 2023.

Time: 9:00 a.m. to 6:00 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: DeAnna Lynn Adkins, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Rockville, MD 20852, 301-496-9223, deanna.adkins@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS.)

Dated: June 23, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023-13723 Filed 6-27-23; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; 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 of Child Health and Human Development Special Emphasis Panel; Physiomics and Organoids for Reproductive Health (R01 Clinical Trial Not Allowed).

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, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Rockledge Drive, Room 2131B, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jolanta Maria Topczewska, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2131B, Bethesda, MD 20892, (202) 309-7153, jolanta.topczewska@nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; NCMRR Early Career Research Award (R03 Clinical Trial Optional).

Date: July 25-26, 2023.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Rockledge Drive, 2125D, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Moushumi Paul, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2125D,

Bethesda, MD 20892, (301) 496-3596, moushumi.paul@nih.gov.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: June 23, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023-13727 Filed 6-27-23; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615-0015]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Immigrant Petition for Alien Workers

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 28, 2023.

ADDRESSES: All submissions received must include the OMB Control Number 1615-0015 in the body of the letter, the agency name and Docket ID USCIS-2007-0018. Submit comments via the Federal eRulemaking Portal website at <https://www.regulations.gov> under e-Docket ID number USCIS-2007-0018.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommès, 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-2007-0018 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:* Immigrant Petition for Alien Workers.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I-140; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit; Not-for-profit institutions. The information collected on this form will be used by USCIS to determine eligibility for the requested immigration benefits under section 203(b)(1), 203(b)(2), or 203(b)(3) of the Immigration and Nationality Act.

(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-140 is 172,090 and the estimated hour burden per response is 0.914 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 157,290 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 \$75,332,398.

Dated: June 23, 2023.

Samantha L. Deshommès,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2023-13718 Filed 6-27-23; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615-0095]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Notice of Appeal or Motion

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 28, 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 <https://www.regulations.gov> under e-Docket ID number USCIS-2008-0027. All submissions received must include the OMB Control Number 1615-0095 in the body of the letter, the agency name and Docket ID USCIS-2008-0027.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommès, 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

The information collection notice was previously published in the **Federal Register** on April 4, 2023, at 88 FR 19969, allowing for a 60-day public comment period. USCIS received one comment 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-2008-0027 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 <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 <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:* Notice of Appeal or Motion.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I-290B; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* **Primary:** Individuals or households. Form I-290B standardizes requests for appeals and motions and ensures that the basic information required to adjudicate appeals and motions is provided by applicants and petitioners, or their attorneys or representatives. USCIS uses the data collected on Form I-290B to determine whether an applicant or petitioner is eligible to file an appeal or motion, whether the requirements of an appeal or motion have been met, and whether the applicant or petitioner is eligible for the requested immigration benefit. Form

I-290B can also be filed with ICE by schools appealing decisions on Form I-17 filings for certification to ICE's Student and Exchange Visitor Program (SEVP).

(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-290B is 25,431 and the estimated hour burden per response is 1 hour and 22 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 34,764 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 \$7,858,179.

Dated: June 23, 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. 2023-13746 Filed 6-27-23; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615-0035]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Application To Adjust Status From Temporary to Permanent Resident

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 28, 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 <https://www.regulations.gov> under e-Docket ID number USCIS-2008-0019. All submissions received must include the OMB Control Number 1615-0035 in the body of the letter, the agency name and Docket ID USCIS-2008-0019.

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

The information collection notice was previously published in the **Federal Register** on February 23, 2023, at 88 FR 10531, allowing for a 60-day public comment period. USCIS did not receive 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: <https://www.regulations.gov> and enter USCIS-2008-0019 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 <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 Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application to Adjust Status from Temporary to Permanent Resident.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I-698; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals and Households. The data collected on Form I-698 is used by USCIS to determine the eligibility to adjust an applicant's residence status.

(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 Form I-698 is 18 and the estimated hour burden per response is 1.11 hours; the estimated total number of respondents for biometrics processing is 18 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 41 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 \$8,820.

Dated: June 23, 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. 2023-13738 Filed 6-27-23; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615-0133]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Request for Reduced Fee

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 28, 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 <https://www.regulations.gov> under e-Docket ID number USCIS-2018-0002. All submissions received must include the OMB Control Number 1615-0133 in the body of the letter, the agency name and Docket ID USCIS-2018-0002.

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 9, 2023, at 88 FR 14630, allowing for a 60-day public comment period. USCIS received five 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: <https://www.regulations.gov> and enter USCIS-2018-0002 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 <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:* Request for Reduced Fee.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I-942; 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 data collected on this form to verify that the applicant is eligible for a reduced fee for the immigration benefit being requested.

(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-942 is 4,491 and the estimated hour burden per response is 0.58 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 2,605 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 \$19,087.

Dated: June 23, 2023.

Samantha L. Deshommnes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2023-13720 Filed 6-27-23; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615-0140]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Citizenship and Integration Direct Services Grant Program

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 28, 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-2016-0002. All submissions received must include the OMB Control Number 1615-0140 in the body of the letter, the agency name and Docket ID USCIS-2016-0002.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommnes, 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 April 4 2023, at 88 FR 19971, allowing for a 60-day public comment period. USCIS received one comment 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-2016-0002 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:* Citizenship and Integration Direct Services Grant Program.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* G-1482 and Grant Post-Award Evaluation; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Not-for-profit institutions. USCIS is authorized to expend funds that are collected for adjudication and naturalization services and deposited into the Immigration Examination Fee Account for the Citizenship and Integration Grant Program (CIGP). See, e.g., Consolidated Appropriations Act, 2016, Title V, sec. 538. This collection includes an assessment of the effectiveness and an ongoing evaluation of citizenship education and naturalization outcomes for grant program participants. To support this assessment, USCIS needs to collect and analyze the responses to a number of data elements. USCIS publicly reports the success of grant recipients. The grant recipient survey will provide the information necessary

to monitor the grant program including accomplishments, progress meeting goals, progress of the sub-awardee organization (if applicable), identify challenges in meeting goals, staff and/or organizational development activities, student assessment and progress, and promising practices.

(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-1482 is 325 and the estimated hour burden per response is 42 hours. The estimated total number of respondents for the information collection Grant Post-Award Evaluation is 150 with 9 responses per respondent and the estimated hour burden per response is 28 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 51,450 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 \$22,750.

Dated: June 23, 2023.

Samantha L. Deshommies,

Chief, Regulatory Coordination Division,
Office of Policy and Strategy, U.S. Citizenship
and Immigration Services, Department of
Homeland Security.

[FR Doc. 2023-13721 Filed 6-27-23; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-R4-ES-2023-0070;
FXES1114040000-234-FF04EF4000]

Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the Scrub-Jay; Marion County, FL; Categorical Exclusion

AGENCY: Fish and Wildlife Service,
Interior.

ACTION: Notice of availability; request
for comments and information.

SUMMARY: We, the Fish and Wildlife Service (Service), announce receipt of an application from Richard McGinley and Marion County, Florida (Florida Crossroads Commerce Park) (applicants) for an incidental take permit (ITP) under the Endangered Species Act. The applicants request the ITP to take the federally listed Florida scrub-jay (*Aphelocoma coerulescens*) incidental

to the construction of a warehouse, loading docks, parking lots, and associated stormwater systems within an existing industrial park, and incidental to Marion County's expansion of SW 49th Avenue in Marion County, Florida. We request public comment on the application, which includes the applicants' proposed habitat conservation plan (HCP), and on the Service's preliminary determination that the proposed permitting action may be eligible for a categorical exclusion pursuant to the Council on Environmental Quality's National Environmental Policy Act (NEPA) regulations, the Department of the Interior's (DOI) NEPA regulations, and the DOI Departmental Manual. To make this preliminary determination, we prepared a draft environmental action statement and low-effect screening form, both of which are also available for public review. We invite comment from the public and local, State, Tribal, and Federal agencies.

DATES: We must receive your written comments on or before July 28, 2023.

ADDRESSES: *Obtaining Documents:* You may obtain copies of the documents online in Docket No. FWS-R4-ES-2023-0070 at <https://www.regulations.gov>.

Submitting Comments: If you wish to submit comments on any of the documents, you may do so in writing by one of the following methods:

- *Online:* <https://www.regulations.gov>.

Follow the instructions for submitting comments on Docket No. FWS-R4-ES-2023-0070.

- *U.S. mail:* Public Comments

Processing, Attn: Docket No. FWS-R4-ES-2023-0070; U.S. Fish and Wildlife Service, MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041-3803.

FOR FURTHER INFORMATION CONTACT: Erin Gawera, by U.S. mail (see **ADDRESSES**), by telephone at 904-731-3121, or via email at erin_gawera@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: We, the Fish and Wildlife Service (Service), announce receipt of an application from Richard McGinley and Marion County, Florida (Florida Crossroads Commerce Park) (applicants), for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA;

16 U.S.C. 1531 *et seq.*). The applicants request the ITP to take the federally listed Florida scrub-jay (*Aphelocoma coerulescens*) (scrub-jay) incidental to the construction and operation of a warehouse, loading docks, parking lots, and the associated stormwater systems, within an existing industrial park, and to Marion County's expansion of SW 49th Avenue in Marion County, Florida. We request public comment on the application, which includes the applicants' habitat conservation plan (HCP), and on the Service's preliminary determination that this proposed ITP qualifies as low effect, and may qualify for a categorical exclusion pursuant to the Council on Environmental Quality's National Environmental Policy Act (NEPA) regulations (40 CFR 1501.4), the Department of the Interior's (DOI) NEPA regulations (43 CFR 46), and the DOI's Departmental Manual (516 DM 8.5(C)(2)). To make this preliminary determination, we prepared a draft environmental action statement and low-effect screening form, both of which are also available for public review.

Proposed Project

The applicants request a 20-year ITP to take scrub-jays via the conversion of approximately 67.20 acres (ac) of occupied nesting, foraging, and sheltering scrub-jay habitat incidental to the construction and operation of a warehouse, loading docks, parking lots, and the associated stormwater systems, within an existing industrial park, and to Marion County's expansion of SW 49th Avenue on 131.9 ac on parcel numbers 41205-001002, 41205-001-03, 41205-001-04, 41205-001 in Section 16, Township 17 South, Range 21 East, Marion County, Florida. The applicants propose to mitigate for take of the scrub-jay by purchasing credits equivalent to 134.40 ac of scrub-jay occupied habitat within the Tippen Bay Conservation Bank or another Service-approved conservation bank. The Service would require the applicants to purchase the credits prior to engaging in any construction phase of the project.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment, including your personal identifying information, may be made available to the public. While you may request that we withhold your personal identifying information, we cannot guarantee that we will be able to do so.

Our Preliminary Determination

The Service has made a preliminary determination that the applicants' proposed project—including the construction of a warehouse, loading docks, parking lots, and Marion County's expansion of SW 49th Avenue, and the associated stormwater systems and associated infrastructure (e.g., electric, water, and sewer lines)—would individually and cumulatively have a minor effect on the scrub-jay and the human environment. Therefore, we have preliminarily determined that the proposed ESA section 10(a)(1)(B) permit would be a low-effect ITP that individually or cumulatively would have a minor effect on the scrub-jay and may qualify for application of a categorical exclusion pursuant to the Council on Environmental Quality's NEPA regulations, DOI's NEPA regulations, and the DOI Departmental Manual. A low-effect incidental take permit is one that would result in (1) minor or nonsignificant effects on species covered in the HCP; (2) nonsignificant effects on the human environment; and (3) impacts that, when added together with the impacts of other past, present, and reasonably foreseeable actions, would not result in significant cumulative effects to the human environment.

Next Steps

The Service will evaluate the application and the comments to determine whether to issue the requested permit. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the preceding and other matters, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue ITP number PER1971641 to Richard McGinley and Marion County (Florida Crossroads Commerce Park).

Authority

The Service provides this notice under section 10(c) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.32) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1500–1508 and 43 CFR 46).

Robert L. Carey,

Manager, Division of Environmental Review,
Florida Ecological Services Field Office.

[FR Doc. 2023–13780 Filed 6–27–23; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R4–ES–2023–0066;
FXES11140400000–234–FF04EF4000]

Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the Audubon's Crested Caracara, Brevard County, FL; Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the Fish and Wildlife Service (Service), announce receipt of an application from Malabar PO, LLC and Stellar Communities, LLC (applicants) for an incidental take permit (ITP) under the Endangered Species Act. The applicants request the ITP to take the federally listed Audubon's crested caracara (*Polyborus plancus audubonii*) incidental to the construction, operation, maintenance, vegetative management, and occupancy of a residential development in Brevard County, Florida. We request public comment on the application, which includes the applicants' proposed habitat conservation plan (HCP), and on the Service's preliminary determination that the proposed permitting action may be eligible for a categorical exclusion pursuant to the Council on Environmental Quality's National Environmental Policy Act (NEPA) regulations, the Department of the Interior's (DOI) NEPA regulations, and the DOI Departmental Manual. To make this preliminary determination, we prepared a draft environmental action statement and low-effect screening form, both of which are also available for public review. We invite comment from the public and local, State, Tribal, and Federal agencies.

DATES: We must receive your written comments on or before July 28, 2023.

ADDRESSES: *Obtaining Documents:* You may obtain copies of the documents online in Docket No. FWS–R4–ES–2023–0066 at <https://www.regulations.gov>.

Submitting Comments: If you wish to submit comments on any of the documents, you may do so in writing by any of the following methods:

- *Online:* <https://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS–R4–ES–2023–0066.
- *U.S. mail:* Public Comments Processing; Attn: Docket No. FWS–R4–ES–2023–0066; U.S. Fish and Wildlife

Service, MS; PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Kenneth McDonald, by U.S. mail (see **ADDRESSES**), via phone at 772–562–3909, or by email at kenneth_mcdonald@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: We, the Fish and Wildlife Service, announce receipt of an application from Malabar PO, LLC and Stellar Communities, LLC (applicants) for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicants request the ITP to take the federally listed Audubon's crested caracara (*Polyborus plancus audubonii*) incidental to the construction, operation, maintenance, vegetative management, and occupancy of 266 residential units, clubhouse, maintenance facility, roads and parking spaces, green spaces, and other amenities on a 27.9-acre site in Brevard County, Florida. We request public comment on the application, which includes the applicants' habitat conservation plan (HCP), and on the Service's preliminary determination that this proposed ITP qualifies as low effect, and may qualify for a categorical exclusion pursuant to the Council on Environmental Quality's National Environmental Policy Act (NEPA) regulations (40 CFR 1501.4), the Department of the Interior's (DOI) NEPA regulations (43 CFR 46), and the DOI's Departmental Manual (516 DM 8.5(C)(2)). To make this preliminary determination, we prepared a draft environmental action statement and low-effect screening form, both of which are also available for public review.

Proposed Project

The applicants request a 5-year ITP to take Audubon's crested caracara via the impaired reproduction and survival of one Audubon's crested caracara nest and their young annually. Records of Audubon's crested caracara, both adult and juvenile, are ubiquitous within a 4921-foot (1,500-meter) radius of the project site. The site contains habitat suitable for Audubon's crested caracara foraging, and it is assumed to be part of an existing nesting territory.

