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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.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 400, 407, and 457

[Docket ID FCIC–23–0004]

RIN 0563–AC83

Actual Production History (APH) and Other Crop Insurance Transparency

AGENCY: Federal Crop Insurance Corporation, U.S. Department of Agriculture (USDA).

ACTION: Final rule with request for comments.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) is amending its regulations to incorporate existing actual production history (APH) requirements into the policy to enhance and improve accessibility, clarity, and transparency for the producer. FCIC is also incorporating existing same year production reporting (SYPR) rules into the policy, clarifying prevented planting rules, incorporating the High-Risk Alternate Coverage Endorsement (HR–ACE) into the policy, clarifying double cropping requirements when another plan of insurance does not require records of acreage and production, and updating organic provisions. In this rule, FCIC is authorizing the availability of enterprise units (EU) and whole farm units (WFU) to be designated in the actuarial documents. The changes to the crop insurance policies resulting from the amendments in this rule are applicable for the 2024 and succeeding crop years for crops with a contract change date on or after June 30, 2023. For all other crops, the changes to the policies made in this rule are applicable for the 2025 and succeeding crop years.

DATES:

Effective date: This final rule is effective June 30, 2023.

Comment date: We will consider comments that we receive by the close of business August 28, 2023. FCIC may consider the comments received and may conduct additional rulemaking based on the comments.

ADDRESSES: We invite you to submit comments on this rule. You may submit comments by going through the Federal eRulemaking Portal as follows:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov* and search for Docket ID FCIC–23–0004. Follow the instructions for submitting comments.

All comments will be posted without change and will be publicly available on *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Francie Tolle; telephone (816) 926–7829; or email *francie.tolle@usda.gov.* Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice) or (844) 433–2774 (toll-free nationwide).

SUPPLEMENTARY INFORMATION:

Background

FCIC serves America's agricultural producers through effective, market-based risk management tools to strengthen the economic stability of agricultural producers and rural communities. FCIC is committed to increasing the availability and effectiveness of Federal crop insurance as a risk management tool. Approved Insurance Providers (AIPs) sell and service Federal crop insurance policies in every state through a public-private partnership. FCIC reinsures the AIPs who share the risks associated with catastrophic losses due to major weather events. FCIC's vision is to secure the future of agriculture by providing world class risk management tools to rural America.

Federal crop insurance policies typically consist of the Basic Provisions, the Crop Provisions, the Special Provisions, the Commodity Exchange Price Provisions, if applicable, other applicable endorsements or options, the actuarial documents for the insured agricultural commodity, the Catastrophic Risk Protection Endorsement, if applicable, and the applicable regulations published in 7 CFR chapter IV. Throughout this rule, the terms ''Crop Provisions,'' ''Special Provisions,'' and ''policy'' are used as defined in the Common Crop Insurance Policy (CCIP) Basic Provisions in 7 CFR 457.8. Additional information and definitions related to Federal crop insurance policies are in 7 CFR 457.8.

In this rule, FCIC amends the Area Risk Protection Insurance (ARPI) Basic Provisions (7 CFR part 407), CCIP Basic Provisions (7 CFR 457.8), and the General Administrative Regulations in subpart G of part 400 (Actual Production History) (7 CFR 400.51 through 400.56). The changes made in this rule are applicable for the 2024 and succeeding crop years for crops with a contract change date on or after June 30, 2023. For all other crops, the changes to the policy made in this rule are applicable for the 2025 and succeeding crop years.

Actual Production History (APH)

FCIC will add guidelines for establishing a producer's approved yield to section 5 of the CCIP Basic Provisions. The approved yield is the basis for establishing liability, premium, guarantee, and indemnity for yield-based crop insurance plans. The intended effect of this action is to incorporate existing regulatory language, located at 7 CFR part 400 (subpart G) and procedural language, located in the FCIC–18010 Crop Insurance Handbook (CIH), regarding the APH requirements, into the policy to enhance and improve accessibility, clarity, and transparency for the producer. Subpart G is revised to indicate its applicability expires as this rule becomes effective in the CCIP Basic Provisions. Specifically, as each crop's contract change date passes, the APH rules in subpart G expire at the same time the APH rules in the CCIP Basic Provisions become effective. Subpart G will be removed and reserved at a future date, once all applicable contract change dates have lapsed, and the language is obsolete.

FCIC is adding several new definitions to section 1 of the CCIP Basic Provisions that were previously defined in subpart G or the CIH related to APH rules: ''annual yield,'' ''APH base period,'' ''APH crop year,'' ''APH database,'' ''applicable T-Yield,'' ''appraised production,'' ''approved yield,'' ''assigned yield,'' ''average yield,'' ''continuous production reports,'' ''determined yield,'' ''insurable acres,'' ''master yield,'' ''new insured,'' ''new producer,'' ''production reporting date,'' ''temporary yield,''

''transitional yield (T-Yield),'' and ''variable T-Yield.''

FCIC is inserting the APH provisions into section 5 of the CCIP Basic Provisions and renamed the section ''APH Database and Approved Yield Calculation.'' This section had previously been reserved without a heading.

The new definitions in section 1 and new provisions in section 5 are intended to ensure clarity with the APH rules and do not change any APH calculations or determinations in the policy.

FCIC is incorporating changes into section 5(b)(1)(ii) of the CCIP Basic Provisions, previously incorporated in 2017 through procedures, to exclude acreage and the actual production from acreage that is damaged by an unavoidable uninsured fire and/or a third party when calculating the approved APH yield and production guarantee that does not penalize a producer's future insurance coverage due to a loss through no fault of their own. FCIC is adding a definition for ''unavoidable uninsured fire'' to section 1 of the CCIP Basic Provisions that was previously contained in procedures.

Prevented Planting

FCIC is revising the prevented planting provisions in section 17 of the CCIP Basic Provisions. Prevented planting is a feature of many crop insurance plans that provides a partial payment to cover certain pre-plant costs for a crop that was prevented from being planted due to an insurable cause of loss.

FCIC is clarifying that the added land ratio for prevented planting in section 17(e)(1)(i)(B), uses cropland acres available for planting only. The number of prevented planting eligible acres for a crop may be increased by multiplying that number by the ratio of the total cropland acres available for planting that the producer is farming in the current crop year (if greater) to the total cropland acres available for planting that the producer farmed in the previous year. Previously, the policy did not specify, as originally intended, that only cropland acres available for planting are included in the calculation to create the added land ratio. For example, if a producer had 500 acres of cropland available for planting in 2021, then added 200 acres in 2022, but only 100 of those were available for planting, then only 100 could be used in the calculation for the added land ratio in 2022 (added land ratio = 600 ÷ 500 = 1.2).

FCIC is clarifying the eligible criteria for prevented planting coverage in sections 17(d)(1), 17(d)(1)(ii)(B), and 17(d)(2) to include destruction of a producer's irrigation system from an insured cause of loss. Previously, prevented planting coverage was only available when an insured cause of loss occurred resulting in failure or breakdown of a producer's irrigation system. There have been cases where a naturally occurring weather event caused the irrigation system to be destroyed rather than failed or broken down. Adding ''destruction'' clarifies the intent of the provision so that producers do not lose valuable prevented planting coverage.

FCIC is incorporating Final Agency Determinations (FAD), FAD–244, FAD–248, and FAD–309, and Manager's Bulletin MGR–20–003 into section 17(f)(12) of the CCIP Basic Provisions. These FADs and Manager's Bulletin collectively clarified the intent of the policy, with respect to the factors AIPs may consider when determining whether a cause of loss that may prevent planting existed at the time the insured took possession of the added land. Incorporating the FADs and Manager's Bulletin will ensure transparency and consistent administration of the prevented planting rules by AIPs. The revisions do not change any prevented planting requirements in the policy.

Same Year Production Reporting (SYPR)

FCIC is incorporating existing production reporting guidelines in sections 3(f) and 3(g) of the CCIP Basic Provisions to reflect same year production reporting guidelines that were previously spread across Special Provisions statements, applicable Crop Provisions language, and procedural language, located in the FCIC–18010 CIH. This change will enhance and improve accessibility, clarity, and transparency for the producer.

FCIC is adding several new definitions to section 1 of the CCIP Basic Provisions that were previously defined in the Special Provisions, Crop Provisions, or procedures regarding production reporting: ''insured's production reporting date,'' and ''lag year.'' FCIC is also clarifying the definition of ''production report'' in the CCIP Basic Provisions to refer to reporting rules in section 3 and add consistency with the new definitions and provisions added for same year production reporting. Consistent with these changes, FCIC is also adding a new definition of ''actual production'' and clarifying the definition of ''production report'' in section 1 of the ARPI Basic Provisions.

The new and revised definitions in section 1 and added provisions in section 3(f) are intended to ensure clarity and transparency on production reporting and do not change any production reporting requirements in the policy.

Double Cropping

FCIC is clarifying the double cropping requirements in section 15(h) of the CCIP Basic Provisions and section 13(c) of the ARPI Basic Provisions when another plan of insurance (*i.e.,* under a different Basic Provisions) does not require records of acreage and production to determine if a producer can receive a full indemnity on both crops. This change incorporates FAD–301 which explains if a producer double cropped acreage for which one of the crops double cropped is insured under a different plan of insurance and the Crop Provisions do not require double crop history that includes records of acreage and production, the less restrictive requirements may be followed to satisfy double cropping requirements for both crops. For example, a producer has 20 acres of annual forage wheat for grazing. On the same acreage the producer plants and insures cotton, the annual forage double cropping requirements must be met. If those Crop Provisions are met, the producer is eligible for a full indemnity payment on both the annual forage wheat and the cotton.

Incorporating FAD–301 will ensure transparency and consistent administration of double cropping rules by AIPs. The revisions do not change double cropping rules in the policy.

High-Risk Alternate Coverage

FCIC is incorporating the HR–ACE into section 3(b) of the CCIP Basic Provisions. On May 19, 2022, the FCIC Board of Directors approved converting HR–ACE from pilot to permanent status. To streamline the policy the producer receives, HR–ACE, and all other high-risk coverage options, will be consolidated and incorporated into section 3(b)(2)(ii) of the CCIP Basic Provisions. The HR–ACE document will be obsoleted from the Risk Management Agency's (RMA's) website upon publication of this rule. References to high-risk options will be revised throughout the CCIP Basic Provisions to refer to section 3(b)(2)(ii).

Enterprise Units and Whole Farm Units

FCIC is authorizing enterprise units (EU) and whole farm units (WFU) to be expanded to other crops through the actuarial documents, in section 34(a) of the CCIP Basic Provisions. Previously,

EUs and WFUs were allowed for the revenue protection plan of insurance or authorized through the Special Provisions. FCIC is allowing the actuarial documents to authorize the availability of EUs and WFUs for administrative efficiency, eliminating the need to add a Special Provision statement every time EUs or WFUs are added to a new crop not under a revenue protection plan of insurance. FCIC is simplifying section 34(a) by removing paragraphs that previously referred to revenue protection, renumbering subsequent paragraphs, and updating internal citations corresponding to the new paragraph numbers.

Organic and Transitioning to Organic

The Agriculture Marketing Service (AMS) National Organic Program (NOP) published a final rule on January 19, 2023, National Organic Program (NOP); Strengthening Organic Enforcement (88 FR 3548), announcing certain changes to the Organic Integrity Database. In accordance with those changes, FCIC is updating corresponding provisions in section 37(c) of the CCIP Basic Provisions and section 14(d) of the ARPI Basic Provisions. For example, in this rule, operations listed in the Organic Integrity Database as transitioning to organic will be eligible for organic transitional crop insurance programs. The database is operated by the NOP and is a registry of certified organic operations that holds data provided by USDA-accredited organic certifiers. The NOP is modifying the system to allow certifiers to upload listings of operations that are transitioning to organic (or transitional operations) if they meet certain criteria. FCIC is enhancing organic crop insurance programs by adding ease of program administration for AIPs to verify if an operation is transitioning to organic based on the NOP database.

FCIC is also revising the term ''organic plan'' to ''organic system plan'' throughout the CCIP Basic Provisions to match the AMS NOP regulation.

Clarifications and Corrections

In addition to the changes above, the rule will:

- Add ''Space Force'' to the definition of ''Veteran farmer and rancher'' in the ARPI Basic Provisions and CCIP Basic Provisions;
- Make the term ''attorney's fees'' possessive when applicable in the ARPI Basic Provisions and CCIP Basic Provisions;
- Correct the term ''entity'' to the defined term ''person'' when applicable in the ARPI Basic Provisions and CCIP Basic Provisions;
- Correct the reference to 4 CFR part 102 in section 24(c)(4) of the CCIP Basic Provisions (FCIC Policies) and section 22(c)(4) of the ARPI Basic Provisions (FCIC Policies) to refer to 31 CFR part 901;
- Correct the term ''Actuarial Tables'' to the defined term ''actuarial documents'' in subpart G;
- Correct the location of certain dates from the ''actuarial documents'' to the ''Special Provisions'' where applicable, throughout the ARPI Basic Provisions; and
- Incorporate editorial changes. For example, change all instances of the term ''database'' (where applicable) to ''APH database'' for consistency and remove unnecessary words from parenthetical phrases *e.g.,* remove ''the'' from (see the definition of ''second crop'').

Effective Date, Notice and Comment, and Exemptions

The Administrative Procedure Act (APA, 5 U.S.C. 553) provides that the notice and comment and 30-day delay in the effective date provisions do not apply when the rule involves specified actions, including matters relating to contracts. This rule governs contracts for crop insurance policies and therefore falls within that exemption. Although not required by APA or any other law, FCIC has chosen to request comments on this rule.

This rule is exempt from the regulatory analysis requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996.

For major rules, the Congressional Review Act requires a delay of the effective date of 60 days after publication to allow for Congressional review. This rule is not a major rule under the Congressional Review Act, as defined by 5 U.S.C. 804(2). Therefore, this final rule is effective on June 30, 2023.

Executive Orders 12866 and 13563

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive Order 13563, ''Improving Regulation and Regulatory Review,'' 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). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The requirements in Executive Orders 12866 and 13563 for the analysis of costs and benefits apply to rules that are determined to be significant or economically significant.

The Office of Management and Budget (OMB) has designated this rule as not significant under Executive Order 12866. Therefore, OMB has not reviewed this rule and analysis of the costs and benefits is not required under either Executive Order 12866 or Executive Order 13563.

Clarity of the Regulation

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on this rule, we invite your comments on how to make the rule easier to understand. For example:

- Are the requirements in the rule clearly stated? Are the scope and intent of the rule clear?
- Does the rule contain technical language or jargon that is not clear?
- Is the material logically organized?
- Would changing the grouping or order of sections or adding headings make the rule easier to understand?
- Could we improve clarity by adding tables, lists, or diagrams?
- Would more, but shorter, sections be better? Are there specific sections that are too long or confusing?
- What else could we do to make the rule easier to understand?

Environmental Review

In general, the environmental impacts of rules are to be considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347) and the regulations of the Council on Environmental Quality (40 CFR parts 1500 through 1508). FCIC conducts programs and activities that have been determined to have no individual or cumulative effect on the human environment. As specified in 7 CFR 1b.4, FCIC is categorically excluded from the preparation of an Environmental Analysis or Environmental Impact Statement unless the FCIC Manager (agency head) determines that an action may have a significant environmental effect. The FCIC Manager has determined this rule will not have a significant environmental effect. Therefore, FCIC will not prepare an environmental assessment or environmental impact statement for this action and this rule

serves as documentation of the programmatic environmental compliance decision.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. Before any judicial actions may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR part 11 are to be exhausted.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

RMA has assessed the impact of this rule on Indian Tribes and determined that this rule does not, to our knowledge, have Tribal implications that require Tribal consultation under E.O. 13175. The regulation changes do not have Tribal implications that preempt Tribal law and are not expected have a substantial direct effect on one or more Indian Tribes. If a Tribe requests consultation, RMA will work with the USDA Office of Tribal Relations to ensure meaningful consultation is provided where changes, additions and modifications identified in this rule are not expressly mandated by Congress.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions of State, local, and Tribal governments, or the private sector. Agencies generally must prepare a written statement, including cost benefits analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local, and Tribal governments, or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Federal Assistance Program

The title and number of the Assistance Listing,[1] to which this rule applies is No. 10.450—Crop Insurance.

Paperwork Reduction Act of 1995

The purpose of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, subchapter I), among other things, are to minimize the paperwork burden on individuals, and to require Federal agencies to request and receive approval from the Office of Management and Budget (OMB) prior to collecting information from ten or more persons. This rule does not change the information collection approved by OMB under control numbers 0563–0053.

USDA Non-Discrimination Policy

In accordance with Federal civil rights law and USDA civil rights regulations and policies, USDA, its Agencies, offices, and 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 or 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.

Individuals who require alternative means of communication for program information (for example, braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA TARGET Center at (202) 720–2600 (voice and text telephone (TTY)) or dial 711 for Telecommunications Relay Service (both voice and text telephone users can initiate this call from any telephone). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint* and at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by mail to: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410 or email: *OAC@usda.gov*.

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List of Subjects

7 CFR Part 400

Acreage allotments, Administrative practice and procedure, Claims, Crop insurance, Drug traffic control, Fraud, Government employees, Income taxes, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Wages.

7 CFR Part 407

Acreage allotments, Administrative practice and procedure, Barley, Corn, Cotton, Crop insurance, Peanuts, Reporting and recordkeeping requirements, Sorghum, Soybeans, Wheat.

7 CFR Part 457

Acreage allotments, Crop insurance, Reporting and recordkeeping requirements.

Final Rule

For the reasons discussed in the **SUPPLEMENTARY INFORMATION**, FCIC amends 7 CFR parts 400, 407, and 457, effective for the 2024 and succeeding crop years for crops with a contract change date on or after June 30, 2023, and for the 2025 and succeeding crop years for all other crops, as follows:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

Subpart G—Actual Production History

■ 1. The authority citation for part 400, subpart G, continues to read as follows:

Authority: 7 U.S.C. 1506, 1516.

■ 2. Revise § 400.51 to read as follows:

§ 400.51 Availability of Actual Production History program.

(a) This subpart is obsolete for the 2024 and succeeding crop years for crops with a contract change date on or after June 30, 2023, and for the 2025 and succeeding crop years for all crops with

[1] See *https://sam.gov/content/assistance-listings.*

a contract change date prior to June 30, 2023.

(b) An Actual Production History (APH) Coverage Program is offered under the provisions contained in 7 CFR part 457 and all Special Provisions (as defined in 7 CFR 457.8) thereto unless specifically excluded by the Special Provisions.

(c) The APH program operates within limits prescribed by, and in accordance with, the provisions of the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), only on those crops identified in this section in those areas where the actuarial documents provide coverage. Except when in conflict with this subpart, all provisions of the applicable crop insurance contract for these crops apply.

PART 407—AREA RISK PROTECTION INSURANCE REGULATIONS

■ 3. The authority citation for part 407 continues to read as follows:

Authority: 7 U.S.C. 1506(l) and 1506(o).