Malabar PO, LLC and Stellar Communities, LLC plan to mitigate for unavoidable periodic failure of one Audubon's crested caracara nest and impaired foraging in the project footprint with a contribution of \$12,555.00 (based on 27.9 ac of proposed impact at a cost of \$450 per ac) to the Fish and Wildlife Foundation of Florida's caracara conservation fund. This sum will be allocated to restore abandoned citrus groves to habitat suitable for caracara nesting and foraging. The area of abandoned citrus grove restored to suitable caracara habitat will be equal to the area of existing suitable habitat that will be impacted by the proposed action. The contribution to the fund must be completed prior to construction. Upon contribution of the \$12,555.00, a letter will be secured from the Foundation by the Service confirming that the full amount of mitigation has been contributed.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment, including your personal identifying information, may be made available to the public. While you may request that we withhold your personal identifying information, we cannot guarantee that we will be able to do so.

Our Preliminary Determination

The Service has made a preliminary determination that the applicants' proposed project, including the additional construction activities, operation, maintenance, vegetative management, and public use, would individually and cumulatively have a minor effect on Audubon's crested caracara and the human environment. Therefore, we have preliminarily determined that the proposed ESA section 10(a)(1)(B) permit would be a low-effect ITP that individually or cumulatively would have a minor effect on the eastern indigo snake and may qualify for application of a categorical exclusion pursuant to the Council on Environmental Quality's NEPA regulations, DOI's NEPA regulations, and the DOI Departmental Manual. A low-effect incidental take permit is one that would result in (1) minor or nonsignificant effects on species covered in the HCP; (2) nonsignificant effects on the human environment; and (3) impacts that, when added together with the impacts of other past, present, and reasonably foreseeable actions, would not result in significant

cumulative effects to the human environment.

Next Steps

The Service will evaluate the application and the comments to determine whether to issue the requested ITP. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the preceding and other matters, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue ITP number PER2261354 to Malabar PO, LLC and Stellar Communities, LLC.

Authority

The Service provides this notice under section 10(c) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.32) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1500–1508 and 43 CFR 46).

Robert L. Carey,

Manager, Division of Environmental Review,
Florida Ecological Services Office.

[FR Doc. 2023–13781 Filed 6–27–23; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On June 22, 2023, the Department of Justice lodged a proposed consent decree with the United States District Court for the Northern District of West Virginia in the lawsuit entitled *United States and West Virginia v. Messer LLC*, Civil Action No. 5:23–cv–0023–JPB.

The United States and State of West Virginia filed this lawsuit under the Clean Water Act. The complaint seeks injunctive relief and civil penalties against Defendant Messer LLC for National Pollutant Discharge Elimination System permit numeric effluent limit violations with respect to wastewater discharges from Messer's industrial gas manufacturing plant in New Cumberland, West Virginia. The consent decree requires the defendant to perform injunctive relief, including, but not limited to, the operation of a newly installed copper treatment system by certain deadlines, the implementation of a tiered effluent limit response plan, as well as revision and routine performance of stormwater best management practice measures. The consent decree also requires the

defendant to pay a \$1.9 million civil penalty.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and West Virginia v. Messer LLC*, D.J. Ref. No. 90–5–1–1–12590. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	pubcomment-ees.enrd@usdoj.gov
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: <http://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for \$13.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Jeffrey Sands,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2023–13779 Filed 6–27–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0040]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Application for Amended Federal Firearms License—ATF Form 5300.38

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-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. The proposed information collection was previously published in the **Federal Register** on April 20, 2023, allowing a 60-day comment period.

DATES: Comments are encouraged and will be accepted for 30 days until July 28, 2023.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Leslie Anderson, by phone at 304-616-4634 or email at Leslie.anderson@atf.gov.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and/or
- 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.

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function and entering either the title of the information collection or the OMB Control Number 1140-0040. This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view Department of Justice, information collections currently under review by OMB.

DOJ seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOJ notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a previously approved collection.

2. *Title of the Form/Collection:* Application for Amended Federal Firearms License.

3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* ATF Form 5300.38.

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 a brief abstract:* Affected Public: Private Sector—Business or other for-profit.

Abstract: Section 922 of Chapter 44 of Title 18 requires persons wishing to be licensed under a new business address to complete ATF F 5300.38 to certify compliance with the provisions of the law for the new address.

5. *Obligation to Respond:* Mandatory—The statutory requirements are implemented in 18 U.S.C Chapter 44 Subtitle C of Title XI.

6. *Total Estimated Number of Respondents:* 10,000.

7. *Estimated Time per Respondent:* 30 minutes.

8. *Frequency:* Once a year.

9. *Total Estimated Annual Time Burden:* 5,000 hours.

10. *Total Estimated Annual Other Costs Burden:* The annual cost has increased due to a change in the postal rate from \$0.50 during the last renewal in 2019, to \$0.63 in 2023. 10,000 respondents are expected to mail in the form, thus the annual IC costs for this collection is \$6,300 (10,000 × .63).

If additional information is required, contact: John R. Carlson, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 4W-218 Washington, DC 20530.

Dated: June 22, 2023.

John Carlson,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2023-13701 Filed 6-27-23; 8:45 am]

BILLING CODE 4410-FY-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2009-0041]

The Formaldehyde Standard 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 Formaldehyde Standard.

DATES: Comments must be submitted (postmarked, sent, or received) by August 28, 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-2009-0041 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.

The standard protects workers from the adverse health effects from occupational exposure to formaldehyde, including an itchy, runny, and stuffy nose; a dry or sore throat; eye irritation; headaches; and cancer of the lung, buccal cavity (mouth), and pharynx (throat). Formaldehyde solutions can damage the skin and burn the eyes.

The standard specifies a number of collections of information. The following is a brief description of the collections of information contained in the Formaldehyde Standard. The standard requires employers to conduct worker exposure monitoring to determine workers' exposure to formaldehyde, notify workers of their formaldehyde exposures, provide medical surveillance to workers, provide examining physicians with specific information, ensure that workers receive a copy of their medical examination results, maintain workers' exposure monitoring and medical records for specific periods, and provide

access to these records by the affected workers and their authorized representatives.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions to protect workers, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection, and transmission techniques.

III. Proposed Actions

OSHA is requesting an adjusted increase in the burden hours from 240,924 to 263,172 hours, for a total increase of 22,848 hours.

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: The Formaldehyde Standard.

OMB Control Number: 1218-0145.

Affected Public: Business or other for-profits.

Number of Respondents: 86,575.

Number of Responses: 990,175.

Frequency of Responses: On occasion.

Average Time per Response: Varies.

Estimated Total Burden Hours: 263,172.

Estimated Cost (Operation and Maintenance): \$54,153,624.

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-2009-0041. 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, on June 22, 2023.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2023-13694 Filed 6-27-23; 8:45 am]

BILLING CODE 4510-26-P

NUCLEAR REGULATORY COMMISSION

[NRC-2022-0077]

Draft Interim Staff Guidance: Advanced Reactor Content of Application Project Chapter 10, "Control of Occupational Dose"

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft guidance; extension of comment period.

SUMMARY: On May 25, 2023, the U.S. Nuclear Regulatory Commission (NRC) solicited comments on its draft Interim Staff Guidance (ISG) DANU-ISG-2022-04, Chapter 10, "Control of Occupational Dose." The public comment period was originally scheduled to close on July 10, 2023. The NRC has decided to extend the public

comment period to allow more time for members of the public to develop and submit their comments.

DATES: The due date of comments requested in the document published on May 25, 2023 (88 FR 33936) is extended. Comments should be filed no later than August 10, 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 <http://www.regulations.gov> and search for Docket ID NRC-2022-0077. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Office of Administration, Mail Stop: TWFN-7-A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Michael Orenak, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-3229, email: Michael.Orenak@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2022-0077 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-2022-0077.

- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select

“Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov.

- *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.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC-2022-0077 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

On May 25, 2023, the NRC published a document in the **Federal Register** (88 FR 33936) requesting comments on its draft ISG DANU-ISG-2022-04, Chapter 10, “Control of Occupational Dose.” The public comment period was originally scheduled to close on July 10, 2023. The NRC has decided to extend the public comment period on this document until August 10, 2023, to allow more time for members of the public to submit their comments.

Dated: June 22, 2023.

For the Nuclear Regulatory Commission.

Steven T. Lynch,

Chief, Advanced Reactor Policy Branch, Division of Advanced Reactors and Non-Power Production and Utilization Facilities, Office of Nuclear Reactor Regulation.

[FR Doc. 2023-13686 Filed 6-27-23; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2022-0076]

Draft Interim Staff Guidance: Advanced Reactor Content of Application Project Chapter 9, “Control of Routine Plant Radioactive Effluents, Plant Contamination and Solid Waste”

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft guidance; extension of comment period.

SUMMARY: On May 25, 2023, the U.S. Nuclear Regulatory Commission (NRC) solicited comments on its draft Interim Staff Guidance (ISG) DANU-ISG-2022-03, Chapter 9, “Control of Routine Plant Radioactive Effluents, Plant Contamination and Solid Waste.” The public comment period was originally scheduled to close on July 10, 2023. The NRC has decided to extend the public comment period to allow more time for members of the public to develop and submit their comments.

DATES: The due date of comments requested in the document published on May 25, 2023 (88 FR 33930) is extended. Comments should be filed no later than August 10, 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 <http://www.regulations.gov> and search for Docket ID NRC-2022-0076. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individuals listed in the “For Further Information Contact” section of this document.

- *Mail comments to:* Office of Administration, Mail Stop: TWFN-7-A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Michael Orenak, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-3229, email: Michael.Orenak@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2022-0076 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-2022-0076.

- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov.

- *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.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC-2022-0076 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit

comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

On May 25, 2023, the NRC published a document in the **Federal Register** (88 FR 33930) requesting comments on its draft ISG DANU-ISG-2022-03, Chapter 9, “Control of Routine Plant Radioactive Effluents, Plant Contamination and Solid Waste.” The public comment period was originally scheduled to close on July 10, 2023. The NRC has decided to extend the public comment period on this document until August 10, 2023, to allow more time for members of the public to submit their comments.

Dated: June 22, 2023.

For the Nuclear Regulatory Commission.

Steven T. Lynch,

Chief, Advanced Reactor Policy Branch, Division of Advanced Reactors and Non-Power Production and Utilization Facilities, Office of Nuclear Reactor Regulation.

[FR Doc. 2023-13685 Filed 6-27-23; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2022-0079]

Draft Interim Staff Guidance: Advanced Reactor Content of Application Project Chapter 12, “Post-Construction Inspection, Testing, and Analysis Program”

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft guidance; extension of comment period.

SUMMARY: On May 25, 2023, the U.S. Nuclear Regulatory Commission (NRC) solicited comments on its draft Interim Staff Guidance (ISG) DANU-ISG-2022-06, Chapter 12, “Post-Construction Inspection, Testing, and Analysis Program.” The public comment period was originally scheduled to close on July 10, 2023. The NRC has decided to extend the public comment period to allow more time for members of the public to develop and submit their comments.

DATES: The due date of comments requested in the document published on May 25, 2023 (88 FR 33920) is extended. Comments should be filed no later than August 10, 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 <http://www.regulations.gov> and search for Docket ID NRC-2022-0079. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individuals listed in the “For Further Information Contact” section of this document.

- *Mail comments to:* Office of Administration, Mail Stop: TWFN-7-A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Michael Orenak, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-3229, email: Michael.Orenak@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2022-0079 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-2022-0079.

- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1-800-397-4209, at

301-415-4737, or by email to PDR.Resource@nrc.gov.

- 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.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC-2022-0079 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

On May 25, 2023, the NRC published a document in the **Federal Register** (88 FR 33920) requesting comments on its draft ISG DANU-ISG-2022-06, Chapter 12, "Post-Construction Inspection, Testing, and Analysis Program." The public comment period was originally scheduled to close on July 10, 2023. The NRC has decided to extend the public comment period on this document until August 10, 2023, to allow more time for members of the public to submit their comments.

Dated: June 22, 2023.

For the Nuclear Regulatory Commission.

Steven T. Lynch,

Chief, Advanced Reactor Policy Branch, Division of Advanced Reactors and Non-Power Production and Utilization Facilities, Office of Nuclear Reactor Regulation.

[FR Doc. 2023-13688 Filed 6-27-23; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2022-0074]

Draft Interim Staff Guidance: Review of Risk-Informed, Technology Inclusive Advanced Reactor Applications—Roadmap

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft guidance; extension of comment period.

SUMMARY: On May 25, 2023, the U.S. Nuclear Regulatory Commission (NRC) solicited comments on its draft Interim Staff Guidance (ISG) DANU-ISG-2022-01, "Review of Risk-Informed, Technology Inclusive Advanced Reactor Applications—Roadmap." The public comment period was originally scheduled to close on July 10, 2023. The NRC has decided to extend the public comment period to allow more time for members of the public to develop and submit their comments.

DATES: The due date of comments requested in the document published on May 25, 2023 (88 FR 33924) is extended. Comments should be filed no later than August 10, 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 <http://www.regulations.gov> and search for Docket ID NRC-2022-0074. Address questions about Docket IDs in [Regulations.gov](https://www.regulations.gov) to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Office of Administration, Mail Stop: TWFN-7-A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

Joseph Sebrosky, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-1132, email: Joseph.Sebrosky@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2022-0074 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-2022-0074.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov.

- *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.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC-2022-0074 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit

comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

On May 25, 2023, the NRC published a document in the **Federal Register** (88 FR 33924) requesting comments on its draft ISG DANU-ISC-2022-01, "Review of Risk-Informed, Technology Inclusive Advanced Reactor Applications-Roadmap." The public comment period was originally scheduled to close on July 10, 2023. The NRC has decided to extend the public comment period on this document until August 10, 2023, to allow more time for members of the public to submit their comments.

Dated: June 22, 2023.

For the Nuclear Regulatory Commission.

Steven T. Lynch,

*Chief, Advanced Reactor Policy Branch,
Division of Advanced Reactors and Non-
Power Production and Utilization Facilities,
Office of Nuclear Reactor Regulation.*

[FR Doc. 2023-13691 Filed 6-27-23; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2022-0080]

Draft Interim Staff Guidance: Advanced Reactor Content of Application Project, "Risk-Informed Inservice Inspection/Inservice Testing"

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft guidance; extension of comment period.

SUMMARY: On May 25, 2023, the U.S. Nuclear Regulatory Commission (NRC) solicited comments on its draft Interim Staff Guidance (ISG) DANU-ISC-2022-07, "Risk-informed Inservice Inspection/Inservice Testing." The public comment period was originally scheduled to close on July 10, 2023. The NRC has decided to extend the public comment period to allow more time for members of the public to develop and submit their comments.

DATES: The due date of comments requested in the document published on

May 25, 2023 (88 FR 33938) is extended. Comments should be filed no later than August 10, 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 <http://www.regulations.gov> and search for Docket ID NRC-2022-0080. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Office of Administration, Mail Stop: TWFN-7-A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Michael Orenak, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-3229, email: Michael.Orenak@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2022-0080 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-2022-0080.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov.

- *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.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC-2022-0080 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

On May 25, 2023, the NRC published a document in the **Federal Register** (88 FR 33938) requesting comments on its draft ISG DANU-ISC-2022-07, "Risk-informed Inservice Inspection/Inservice Testing." The public comment period was originally scheduled to close on July 10, 2023. The NRC has decided to extend the public comment period on this document until August 10, 2023, to allow more time for members of the public to submit their comments.

Dated: June 22, 2023.

For the Nuclear Regulatory Commission.

Steven T. Lynch,

*Chief, Advanced Reactor Policy Branch,
Division of Advanced Reactors and Non-
Power Production and Utilization Facilities,
Office of Nuclear Reactor Regulation.*

[FR Doc. 2023-13690 Filed 6-27-23; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2022-0082]

Draft Interim Staff Guidance: Advanced Reactor Content of Application Project, "Risk-informed Performance-Based Fire Protection Program (for Operations)"

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft guidance; extension of comment period.

SUMMARY: On May 25, 2023, the U.S. Nuclear Regulatory Commission (NRC) solicited comments on its draft Interim Staff Guidance (ISG) DANU-ISG-2022-09, "Risk-informed Performance-based Fire Protection Program (for Operations)." The public comment period was originally scheduled to close on July 10, 2023. The NRC has decided to extend the public comment period to allow more time for members of the public to develop and submit their comments.

DATES: The due date of comments requested in the document published on May 25, 2023 (88 FR 33922) is extended. Comments should be filed no later than August 10, 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 <http://www.regulations.gov> and search for Docket ID NRC-2022-0082. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individuals listed in the "For Further Information Contact" section of this document.

- *Mail comments to:* Office of Administration, Mail Stop: TWFN-7-A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Michael Orenak, Office of Nuclear Reactor Regulation, U.S. Nuclear

Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-3229, email: Michael.Orenak@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2022-0082 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-2022-0082.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov.

- *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.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC-2022-0082 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission.

Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

On May 25, 2023, the NRC published a document in the **Federal Register** (88 FR 33922) requesting comments on its draft ISG DANU-ISG-2022-09, "Risk-informed Performance-based Fire Protection Program (for Operations)." The public comment period was originally scheduled to close on July 10, 2023. The NRC has decided to extend the public comment period on this document until August 10, 2023, to allow more time for members of the public to submit their comments.

Dated: June 22, 2023.

For the Nuclear Regulatory Commission.

Steven T. Lynch,

Chief, Advanced Reactor Policy Branch, Division of Advanced Reactors and Non-Power Production and Utilization Facilities, Office of Nuclear Reactor Regulation.

[FR Doc. 2023-13689 Filed 6-27-23; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2022-0081]

Draft Interim Staff Guidance: Advanced Reactor Content of Application Project, "Risk-Informed Technical Specifications"

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft guidance; extension of comment period.

SUMMARY: On May 25, 2023, the U.S. Nuclear Regulatory Commission (NRC) solicited comments on its draft Interim Staff Guidance (ISG) DANU-ISG-2022-08, "Risk-informed Technical Specifications." The public comment period was originally scheduled to close on July 10, 2023. The NRC has decided to extend the public comment period to allow more time for members of the public to develop and submit their comments.

DATES: The due date of comments requested in the document published on May 25, 2023 (88 FR 33926) is extended. Comments should be filed no later than August 10, 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 <http://www.regulations.gov> and search for Docket ID NRC–2022–0081. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individuals listed in the “For Further Information Contact” section of this document.

- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the

SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT:

Michael Orenak, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–3229, email: Michael.Orenak@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2022–0081 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–2022–0081.

- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to PDR.Resource@nrc.gov.

- *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.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC–2022–0081 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

On May 25, 2023, the NRC published a document in the **Federal Register** (88 FR 33926) requesting comments on its draft ISG DANU–ISG–2022–08, “Risk-informed Technical Specifications.” The public comment period was originally scheduled to close on July 10, 2023. The NRC has decided to extend the public comment period on this document until August 10, 2023, to allow more time for members of the public to submit their comments.

Dated: June 22, 2023.

For the Nuclear Regulatory Commission.

Steven T. Lynch,

Chief, Advanced Reactor Policy Branch, Division of Advanced Reactors and Non-Power Production and Utilization Facilities, Office of Nuclear Reactor Regulation.

[FR Doc. 2023–13692 Filed 6–27–23; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0075]

Draft Interim Staff Guidance: Advanced Reactor Content of Application Project Chapter 2, “Site Information”

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft guidance; extension of comment period.

SUMMARY: On May 25, 2023, the U.S. Nuclear Regulatory Commission (NRC) solicited comments on its draft Interim Staff Guidance (ISG) DANU–ISG–2022–02, Chapter 2, “Site Information.” The public comment period was originally scheduled to close on July 10, 2023. The NRC has decided to extend the public comment period to allow more time for members of the public to develop and submit their comments.

DATES: The due date of comments requested in the document published on May 25, 2023 (88 FR 33940) is extended. Comments should be filed no later than August 10, 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 <http://www.regulations.gov> and search for Docket ID NRC–2022–0075. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

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:

Michael Orenak, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–3229, email: Michael.Orenak@nrc.gov.

SUPPLEMENTARY INFORMATION:**I. Obtaining Information and Submitting Comments****A. Obtaining Information**

Please refer to Docket ID NRC–2022–0075 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–2022–0075.

- *NRC's Agencywide Documents Access and Management System (ADAMS)*: You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to PDR.Resource@nrc.gov.

- *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.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC–2022–0075 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information

before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

On May 25, 2023, the NRC published a document in the **Federal Register** (88 FR 33940) requesting comments on its draft ISG DANU–ISG–2022–02, Chapter 2, "Site Information." The public comment period was originally scheduled to close on July 10, 2023. The NRC has decided to extend the public comment period on this document until August 10, 2023, to allow more time for members of the public to submit their comments.

Dated: June 22, 2023.

For the Nuclear Regulatory Commission.

Steven T. Lynch,

Chief, Advanced Reactor Policy Branch,
Division of Advanced Reactors and Non-Power Production and Utilization Facilities,
Office of Nuclear Reactor Regulation.

[FR Doc. 2023–13684 Filed 6–27–23; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0078]

Draft Interim Staff Guidance: Advanced Reactor Content of Application Project Chapter 11, "Organization and Human-System Considerations"

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft guidance; extension of comment period.

SUMMARY: On May 25, 2023, the U.S. Nuclear Regulatory Commission (NRC) solicited comments on its draft Interim Staff Guidance (ISG) DANU–ISG–2022–05, Chapter 11, "Organization and Human-System Considerations." The public comment period was originally scheduled to close on July 10, 2023. The NRC has decided to extend the public comment period to allow more time for members of the public to develop and submit their comments.

DATES: The due date of comments requested in the document published on May 25, 2023 (88 FR 33928) is extended. Comments should be filed no later than August 10, 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 <http://www.regulations.gov> and search for Docket ID NRC–2022–0078. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to*: Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

Michael Orenak, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–3229, email: Michael.Orenak@nrc.gov.

SUPPLEMENTARY INFORMATION:**I. Obtaining Information and Submitting Comments****A. Obtaining Information**

Please refer to Docket ID NRC–2022–0078 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–2022–0078.

- *NRC's Agencywide Documents Access and Management System (ADAMS)*: You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to PDR.Resource@nrc.gov.

- *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.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC-2022-0078 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

On May 25, 2023, the NRC published a document in the **Federal Register** (88

FR 33928) requesting comments on its draft ISG DANU-IG-2022-05, Chapter 11, "Organization and Human-System Considerations." The public comment period was originally scheduled to close on July 10, 2023. The NRC has decided to extend the public comment period on this document until August 10, 2023, to allow more time for members of the public to submit their comments.

Dated: June 22, 2023.

For the Nuclear Regulatory Commission.

Steven T. Lynch,

Chief, Advanced Reactor Policy Branch, Division of Advanced Reactors and Non-Power Production and Utilization Facilities, Office of Nuclear Reactor Regulation.

[FR Doc. 2023-13687 Filed 6-27-23; 8:45 am]

BILLING CODE 7590-01-P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of

the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

1. Title and purpose of information collection: Certification Regarding Rights to Unemployment Benefits; OMB 3220-0079.

Under section 4 of the Railroad Unemployment Insurance Act (RUIA) (45 U.S.C. 354), an employee who leaves work voluntarily is disqualified for unemployment benefits unless the employee left work for good cause and is not qualified for unemployment benefits under any other law. RRB Form UI-45, *Claimant's Statement—Voluntary Leaving of Work*, is used by the RRB to obtain the claimant's statement when the claimant, the claimant's employer, or another source indicates that the claimant has voluntarily left work.

Completion of Form UI-45 is required to obtain or retain benefits. One response is received from each respondent. The RRB proposes no changes to Form UI-45.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
UI-45	200	15	50
Total	200	.....	50

2. Title and purpose of information collection: Self-Employment and Substantial Service Questionnaire; OMB 3220-0138.

Section 2 of the Railroad Retirement Act (RRA) (45 U.S.C. 231a) provides for payment of annuities to qualified employees and their spouses. In order to receive an age and service annuity, section 2(e)(3) states that an applicant must stop all railroad work and give up any rights to return to such work. However, applicants are not required to stop nonrailroad work or self-employment.

The RRB considers some work claimed as "self-employment" to actually be employment for an employer. Whether the RRB classifies a

particular activity as self-employment or as work for an employer depends upon the circumstances of each case. These circumstances are prescribed in 20 CFR 216.

Under the 1988 amendments to the RRA, an applicant is no longer required to stop work for a "Last Pre-Retirement Nonrailroad Employer" (LPE). However, section 2(f)(6) of the RRA requires that a portion of the employee's Tier II benefit and supplemental annuity be deducted for earnings from the "LPE."

The "LPE" is defined as the last person, company, or institution with whom the employee or spouse applicant was employed concurrently with, or after, the applicant's last railroad employment and before their annuity

beginning date. If a spouse never worked for a railroad, the LPE is the last person for whom he or she worked.

The RRB utilizes Form AA-4, *Self-Employment and Substantial Service Questionnaire*, to obtain information needed to determine if the work the applicant claims is self-employment is really self-employment or work for an LPE or railroad service. If the work is self-employment, the questionnaire identifies any month in which the applicant did not perform substantial service. One response is requested of each respondent.

Completion is voluntary. However, failure to complete the form could result in the nonpayment of benefits. The RRB proposes no changes to Form AA-4.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
AA-4 (With assistance)	1,109	40	739
AA-4 (Without assistance)	58	70	68
Total	1,167	.....	807

3. Title and purpose of information collection: Vocational Report; OMB 3220-0141.

Under section 2 of the Railroad Retirement Act (RRA) (45 U.S.C. 231a) provides for payment of disability annuities to qualified employees and widow(er)s. The establishment of permanent disability for work in the applicant's "regular occupation" or for work in any regular employment is

prescribed in 20 CFR 220.12 and 220.13, respectively.

To enable the Railroad Retirement Board (RRB) to determine the effect of a disability on an applicant's ability to work, the RRB needs the applicant's work history. The RRB utilizes Form G-251, Vocational Report, to obtain this information.

Form G-251 is provided to all applicants for employee disability

annuities and to those applicants for a widow(er)'s disability annuity who indicate that they have been employed at some time. Form G-251 is designed for use with the RRB's disability benefit application forms. Form G-251 is similar to Form SSA-3369-BK, OMB 0960-0578. The RRB proposes the no changes to the Form G-251.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
G-251 (with assistance)	2,866	40	1,911
G-251 (without assistance)	136	50	113
Total	3,002	.....	2,024

4. Title and purpose of information collection: Designation of Contact Officials; 3220-0200

Under section 7(b)(6) of the Railroad Retirement Act (RRA) (45 U.S.C. 231) gives the Railroad Retirement Board (RRB) the authority to require railroad employers to furnish information and records that are necessary for the administration of the Act. Coordination between railroad employers and the RRB is essential to properly administer the payment of benefits under the

Railroad Retirement Act (RRA) and the Railroad Unemployment Insurance Act (RUIA). In order to enhance timely coordination activity, the RRB utilizes Form G-117a, *Designation of Contact Officials*. Form G-117a is used by railroad employers to designate employees who are to act as point of contact with the RRB on a variety of RRA and RUIA-related matters.

Completion is voluntary. One response is requested from each respondent. The RRB proposes to

change the Form G-117a (Paper) by adding updated language in Section 12, Signature line. The language proposed is, "The above officials of this employer are authorized to serve in the capacities indicated and to act as trusted referees for the RRB in accordance with the National Institute of Standards and Technology (NIST) Special Publication 800-63A guidelines for online reporting access."

The RRB proposes no changes to Form G-117a (internet).

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
G-117a (Paper)	25	15	6
G-117a (Internet)	200	5	17
Total	100	.....	23

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, contact Kennisha C. Money at (312) 469-2591 or Kennisha.Money@rrb.gov. Comments regarding the information collection should be addressed to Brian Foster, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-

1275 or emailed to Brian.Foster@rrb.gov. Written comments should be received within 60 days of this notice.

Brian D. Foster,
Clearance Officer.

[FR Doc. 2023-13670 Filed 6-27-23; 8:45 am]

BILLING CODE 7905-01-P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA-2023-0019]

Agency Information Collection Activities: Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with

Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes one new information collection for OMB approval.

SSA is soliciting comments on the accuracy of the agency’s burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA. Comments: <https://www.reginfo.gov/public/do/PRAMain>. Submit your comments online referencing Docket ID Number [SSA–2023–0019].

(SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, Mail Stop 3253 Altmeyer, 6401 Security Blvd., Baltimore, MD 21235, Fax: 833–410–1631, Email address: OR.Reports.Clearance@ssa.gov.

Or you may submit your comments online through <https://www.reginfo.gov/public/do/PRAMain>, referencing Docket ID Number [SSA–2023–0019].

SSA submitted the information collection below to OMB for clearance. Your comments regarding this information collection would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than July 28, 2023. Individuals can obtain copies of this OMB clearance package by writing to OR.Reports.Clearance@ssa.gov.

State of Georgia’s Criminal Justice Coordinating Council’s (CJCC) Evaluation of the Implementation of the Supplemental Security Income (SSI)/ Social Security Disability Insurance (SSDI) Outreach, Access, and Recovery (SOAR) Model in County Jails—0960–NEW

Background

SSA is requesting clearance to collect data necessary to evaluate an intervention under the Interventional Cooperative Agreement Program (ICAP) with the State of Georgia’s Criminal Justice Coordinating Council (CJCC). ICAP allows SSA to partner with various non-federal groups and organizations to advance interventional research connected to the Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) programs. SSA awarded CJCC a cooperative agreement to conduct an intervention and evaluation of Supplemental Security Income (SSI)/ Social Security Disability Insurance (SSDI) Outreach, Access, and Recovery (SOAR) model in county jails with inmates with serious and persistent mental illness (SPMI) across the state. In addition to SSA, CJCC has partnered with the following: (1) Applied Research Services (ARS); (2) the Georgia Department of Behavioral Health and Developmental Disabilities (DBHDD); and (3) four county jails to implement the program.

ICAP CJCC Project Description

Investigators hypothesize that untreated mental illness and repeated psychiatric crises may be a factor in jail recidivism. Connection to SSI/SSDI and attendant insurance benefits may help a person with SPMI obtain treatment and interrupt criminogenic behavior. The intervention will connect respondents in four county jails identified as having

SPMI to Medicaid Eligibility Specialists (MES) hired and trained by the Georgia DBHDD, who will help them apply for SSI and SSDI. Respondents in two of the four counties (Fulton County Jail and Cobb County Jail) will also have the option of working with a Forensic Peer Mentor (FPM), a formerly incarcerated individual who is familiar with resources that may help participants increase their quality-of-life post incarceration and avoid recidivism. SSA anticipates the two DBHDD MESs will each serve 45 participants per year, for a total of 90 participants per year.