■ 4. Amend § 407.9 by:
■ a. In section 1:
■ i. Add a definition of ''Actual production'' in alphabetical order;
■ ii. In the definition of ''Application'', remove the words ''will commence'' and add ''commences'' in their place;
■ iii. In the definition of ''Buffer zone'', remove the words ''organic plan'' and add ''organic system plan'' in their place;
■ iv. Revise the definition of ''Contract'';
■ v. In the definition of ''Cover crop'', remove the words ''see the definition'' and add ''see definition'' in their place;
■ vi. In the definition of ''Final planting date'', remove the words ''actuarial documents'' and add ''Special Provisions'' in their place;
■ vii. Revise the definition of ''Liability'';
■ viii. Remove the definition of ''Organic plan'';
■ ix. Add a definition of ''Organic system plan'' in alphabetical order;
■ x. In the definition of ''Premium billing date'', remove the words ''actuarial documents'' and add ''Special Provisions'' in their place;
■ xi. Revise the definition of ''Production report'';
■ xii. In the definition of ''Sales closing date'', remove the words ''actuarial documents'' and add ''Special Provisions'' in their place;
■ xiii. In the definition of ''Tenant'', remove the text ''(see the definition of ''share'' above)'' and add ''(see definition of ''share'')'' in its place; and
■ xiv. Revise the definition of ''Veteran farmer or rancher'';
■ b. In section 2:
■ i. In paragraphs (c)(1)(ii)(A) and (c)(2)(ii)(B), remove the word ''Simply'' and add ''simply'' in its place;
■ ii. In paragraphs (k)(2)(i)(A) and (B), remove the text ''owed)'' and add ''owed.)'' in its place;
■ iii. In paragraph (k)(2)(iii)(C)(*1*)(*ii*), remove the words ''For example'' and add ''for example'' in their place;
■ iv. In paragraph (l)(2)(i), remove the word ''entity'' and add ''person'' in its place wherever it appears; and
■ v. In paragraphs (l)(4) introductory text and (5), remove the word ''entity'' and add ''person'' in its place;
■ c. In section 4, in paragraph (b)(5), remove the words ''For example'' and add ''for example'' in their place;
■ d. In section 5, in paragraph (b), remove the words ''actuarial documents'' and add ''Special Provisions'' in their place;
■ e. In section 7:
■ i. In paragraph (d)(2), remove the words ''This is'' and add ''this is'' in their place;
■ ii. In paragraph (e), remove the words ''actuarial documents'' and add ''Special Provisions'' in their place;
■ iii. In paragraph (f), remove the words ''No premium'' and add ''no premium'' in their place;
■ iv. In paragraph (i)(2)(i)(A), remove the word ''entity'' and add ''person'' in its place; and
■ v. In paragraphs (i)(2)(ii)(A) and (B), remove the words ''of this section'';
■ f. In section 8:
■ i. In paragraph (a), remove the words ''actuarial documents'' and add ''Special Provisions'' in their place;
■ ii. In paragraph (c)(1), remove the words ''Acreage initially'' and add ''acreage initially'' in their place;
■ iii. In paragraph (j)(3), remove the words ''If the'' and add ''if the'' in their place; and
■ iv. In paragraph (n)(1), remove the words ''production reporting date'' and add ''applicable production reporting date'' in their place;
■ g. In section 9, in paragraph (b)(1)(ii), remove the word ''Children'' and add ''children'' in its place;
■ h. In section 10, in paragraph (a), remove the words ''For the purposes'' and add ''for the purposes'' in their place;
■ i. In section 13:
■ i. In paragraph (c)(5), remove the text ''section 13(h)(4)'' and add ''section 13(c)(4)'' in its place;
■ ii. Revise paragraph (c)(6); and
■ iii. In paragraph (d)(1), add a comma after the words ''for example'';
■ j. In section 14:
■ i. In paragraph (c)(2), remove the words ''organic plan'' and add ''organic system plan'' in their place; and
■ ii. Revise paragraphs (d)(1) and (2);
■ k. In section 18, in paragraph (c) introductory text, remove the words ''For example'' and add ''for example'' in their place;
■ l. In the first instance of section 22:
■ i. In paragraph (b), remove the words ''actuarial documents'' and add ''Special Provisions'' in their place;
■ ii. In paragraph (c)(4), remove the text ''4 CFR part 102'' and add ''31 CFR part 901'' in its place; and
■ iii. In paragraph (d), remove the word ''federal'' and add ''Federal'' in its place;
■ m. In the second instance of section 22:
■ i. In paragraph (a)(1), remove the words ''actuarial documents'' and add ''Special Provisions'' in their place; and
■ ii. In paragraph (c), remove the text ''(see subsection (d) of this section)'' and add ''(see section 22(d))'' in its place;
■ n. In the first instance of section 23, in paragraph (e):
■ i. Remove the word ''attorney'' and add ''attorney's'' in its place; and
■ ii. Add a comma after the word ''appeal'';
■ o. In the second instance of section 23, in paragraph (g), remove the word ''attorney'' and add ''attorney's'' in its place;
■ p. In sections 26, introductory text, and 27, remove the word ''federal'' and add ''Federal'' in its place; and
■ q. In section 28:
■ i. In paragraph (d), remove the words ''of this section'' and add ''of section 28'' in their place; and
■ ii. In paragraph (e)(2)(viii), remove the word ''federal'' and add ''Federal'' in its place.

The revisions and additions read as follows:

§ 407.9 Area risk protection insurance policy.

* * * * *

1. Definitions

* * * * *

Actual production. The harvested and/or appraised amount of an agricultural commodity in number of pounds, bushels, tons, cartons, or other units of measure as provided in the applicable Crop Provisions.

* * * * *

Contract. (See definition of ''policy.'')

* * * * *

Liability. (See definition of ''policy protection.'')

* * * * *

Organic system plan. A written plan, in accordance with the National Organic Program published in 7 CFR part 205, that describes the organic farming

practices that you and a certifying agent agree upon annually or at such other times as prescribed by the certifying agent.

* * * * *

Production report. A written report provided by you in accordance with section 8 showing your annual production. The report contains yield information for the current year, including planted acreage and production. This report must be supported by acceptable production records.

* * * * *

Veteran farmer or rancher.

(1) An individual who has served active duty in the United States Armed Forces, including the Air Force, Army, Coast Guard, Marine Corps, Navy, or Space Force, and their reserve components; was discharged or released under conditions other than dishonorable; and:

(i) Has not operated a farm or ranch;

(ii) Has operated a farm or ranch for not more than 5 years; or

(iii) First obtained status as a veteran during the most recent 5-year period.

(2) A person, other than an individual, may be eligible for veteran farmer or rancher benefits if all substantial beneficial interest holders qualify individually as a veteran farmer or rancher in accordance with paragraph (1) of this definition; except in cases in which there is only a married couple, then a veteran and non-veteran spouse are considered a veteran farmer or rancher.

* * * * *

13. Indemnity and Premium Limitations

* * * * *

(c) * * *

(6) With respect to double cropped acreage, if the two crops you have double cropped are insured under policies with different double crop history records requirements (*e.g.,* records of acreage and production), the less restrictive requirements may be followed to satisfy double cropping requirements for both crops. For example, you have 20 acres of annual forage wheat for grazing. On the same acreage you plant and insure cotton. The annual forage double cropping provisions do not include double cropping record history requirements. If the annual forage double cropping provisions are met, you are eligible for a full indemnity payment on both the annual forage wheat and the cotton.

* * * * *

14. Organic Farming Practices

* * * * *

(d) * * *

(1) For certified organic acreage, a written certification in effect directly from a certifying agent indicating the name of the person certified, effective date of certification, certificate number, types of commodities certified, and name and address of the certifying agent (a certificate issued to a tenant may be used to qualify a landlord or other similar arrangement). A certificate issued from the National Organic Program's Organic Integrity Database (or successor certificate reporting tool) is acceptable;

(2) For transitional acreage, an organic system plan documenting the use of practices that would result in certified organic status that includes the record information as described in section 14(d)(1), or written documentation from a certifying agent indicating an organic system plan is in effect for the acreage; and

* * * * *

PART 457—COMMON CROP INSURANCE REGULATIONS

■ 5. The authority citation for part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(o).

■ 6. Amend § 457.8, in the Common Crop Insurance Policy, by:

■ a. Removing the words ''the database'' and adding ''the APH database'' in their place wherever they appear;

■ b. Under the headings ''FCIC Policies'' and ''Reinsured Policies'', in the first paragraph, remove the words ''including the adjustment of'' and add ''including establishing your approved yield and the adjustment of'' in their place;

■ c. In section 1:

■ i. Add a definition of ''Actual production'' in alphabetical order;

■ ii. Revise the definitions of ''Actual Production History (APH)'' and ''Actual yield'';

■ iii. Add definitions for ''Annual yield'', ''APH base period'', ''APH crop year'', ''APH database'', and ''Applicable T-Yield'' in alphabetical order;

■ iv. In the definition of ''Application'', remove the words ''will commence'' and add ''commences'' in their place;

■ v. Add a definition of ''Appraised production'' in alphabetical order;

■ vi. Revise the definition of ''Approved yield'';

■ vii. Add a definition of ''Assigned yield'' in alphabetical order;

■ viii. Revise the definition of ''Average yield'';

■ ix. In the definition of ''Buffer zone'', remove the words ''organic plan'' and add ''organic system plan'' in their place;

■ x. Add a definition of ''Continuous production reports'' in alphabetical order;

■ xi. Revise the definition of ''Contract'';

■ xii. In the definition of ''Cover crop'', remove the words ''see the definition'' and add ''see definition'' in their place;

■ xiii. Add a definition of ''Determined yield'' in alphabetical order;

■ xiv. In the definition of ''Direct marketing'', remove the words ''the policyholder'' and add ''you'' in their place;

■ xv. Add definitions of ''Insurable acres'', ''Insured's production reporting date'', ''Lag year'', ''Master yield'', ''New insured'', and ''New producer'' in alphabetical order;

■ xvi. Remove the definition of ''Organic plan'';

■ xvii. Add the definition of ''Organic system plan'' in alphabetical order;

■ xviii. Revise the definition of ''Production report'';

■ xix. Add definitions of ''Production reporting date'' and ''Temporary yield'' in alphabetical order;

■ xx. In the definition of ''Tenant'', remove the text ''(see the definition of ''share'' above)'' and add ''(see definition of ''share'')'' in its place;

■ xxi. Add definitions of ''Transitional yield (T-Yield)'', ''Unavoidable uninsured fire'', and ''Variable T-Yield'' in alphabetical order; and

■ xxii. Revise the definition of ''Veteran farmer or rancher'';

■ d. In section 2:

■ i. In paragraphs (b)(5)(ii)(A) and (b)(6)(ii)(B), remove the word ''Simply'' and add ''simply'' in its place;

■ ii. In paragraphs (f)(2)(i)(A) and (B), remove the text ''owed)'' and add ''owed.)'' in its place;

■ iii. In paragraph (f)(2)(iii)(C)(*1*)(*ii*), remove the words ''For example'' and add ''for example'' in their place;

■ iv. In paragraph (f)(4), remove the words ''Since applications'' and add ''since applications'' in their place;

■ v. In paragraph (g)(2)(i), remove the word ''entity'' and add ''person'' in its place wherever it appears; and

■ vi. In paragraph (g)(4) introductory text, remove the word ''entity'' and add ''person'' in its place;

■ e. In section 3:

■ i. Revise paragraphs (b)(2)(ii) and (f);

■ ii. In paragraph (g)(2)(i), remove the words ''production reporting date'' and add ''applicable production reporting date'' in their place;

■ iii. In paragraph (g)(2)(ii), remove the word ''Simply'' and add ''simply'' in its place;

■ iv. Redesignate paragraphs (g)(3) and (4) as paragraphs (g)(9) and (10);

■ v. Add new paragraphs (g)(3) and (4) and paragraphs (g)(5) through (8);

■ vi. Revise newly redesignated paragraphs (g)(9) and (g)(10)(iii) and paragraphs (h)(1), (h)(2) introductory text, and (h)(2)(i); and
■ vii. In paragraph (i) introductory text, remove the words ''Not applicable'' and add ''not applicable'' in their place;
■ f. Add section 5;
■ g. In section 6:
■ i. In paragraphs (c)(1)(ii) and (d)(3)(ii)(A)(*2*), remove the words ''If you fail'' and add ''if you fail'' in their place; and
■ ii. In paragraph (g)(1)(i), remove the words ''In the event'' and add ''in the event'' in their place;
■ h. In section 7:
■ i. In paragraph (h)(2)(i)(A), remove the word ''entity'' and add ''person'' in its place; and
■ ii. In paragraphs (h)(2)(ii)(A) and (B), remove the words ''of this section'';
■ i. In section 8, in paragraphs (b)(1) and (4), remove the words ''For example'' and add ''for example'' in their place;
■ j. In section 9, revise paragraph (c);
■ k. In section 10, in paragraph (b)(1)(ii), remove the word ''Children'' and add ''children'' in its place;
■ l. In section 11, in paragraph (a)(1), remove the words ''For the purposes'' and add ''for the purposes'' in their place;
■ m. In section 12, in paragraph (c), remove the text ''insurable cause of loss)'' and add ''insurable cause of loss.)'' in its place;
■ n. In section 14:
■ i. In paragraph (e)(1)(i) and paragraph (e)(1)(ii) introductory text, remove the words ''Extensions will'' and add ''extensions will'' in their place;
■ ii. In paragraph (e)(3)(i), remove the text ''60 days after September 30)'' and add ''60 days after September 30.)'' in its place; and
■ iii. In paragraph (f)(3), remove the words ''If any evidence'' and add ''if any evidence'' in their place;
■ o. In section 15:
■ i. In paragraph (b)(1), remove the words ''If you fail'' and add ''if you fail'' in their place; and
■ ii. Revise paragraph (h)(7) introductory text;
■ p. In section 17:
■ i. Revise paragraphs (d)(1) introductory text, (d)(1)(ii)(B), (d)(2), and (e)(1)(i)(B) introductory text;
■ ii. In paragraph (f)(1) introductory text, remove the words ''If the crop'' and add ''if the crop'' in their place;
■ iii. In paragraph (f)(1)(ii), remove the words ''There can'' and add ''there can'' in their place;
■ iv. In paragraph (f)(3), remove the words ''The number'' and add ''the number'' in their place;
■ v. In paragraph (f)(11)(i), remove the words ''Crops for which'' and add ''crops for which'' in their place; and
■ vi. Revise paragraphs (f)(12), (g), and (h) introductory text;
■ q. In section 18:
■ i. In paragraph (d)(1), remove the words ''If conditions'' and add ''if conditions'' in their place;
■ ii. In paragraph (e)(2)(ii), remove the words ''If the'' and add ''if the'' in their place;
■ iii. In paragraph (g)(2), remove the words ''The request'' and add ''the request'' in their place; and
■ iv. In paragraph (n), remove the words ''If the'' and add ''if the'' in their place;
■ r. In the first instance of section 20, in paragraph (f), remove the word ''attorney'' and add ''attorney's'' in its place;
■ s. In the second instance of section 20:
■ i. In paragraph (e)(3), remove the word ''attorney'' and add ''attorney's'' in its place; and
■ ii. In paragraph (i), remove the word ''attorneys'' and add ''attorney's'' in its place;
■ t. In section 21, in paragraph (b)(1), remove the words ''This requirement'' and add ''this requirement'' in their place;
■ u. In section 23, remove the word ''federal'' and add ''Federal'' in its place;
■ v. In the first instance of section 24:
■ i. In paragraph (c)(4), remove the text ''4 CFR part 102'' and add ''31 CFR part 901'' in its place;
■ ii. Revise paragraph (d); and
■ iii. Designate the undesignated paragraph following paragraph (d) as paragraph (e);
■ w. In the second instance of section 24, in paragraph (c), remove the text ''(see subsection (d) of this section)'' and add ''(see section 24(d))'' in its place;
■ x. In section 25, remove the period at the end of the section heading;
■ y. In section 27, in paragraph (e)(2)(viii), remove the word ''federal'' and add ''Federal'' in its place;
■ z. In section 31, remove the word ''federal'' and add ''Federal'' in its place;
■ aa. In section 34:
■ i. Revise paragraph (a) introductory text;
■ ii. Remove paragraphs (a)(1) and (2);
■ iii. Redesignate paragraphs (a)(3) through (5) as paragraphs (a)(1) through (3);
■ iv. In newly redesignated paragraph (a)(2)(ii), remove the text ''section 34(a)(4)(i)(A)'' and add ''section 34(a)(2)(i)(A)'' in its place wherever it appears;
■ v. In newly redesignated paragraph (a)(2)(vi), remove the text ''section 34(a)(4)(i)'' and add ''section 34(a)(2)(i)'' in its place;
■ vi. In newly redesignated paragraphs (a)(2)(viii)(B), (a)(2)(viii)(C)(*1*)(*i*) and (*ii*), and (a)(2)(viii)(C)(*2*), remove the text ''section 34(a)(4)'' and add ''section 34(a)(2)'' in its place;
■ vii. In newly redesignated paragraphs (a)(3)(i)(A)(*1*), (*2*), and (*3*), remove the text ''section 34(a)(5)(v)'' and add ''section 34(a)(3)(v)'' in its place;
■ viii. Revise paragraph (a)(3)(i)(C);
■ ix. In newly redesignated paragraph (a)(3)(v)(A) introductory text, remove the text ''section 34(a)(5)(i)'' and add ''section 34(a)(3)(i)'' in its place;
■ x. In paragraph (b)(2), remove the text ''for any reason)'' and add ''for any reason.)'' in its place;
■ xi. In paragraph (b)(3), remove the words ''You may'' and add ''you may'' in their place; and
■ xii. Revise paragraph (c)(3);
■ bb. In section 35, in paragraph (b)(2)(ii)(A), remove the words ''If you'' and add ''if you'' in their place;
■ cc. In section 36:
■ i. In paragraph (a) introductory text, remove the words ''within a database'' and add ''within an APH database'' in their place;
■ ii. In paragraph (a)(1)(i), remove the text ''your database'' and add ''your APH database'' in its place; and
■ iii. In paragraph (a)(1)(ii), remove the text ''will be used).'' and add ''will be used.)'' in its place; and
■ dd. In section 37:
■ i. Revise the section heading;
■ ii. In paragraph (b)(2), remove the words ''organic plan'' and add ''organic system plan'';
■ iii. Revise paragraphs (c)(1)(i) and (ii);
■ iv. In paragraph (c)(2) introductory text, remove the words ''organic plan'' and add ''organic system plan'' in their place;
■ v. In paragraph (c)(2)(i), remove the words ''or plan'' and add ''or organic system plan'' in their place;
■ vi. In paragraph (f), add a comma after the word ''transitional''; and
■ vii. In paragraph (h), remove the words ''organic plan'' and add ''organic system plan''.

The revisions and additions read as follows:

§ 457.8 The application and policy.

* * * * *

Common Crop Insurance Policy

* * * * *

1. Definitions

* * * * *

Actual production. The harvested and/or appraised amount of an agricultural commodity in number of

pounds, bushels, tons, cartons, or other units of measure as provided in the applicable Crop Provisions.

Actual Production History (APH). A determination of the production guarantee using your historical actual production for the crop, as applicable.

Actual yield. The yield per acre based on actual production from the planted or grown acreage, in accordance with section 5(b).

* * * * *

Annual yield. A yield per acre for a crop year, used to complete the APH base period in an APH database. An annual yield may be any of the following: actual yield, assigned yield, transitional yield (T-Yield), or other yield calculated according to FCIC approved procedures.

APH base period. A minimum of four, up to a maximum of ten, most recent consecutive APH crop years for which continuous production reports are available, or as otherwise specified in the Crop Provisions or Special Provisions. The APH base period includes the most recent APH crop year's annual yield unless a lag year(s) applies to the crop, in which case, the most recent annual yield will be the crop year prior to the current crop year as specified in FCIC approved procedures.

APH crop year. The year the crop was planted or grown, and insurable in accordance with the applicable Crop Provisions, whether insured or not, and identified by the year it is normally intended to be harvested.

APH database. A series of consecutive, annual yields that include the respective acreage and actual production, when applicable, used to determine each annual yield, for each APH crop year in the APH base period.

Applicable T-Yield. The T-Yield in effect, as specified in FCIC approved procedures, for an APH database.

* * * * *

Appraised production. Unharvested potential crop production determined by us, or any other person authorized by FCIC, that includes both total production and any adjustments as provided in the applicable Crop Provisions or FCIC approved procedures used in calculating actual yields.