To maximize the likelihood of the SSI/SSDI application approval, the MES will employ the SOAR method, which uses in-depth medical and personal summaries of disability to facilitate the SSI/SSDI application process. Researchers will collect data from participant surveys to evaluate and study the impact of the intervention. Through the data collected through these surveys, along with administrative data from SSA, the State of Georgia, participating counties, and DBHDD, SSA hopes to address the following research questions:

- Does connection to a SOAR-trained specialist increase the likelihood that a person with SPMI in jail will be approved for SSI/SSDI benefits?
- If a person with SPMI receives SSI/SSDI benefits, are they able to connect to treatment resources that they may not have been able to obtain before?
- If a person with SPMI connects to treatment resources and successfully engages with them, are they able to achieve mental health recovery and stay out of jail?

The respondents are individuals with serious and persistent mental illness incarcerated in county jails in the state of Georgia.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars)*	Average wait time for teleservice centers (minutes)**	Total annual opportunity cost (dollars)***
Initial Enrollment Survey (Paper)	90	1	19	29	* 12.81	.....	*** 371
Informed Consent (Paper)	90	1	10	15	* 12.81	.....	*** 192
Follow-up Survey (Internet or Telephone)	90	2	23	69	* 12.81	** 19	*** 1,255
Totals	270	.....	.....	113	.....	.....	*** 1,818

* We based this figure on the average DI payments based on SSA’s current FY 2023 data (<https://www.ssa.gov/legislation/2022factsheet.pdf>).

** We based this figure on average FY 2023 wait times for teleservice centers (approximately 19 minutes per respondent), based on SSA’s current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

Dated: June 23, 2023.

Naomi Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2023–13782 Filed 6–27–23; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 12112]

30-Day Notice of Proposed Information Collection: State Assistance Management System (SAMS) Domestic Results Monitoring Module

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments up to July 28, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Matthew Miller, Bureau of Administration, Office of Logistics Management, 1800 N Kent Street Arlington, VA 22209, who may be reached on (703) 675 9509 or at millerm1@state.gov.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* State Assistance Management System (SAMS) Domestic Results Monitoring Module.
- *OMB Control Number:* 1405–0183.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Bureau of Administration, Office of Logistic Management (A/LM).
- *Form Number:* DS–4127.

- *Respondents:* Recipients of Department of State grants.
- *Estimated Number of Respondents:* 240.
- *Estimated Number of Responses:* 960.
- *Average Time per Response:* 20 hours.
- *Total Estimated Burden Time:* 19,200 hours.
- *Frequency:* Quarterly.
- *Obligation to Respond:* Mandatory.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

In compliance with OMB Guidelines contained in 2 CFR 200, recipient organizations are required to provide, and the U.S. Department of State is required to collect, periodic program and financial performance reports. The responsibility of the Department to track and monitor the programmatic and financial performance necessitates a database that can help facilitate this in a consistent and standardized manner. The SAMS Domestic Results Monitoring Module enables enhanced monitoring and evaluation of grants through standardized collection and storage of relevant award elements, such as quarterly progress reports, workplans, results monitoring plans, grant agreements, and other business information related to implementers. The SAMS Domestic Results Monitoring Module streamlines communication with implementers and allows for rapid identification of information gaps for specific projects.

Methodology

Information will be electronically entered into SAMS Domestic by respondents.

Nathalie B. Stevens,

Division Director, Bureau of Administration, Office of Logistic Management, Department of State.

[FR Doc. 2023–13742 Filed 6–27–23; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

Delegation of Authority No. 540; Delegation of Authority International Broadcasting Advisory Board

By virtue of the authority vested in the Secretary of State, including section 1 of the Basic Authorities Act (22 U.S.C. 2651a), and the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 *et seq.*) (the Act), and to the extent authorized by law, I hereby delegate to the Under Secretary for Public Diplomacy and Public Affairs, the functions and authorities of the Secretary of State as a member of the International Broadcasting Advisory Board pursuant to 22 U.S.C. 6205.

The Secretary of State, Deputy Secretary of State, or the Deputy Secretary of State for Management and Resources may at any time exercise any function or authority delegated herein.

Any reference in this delegation of authority to any act shall be deemed to be a reference to such act as amended from time to time. The reference in this delegation to the International Broadcasting Advisory Board is deemed to be reference to any successor entity established by the Act.

Nothing herein shall be construed to rescind or otherwise modify any delegation of authority currently in effect.

This delegation shall be published in the **Federal Register**.

Dated: June 8, 2023.

Antony J. Blinken,

Secretary of State, Department of State.

[FR Doc. 2023–13704 Filed 6–27–23; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice: 12101]

Determination Under Subsection 402(d)(1) of the Trade Act of 1974, as Amended; Extension of Waiver Authority

Pursuant to the authority vested in the President under the Trade Act of 1974, as amended, Public Law 93–618, 88

Stat. 1978 (hereinafter “the Act”), and assigned to the Secretary of State by virtue of section 1(a) of E.O. 13346 of July 8, 2004, and delegated by Department of State Delegation of Authority 513, of April 7, 2021, I determine, pursuant to section 402(d)(1) of the Act, 19 U.S.C. 2432(d)(1), that the further extension of the waiver authority granted by section 402 of the Act will substantially promote the objectives of section 402 of the Act. I further determine that continuation of the waiver applicable to Turkmenistan will substantially promote the objectives of section 402 of the Act.

This Determination shall be published in the **Federal Register**.

Dated: May 5, 2023.

Wendy R. Sherman,

Deputy Secretary of State.

[FR Doc. 2023–13682 Filed 6–27–23; 8:45 am]

BILLING CODE 4710–46–P

DEPARTMENT OF STATE

[Public Notice: 12115]

Designation of Arkan Ahmad ‘Abbas al-Matuti and Nawaf Ahmad Alwan al-Rashidi as Specially Designated Global Terrorists

Acting under the authority of and in accordance with section 1(a)(ii)(B) of E.O. 13224 of September 23, 2001, as amended by E.O. 13268 of July 2, 2002, E.O. 13284 of January 23, 2003, and E.O. 13886 of September 9, 2019, I hereby determine that the persons known as Arkan Ahmad ‘Abbas al-Matuti (also known as Arkan Ahmad Abbas Albu-Mazida Albu-Miteuti, Arkan Ahmad ‘Abbas al-Mitiwiti, and Abu Sarhan) and Nawaf Ahmad Alwan al-Rashidi (also known as Qahtan Nawaf Ahmad Alwan Sada, Nawaf Ahmed Alwan, and Abu Paris) are leaders of ISIS, 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: June 20, 2023.

Antony J. Blinken,

Secretary of State.

[FR Doc. 2023–13703 Filed 6–27–23; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2023–1187; Summary Notice No. 2023–25]

Petition for Exemption; Summary of Petition Received; The Boeing Company

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public’s awareness of, and participation in, the FAA’s exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before July 18, 2023.

ADDRESSES: Send comments identified by docket number FAA–2023–1187 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <https://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.

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

<https://www.regulations.gov>, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at <https://www.dot.gov/privacy>.

Docket: Background documents or comments received may be read at <https://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: Daniel Gilbert, AIR–646, Federal Aviation Administration, phone 405–954–5833, email daniel.gilbert@faa.gov.

SUPPLEMENTARY INFORMATION:

Petition for Exemption

Docket No.: FAA–2023–1187.

Petitioner: The Boeing Company.

Section(s) of 14 CFR Affected:

§§ 25.863(a), 25.863(b)(3), 25.901(c), 25.981(a)(3), 25.981(b), 25.981(d), and 25.1309(b).

Description of Relief Sought: Donald W. Ruhmann, on behalf of The Boeing Company (Boeing), is seeking relief from the requirements of §§ 25.863(a), 25.863(b)(3), 25.901(c), 25.981(a)(3), 25.981(b), 25.981(d), and 25.1309(b) of title 14 of Code of Federal Regulations (14 CFR), and Special Conditions 25–414–SC as they apply to airplane lightning protection. Specifically, Boeing is proposing to incorporate type design changes on production Model 787–8, 787–9, and 787–10 airplanes.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on June 23, 2023.

Daniel J. Commins,

Manager, Technical Writing Section.

[FR Doc. 2023–13774 Filed 6–27–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No.: FAA–2023–1368]

Notice of Availability of a Draft Programmatic Environmental Assessment

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

ACTION: Notice of availability; requests for comments.

SUMMARY: The Federal Aviation Administration announces that a Draft

Programmatic Environmental Assessment for the Bipartisan Infrastructure Law-funded Airport Traffic Control Tower Replacement Program is available for public review and comment.

DATES: Comments on or before July 31, 2023.

ADDRESSES: Send comments identified by docket number FAA–2023–1368 to the Federal Regulations portal at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this notice, contact Aaron W. Comrov, Environmental Team Lead, FAA CSA ES EOSH Center (AJW–2C16E), 2300 East Devon Avenue, Room 450, Des Plaines, IL 60018; telephone (847) 294–7665, email aaron.comrov@faa.gov.

SUPPLEMENTARY INFORMATION: The Draft Programmatic Environmental Assessment (PEA) considers the conditions and potential environmental impacts from the Proposed Action to replace numerous FAA-owned airport traffic control towers (ATCTs) with modern facilities under the Bipartisan Infrastructure Law-funded ATCT Replacement Program. Many existing ATCTs at municipal or general aviation airports are outdated and operating past their design life. The purpose and need for the proposed program is to replace select FAA-owned ATCTs across the nation with modern ATCTs while providing uninterrupted air traffic control services. The FAA has prepared the Draft PEA in conformance with the requirements of the National Environmental Policy Act of 1969 (NEPA) and FAA Order 1050.1F, *Environmental Impacts: Policies and Procedures*. The Draft PEA analyzes the potential environmental impacts that may result from construction and operation of the proposed new ATCTs and decommissioning and removal of the existing ATCTs (the Proposed Action), as well as the No Action Alternative (*i.e.*, not constructing and operating the proposed new ATCTs).

The Proposed Action would provide for modern, operationally efficient ATCTs, which would be designed to meet the energy and sustainability requirements of FAA's *Terminal Facilities Design Standard* while adhering to the Council on Environmental Quality's *Guiding Principles for Sustainable Federal Buildings and Associated Instructions*. The proposed replacement ATCTs would enable the installation of modern air traffic control equipment, provide adequate space and an enhanced work environment for FAA personnel, lower operating costs, and improve

environmental performance resulting in energy savings, water efficiency, reduced carbon emissions, and improved indoor air quality while meeting applicable FAA requirements.

Based on this analysis, the FAA has preliminarily determined there will not be a significant impact to the human environment from implementation of the Proposed Action. The FAA intends for the PEA to create efficiencies by establishing a "tiering" framework, where appropriate, to project-specific actions that require additional analysis. As decisions on specific project sites are made, to the extent additional NEPA analysis is required, environmental reviews would be conducted to supplement the analysis set forth in this PEA.

The Draft PEA is available for review on the project website (https://www.faa.gov/air_traffic/atf), and the Federal Regulations portal (www.regulations.gov) with Docket No.: FAA–2023–1368. The FAA will address comments received on the Draft PEA within the Final PEA.

Issued in Des Plaines, Illinois, on June 23, 2023.

Aaron W. Comrov,

Environmental Team Lead, FAA CSA ES EOSH Center, AJW–216E.

[FR Doc. 2023–13739 Filed 6–27–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on the Central Business District Tolling Program, New York, New York

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA and other Federal agencies.

SUMMARY: This notice announces action taken by FHWA and other Federal agencies that are final. The actions relate to the Central Business District Tolling Program in New York, New York.

DATES: By this notice, FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before November 27, 2023. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT:

Richard J. Marquis, Division Administrator, Federal Highway Administration, Leo W. O'Brien Federal Building, 11A Clinton Avenue, Suite 719, Albany, New York 12207, Telephone (518) 431–4127.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA and other Federal agencies have taken final agency actions by issuing approvals for the following highway project in the State of New York: Central Business District Tolling Program, New York, New York. The Project purpose is to reduce traffic congestion in the Manhattan Central Business District in a manner that will generate revenue for future transportation improvements, pursuant to acceptance into FHWA's Value Pilot Pricing Program.

The objectives of the Project are to:

- Reduce daily vehicle-miles traveled (VMT) within the Manhattan Central Business District by at least 5 percent.
- Reduce the number of vehicles entering the Manhattan CBD daily by at least 10 percent.
- Create a funding source for capital improvements and generate sufficient annual net revenues to fund \$15 billion for capital projects for the MTA Capital Program.

• Establish a tolling program consistent with the purposes underlying the New York State legislation entitled the MTA Reform and Traffic Mobility Act.

The actions by the Federal agencies, and the laws under which such actions were taken, are described in the FHWA Final Environmental Assessment (EA) for the project, signed May 5, 2023, in the Finding of No Significant Impact (FONSI) for the project, issued on June 23, 2023, and in other documents in the FHWA administrative record. The Final EA, FONSI, and other documents in the FHWA administrative record files are available by contacting FHWA at the address provided above. The Final EA and FONSI can also be viewed and downloaded from the project website: <https://new.mta.info/project/CBDTP>.

This notice applies to FHWA agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. National Environmental Policy Act [42 U.S.C. 4321–4351].
2. Federal-Aid Highway Act [23 U.S.C. 109].
3. Clean Air Act [42 U.S.C. 7401–7671(q)].
4. Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303].

5. Endangered Species Act [16 U.S.C. 1531–1544 and 1536].
6. Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)].
7. Migratory Bird Treaty Act [16 U.S.C. 703–712].
8. Bald and Golden Eagle Protection Act [16 U.S.C. 668–668c].
9. Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470].
10. Farmland Protection Policy Act [7 U.S.C. 4201–4209].
11. Clean Water Act (Section 319, Section 401, Section 402, Section 404) [33 U.S.C. 1251–1377].
12. Safe Drinking Water Act [42 U.S.C. 300(f) *et seq.*].
13. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 [42 U.S.C. 4601 *et seq.*].
14. Noise Control Act of 1972 [42 U.S.C. 4901 *et seq.*].
15. Resource Conservation and Recovery Act [42 U.S.C. 6901–6992(k)].
16. Comprehensive Environmental Response, Compensation, and Liability Act [42 U.S.C. 9601–9675].
17. Americans with Disabilities Act of 1990 [42 U.S.C. 12101].
18. Executive Order 11990 Protection of Wetlands.
19. Executive Order 11988 Floodplain Management.
20. Executive Order 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.
21. Executive Order 11593 Protection and Enhancement of Cultural Resources.
22. Executive Order 13007 Indian Sacred Sites.
23. Executive Order 13287 Preserve America.
24. Executive Order 13175 Consultation and Coordination with Indian Tribal Governments.
25. Executive Order 11514 Protection and Enhancement of Environmental Quality.
26. Executive Order 13112 Invasive Species.
27. Executive Order 13166 Improving Access to Services for Persons with Limited English Proficiency.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: June 23, 2023.

Richard J. Marquis,

Division Administrator, Albany, NY.