Approved yield. The yield calculated by us, or any other person authorized by FCIC, based on annual yields contained in the APH database to establish the production guarantee calculated in accordance with section 5(c).

* * * * *

Assigned yield. An annual yield assigned according to FCIC approved procedures for an APH crop year when you do not file an acceptable production report, or upon request by us, or any other person authorized by FCIC, you do not provide acceptable evidence of acreage and production records to support your production report. The assigned yield will not be more than 75 percent of the prior year's approved yield or 65 percent of the applicable T-Yield if a prior year's approved yield is not available.

* * * * *

Average yield. The average of the annual yields for all APH crop years within the APH database calculated by us, or any other person authorized by FCIC, in accordance with section 5(c).

* * * * *

Continuous production reports. Each APH crop year within an APH database must be consecutive starting from the most recent APH crop year for any production report submitted by you and determined to be acceptable by us, or any other person authorized by FCIC. Continuity is not considered to be interrupted for any crop year the crop was not planted, was prevented from being planted, was not insurable in accordance with the Crop Provisions, or was not produced in compliance with any other applicable USDA program. If production report(s) are not provided for such consecutive history, continuity will be considered to have been broken unless you can provide documentation that the conditions listed herein existed for any crop year.

Contract. (See definition of ''policy.'')

* * * * *

Determined yield. An annual yield designated by FCIC, or calculated and assigned by us, in specific situations authorized by FCIC approved procedures.

* * * * *

Insurable acres. Acreage that meets all policy insurability requirements, whether insured or not.

* * * * *

Insured's production reporting date. The date, provided in the actuarial documents, by which you are required to submit a production report for the current crop year, unless otherwise specified in the policy or FCIC approved procedures.

* * * * *

Lag year. A delay of reporting of a crop year(s) in the APH base period, authorized by FCIC approved procedures when production records are generally not available for the crop by the production reporting date.

* * * * *

Master yield. An optional approved yield calculation you may elect for certain crops and counties, as designated by FCIC approved procedures.

* * * * *

New insured. A person who was not insured the previous crop year without respect to an insurance provider or plan of insurance.

New producer. A person, including anyone with a substantial beneficial interest in the person, who has not produced the insured crop in the county, whether or not such crop was insured, for more than two APH crop years prior to the current crop year.

* * * * *

Organic system plan. A written plan, in accordance with the National Organic Program published in 7 CFR part 205, that describes the organic farming practices that you and a certifying agent agree upon annually or at such other times as prescribed by the certifying agent.

* * * * *

Production report. A written report provided by you in accordance with section 3 showing your annual production that will be used by us to determine your approved yield for insurance purposes. The report contains yield information for the current and previous APH crop year(s), when applicable, including planted acreage and production. This report must be supported by acceptable production records.

Production reporting date. The date, provided in the actuarial documents, by which you are required to provide a production report at the beginning of a crop year if you meet the requirements in sections 3(f)(1)(i) through (iv).

* * * * *

Temporary yield. An annual yield used in place of an actual yield when you are unable to finish harvest due to an insurable cause of loss, a delayed claim for indemnity, or your production records are unavailable from the processor, marketing outlet, or similar point of crop distribution by the production reporting date.

* * * * *

Transitional yield (T-Yield). An annual yield established within the county, or homogeneous area of land, for a crop, type, practice, map area, or other actuarial basis, as provided in the actuarial documents or calculated in accordance with FCIC approved procedures.

Unavoidable uninsured fire. Fire caused by an uninsured and unavoidable cause of loss resulting from actions outside the control of the insured. For example, fire caused by a passing train which sparks a fire that

spreads to and destroys a grain crop is clearly caused by a third party and is unavoidable; fire caused by you setting a fire to burn brush that spreads and burns your crop is within your control.

* * * * *

Variable T-Yield. The applicable T-Yield multiplied by a percentage factor and used as an annual yield in the APH database according to FCIC approved procedures, or as otherwise provided in the policy. The percent of the applicable T-Yield is determined by the number of years of acceptable actual, assigned, or temporary yields available for the crop in the county.

* * * * *

Veteran farmer or rancher. (1) An individual who has served active duty in the United States Armed Forces, including the Air Force, Army, Coast Guard, Marine Corps, Navy, or Space Force, and their reserve components; was discharged or released under conditions other than dishonorable; and:

(i) Has not operated a farm or ranch;

(ii) Has operated a farm or ranch for not more than 5 years; or

(iii) First obtained status as a veteran during the most recent 5-year period.

(2) A person, other than an individual, may be eligible for veteran farmer or rancher benefits if all substantial beneficial interest holders qualify individually as a veteran farmer or rancher in accordance with paragraph (1) of this definition; except in cases in which there is only a married couple, then a veteran and non-veteran spouse are considered a veteran farmer or rancher.

* * * * *

3. Insurance Guarantees, Coverage Levels, and Prices

* * * * *

(b) * * *

(2) * * *

(ii) You have additional coverage for the crop in the county with acreage designated as high-risk by FCIC and you execute a High-Risk Land Exclusion Option on or before the applicable sales closing date with the same insurance provider from which your additional coverage was obtained. The High-Risk Land Exclusion Option allows you the following choices for your high-risk land:

(A) You may exclude coverage for high-risk land under the additional coverage policy and not insure it;

(B) You may insure high-risk land under a separate Catastrophic Risk Protection Endorsement; or

(C) If available in the actuarial documents, you may insure high-risk land on a separate additional coverage policy with coverage greater than provided by the Catastrophic Risk Protection Endorsement but less than the coverage elected on the additional coverage policy insuring your non-high-risk land.

* * * * *

(f) A production report(s) is required for all crops with a yield-based plan of insurance, and the information contained within the production report is used to establish your approved yield(s).

(1) You must report your current year's crop production on the same basis used to establish your approved yield(s), by the insured's production reporting date contained in the actuarial documents, or as otherwise specified in the Special Provisions. This production report will be used to establish approved yield(s) for the following APH crop year. Failure to timely provide this production report will result in assigned yields being used to determine your approved yield(s) for the following APH crop year. In addition to this production report, you may have to provide an additional production report at the beginning of the crop year by the production reporting date contained in the actuarial documents, as follows:

(i) If you are a new insured who grew the crop the year prior to the current crop year, you may report actual production for that crop year and include additional crop years, if continuous production reports are provided. Failure to provide this production report will result in variable T-Yields being used to determine your approved yield(s) for the current crop year.

(ii) If you are an insured who transferred your policy to us for the current crop year, you may provide us with a copy of the completed and signed production report you submitted to your previous insurance provider for the prior APH crop year. This production report will be used to establish your approved yield(s) for the current crop year.

(iii) If we cannot establish your approved yield for any APH database for the current crop year as required by FCIC approved procedures, you must provide us a new production report containing the prior year's production on the basis of the current crop year's unit structure and by type, practice, map area, and other characteristics, if applicable, you are requesting.

(iv) You may certify actual production for any prior APH crop year if your certification meets the requirements of section 3(f)(3) to be used in an APH database(s) for the current crop year when:

(A) Reporting actual production for an APH crop year not previously certified;

(B) Replacing a yield determined in accordance with section 5(b); or

(C) Making a change or revision as authorized in FCIC approved procedures.

(2) Production must be reported by county, crop, type, practice, map area, other characteristics, unit structure elected (or level lower than unit structure elected), and land location in accordance with FCIC approved procedures. To be acceptable for an APH crop year, a production report must:

(i) Be provided annually by you;

(ii) Be certified as accurate by you;

(iii) Be submitted by the applicable production reporting date; and

(iv) Be supported by production records meeting the requirements in section 3(g)(3). Production records must substantiate all information provided on the production report.

(3) Your production report must contain all actual production of the insured crop, from all acreage of the insured crop, which includes insurable, uninsurable and uninsured acreage, for the APH crop year being reported and certified identifying:

(i) Gross and net actual production, with net actual production being gross actual production adjusted for standard deductions that apply under the terms of the policy including test weight, moisture, foreign material, or any other specified deduction, when such deductions are available in the production records;

(ii) Type of acceptable production records;

(iii) Disposition of the crop, *e.g.,* harvested or unharvested; and

(iv) Any other information required on the production report form in accordance with FCIC approved procedures.

(4) If you do not file an acceptable production report by the applicable production reporting date, the annual yield for the applicable APH crop year will be the assigned yield. The assigned yield will be used to calculate your approved yield for the purpose of determining your coverage for the current or following crop year, as applicable. Optional units will not be available the following crop year unless the reason for not filing an acceptable production report is one of the following:

(i) You are a new insured;

(ii) You are unable to provide an acceptable production report by the production reporting date due to the

inability to finish harvest because of an insurable cause of loss; or

(iii) Production records are not yet available from a processor, marketing outlet, or similar point of crop distribution or production records are not yet available due to a delayed claim for indemnity.

(5) In the event certified acreage or actual production from two or more persons sharing in the crop on the same acreage for the same APH crop year is different, we or any other person authorized by FCIC shall, at our discretion, determine the acreage and actual production to be used to determine the approved yield. Upon determining the correct acreage and actual production, we will correct your, and any other insured's, production report and APH database, and notify any other insurance provider who may have an insured with a share in the crop for the same acreage. If the correct acreage and actual production cannot be determined, the production report will be considered unacceptable, and you will receive an assigned yield in accordance with section 3(f)(4).

(6) If you have filed a claim for any crop year, the documents signed by you which state the amount of production used to complete the claim for indemnity will be the production report for that year unless otherwise specified by FCIC.

(7) Appraisals obtained from only a portion of the acreage in a field that remains unharvested after the remainder of the crop within the field has been destroyed or put to another use will not be used to establish your actual yield unless representative samples are required to be left by you in accordance with the Crop Provisions.

(8) If no insurable acreage of the insured crop is planted for a year, a production report indicating zero planted acreage will maintain the continuity of production reports for APH record purposes and that calendar year will not be included in the approved yield calculations.

* * * * *

(g) * * *

(3) Records must be available to substantiate production reports, within the tolerances provided in FCIC approved procedures, that document and verify the actual production between types, practices, map areas, unit structures and land locations as certified on the production report.

(4) Acceptable production record requirements for a crop are provided in FCIC approved procedures and identify crops requiring verifiable records or farm management records. These requirements must be met for production records to be acceptable.

(i) Verifiable records include, but are not limited to:

(A) Records of production commercially sold to, or stored by, a disinterested third party;

(B) Claim for indemnity determinations made by an insurance provider, or any other person authorized by FCIC, as applicable;

(C) Documents with actual production verified by another USDA agency;

(D) Appraisal of unharvested acreage performed by an insurance provider or any other person authorized by FCIC;

(E) Measurement of farm-stored production performed by an insurance provider, another USDA agency, or any other person authorized by FCIC;

(F) Pick records identifying the amount of actual production harvested daily by individuals;

(G) Contemporaneous daily sales records; and

(H) Records from recognized or approved precision farming technology systems.

(ii) Farm management records include, but are not limited to:

(A) Measurement of farm stored production performed by you;

(B) Automated yield monitoring systems;

(C) Contemporaneous livestock feeding records;

(D) Field harvest records; and

(E) Seed records.

(5) Acceptable production records must be adjusted for standard deductions that apply under the terms of the policy, including test weight, moisture, foreign material, and any other deductions in accordance with the applicable Crop Provisions or FCIC approved procedures when such deductions are available in the production records.

(6) Acceptable production records must be maintained for the record retention period as provided in section 21(b)(2).

(7) You are not required to maintain production records beyond the record retention period specified in section 21(b)(2); however, we or any other person authorized by FCIC may review any production records that are available from you, or any other sources who may have records of actual production applicable to an APH database, at any time.

(8) You must provide acceptable production records, as specified in section 3(g)(3) through (5):

(i) Upon request by us or any other person authorized by FCIC during the completion of a claim for indemnity; or

(ii) During any audit, review, or when otherwise requested by us or any other person authorized by FCIC to verify acreage, actual production, and all other information certified on the production report.

(9) If you do not have acceptable production records to support the information you certified on your production report you will receive an assigned yield in accordance with section 3(f)(4), for the applicable units, for any APH crop year that does not have such production records in accordance with FCIC approved procedures. If the conditions of section 34(b)(3) are not met, you will receive an assigned yield for the applicable basic unit.

(10) * * *

(iii) Any overpaid indemnity must be repaid or any additional premium we determine to be owed must be paid; and

* * * * *

(h) * * *

(1) By including an assigned yield determined in accordance with section 3(f)(4), if the actual yield reported in the APH database is excessive for any crop year, as determined by FCIC under its approved procedures, and you do not provide verifiable records to support the yield in the APH database. If there are verifiable records for the yield in your APH database, but the yield is significantly different from other yields in the county or your other yields for the crop and you cannot prove there is a valid agronomic basis to support the differences in the yields, the yield will be the average of the yields for the crop or the applicable county transitional yield if you have no other yields for the crop;

(2) By reducing it to an amount consistent with the average of the approved yields for other APH databases for your farming operation with the same crop, type, and practice or the county transitional yield, as applicable, if:

(i) The approved APH yield is greater than 115 percent of the average of the approved yields of all applicable APH databases for your farming operation that have actual yields in them or it is greater than 115 percent of the county transitional yield if no applicable APH databases exist for comparison;

* * * * *

5. APH Database and Approved Yield Calculation

(a) With respect to your APH database:

(1) An APH database must be established to determine the approved yield and the average yield, established on the basis of:

(i) Crop;

(ii) Type;
(iii) Practice;
(iv) T-Yield map area;
(v) Unit, as applicable; and
(vi) Other requirements as specified by FCIC approved procedures.

(2) The APH database is established using consecutive annual yields, as determined in section 5(b), for each APH crop year in the APH database.

(b) Annual yields are determined by us, or any other person authorized by FCIC, in accordance with FCIC approved procedures. Annual yields are used in establishment of the APH database, and include the following types of yields:

(1) An actual yield, calculated by dividing the actual production by insurable acres from acceptable production reports, except as follows:

(i) For perennial crop acreage that was previously uninsurable due to underage requirements specified in the Crop Provisions, the actual yield may be calculated using production from the acreage prior to it becoming insurable, in accordance with FCIC approved procedures, when elected by you and you provide acceptable production reports;

(ii) For crop acreage that is damaged by unavoidable uninsured fire or a third party, insurable acreage and actual production from such acreage will not be included in the calculation of the actual yield when elected by you, and approved by us or any person authorized by FCIC, in accordance with FCIC approved procedures; and

(iii) For uninsurable crop acreage, acres and actual production from such acreage may be included in the calculation of the actual yield when actual production from such acreage is commingled with harvested production from insurable acreage;

(2) A temporary yield that is equal to the prior year's approved yield. In subsequent crop years, the temporary yield is replaced by an actual yield from an acceptable production report submitted by you or, in the absence of an acceptable production report, an assigned yield;

(3) An assigned yield if you:

(i) Did not provide an acceptable production report for the previous APH crop year in the APH database; or

(ii) Do not provide acceptable production records for any APH crop year within the record retention period specified in section 21(b)(2) to support, within tolerances established by FCIC approved procedures, information provided on the production report, when requested by us or any other person authorized by FCIC;

(4) A determined yield, designated by FCIC, or calculated and assigned by us, or any other person authorized by FCIC, in situations when the available actual production information and the approved yield is not reflective of the expected actual production for the area, in accordance with section 5(c) and FCIC approved procedures; or

(5) A T-Yield for any APH crop year when there is not a minimum of four years of annual yields in the APH database as outlined in section 5(b)(1) through (4).

(i) A variable percentage will apply to the T-Yield published in the actuarial documents, based on the number of years of actual yields provided for the crop, as follows:

(A) For three years or more, use 100 percent of the applicable T-Yield;

(B) For two years, use 90 percent of the applicable T-Yield;

(C) For one year, use 80 percent of the applicable T-Yield;

(D) For no years, use 65 percent of the applicable T-Yield; or

(E) For qualifying new producers, use 100 percent of the T-Yield published in the actuarial documents.

(ii) A T-Yield may be calculated in accordance with FCIC approved procedures when you add land or new types and practices to your farming operations.

(c) The average yield and approved yield are used to establish the insurance guarantee.

(1) Calculate the average yield and approved yield as follows:

(i) Establish the APH database using annual yields by APH crop year in accordance with section 5(b), prior to any adjustments authorized for annual yields from section 36(a);

(ii) Sum all the annual yields from section 5(c)(1)(i);

(iii) Divide the sum of section 5(c)(1)(ii) by the number of annual yields in the APH database. The result is the average yield;

(iv) Using the annual yields determined from section 5(c)(1)(i), apply any applicable adjustments authorized from section 36(a);

(v) Sum all the annual yields from section 5(c)(1)(iv); and

(vi) Divide the sum of section 5(c)(1)(v) by the number of annual yields in the APH database and apply any applicable adjustments from section 5(c)(2) or (3), section 9(e), or section 36(b). The result is the approved yield.

(2) Adjustment to the approved yield by us or any other person authorized by FCIC, in accordance with FCIC approved procedures, may be made in limited situations when the approved yield is not reflective of the expected actual production for the current crop year.

(3) Master yields may be established whenever crop rotation requirements and land leasing practices limit the yield history available. FCIC will establish crops and locations for which master yields are available. To qualify, you must have at least four most recent continuous crop years' annual production reports of the insured crop. Master yields are based on acreage and production history from all acreage of the insured crop in the county in which you have/had a share in the crop's production on the same basis as your approved yield. When applicable, your master yield will be your approved yield as authorized by approved FCIC procedures.

(4) For perennial crops, excluding forage, an approved yield may be adjusted if:

(i) A significant upward or downward yield trend over consecutive APH crop years is evident;

(ii) Tree or vine damage, or cultural practices performed will reduce the expected actual production for the current crop year from previous crop years' actual production; or

(iii) Other situations are determined to exist, in accordance with FCIC approved procedures, when the approved yield is not reflective of the expected actual production for the current crop year.

(5) An approved yield may be adjusted to reflect the degree of success of a systematic area-wide effort to detect, eradicate, suppress, control, or at a minimum prevent or retard, the spread of plant disease or plant pests, and which increases the yield of the insured crop on your farm when allowed under the terms of the policy.

* * * * *

9. Insurable Acreage

* * * * *

(c) Notwithstanding the provisions in section 8(b)(2), if acreage is irrigated and a premium rate is not provided for an irrigated practice, you may either report and insure the irrigated acreage as ''non-irrigated,'' or report the irrigated acreage as not insured. (If you elect to insure such acreage under a non-irrigated practice, your irrigated yield will only be used to determine your approved yield if you continue to use a good irrigation practice. If you do not use a good irrigation practice, you will receive a yield determined in accordance with section 3(h)(3).)

* * * * *

15. Production Included in Determining an Indemnity and Payment Reductions

* * * * *

(h) * * *

(7) With respect to double cropped acreage, if the two crops you have double cropped are insured under policies with different double crop history records requirements (*e.g.,* records of acreage and production), the less restrictive requirements may be followed to satisfy double cropping requirements for both crops. For example, you have 20 acres of annual forage wheat for grazing. On the same acreage you plant and insure cotton. The annual forage double cropping provisions do not include double cropping record history requirements. If the annual forage double cropping provisions are met, you are eligible for a full indemnity payment on both the annual forage wheat and the cotton.

* * * * *

17. Prevented Planting

* * * * *

(d) * * *

(1) Drought, failure of the irrigation water supply; failure, breakdown, or destruction of irrigation equipment or facilities; or the inability to prepare the land for irrigation using your established irrigation method, due to an insured cause of loss only if, on the final planting date (or within the late planting period if you elect to try to plant the crop), you provide documentation acceptable to us to establish:

* * * * *

(ii) * * *

(B) The irrigation equipment or facilities have failed, broken down, or been destroyed if such failure, breakdown, or destruction is due to an insured cause of loss specified in section 12(d).