[FR Doc. 2023–13709 Filed 6–27–23; 8:45 am]

BILLING CODE 4910-RY-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0136; FMCSA–2021–0013]

Qualification of Drivers; Exemption Applications; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for eight individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these hard of hearing and deaf individuals to continue to operate CMVs in interstate commerce.

DATES: The exemptions were applicable on May 14, 2023. The exemptions expire on May 14, 2025.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001, (202) 366–4001, fmcsamedical@dot.gov. Office hours are 8:30 a.m. to 5 p.m. ET Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to www.regulations.gov. Insert the docket number (FMCSA–2018–0136 or FMCSA–2021–0013) in the keyword box and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, and click “Browse Comments.” If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

B. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption

requests. 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 (Federal Docket Management System), which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>, the comments are searchable by the name of the submitter.

II. Background

On May 15, 2023, FMCSA published a notice announcing its decision to renew exemptions for 8 individuals from the hearing standard in 49 CFR 391.41(b)(11) to operate a CMV in interstate commerce and requested comments from the public (88 FR 31096). The public comment period ended on June 14, 2023, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(11).

The physical qualification standard for drivers regarding hearing found in § 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5–1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid (35 FR 6458, 6463 (Apr. 22, 1970) and 36 FR 12857 (July 8, 1971), respectively).

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Conclusion

Based upon its evaluation of the eight renewal exemption applications, FMCSA announces its decision to exempt the following drivers from the hearing requirement in section 391.41(b)(11).

As of May 14, 2023, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following eight individuals have satisfied the renewal conditions for obtaining an exemption

from the hearing requirement in the FMCSRs for interstate CMV drivers (88 FR 31097):

Timothy Allen (LA)
 Frederick Fleetwood (NC)
 Christopher Gilmore (TX)
 Jeffrey Haley (MN)
 Kelvin Jarman (IL)
 Elizabeth Keyes (MN)
 Raymond Levine (CA)
 Ted McCracken (OR)

The drivers were included in docket number numbers FMCSA–2018–0136 or FMCSA–2021–0013. Their exemptions were applicable as of May 14, 2023 and will expire on May 14, 2025.

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136, 49 U.S.C. chapter 313, or the FMCSRs.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2023–13732 Filed 6–27–23; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Revision of an Approved Information Collection; Submission for OMB Review; Margin and Capital Requirements for Covered Swap Entities

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning a

revision to its information collection titled, “Margin and Capital Requirements for Covered Swap Entities.” The OCC also is giving notice that it has sent the collection to OMB for review.

DATES: Comments must be received by July 28, 2023.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email:* prainfo@occ.treas.gov.
- *Mail:* Chief Counsel’s Office,

Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557–0251, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

- *Fax:* (571) 293–4835.

Instructions: You must include “OCC” as the agency name and “1557–0251” in your comment. In general, the OCC will publish comments on www.reginfo.gov without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Written comments and recommendations for the proposed information collection should also be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. You can find this information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

You may review comments and other related materials that pertain to this information collection following the close of the 30-day comment period for this notice by the method set forth below:

- *Viewing Comments Electronically:* Go to www.reginfo.gov. Hover over the “Information Collection Review” drop-down menu. Click on “Information Collection Review.” From the “Currently under Review” drop-down menu, select “Department of Treasury” and then click “submit.” This information collection can be located by searching OMB control number “1557–0251” or “Margin and Capital Requirements for Covered Swap

Entities.” Upon finding the appropriate information collection, click on the related “ICR Reference Number.” On the next screen, select “View Supporting Statement and Other Documents” and then click on the link to any comment listed at the bottom of the screen.

- For assistance in navigating www.reginfo.gov, please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649–5490, Chief Counsel’s Office, Office of the Comptroller of the Currency, 400 7th Street, SW, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, and/or provide information to a third party.

The OCC asks that OMB approve this revised collection.

Title: Margin and Capital Requirements for Covered Swap Entities.

OMB Control No.: 1557–0251.

Affected Public: Business or other for-profit.

Type of Review: Regular review.

Abstract: Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) established a comprehensive regulatory framework for derivatives, which are generally characterized as swaps and security-based swaps.

Sections 731 and 764 of the Dodd-Frank Act require the registration and regulation of swap dealers and major swap participants and security-based swap dealers and major security-based swap participants, respectively (collectively, “swap entities”). For certain types of swap entities that are prudentially regulated by one of the Agencies,¹ sections 731 and 764 of the Dodd-Frank Act require the Agencies to jointly adopt rules, for the entities under their respective jurisdictions, imposing capital requirements and initial and variation margin requirements on all

¹ The Agencies are the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, and the Farm Credit Administration.

non-cleared swaps. Swap entities that are prudentially regulated by the Agencies are referred to herein as “covered swap entities.” OCC’s rules for swap entities can be found in 12 CFR part 45.

The OCC has determined that § 45.1(h), previously cleared as part of this information collection, no longer includes a disclosure collection of information because the conditions triggering the disclosure have expired. In addition, the OCC has omitted from this information collection the following provisions that were formerly referenced in the clearance because it determined that the provisions do not constitute collections of information under the Paperwork Reduction Act: §§ 45.1(d); 45.5(c)(2)(i); 45.8(c)(2); 45.8(d)(5), (12), and (13); 45.8(e); and 45.8(f)(2), (3), and (4).

Section 45.2 defines terms referenced in part 45. Under the definition of “eligible master netting agreement,” a covered swap entity that relies on such agreement for purpose of calculating required margin must (1) conduct sufficient legal review of the agreement to conclude with a well-founded basis that the agreement meets specified criteria and maintain sufficient written documentation of that legal review and (2) establish and maintain written procedures for monitoring relevant changes in law and to ensure that the agreement continues to satisfy the requirements of the definition. To demonstrate compliance with this section, records must be retained for as long as the covered swap entity relies on such agreement. The term “eligible master netting agreement” is used elsewhere in the rule to specify instances in which a covered swap entity may (1) calculate variation margin on an aggregate basis across multiple non-cleared swaps and security-based swaps and (2) calculate initial margin requirements under an initial margin model for one or more swaps and security-based swaps.

Section 45.7 generally requires a covered swap entity to ensure that any initial margin collateral that it collects or posts is held at a third-party custodian. Section 45.7(c) requires the custodian to act pursuant to a custody agreement that: (1) prohibits the custodian from rehypothecating, pledging, reusing, or otherwise transferring (through securities lending, securities borrowing, repurchase agreement, reverse repurchase agreement or other means) the collateral held by the custodian except that cash collateral may be held in a general deposit account with the custodian if the funds in the account are used to

purchase certain assets, such assets are held in compliance with § 45.7, and such purchase takes place within a time period reasonably necessary to consummate such purchase after the cash collateral is posted as initial margin; and (2) is a legal, valid, binding, and enforceable agreement under the laws of all relevant jurisdictions, including in the event of bankruptcy, insolvency, or a similar proceeding. A custody agreement may permit the posting party to substitute or direct any reinvestment of posted collateral held by the custodian, provided that, with respect to collateral collected by a covered swap entity pursuant to § 45.3(a) or posted by a covered swap entity pursuant to § 45.3(b), the agreement requires the posting party to substitute only funds or other property that would qualify as eligible collateral under § 45.6, and for which the amount net of applicable discounts described in appendix B would be sufficient to meet the requirements of § 45.3 and direct reinvestment of funds only in assets that would qualify as eligible collateral under § 45.6, and for which the amount net of applicable discounts described in appendix B would be sufficient to meet the requirements of § 45.3.

Section 45.8 sets forth standards for the use of initial margin models. These standards include: (1) a requirement that the covered swap entity receive prior approval from the OCC based on demonstration that the initial margin model meets specific requirements (§ 45.8(c)(1)); (2) a requirement that a covered swap entity notify the OCC in writing 60 days before extending use of the model to additional product types, making certain changes to the initial margin model, or making material changes to modeling assumptions (§ 45.8(c)(3)); and (3) a requirement that the covered swap entity demonstrate to the satisfaction of the OCC that the omission of any risk factor from the calculation of its initial margin is appropriate, prior to omitting such risk factor (§ 45.8(d)(10)), and demonstrate to the satisfaction of the OCC that the incorporation of any proxy or approximation used to capture the risks of the covered swap entity’s non-cleared swaps or non-cleared security-based swaps is appropriate, prior to incorporating such proxy or approximation (§ 45.8(d)(11)). Also, if the validation process reveals any material problems with the initial margin model, the covered swap entity must promptly notify the OCC of the problems, describe to the OCC any remedial actions being taken, and adjust the initial margin model to ensure an

appropriately conservative amount of required initial margin is being calculated (§ 45.8(f)(3)).

Section 45.8 also sets forth requirements for the ongoing review and documentation of initial margin models. These standards include a requirement that the covered swap entity adequately document all material aspects of its initial margin model (§ 45.8(g)) and that the covered swap entity must adequately document internal authorization procedures, including escalation procedures, that require review and approval of any change to the initial margin calculation under the initial margin model, demonstrable analysis that any basis for any such change is consistent with the requirements of § 45.8, and independent review of such demonstrable analysis and approval (§ 45.8(h)).

Section 45.9 addresses the treatment of cross-border transactions and, in certain limited situations, will permit a covered swap entity to comply with a foreign regulatory framework for non-cleared swaps (as a substitute for compliance with the prudential regulators’ rule) if the prudential regulators jointly determine that the foreign regulatory framework is comparable to the requirements in the prudential regulators’ rule. Section 45.9(e) allows a covered swap entity to request that the prudential regulators make a substituted compliance determination and provides that the covered swap entity must provide the reasons for the request and other required supporting documentation. A request for a substituted compliance determination must include a description of the scope and objectives of the foreign regulatory framework for non-cleared swaps and non-cleared security-based swaps; the specific provisions of the foreign regulatory framework for non-cleared swaps and security-based swaps (scope of transactions covered; determination of the amount of initial and variation margin required; timing of margin requirements; documentation requirements; forms of eligible collateral; segregation and rehypothecation requirements; and approval process and standards for models); the supervisory compliance program and enforcement authority exercised by a foreign financial regulatory authority or authorities in such system to support its oversight of the application of the non-cleared swap and security-based swap regulatory framework; and any other descriptions and documentation that the prudential regulators determine are appropriate. A covered swap entity may make a request

under § 45.9 only if it is directly supervised by the authorities administering the foreign regulatory framework for non-cleared swaps and non-cleared security-based swaps.

Section 45.10 requires a covered swap entity to execute trading documentation with each counterparty that is either a swap entity or financial end user regarding credit support arrangements that: (1) provides the contractual right to collect and post initial margin and variation margin in such amounts, in such form, and under such circumstances as are required; and (2) specifies the methods, procedures, rules, and inputs for determining the value of each non-cleared swap or non-cleared security-based swap for purposes of calculating variation margin requirements, and the procedures for resolving any disputes concerning valuation.

Estimated Number of Respondents:
11.

Estimated Total Annual Burden:
4,895 hours.

On April 7, 2023, the OCC published a 60-day notice for this information collection, (88 FR 20941). No comments were received. Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2023-13696 Filed 6-27-23; 8:45 am]

BILLING CODE 4810-33-P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Mandatory Contractual Stay Requirements for Qualified Financial Contracts

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC).

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites comment on a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning the renewal of its information collection titled "Mandatory Contractual Stay Requirements for Qualified Financial Contracts."

DATES: Comments must be received by August 28, 2023.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email:* prainfo@occ.treas.gov.

- *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557-0339, 400 7th Street SW, Suite 3E-218, Washington, DC 20219.

- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E-218, Washington, DC 20219.

- *Fax:* (571) 465-4326.

Instructions: You must include "OCC" as the agency name and "1557-0339" in your comment. In general, the OCC will publish comments on www.reginfo.gov without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection by the method set forth in the next bullet. Following the close of this notice's 60-day comment period, the OCC will publish a second notice with a 30-day comment period.

- *Viewing Comments Electronically:* Go to www.reginfo.gov. Hover over the "Information Collection Review" tab and click on "Information Collection Review" dropdown. Underneath the "Currently under Review" section heading, from the drop-down menu select "Department of Treasury" and then click "submit." This information collection can be located by searching by OMB control number "1557-0339" or "Mandatory Contractual Stay Requirements for Qualified Financial Contracts." Upon finding the appropriate information collection, click on the related "ICR Reference Number." On the next screen, select "View Supporting Statement and Other Documents" and then click on the link to any comment listed at the bottom of the screen.

- For assistance in navigating www.reginfo.gov, please contact the Regulatory Information Service Center at (202) 482-7340.

FOR FURTHER INFORMATION CONTACT:

Shaquita Merritt, OCC Clearance Officer, (202) 649-5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7 St. SW, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor.

"Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of title 44 requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the renewal of this collection.

Title: Mandatory Contractual Stay Requirements for Qualified Financial Contracts.

OMB Control No.: 1557-0339.

Frequency of Response: On occasion.

Affected Public: A national bank or Federal savings association (FSA) (or any subsidiary of either) that is a subsidiary of a global systemically important bank holding company that has been designated pursuant to 12 CFR 252.82 of the Federal Reserve Board's Regulation YY; a national bank or FSA (or any subsidiary of either) that is a subsidiary of a global systemically important foreign banking organization designated pursuant to 12 CFR 252.87 of the Federal Reserve Board's Regulation YY; a Federal branch or agency (or any U.S. subsidiary of a Federal branch or agency) of a global systemically important foreign banking organization designated pursuant to 12 CFR 252.87 of the Federal Reserve Board's Regulation YY; and any national bank or FSA that is not under a bank holding company and that has more than \$700 billion in total assets as reported on its most recent Consolidated Reports of Condition and Income (Call Report).

Abstract: Under 12 CFR part 47, a covered bank is required to ensure that a covered qualified financial contract (QFC)—(1) contains a contractual stay-and-transfer provision analogous to the statutory stay-and-transfer provision imposed under Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (see 12 U.S.C. 5390(c)(9)–(10)) and in the Federal Deposit Insurance Act (see 12 U.S.C. 1821(e)(8)–(10)) and (2) limits the exercise of default rights based on the insolvency of an affiliate of the covered bank. A covered bank is defined in 12 CFR 47.3(b) as:

- A national bank or FSA that has more than \$700 billion in total assets as reported on the national bank's or FSA's most recent Call Report;
- A national bank or FSA that is a subsidiary of a global systemically important bank holding company that has been designated pursuant to § 252.82 of this title (Federal Reserve Board Regulation YY) (12 CFR 252.82);
- A national bank or FSA that is a subsidiary of a global systemically important foreign banking organization that has been designated pursuant to § 252.87 of this title (Federal Reserve Board Regulation YY) (12 CFR 252.87);
- A Federal branch or agency, as defined in subpart B of this chapter (governing Federal branches and agencies), of a global systemically important foreign banking organization that has been designated pursuant to § 252.87 of this title (Federal Reserve Board Regulation YY) (12 CFR 252.87); or
- A subsidiary of a covered bank, except, as defined in 12 CFR 47.3(b)(3),

subsidiaries held in satisfaction of debt previously contracted in good faith, portfolio companies held under the Small Business Investment Act of 1956, and certain companies engaged in the business of making public welfare investments.

The requirements are intended to enhance the resilience and the safety and soundness of Federally chartered and licensed financial institutions by addressing concerns relating to the exercise of default rights of certain financial contracts that could interfere with the orderly resolution of certain systemically important financial firms.