(2) Causes other than drought; failure of the irrigation water supply; failure, breakdown, or destruction of the irrigation equipment or facilities; or your inability to prepare the land for irrigation using your established irrigation method, provided the cause of loss is specified in the Crop Provisions. However, if it is possible for you to plant on or prior to the final planting date when other producers in the area are planting and you fail to plant, no prevented planting payment will be made.

(e) * * *

(1) * * *

(i) * * *

(B) If you acquire additional land for the current crop year, the number of eligible acres determined in section 17(e)(1)(i)(A) for a crop may be increased by multiplying it by the ratio of the total cropland acres available for planting that you are farming this year (if greater) to the total cropland acres available for planting that you farmed in the previous year, provided that:

* * * * *

(f) * * *

(12) If after considerations of historical weather patterns, timing of the final planting date, your planting history, and other factors, we determine a cause of loss has occurred that may prevent planting at the time:

(i) You take possession of the leased acreage (except acreage you leased the previous crop year and continue to lease in the current crop year);

(ii) You take possession of the purchased acreage;

(iii) The acreage is released from a USDA program which prohibits harvest of a crop;

(iv) You request a written agreement to insure the acreage; or

(v) You acquire the acreage through means other than lease or purchase (such as inherited or gifted acreage).

(g) If you purchased an additional coverage policy for a crop, and you executed a High-Risk Land Exclusion Option and separately insured acreage which has been designated as high-risk land by FCIC in accordance with section 3(b)(2)(ii)(B) and (C), the maximum number of acres eligible for a prevented planting payment will be limited for each policy as specified in section 17(e) and (f).

(h) If you are prevented from planting a crop for which you do not have an adequate base of eligible prevented planting acreage, as determined in accordance with section 17(e)(1), we will use acreage from another crop insured by us for the current crop year for which you have remaining eligible prevented planting acreage.

* * * * *

[For FCIC policies]

24. Amounts Due Us

* * * * *

(d) Interest on any amount due us found to have been received by you because of fraud, misrepresentation or presentation by you of a false claim will start on the date you received the amount with the additional 6 percent penalty beginning on the 31st day after the notice of amount due is issued to you. This interest is in addition to any other amount found to be due under any other Federal criminal or civil statute.

* * * * *

34. Units

(a) You may elect an enterprise unit or whole-farm unit as allowed by the actuarial documents.

* * * * *

(3) * * *

(i) * * *

(C) At least two of the insured crops must each have planted acreage that constitutes 10 percent or more of the total planted acreage liability of all insured crops in the whole-farm unit (for crops for which revenue protection is available, liability will be based on the applicable projected price only for the purpose of section 34(a)(3)(i)(C));

* * * * *

(c) * * *

(3) In addition to, or instead of, establishing optional units by section, section equivalent or FSA farm number, or irrigated and non-irrigated acreage, separate optional units may be established for acreage of the insured crop grown and insured under an organic farming practice. Certified organic, transitional, and buffer zone acreages do not individually qualify as separate units. (See section 37 for additional provisions regarding acreage insured under an organic farming practice.)

* * * * *

37. Organic Farming Practices

* * * * *

(c) * * *

(1) * * *

(i) For certified organic acreage, a written certification in effect directly from a certifying agent indicating the name of the person certified, effective date of certification, certificate number, types of commodities certified, and name and address of the certifying agent (a certificate issued to a tenant may be used to qualify a landlord or other similar arrangement). A certificate issued from the National Organic Program's Organic Integrity Database (or successor certificate reporting tool) is acceptable.

(ii) For transitional acreage, an organic system plan documenting the use of practices that would result in certified organic status that includes the record information as described in section 37(c)(1)(i), or written documentation from a certifying agent indicating an organic system plan is in effect for the acreage.

* * * * *

Marcia Bunger,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 2023–13375 Filed 6–28–23; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2023–0458]

Safety Zone; Military Ocean Terminal Concord Safety Zone, Suisun Bay, Military Ocean Terminal Concord, CA

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone in the navigable waters of Suisun Bay, off Concord, CA, in support of explosive on-loading to Military Ocean Terminal Concord (MOTCO) from June 26, 2023, through June 30, 2023. This safety zone is necessary to protect personnel, vessels, and the marine environment from potential explosion within the explosive arc. The safety zone is open to all persons and vessels for transitory use, but vessel operators desiring to anchor or otherwise loiter within the safety zone must obtain the permission of the Captain of the Port San Francisco or a designated representative. All persons and vessels operating within the safety zone must comply with all directions given to them by the Captain of the Port San Francisco or a designated representative.

DATES: The regulations in 33 CFR 165.1198 will be enforced from 12:01 a.m. on June 26, 2023, until 11:59 p.m. on June 30, 2023.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call, or email Lieutenant William K. Harris, U.S. Coast Guard Sector San Francisco, Waterways Management Division, at 415–399–7443, *SFWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone in 33 CFR 165.1198 for the Military Ocean Terminal Concord, CA (MOTCO) regulated area from 12:01 a.m. on June 26, 2023, until 11:59 p.m. on June 30, 2023, or as announced via marine local broadcasts. This safety zone is necessary to protect personnel, vessels, and the marine environment from potential explosion within the explosive arc. The regulation for this safety zone, § 165.1198, specifies the location of the safety zone which encompasses the navigable waters in the area between 500 yards of MOTCO Pier 2 in position 38°03′30″ N, 122°01′14″ W and 3,000 yards of the pier. During the enforcement periods, as reflected in § 165.1198(d), if you are the operator of a vessel in the regulated area you must comply with the instructions of the COTP or the designated on-scene patrol personnel. Vessel operators desiring to anchor or otherwise loiter within the safety zone must contact Sector San Francisco Vessel Traffic Service at 415–556–2760 or VHF Channel 14 to obtain permission.

In addition to this notification of enforcement in the **Federal Register,** the Coast Guard plans to provide notification of this enforcement period via marine information broadcasts.

Dated: June 21, 2023.

Jordan M. Baldueza,

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

[FR Doc. 2023–13824 Filed 6–28–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2023–0527]

Safety Zone; San Francisco Giants Fireworks, San Francisco Bay, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the San Francisco Giants Fireworks in the Captain of the Port, San Francisco area of responsibility during the dates and times noted below. This action is necessary to protect personnel, vessels, and the marine environment from the hazards associated with the fireworks display. During the enforcement period, unauthorized persons and vessels are prohibited from entering into, transiting through, or remaining in the safety zone, unless authorized by the Patrol Commander (PATCOM), any Official Patrol defined as other 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 location identified in Table 1 to § 165.1191, Item number 1, from 10 a.m. until 10:40 p.m. on July 3, 2023.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email LT William Harris, Waterways Management Division, U.S. Coast Guard Sector San Francisco; telephone (415) 399–7443, email *SFWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone in 33 CFR 165.1191 Table 1, Item number 1 for the San Francisco Giants Fireworks from 10 a.m. until 10:40 p.m. on July 3, 2023. The safety zone will extend to all navigable waters of the San Francisco Bay, from surface to bottom, within a circle formed by connecting all points 100 feet outwards of the fireworks barge during the loading, transit, and arrival of the fireworks barge from the loading location to the display location and until the start of the fireworks display. From 10 a.m. until 9 p.m. on July 3, 2023, the fireworks barge will be loading pyrotechnics from Pier 50 in San Francisco, CA. The fireworks barge will remain at the loading location until its transit to the display location. From 9 p.m. to 9:15 p.m. on July 3, 2023, the loaded fireworks barge will transit from Pier 50 to the launch site near Pier 48 in approximate position 37°46′36″ N, 122°22′56″ W (NAD 83) where it will remain until the conclusion of the fireworks display. Upon the commencement of the 10-minute fireworks display, scheduled to begin at the conclusion of the baseball game, between 9:30 p.m. and 10 p.m. on July 3, 2023, the safety zone will increase in size and encompass all navigable waters of the San Francisco Bay, from surface to bottom, within a circle formed by connecting all points 700 feet out from the fireworks barge near Pier 48 in approximate position 37°46′36″ N, 122°22′56″ W (NAD 83). This safety will be enforced from 10 a.m. until 10:40 p.m. on July 3, 2023, or announced via Marine Information Broadcast.

Under the provisions of 33 CFR 165.1191, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring 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 period, if you are the operator of a vessel in one of the safety zones you must comply with the 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 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 Marine Information Bulletin may be used to grant general permission to enter the regulated area.

Dated: June 21, 2023.

Jordan M. Baldueza,

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

[FR Doc. 2023–13715 Filed 6–28–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0483]

RIN 1625–AA00

Safety Zone; Redwood City Fourth of July Fireworks; Redwood Creek, Redwood City, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of the Redwood Creek in Redwood City, CA in support of a fireworks display on July 4, 2023. The safety zone is necessary to protect personnel, vessels, and the marine environment from potential hazards created by pyrotechnics. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without the permission of the Captain of the Port San Francisco or a designated representative.