Covered banks may comply either by amending the contractual provisions of their QFCs consistent with the requirements of §§ 47.4 and 47.5 within a specified period of time or by adhering to the International Swaps and Derivatives Association 2015 Universal Resolution Stay Protocol or U.S. Protocol (ISDA Protocols). Alternatively, 12 CFR 47.6(b)(1) provides that a covered bank may request that the OCC approve as compliant with the requirements of §§ 47.4 and 47.5 provisions of one or more forms of covered QFCs, or amendments to one or more forms of covered QFCs, with enhanced creditor protection conditions.

In order for the OCC to evaluate a covered bank's request, 12 CFR 47.6(b)(3) requires that the request include (1) an analysis of the proposal that addresses a range of factors laid out in § 47.6(d) that are intended to facilitate the OCC's consideration of whether the proposal would be consistent with the restrictions and the main objectives of the rule; (2) a written legal opinion verifying that the covered bank's proposed provisions or amendments would be valid and enforceable under applicable laws of the relevant jurisdictions, including, in the case of proposed amendments, the validity and enforceability of the proposal to amend the covered QFCs; and (3) any additional information relevant to the OCC's approval that the OCC requests. The OCC will then use the information collected to determine whether the covered bank's proposed alternative creditor protection conditions comply with the requirements of the rule and achieve its policy goals.

Estimated Burden:

Number of Respondents: 44.

Estimated Burden per Respondent: 140 hours.

Total Estimated Annual Burden: 6,160 hours.

Comments submitted in response to this notice will be summarized and

included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

- Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;
- The accuracy of the OCC's estimate of the burden of the collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected;
- Ways to minimize the burden of the collection on respondents, including the use of automated collection techniques or other forms of information technology; and
- Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2023–13695 Filed 6–27–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Internal Revenue Service (IRS) Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before July 28, 2023 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

SUPPLEMENTARY INFORMATION:**Internal Revenue Service**

1. *Title:* Split-Interest Trust Information Return.

OMB Number: 1545-0196.

Form Number: 5227.

Abstract: Form 5227 is used to report the financial activities of a split-interest trust described in Internal Revenue Code section 4947(a)(2), and to determine whether the trust is treated as a private foundation and is subject to the excise taxes under chapter 42 of the Code.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 199,900.

Estimated Time per Respondent: 45 hr., 24 min.

Estimated Total Annual Burden Hours: 9,076,744.

2. *Title:* Application for Registration (For Certain Excise Tax Activities) and Questionnaires; IRS Notice 2023-06.

OMB Number: 1545-1835.

Form Number: 637 and Notice 2023-06.

Abstract: Form 637 is used to apply for excise tax registration. The registration applies to a person required to be registered under Revenue code section 4101 for purposes of the Federal excise tax on taxable fuel imposed under Code sections 4041 and 4071; and to certain manufacturers or sellers and purchasers that must register under Code section 4222 to be exempt from the excise tax on taxable articles. The data is used to determine if the applicant qualifies for the exemption. Taxable fuel producers are required by Code section 4101 to register with the Service before incurring any tax liability.

IRS Notice 2023-26 provides guidance on the new sustainable aviation fuel credits under §§ 40B and 6426(k) of the Internal Revenue Code (referred the SAF credit) and related credit and payment rules under §§ 34(a)(3), 38, 87, and 6427(e)(1). This notice also provides rules related to the § 4101 registration requirements. The certificate, reseller statement, and declaration created by IRS Notice 2023-06 will allow the IRS to verify that claimants are making proper credit and payment claims with respect to the SAF credit.

Current Actions: There are no changes to the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit, farms, and not-for-profit institutions.

Form 637

Estimated Number of Respondents: 9,255.

Estimated Time per Respondent: 3.43 hours.

Estimated Total Annual Burden Hours: 31,710.

IRS Notice 2023-06

Estimated Number of Respondents: 20.

Estimated Number of Responses: 200.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 50 hours.

3. *Title:* Energy Efficient Home Credit.

OMB Number: 1545-1979.

Form Number: Form 8908.

Abstract: The IRS created Form 8908 to reflect new code section 45L which allows qualified contractors to claim a credit for each qualified energy-efficient home sold. Eligible contractors use Form 8908 to claim a credit for each qualified energy efficient home sold or leased to another person during the tax year for use as a residence. The credit is based on the energy saving requirements of the home. The credit is part of the general business credit.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 1,980.

Estimated Time per Respondent: 2.59 minutes.

Estimated Total Annual Burden Hours: 5,128.

4. *Title:* Qualified Plug-in Electric Vehicle Credit and Rev. Proc 2022-46.

OMB Number: 1545-2137.

Form Number: 8936, 8936-A and Schedule 1 (Form 8936-A).

Abstract: For tax years beginning after 2008, Form 8936 is used to figure the credit for qualified plug-in electric drive motor vehicles placed in service during the tax year. The credit attributable to depreciable property (vehicles used for business or investment purposes) is treated as a general business credit. Any credit not attributable to depreciable property is treated as a personal credit. For tax year beginning after 2022, Form 8936-A and Schedule 1 (Form 8936-A) are used to figure the Qualified Commercial Clean Vehicle Credit. Notice 2009-54 sets forth guidance relating to the qualified plug-in electric drive motor vehicle credit under section

30D of the Internal Revenue Code, as in effect for vehicles acquired after December 31, 2009. Revenue Procedure 2022-42 (Rev. Proc. 2022-42) provides procedures for a vehicle manufacturer to certify that they are a qualified manufacturer of such vehicles and submit reports that a motor vehicle meets certain requirements for the clean vehicle credit(s) available under sections 30D, 45W, and/or 25E, to report the amount of the credit available with respect to the motor vehicle, and for sellers to report the sales of such vehicles.

Current Actions: There are no changes being made to the collection. IRS is seeking approval to extend the OMB expiration date.

Type of Review: Extension of a currently approved collection.

Affected Public: Individual, businesses, and other for-profit organizations.

Form 8936

Estimated Number of Respondents: 500.

Estimated Number of Responses: 500.

Estimated Time per Response: 7 hours.

Estimated Total Annual Burden Hours: 35,000.

Form 8936-A and Schedule 1 (Form 8936-A):

Estimated Number of Respondents: 129.

Estimated Number of Responses: 129.

Estimated Time per Response: 2.90 hours.

Estimated Total Annual Burden Hours: 374 hours.

Notice 2009-89

Estimated Number of Respondents: 12.

Estimated Number of Responses: 12.

Estimated Time per Response: 23.33 hours.

Estimated Total Annual Burden Hours: 280 hours.

Rev. Proc. 2022-42, Annual Reports

Estimated Number of Respondents: 52,165. *Estimated Number of Responses:* 52,165.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 13,041 hours.

Rev. Proc. 2022-42, Monthly Reports

Estimated Number of Respondents: 150.

Estimated Number of Responses: 1,800.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 450 hours.

Authority: 44 U.S.C. 3501 *et seq.*

Melody Braswell,

Treasury PRA Clearance Officer.

[FR Doc. 2023–13753 Filed 6–27–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Bureau of Fiscal Service Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of Information Collection; request for comment.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before July 28, 2023 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Melody Braswell by emailing PRA@treasury.gov, calling (202) 622–1035, or viewing the entire information collection request at www.reginfo.gov.

SUPPLEMENTARY INFORMATION:

Bureau of the Fiscal Service (BFS)

1. *Title:* Minority Bank Deposit Program (MBDP) Certification Form for Admission.

OMB Number: 1530–0001.

Form Number: FS Form 3144.

Abstract: The information collected on this form is used by financial institutions to apply for participation in the Minority Bank Deposit Program. Institutions approved for acceptance in the program are entitled to special assistance and guidance from Federal agencies, State and local governments, and private sector organizations.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 85.

Estimated Time per Respondent: 45 minutes.

Estimated Total Annual Burden Hours: 64.

2. *Title:* Request to Reissue U.S. Savings Bonds to a Personal Trust.

OMB Number: 1530–0036.

Form Number: FS Form 1851.

Abstract: The information is necessary to support a request for reissue of savings bonds in the name of the trustee of a personal trust estate.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 10,600.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 2,650.

3. *Title:* Application By Survivors for Payment of Bond or Check Issued Under the Armed Forces Leave Act of 1946, as amended.

OMB Number: 1530–0038.

Form Number: FS Form 2066.

Abstract: The information is requested to support payment of an Armed Forces Leave Bond or check issued under Section 6 of the Armed Forces Leave Act of 1946, as amended, where the owner died without assigning the bond to the Administrator of Veterans Affairs prior to payment, or without presenting the check for payment.

Current Actions: Revision of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 100.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 50.

Authority: 44 U.S.C. 3501 *et seq.*

Melody Braswell,

Treasury PRA Clearance Officer.

[FR Doc. 2023–13745 Filed 6–27–23; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Veterans Health Administration (VHA), Department of Veterans Affairs (VA).

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 Health Administration Human Capital Management—VA” (161VA10A2) as set forth in the **Federal Register**. This system is used for the management of VHA executive and senior executive employees, as well as employees in national programs, for performance appraisal and bonus award entries, bonus and appraisal documentation storage, rank award and type given, supervisory training status, leadership and organization development, and employee position management.

DATES: Comments on this modified system of records must be received no later than 30 days after the 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 the VA, the modified system of records will become effective a minimum of 30 days after the 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 Health Administration Human Capital Management—VA” (161VA10A2). 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 number 704–245–2492 (this is not a toll-free number) or Stephania.griffin@va.gov.

SUPPLEMENTARY INFORMATION: VA is amending the system of records 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; Categories of Individuals Covered by the System; Exemptions Promulgated for the System; Record Access Procedure; Contesting Records Procedures; and Notification Procedure. VA is republishing the system notice in its entirety.

The System Number is being updated from 161VA10A2 to 161VA10 to reflect the current VHA organizational routing symbol.

The System Location is being modified to remove records being maintained at the “North Little Rock Campus, 2200 Fort Roots Drive, Little Rock, Arkansas 72114.” This section will now state that the records are maintained at “Olin E. Teague Veterans’ Center, 1901 Veterans Memorial Drive, Temple, Texas 76504.”

The System Manager is being updated to remove “Manager of the Human Capital Systems and Services (HCSS), 55 North Robinson Avenue, Suite 1010, Oklahoma City, OK 73102. Director of Events Division, Employee Education System, #1 Jefferson Barracks Drive, Building 56, St. Louis, MO 63125. Deputy Director of Events Division, Employee Education System, #1 Jefferson Barracks Drive, Building 56, St. Louis, MO 63125. Associate Director of Web Architecture, Employee Education System, 2200 Fort Roots Drive, Building 11, North Little Rock, AR 72114.” This section will now state that “Official maintaining the system is Program Director, Workforce Management & Consulting, 55 N Robinson Avenue, Suite 1010, Oklahoma City, OK 73102. Telephone number 405–552–4345 (this is not a toll-free number).”

The language in Routine Uses of Records Maintained in the System is being updated. The language will now state

3. DOJ, Litigation, Administrative Proceeding: To the Department of Justice (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 official 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.

Policies and Practices for Storage of Records is being modified to remove “Records maintained on the HPDM1 Server and VACIN Server and backup servers in Little Rock, Arkansas and Cincinnati, Ohio.” This section will now state “Records are maintained on servers at the Olin E. Teague Veterans’ Center, 1901 Veterans Memorial Drive, Temple, Texas 76504 and backup servers at Cyxtera—CenturyLink Federal Site 322, 350 E Cermak, Chicago, IL 60616.”

Policies and Practices for Retention and Disposal of Records is being modified to remove “The records disposed of in accordance with General records 4.3, item 031.” Since 4.3 has been superseded by 5.2.20 General Records Schedule (GRS), this section will now state “Records are disposed of in accordance with General Records Schedule (GRS) 5.2, Item 020.”

Categories of Records in the System is being modified to update language as “The records include information from Veterans Affairs Central Office (VACO), VHA, VHA Canteen, VHA Central Office, Veteran Benefits Administration (VBA), and National Cemetery Administration (NCA) personnel.”

Exemptions Promulgated for the System is being modified to remove, “Under Title 5 U.S.C. 552a(k)(6), the head of any agency may exempt any system of records within the agency from certain provisions of the Privacy Act, if the system of records is testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process. The Talent Assessment Data within the system of records is considered examination material used to determine if an employee has the qualifications, leadership skills and experience necessary to become a Medical Center Director.

“Based upon the foregoing, the Secretary of Veterans Affairs has exempted this system of records, to the extent that it encompasses information pertaining to criminal law enforcement related activities from the following provisions of the Privacy Act of 1974, as permitted by 5 U.S.C. 552a(k)(6): 5 U.S.C. 552a(c)(3); 5 U.S.C. 552a(d)(1) through (4); 5 U.S.C. 552a(e)(1); 5 U.S.C. 552a(e)(4)(G), (H) and (I); 5 U.S.C. 552a(f); 5 U.S.C. 552a(e)(4)(G), (H) and (I); 5 U.S.C. 552a(f).

“Reasons for exemptions: The exemption of examination material in this system of records is necessary to

ensure candid and complete assessment of individual qualifications for appointment or promotion in VHA. The disclosure of the Talent Assessment Data would compromise the objectivity of the examination for the individuals and the willingness to provide full, candid assessments by the reviewers.” This section is being removed as it was inserted in error based on the determination that the information in question was not eligible to be exempted under the Privacy Act.

Records Access Procedure is being amended to remove current language and replace with “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 or may write, call or visit the VA facility location where they are or were employed or made contact. 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 Records Procedures is being amended to remove current language and replace with “Individuals seeking to contest or amend records in this system pertaining to them should contact the system manager in writing as indicated above or may write, call or visit the VA facility location where they are or were employed or made contact. 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 is being amended to remove current language and replace with “Generalized notice is provided by the publication of this notice. For specific notice, see Record Access Procedure, above.

The Report of Intent to Amend 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 10, 2023 for publication.

Dated: June 22, 2023.

Amy L. Rose,

Government Information Specialist, VA Privacy Service, Office of Compliance, Risk and Remediation, Office of Information and Technology, Department of Veterans Affairs.

SYSTEM NAME AND NUMBER:

“Veterans Health Administration Human Capital Management—VA” (161VA10).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are located at the Olin E. Teague Veterans' Center, 1901 Veterans Memorial Drive, Temple, Texas 76504.

SYSTEM MANAGER(S):

Official responsible for policies and procedures for the system is the Program Director, Workforce Management & Consulting, 55 N Robinson Avenue, Suite 1010, Oklahoma City, OK 73102. Telephone number 405-552-4345 (this is not a toll-free number).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

38 U.S.C. 501(a).

PURPOSE(S) OF THE SYSTEM:

The purpose of these records is used for the management of VHA executive and senior executive employees, as well as employees in national programs, for performance appraisal and bonus award entries, bonus and appraisal documentation storage, rank award and type given, supervisory training status, leadership and organization development, and employee position management. Records will support pairing of learning and professional growth services by internal coaches and consultants to VA employees and leaders. Reports for workforce succession planning and analysis, VHA supervisory training status and course grade, bonus award dollar amounts per executive and non-executive employees are used by Performance Review Boards. The creation and filling of human resource positions, as well as data on the tracking of employee actions and assignments, is gathered for the purpose of business processing and analysis.

Workgroups are developed for survey use and data collection. Data that is entered and stored may be extracted from the database and used for other applications.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The records include information from Veterans Affairs Central Office (VACO), VHA, VHA Canteen, VHA Central Office, Veteran Benefits Administration (VBA), and National Cemetery Administration (NCA) personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records may include information related to people, work groups, workforce, funding, leadership classes, personal development plans, supervisory levels, mentor and coach roles and certifications, High Performance Development Model, senior executive information and recruitment, Human Resources automation, positions, organizations, the Talent Assessment Data and locations of VHA top management positions. Central Office and Veterans Integrated Service Network (VISN) managers and staff, facility directors, associate directors, chiefs of staff, and other senior clinical and administrative field managers' positions are included. The VHA Executive Management Program consists of the functions that fall under the purview of the VHA Executive Resources Board and the VHA Performance Review Board. Their functions include executive development, recruitment and placement; organizational analysis; succession planning; and performance assessment and recognition. The method used to collect this information is a proprietary system using relational technology. Information from this database is joined and expanded with information from the VHA executive program processes (e.g., organization, vacancies, recruitment efforts, performance). This combination of information is used in the administration of the Executive Resources Board and Performance Review Board functions. The sharing and development of information involving executives and organizations provide an effective means for accomplishing the Executive Resources Board and Performance Review Board objectives. The following modules are in VHA Leadership and Workforce Development: VHA Leadership and Workforce Development Home, Performance, Workgroups, VA National Database for Interns, Student Educational Experience Program, High Performance Development Model Funding, Executive Career Field Career Development Plan On-Line Application, Technical Career Field Preceptor On-Line Application, Career Development Plans, Workforce Planning, Class and Program Management (includes:

Graduate Healthcare Administration Training Program, School at Work, Leadership Effectiveness Accountability Development, Technical Career Field, Executive Career Field Candidate Development Program, Senior Executive Service Candidate Development programs, Ethics, Professional Development Plans, Supervisory Training, Open Season (VHA Executive Recruitment), WebHR (Web-based Human Resource module), and Mentor Coach Certification). VHA Leadership and Workforce Development data contains:

1. Employee data, including Employee legal name, Social Security Number, Veteran's preference, Vietnam Era Veteran, Retirement plan, Tenure, Universal personal identification number, Universal username, Sex, Supervisory status, Supervisory training status, Work contact information, Facility, Network Identification, Home contact information, Home of record contact information, Assigned facility/organization, Pay plan, Pay grade, Step, Retirement eligibility, Union membership, Leave balances, Program, Credentials, Grievance, Disciplinary actions, Third-party and other employee actions, Work Setting status, Service Type, Clinical position type, Coaching preference, Performance standards and Resume.

2. Employee position data, including VHA Leadership and Workforce Development position titles, High Performance Development Management ratings, Position requestor contact data, Legal authority, Competitive Level, Fair Labor Standards Act category, Drug testing position indicator, Citizenship/Residency status, English language proficiency, Announcement status, Vacancy status, Date job opened, Days to open, Days to issue certificate, Date job closed, Job type/Occupation series/Grade, Pay plan, Work schedule, Appropriation code, Cost center, Date candidates referred, Date nomination received, Date to Executive Resources Board, Date credentials complete, Date recruitment received, Position start and end dates, Appointment start and end dates, Position location (Location complexity rating), Position reporting official (Position status, Supervisory, Bargaining unit, Senior executive pay band), Level of supervisory responsibility, Date of offer, Position status change, Reason for change, Position authorization data, Announcement tracking data (location and dates of actions), Area of consideration, Number of applicants (internal, external, not qualified), Number interviewed, Applicant outcome and notification, Selecting

official, Re-announcement (Position cancellations, Date fingerprinted, Background check data, Physician Comp Panel and Standards, Board data).

3. Bonus data, including Executive/Senior Executive Service (Pay band and band max pay, Proposed pay adjustment, Proposed rating, Approved rating, Approved bonus pay, Actual pay, Rank award), Type, Previous year nomination and award amount, Current year nomination (Bonus pool total, Local bonus funding amount, Form Uploads), Appraisal, High level reviews, Comments, Bonus justification, Rank award nominations, Non-Executive (each Fiscal Year) (Rating, Award amount, Pay adjustment (Yes/No)).

4. Workgroups and Organizations, including just under 100 codes—not job occupation series codes—code developed for the All-Employee Survey (Agency selection, Veterans Affairs, VHA, VBA, NCA), Agency networks, Agency organizations, Formal and informal name, Organization type, Network, Physical location, Duty Code, Complexity Level, Station number, Workgroup supervisory designations, Workgroup coordinator assignment, Workgroup coordinator contact info.

5. Development Plans, including Uploaded text document (Document filled from template, Free text employee documentation).

6. Funding, including Program funding, Program funds available, Reimbursement type, Appropriation code, Fiscal contact name and phone, Amount per employee, Fund control point, Requested average salary, Approved funds, Withdrawn funds, Date funding sent, Approval funding comments, Approved Full Time Equivalents dollars, Cost center.

7. Career Programs, including Program Eligibility criteria, Program waiver, Program employee applied, Class title, Program/Class year, School name and state, Major, Anticipated graduation date, Application status, Employment history, Education history, Competency data (application questions and answers), Applicant endorsers, Class administrator assignments, Employee list per class, Program completion status, Requested number of student hires, Requested funding for student salary, Student work schedule, Number Full Time Equivalents requested.

8. Workforce Planning (Annual Corporate Office and VISNs), including Planning team members, Strategic direction, Historical analysis (Employee reason to leave, Equal employment opportunity category of employee), Projected workforce-rational and issues, Recruitment and Retention programs

used, Leadership programs/activities and participation, Workplace morale assessment, Work plan comments.

9. Mentor and Coach Information, including Mentor status, Coach status, Core training (Courses, Date and location, Training instructors, Training history), Certification level, Education, Biographical information, Availability, Practical experience years, hours and event.

10. Perseus Survey Software, including Employee legal name, Last 4 of Social Security number, VISNs, Facility/Office, Work Setting (Section/Division/Campus/Product Line/Service/Department), Occupation, Identification of supervisory chain of command, Identification of boss, Identification of peer and subordinate relationships, Demographic information (Gender, Age, Race/National Origin, Tenure, Grade Level), Data Input in Response to survey questions (questionnaires which cover the following types of topics as an example:

- Assessment Inventories, such as 360 Assessments, WES/MBI Instruments
- Customer Satisfaction surveys/evaluations (High Performance Development Model, Health Care Retention and Recruitment Office, National Center for Organizational Development, Delegated Examining Units, Workforce Management and Consulting Office)
- Organizational assessment instruments such as Civility, Respect and Engagement in the Workplace Evaluation, VA Nursing Outcomes Database Registered Nursing survey, Education Inventories, Center for Faith Based and Community Initiatives Communications survey, Aggressive Behavior Prevention Survey, Integrated Ethics Workbook, Methicillin Resistant Staphylococcus Aureus, Office of Personal Management All Employee Survey, Exit/Entrance Surveys, Organizational Climate Assessment Program surveys, surveys for specific facilities/offices
- Program Assessments/Proficiency surveys such as Technical Career Field Return on Investment survey, Supervisory Training Pre/Post Test surveys, Human Resource Proficiency Tracking survey
- Professional Assessment surveys such as Executive Career Field Candidate/Mentor questionnaires, Acting Director/Senior Executive Service applicant assessments

11. Program Management, including Inquiry Status, Inquiry date, Enrollment status, Enrollment date, Pairing status, Open/closed status, Referral source, Close reason, Survey status, Service

start and end dates, Target group, Group location, Organizational chart, Service requested, Organizational opportunities/challenges, Complaints, Barriers to work, Signed agreement.

12. Service contact information, including Contact dates, Contact time, Contact type, Contact notes.

13. Development Assessments, including Assessment type, Results and summaries.

14. Employee Requesting Information, including Leadership interests and experiences, Number of direct reports, Current role descriptors, Self-described characteristics, Readiness for change, Current and future role preferences and Aspirations.

15. Credentialing Audio Recordings and Transcripts, including Audio files.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by VA's employees associated to VA Medical Centers, VA Central Offices, VBA, NCA, VHA Central Offices, VHA Canteen, VISNs and facilities.

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. National Archives and Records Administration (NARA): To the 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. DOJ, Litigation, Administrative Proceeding: To the Department of Justice (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 official 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. VA may disclose any audio files and accompanying transcripts to coaching credentialing entities for the sole purpose of evaluation of a coach who is applying for an advanced coaching credential.

9. 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.

10. Equal Employment Opportunity Commission (EEOC): To EEOC in the 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.

11. 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.

12. Merit Systems Protection Board (MSPB): To a former VA employee or contractor, as well as the authorized representative of a current or former employee or contractor of VA, in proceedings before the 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 otherwise authorized by law.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained on servers at the Olin E. Teague Veterans' Center, 1901 Veterans Memorial Drive, Temple, Texas 76504 and backup servers at Cxtera—CenturyLink Federal Site 322, 350 E Cermak, Chicago, IL 60616.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records in this system are retrieved by name, social security number, position number, organization number, or other assigned identifiers of the organizations, positions or individuals on whom they are maintained.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The records are disposed of in accordance with GRS 5.2, Item 020.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

1. 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.

2. 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.

3. 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 Wide Area Network.

RECORD ACCESS PROCEDURES:

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 or may write, call or visit the VA facility location where they are or were employed or made contact. 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 the system manager in writing as indicated above or may write, call or visit the VA facility location where they are or were employed or made contact. 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 PROCEDURES:

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:

75 FR 7651 (February 22, 2010), 83 FR 11297 (March 14, 2018).

[FR Doc. 2023-13681 Filed 6-27-23; 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, “Blood Donor Information-VA” (04VA10P4D) as set forth in the **Federal Register**. This system is used to track donor medical history, donation intervals, results of donor testing, as well as report positive or abnormal test results, blood and hematopoietic progenitor cells (HPC) and/or blood components produced from the donation.

DATES: Comments on this amended 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 the 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 “Blood Donor Information-VA” (04VA10P4D). Comments received will be available at www.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 amending the system of records by revising the System Name; System Number; System Location; System Manager; Categories of Records in the System; Records Source Categories; Routine Uses of Records Maintained in the System; Policies and Practices for Retrieval of Records; Policies and Practices for Retention and Disposal of Records; and Administrative, Technical

and Physical Safeguards. VA is republishing the system notice in its entirety.

The System Name is being updated from “Blood Donor Information-VA” to “Blood Product and Information-VA”

The System Number is being updated from 04VA10P4D to 04VA10 to reflect the current VHA organizational routing symbol.

The System Location is being updated to include “HPC (stem cells) records are maintained at the South Texas VA Health Care System.” The System Manager is updated to replace “Chief Consultant, Diagnostic Services (10P4D)”, with “Executive Director, Pathology and Laboratory Medicine, Telephone number 858-642-3511 (this is not a toll-free number).”

The Purpose of the System, Categories of Records in the System, and Policies and Practices for Retrieval of Records are being modified to include “HPC” or “HPC (stem cells).”

The Records Source Categories is being updated to include: “5. HPC counts.” “6. VA information systems, such as the Veterans Health Information System and Technology Architecture (Vista).”

Routine Use #2 is being updated to reflect the following language, “Referral to Non-VA Health Care Provider: To a non-VA health care provider or institution when VA refers a patient for medical service. These disclosures may be made: blood availability, location, quantity on hand, and blood type for use by the area donor collection coordinators to answer and fill requests from health care facilities in need of type-specific blood. For HPC products, disclosure from bone marrow transplant physicians for the availability, transfer and infusion of stored products.”

Routine Use #5 is being deleted and updated as it is duplicative of Routine Use #6. Routine Use #5 is being updated to state “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.”

Policies and Practices for Retention and Disposal of Records being updated

to remove “Section VIII-Laboratory Services of the VHA Records Control Schedule 10-1, Item number 113-31/36, National Archives and Records Administration under the National Archives Job No. N1-15-02-04.” This section is being updated to state, “The records are disposed of in accordance with VHA Records Control Schedule 10-1, Item Number 7100.1-7100.27.”

Administrative, Technical and Physical Safeguards is being updated to remove, “Employees file records and file records of public figures or otherwise sensitive medical record files are stored in separate locked files,” from #1.

The Report of Intent to Amend 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 10, 2023 for publication.

Dated: June 22, 2023.

Amy L. Rose,

Government Information Specialist, VA Privacy Service, Office of Compliance, Risk and Remediation, Office of Information and Technology, Department of Veterans Affairs.

SYSTEM NAME AND NUMBER:

“Blood Product and Information-VA” (04VA10)

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Blood donor records are maintained at VA health care facilities that currently or previously collected blood donations. Hematopoietic Progenitor Cells (HPC) (stem cells) records are maintained at the South Texas VA Health Care System. Addresses are listed in VA Appendix I of the biennial publication of Privacy Act Issuances.

SYSTEM MANAGER(S):

Executive Director, Pathology and Laboratory Medicine, Department of

Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420. Telephone number 858-642-3511 (this is not a toll-free number).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

38 U.S.C. 501; 21 CFR 200-299, 600-680; 42 CFR 493.1105.

PURPOSE(S) OF THE SYSTEM:

The purpose of these records is to track donor and patient medical history, donation intervals, results of infectious disease testing, as well as reporting positive or abnormal test results for HPC and/or blood components produced from the donation.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

These records include information on individuals who donate or have donated blood or HPC products at a VHA health care facility or blood bank for patient care.

CATEGORIES OF RECORDS IN THE SYSTEM:

The blood donor and HPC records may contain sufficient information (*i.e.*, donor name, Social Security number, or other unique identifier, date of donation, and type of donation, type of components produced by the donation, mandated tests results, and disposition of the HPC, blood or blood component) to provide a mechanism to track a blood or HPC product from the time of donor or patient registration through the final disposition of each prepared blood product or HPC from that donation. For this system of records, final disposition is defined as transferred, transfused, or discarded.

RECORD SOURCE CATEGORIES:

Record sources include the following:

1. Blood donor. 2. Private hospitals and local blood banks. 3. Private physicians. 4. Non-VA Laboratories. 5. HPC counts. 6. VA information systems, such as VistA.

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 disclosure authority in both 38 U.S.C. 7332 and 45 CFR parts 160, 161, and 164.

1. Blood or HPC Source: To Federal, State, local, and tribal medical facilities regarding the source from which blood or HPC was received. Such requests may be initiated by a qualified medical practitioner in the event that a donor's or patient's medical condition warrants it.

2. Non-VA Health Care Provider: To a non-VA health care provider or institution when VA refers a patient for medical service. These disclosures may be made: blood availability, location, quantity on hand, and blood type for use by the area donor collection coordinators to answer and fill requests from health care facilities in need of type-specific blood. For HPC products, disclosure from bone marrow transplant physicians for the availability, transfer and infusion of stored products.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

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 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.

9. Federal Agencies, Fraud and Abuse: To other Federal agencies in order to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

10. 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 documents and electronic media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

1. All manual records in this system are retrieved by name and social security number or other unique identifier of donor, cross-indexed by blood type. 2. All electronic records in this system are retrieved by name, unique identifier, social security number, blood type, antibodies and date of last donation.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The 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 7100.1–7100.27.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

1. Access to VA working space and record storage areas is restricted to VA employees on a “need-to-know” basis. Generally, VA file areas are locked after normal duty hours and are protected from outside access by the Federal Protective Service. Strict control measures are enforced to ensure that disclosure is limited to a “need to know” basis.

2. Strict control measures are enforced to ensure that access to and disclosure of all records, including electronic files, are limited to VA employees whose official duties warrant access to those files. The system recognizes authorized employees by a series of individually unique passwords/codes and the employees are limited to only that information in the file which is needed in the performance of their official duties.

RECORD ACCESS PROCEDURES:

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 or inquire in person at the VA health care facility where medical service was provided or volunteered. 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 the system manager in writing as indicated above or inquire in person at the VA health care facility where they normally receive their care. 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:

66 FR 20860 (April 25, 2001), 73 FR 74574 (December 8, 2008), 80 FR 58815 (September 30, 2015).

[FR Doc. 2023–13680 Filed 6–27–23; 8:45 am]

BILLING CODE P**DEPARTMENT OF VETERANS AFFAIRS****Solicitation of Nominations for the Appointment to the Advisory Committee on Tribal and Indian Affairs****ACTION:** Notice.

SUMMARY: The Department of Veterans Affairs (VA), Office of Public and Intergovernmental Affairs (OPIA), Office of Tribal Government Relations (OTGR), is seeking nominations of qualified candidates to be considered for appointment as a member of the Advisory Committee on Tribal and Indian Affairs (“the Committee”) to represent the following Indian Health Service (IHS) Areas: Bemidji; California; Great Plains; Nashville; Navajo; Tucson.

DATES: Nominations for membership on the Committee must be received no later than 5:00 p.m. EST on August 1, 2023.

ADDRESSES: All nomination packages (Application, should be mailed to the Office of Tribal Government Relations, 810 Vermont Ave. NW, Suite 915H (075), Washington, DC 20420 or emailed to: tribalgovernmentconsultation@va.gov.

FOR FURTHER INFORMATION CONTACT: Ms. Stephanie Birdwell and/or Mr. Peter Vicaire, Office of Tribal Government Relations, 810 Vermont Ave. NW, Ste. 915H (075), Washington, DC 20420. A copy of the Committee charter can be obtained by contacting Peter.Vicaire@va.gov (612–558–7744) or by accessing the website managed by OTGR at: <https://www.va.gov/TRIBALGOVERNMENT/index.asp>.

SUPPLEMENTARY INFORMATION: In carrying out the duties set forth, the Committee responsibilities include, but are not limited to:

(1) Identify for the Department evolving issues of relevance to Indian tribes, tribal organizations and Native American Veterans relating to programs and services of the Department;

(2) Propose clarifications, recommendations and solutions to address issues raised at tribal, regional and national levels, especially regarding any tribal consultation reports;

(3) Provide a forum for Indian tribes, tribal organizations, urban Indian

organizations, Native Hawaiian organizations and the Department to discuss issues and proposals for changes to Department regulations, policies and procedures;

(4) Identify priorities and provide advice on appropriate strategies for tribal consultation and urban Indian organizations conferring on issues at the tribal, regional, or national levels;

(5) Ensure that pertinent issues are brought to the attention of Indian tribes, tribal organizations, urban Indian organizations and Native Hawaiian organizations in a timely manner, so that feedback can be obtained;

(6) Encourage the Secretary to work with other Federal agencies and Congress so that Native American Veterans are not denied the full benefit of their status as both Native Americans and Veterans;

(7) Highlight contributions of Native American Veterans in the Armed Forces;

(8) Make recommendations on the consultation policy of the Department on tribal matters;

(9) Support a process to develop an urban Indian organization confer policy to ensure the Secretary confers, to the maximum extent practicable, with urban Indian organizations; and

(10) With the Secretary’s written approval, conduct other duties as recommended by the Committee.

Authority: The Committee was established in accordance with section 7002 of Public Law 116–315 (H.R.7105—Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020). In accordance with Public Law 116–315, the Committee provides advice and guidance to the Secretary of Veterans Affairs on all matters relating to Indian tribes, tribal organizations, Native Hawaiian organizations and Native American Veterans. The Committee serves in an advisory capacity, makes recommendations to the Secretary on ways the Department can improve the programs and services of the Department to better serve Native American Veterans.

Membership Criteria: OTGR is requesting nominations for the current vacancies on the Committee. The Committee is composed of 15 members. As required by statute, the members of the Committee are appointed by the Secretary from the general public, including:

(1) At least one member of each of the 12 IHS service areas is represented in the membership of the Committee nominated by Indian tribes or tribal organization.

(2) At least one member of the Committee represents the Native Hawaiian Veteran community nominated by a Native Hawaiian Organization.

(3) At least one member of the Committee represents urban Indian organizations nominated by a national urban Indian organization.

(4) Not fewer than half of the members are Veterans, unless the Secretary determines that an insufficient number of qualified Veterans were nominated.

(5) No member of the Committee may be an employee of the Federal Government.

In accordance with Public Law 116–315, the Secretary determines the number and terms of service for members of the Committee, which are appointed by the Secretary, except that a term of service of any such member may not exceed a term of two years. Additionally, a member may be reappointed for one additional term at the Secretary's discretion.

Professional Qualifications: In addition to the criteria above, VA seeks—

(1) Diversity in professional and personal qualifications;

(2) Experience in military service and military deployments (please identify your Branch of Service and Rank);

(3) Current work with Veterans;

(4) Committee subject matter expertise; and

(5) Experience working in large and complex organizations.

Requirements for Nomination Submission:

Nominations should be typewritten (one nomination per nominator). Nomination package should include: (1) a letter of nomination that clearly states the name and affiliation of the nominee, the basis for the nomination (*i.e.*, specific attributes which qualify the nominee for service in this capacity), and a statement from the nominee indicating a willingness to serve as a member of the Committee; (2) the nominee's contact information, including name, mailing address, telephone number(s), and email address; (3) the nominee's curriculum vitae or resume, *not to exceed five pages* and (4) a summary of the nominee's experience and qualification relative to the *professional qualifications* criteria listed above.

The individual selected for appointment to the Committee shall be invited to serve a two-year term. All members will receive travel expenses and a per diem allowance in accordance with the Federal Travel Regulations for any travel made in connection with

their duties as members of the Committee.

The Department makes every effort to ensure that the membership of its Federal advisory committees is balanced in terms of points of view represented and the committee's function. Every effort is made to ensure that a broad representation of geographic areas, males & females, racial and ethnic minority groups, and Veterans with disabilities are given consideration for membership. Appointment to this Committee shall be made without discrimination because of a person's race, color, religion, sex (including gender identity, transgender status, sexual orientation, and pregnancy), national origin, age, disability, or genetic information. Nominations must state that the nominee is willing to serve as a member of the Committee and appears to have no conflict of interest that would preclude membership. An ethics review is conducted for each selected nominee.

Dated: June 22, 2023.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2023–13675 Filed 6–27–23; 8:45 am]

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Federal Register

Vol. 88, No. 123

Wednesday, June 28, 2023

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FEDERAL REGISTER PAGES AND DATE, JUNE

35729-36210.....	1
36211-36436.....	2
36437-36918.....	5
36919-37142.....	6
37143-37466.....	7
37467-37752.....	8
37753-37974.....	9
37975-38376.....	12
38377-38736.....	13
38737-39110.....	14
39111-39334.....	15
39335-39762.....	16
39763-39994.....	20
39995-40676.....	21
40677-41014.....	22
41015-41288.....	23
41289-41470.....	26
41471-41814.....	27
41815-42014.....	28

CFR PARTS AFFECTED DURING JUNE

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR	52.....	39995
	72.....	39119
Proclamations:	170.....	39120
9980 (amended by	171.....	39120
10588).....	429.....	38600, 40406
10587.....	430.....	38600, 39912, 40406
10588.....	431.....	36066, 36217, 36368,
10589.....		36392, 40406
10590.....	602.....	41289
10591.....	710.....	41289
10592.....	712.....	41289
10593.....	725.....	41289
10594.....	835.....	41289
10595.....	850.....	41289
10596.....	851.....	41289
10597.....	1016.....	41289
10598.....	1017.....	41289
Executive Orders:	1045.....	41289
14100.....	1046.....	41289
14101.....		
Administrative Orders:		
Memorandums:		
Memorandum of May		
20, 2023.....		38407
36211.....		41862
Memorandum of May		38408
25, 2023.....		38408, 41862
36213.....		36514
Memorandum of May		38408
26, 2023.....		40932
36215.....		35765
Memorandum of May		
31, 2023.....		
37751.....		
Memorandum of June		
13, 2023.....		
39763.....		
Notices:		
Notice of June 12,		
2023.....		40638
39109.....		40638
Notice of June 20,		40638
2023.....		40638
40681, 40683.....		40638
		40638
		40638
		40638
		40638
		40638
		35780
		41510
12 CFR		
Proposed Rules:		
34.....		40638
225.....		40638
323.....		40638
722.....		40638
741.....		40638
1026.....		40638
1222.....		40638
1236.....		35780
1310.....		41510
13 CFR		
123.....		39335
14 CFR		
25.....		37467, 38377, 39152,
		41295
39.....		35731, 36236, 36461,
		36463, 36465, 36924, 36926,
		36928, 36930, 36933, 37755,
		37760, 37975, 38382, 38384,
		38387, 39341, 39344, 39996,
		40003, 40011, 40023, 40058,
		40065, 40071, 40685, 41308,
		41312, 41473
43.....		38391
65.....		38391
71.....		35734, 36468, 36935,
		36936, 37143, 37469, 38395,
		38396, 39161, 39162, 39164,
		39165, 39166, 39167, 39168,
9 CFR		
201.....		41015
203.....		41015
10 CFR		
50.....		39995

39346, 39347, 39349, 39350,
40695, 41313, 41314, 41315,
41819
9141023
9735735, 35737, 40081,
40083
12141295
14738391
39939352
Proposed Rules:
138946
338001
2137805
2535781
3935783, 35785, 35788,
36258, 37481, 37807, 37810,
37812, 38409, 38758, 38759,
38762, 39379, 39794, 39796,
41510, 41513, 41516, 41518,
41863
4338946
6038946
6138946, 41194
7136976, 36979, 37177,
37179, 37182, 37184, 37484,
38412, 39204, 39382, 39384,
41337
9138946
9141045, 41194
9738946
11138946
13538946
13638946
14138946
14238946
19438946
15 CFR
436469
739353
74438739, 40084
Proposed Rules:
40037815
16 CFR
127240086
Proposed Rules:
Ch. II41046
138765
31837819
128137185
17 CFR
20037986
22936002, 37986
23236002
24036002, 39962
24239962
24936002, 37986
27037986
27436002, 37986
27537986, 38145
27938145
Proposed Rules:
Ch. I41774
1741522
3939205
24041338
18 CFR
3537144, 40696
4041262
14141477
19 CFR
11141124

20 CFR
40437704
41637704
Proposed Rules:
40236980
21 CFR
130140707
Proposed Rules:
7341870
17340122
57341541
22 CFR
2235738
4235738
5141024
24241316
23 CFR
49036472
130036472
25 CFR
1539768
57541025
26 CFR
137424, 40086, 41499
2037424
2537424
Proposed Rules:
Ch. I35791
137186, 40123, 40496,
40528, 40725, 41047, 41340
30140528
27 CFR
Proposed Rules:
636515
836515
1036515
1136515
28 CFR
Proposed Rules:
8136516
29 CFR
404439169
31 CFR
54836942, 36946, 36947
58736475, 40095
59140713
32 CFR
Proposed Rules:
166041051
33 CFR
8337988
10036237, 36238, 36949,
37145, 38398, 39770, 41820
11736241, 37470
16535741, 36243, 36245,
36476, 36477, 36950, 36951,
36952, 36954, 36955, 36956,
37147, 37149, 37471, 37472,
37762, 37764, 37992, 38398,
38406, 38748, 38749, 38751,
38753, 39170, 39172, 39358,
39360, 40713, 41027, 41029,
41320, 41500, 41502, 41504,

41506, 41507, 41508, 41820,
41822, 41824
Proposed Rules:
10035802, 36999, 37194,
39206, 39385
14038765
14638765
16535805, 38413, 39799,
40134
34 CFR
60039360
67439360
68239360
68539360
36 CFR
Proposed Rules:
20037485
22838416
37 CFR
136247, 36956, 39172
4136247
20235741
38141827
Proposed Rules:
20137486
38 CFR
Proposed Rules:
136261, 37839
336261
1336261
1936261
2036261
39 CFR
2038753
11136958
24136960
300637152
301137152, 37474
Proposed Rules:
11141871
303039388
305037003, 39388
40 CFR
237155
937994
5236479, 36481, 36654,
36962, 37766, 38754, 39177,
39179, 39182, 39366, 40715,
41031, 41320
6041833
7536654
7836654
9736654
11038279, 41834
12237994
12337994
18037769, 39185, 39189,
39770, 39776, 39780
30038279, 41834
37241035
42341326
70237155
70337155
70437155
70737155
71637155
71737155
72037155
72337155

72537155
79037155
Proposed Rules:
5235807, 36249, 36251,
36253, 37841, 38430, 38433,
38436, 38441, 38448, 39210,
39801, 40136, 40726, 41056,
41341, 41344
6036524, 39390, 41361,
41369
6335808, 38009, 41361,
41369, 41872
7835807
9735807
30237841
72139804, 40728
75139652
160036255
41 CFR
Proposed Rules:
51-5940741
42 CFR
41237772
41636485
41737174
41836485
42237174
42337174
44136485
45537174
46036485, 37174
48236485
48336485
48436485
48536485
48636485
49136485
49436485
43 CFR
3039768
317039513
Proposed Rules:
160039818
280039726
610039818
45 CFR
130241326
Proposed Rules:
132139568
132239568
132339568
132439568
46 CFR
50241039
50341039
52041039
53041039
53541039
54041039
55041039
55541039
56041039
Proposed Rules:
438765
10938765
54238780
47 CFR
040096
140096

2.....37318, 41040	39.....36430	49 CFR	648.....39793
25.....39783	52.....36430	Ch. XII .....36919, 36921	655.....39201
51.....35743	209.....37793	367.....40719	660.....37479, 41040
54.....36510	212.....37794	371.....39368	679.....39203, 41043
61.....35743	217.....37793	801.....36964	Proposed Rules:
64.....40096	224.....37793	Proposed Rules:	17 .....37490, 38455, 40160,
69.....35743	225.....37794	171.....41541	40742, 41560
73.....37474	252.....37794, 37798	174.....41541	19.....35809
Proposed Rules:	726.....39189	180.....41541	21.....35809, 35821
1.....36154	729.....39189	372.....40146	22.....35809, 35821
4.....37842	731.....39189	571.....37843, 38632	32.....41058
9.....37842	752.....39189	596.....38632	216.....38010
10.....40606	3001.....40560	50 CFR	217.....37606
25.....40142	3002.....40560	14.....38358	300.....39216
64.....37843	3004.....40560	17.....41724, 41835	402.....40753
48 CFR	3052.....40560	229.....36965	424.....40764
Ch. I.....36430, 36435	Proposed Rules:	300.....36973, 41334	622.....38011, 40190
4.....36430	213.....37942	622 .....37475, 39193, 40121	648.....35823
13.....36430	225.....37942	635.....37175	679.....39216
	252.....37942		

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion

in today's **List of Public Laws**.

Last List June 16, 2023

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