DATES: This rule is effective from 9 a.m. July 3, 2023, until 10:20 p.m. 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–2023–0483 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 Petty Officer First Class Shannon Curtaz-Milian, U.S. Coast Guard, Sector San Francisco, at 415–399–7440, *SFWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The Coast Guard did not receive final details for this event until June 12, 2023. It is impracticable to go through the full notice and comment rule making process because the Coast Guard must establish this safety zone by July 3, 2023, and lacks sufficient time to provide a reasonable comment period and to consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to public interest because action is necessary to protect personnel, vessels, and the marine environment from the potential safety hazards associated with the fireworks display on Redwood Creek in Redwood City, CA on July 4, 2023.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port San Francisco has determined that potential hazards associated with the Redwood City Fourth of July Fireworks will be a safety concern for anyone within a 100-foot radius of the fireworks vessel during loading and staging on July 3, 2023, and anyone within a 850-foot radius of the fireworks vessel starting 30 minutes before the fireworks display is scheduled to commence and ending 30 minutes after the conclusion of the fireworks display on July 4, 2023. For this reason, this temporary safety zone is needed to protect personnel, vessels, and the marine environment in the navigable waters around the fireworks vessel and during the fireworks display.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from 9 a.m. on July 3, 2023, until 10:20 p.m. on July 4, 2023, during the loading, staging, and transit of the fireworks vessel in San Francisco Bay from Pier 50 to Redwood Creek, Redwood City, CA, and until 30 minutes after completion of the fireworks display. During the loading, staging, and transit of the fireworks vessel, scheduled to take place between 9 a.m. on July 3, 2023, until 9 p.m. on July 4, 2023, until 30 minutes prior to the start of the fireworks display, the safety zone will encompass the navigable waters around and under the fireworks vessel, from surface to bottom, within a circle formed by connection of all points 100 feet out from the fireworks vessel. The fireworks display is scheduled to start from 9:30 p.m. and end at approximately 9:50 p.m. on July 4, 2023, on Redwood Creek in Redwood City, CA.

The fireworks vessel will remain at Pier 50 until the start of its transit to the display location. Movement of the vessel from Pier 50 to the display location is scheduled to take place from 3 p.m. to 7 p.m. on July 4, 2023, where it will remain until the conclusion of the fireworks display.

At 9 p.m. on July 4, 2023, 30 minutes prior to the commencement of the 20-minute fireworks display, the safety zone will increase in size and encompass the navigable waters around and under the fireworks vessel, from surface to bottom, within a circle formed by all connecting points 850 feet from the circle center at approximate position 37°30′28.48″ N, 122°12′51.53″ W (NAD 83). The safety zone will terminate at 10:20 p.m. on July 4, 2023, or as announced via Broadcast Notice to Mariners.

This regulation is necessary to keep persons and vessels away from the immediate vicinity of the fireworks loading, staging, transit, and display site. Except for persons or vessels authorized by the COTP or the COTP's designated representative, no person or vessel may enter or remain in the restricted area. A ''designated representative'' means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel, or a Federal, State, or local officer designated by or assisting the Captain of the Port San Francisco (COTP) in the enforcement of the safety zone. This regulation is necessary to ensure the

safety of participants, spectators, and transiting vessels.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the limited duration and narrowly tailored geographic area of the safety zone. Although this rule restricts access to the waters encompassed by the safety zone, the effect of this rule will not be significant because the local waterways users will be notified to ensure the safety zone will result in minimum impact. The vessels desiring to transit through or around the temporary safety zone may do so upon express permission from the COTP or the COTP's designated representative.

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 temporary safety zone in the navigable waters around the loading, staging, transit, and display of fireworks near Pier 50 in San Francisco Bay and on Redwood Creek in Redwood City. 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.T11–132 to read as follows:

§ 165.T11–132 Safety Zone; Redwood City Fourth of July Fireworks; Redwood Creek, Redwood City, CA.

(a) *Location.* The following area is a safety zone: all navigable waters of San Francisco Bay, from surface to bottom, within a circle formed by connecting all points 100 feet out from the fireworks vessel during loading and staging at Pier 50 in San Francisco, CA as well as transit and arrival to Redwood Creek, Redwood City, CA. Between 9 p.m. and 10:20 p.m. on July 4, 2023, the safety zone will expand to all navigable waters, from surface to bottom, within a circle formed by connecting all points 850 feet out from the fireworks vessel in approximate position 37°30′28.48″ N 122°12′51.53″ W (NAD 83) or as announced via Broadcast Notice to Mariners.

(b) *Definitions.* As used in this section, ''designated representative'' means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel, or a Federal, State, or Local officer designated by or assisting the Captain of the Port San Francisco (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or the COTP's designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or the COTP's designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative. Persons and vessels may request permission to enter the safety zone on VHF–23A or through the 24-hour Command Center at telephone (415) 399–3547.

(d) *Enforcement period.* This section will be enforced from 9 a.m. on July 3, 2023, until 10:20 p.m. on July 4, 2023.

(e) *Information broadcasts.* The COTP or the COTP's designated representative will notify the maritime community of periods during which this zone will be enforced, in accordance with 33 CFR 165.7.

Dated: June 21, 2023.

Jordan M. Baldueza,

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

[FR Doc. 2023–13825 Filed 6–28–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2023–0478]

Safety Zones; Recurring Events in Captain of the Port Duluth—LaPointe Fireworks

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the LaPointe Fireworks in LaPointe, WI from 9:30 p.m. through 10:30 p.m. This action is necessary to protect participants and spectators during the LaPointe Fireworks taking place in the North Channel off LaPointe. During the enforcement period, entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Duluth or designated on-scene representative.

DATES: The regulations in 33 CFR 165.943(b) will be enforced from 9:30 p.m. through 10:30 p.m. on July 04, 2023, for the LaPointe Fireworks safety zone, § 165.943 Table 1(6).

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call or email LT Joe McGinnis, telephone (218) 725–3818, email *DuluthWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone for the annual LaPointe Fireworks in 33 CFR 165.94 Table 1(6) from 9:30 p.m. through 10:30 p.m. on July 04, 2023, on all waters of Lake Superior bounded by the arc of a circle with a 1,120-foot radius from the fireworks launch site with its center in position 46°46′40″ N, 090°47′22″ W.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Duluth or their designated on-scene representative. The Captain of the Port's designated on-scene representative may be contacted via VHF Channel 16.

This document is issued under authority of 33 CFR 165.943 and 5 U.S.C. 552 (a). In addition to this publication in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of the enforcement of this safety zone via Broadcast Notice to Mariners.

Dated: June 23, 2023.

J.M. DeWitz,

Commander, U.S. Coast Guard, Captain of the Port Duluth.

[FR Doc. 2023–13823 Filed 6–28–23; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2023–0214; FRL–10875–02–R7]

Air Plan Approval; State of Missouri; Confidential Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the State Implementation Plan (SIP) for the State of Missouri. This final action will amend the SIP to approve a revision submitted by the State of Missouri on September 20, 2022, to the existing state rule, ''Confidential Information.'' These revisions include structural, formatting and other text changes that are administrative in nature and do not impact the stringency of the SIP or air quality. The EPA's approval of this rule revision is in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on July 31, 2023.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2023–0214. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *www.regulations.gov* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Steven Brown, Environmental

Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551–7718; email address: *brown.steven@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' and ''our'' refer to EPA.

Table of Contents

I. What is being addressed in this document?

The EPA is approving a SIP revision submitted by the State of Missouri on September 20, 2022. Missouri requested the EPA approve revisions to 10 Code of State Regulations (CSR) 10–6.210 in the Missouri SIP. The state has revised the rule and made structural, formatting, and text changes to correct typographical errors. After review and analysis of the revisions, the EPA concluded that these changes do not have adverse effects on air quality. The full text of these changes can be found in the State's submission, which is included in the docket for this action. The EPA's analysis of the revisions can be found in the technical support document (TSD), also included in the docket.

II. Have the requirements for approval of a SIP revision been met?

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on this SIP revision from 02/15/2022 to 4/07/2022 and received one comment from a Missouri staff member pertaining to a definition change. The EPA's Notice of Proposed Rulemaking (NPRM) and supporting information contained in the docket were made available for public comment from May 8, 2023, to June 7, 2023 (88 FR 29596). The EPA received one comment in support of approval, which is included in the docket.

In addition, as explained above and in more detail in the TSD, which is part of this docket, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

III. What action is the EPA taking?

The EPA is taking final action to amend the Missouri SIP by approving the State's revisions to rule 10 CSR 10–6.210 ''Confidential Information.'' Approval of these revisions will ensure consistency between State and federally approved rules. As described in the NPRM (88 FR 29596), and the TSD, the EPA has determined that these changes meet the requirements of the Clean Air Act and will not adversely impact air quality or the stringency of the SIP.

IV. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, and as described and set forth below in the amendments to 40 CFR part 52, the EPA is finalizing the incorporation by reference of the Missouri rule 10 CSR 10–6.210—*Confidential Information,* with a local effective date of September 30, 2022, which provides procedures and conditions for handling confidential Information. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

Therefore, these materials have been approved by the EPA for inclusion in the State Implementation Plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[1]

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

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

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address ''disproportionately high and adverse human health or environmental effects'' of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as ''the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.'' EPA further defines the term fair treatment to mean that ''no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.''

[1] 62 FR 27968, May 22, 1997.

Missouri did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 28, 2023. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter.

Dated: June 21 2023.

Meghan A. McCollister,

Regional Administrator, Region 7.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart AA—Missouri

■ 2. In § 52.1320, the table in paragraph (c) is amended by revising the entry ''10–6.210'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
*	*	*	*	*
10–6.210	Confidential Information	9/30/2022	6/29/2023, [insert **Federal Register** citation].	
*	*	*	*	*

* * * * *

[FR Doc. 2023–13618 Filed 6–28–23; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 230306–0065; RTID 0648–XD117]

Fisheries of the Exclusive Economic Zone Off Alaska; Sablefish in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for non-Community Development Quota (CDQ) sablefish by vessels using trawl gear in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2023 non-CDQ sablefish initial total allowable catch (ITAC) by vessels using trawl gear in the Bering Sea subarea of the BSAI.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), June 27, 2023, through 2400 hours, A.l.t., December 31, 2023.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2023 non-CDQ sablefish ITAC by vessels using trawl gear in the Bering Sea subarea of the BSAI is 3,398 metric tons (mt) as established by the final 2023 and 2024 harvest specifications for groundfish in the BSAI (88 FR 14926, March 10, 2023).

The Regional Administrator has determined that the 2023 ITAC for non-CDQ sablefish by vessels using trawl gear in the Bering Sea subarea of the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 1,100 mt, and is setting aside the remaining 2,298 mt as bycatch

to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing for non-CDQ sablefish by vessels using trawl gear in the Bering Sea subarea of the BSAI. While this closure remains in effect, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion, and would delay the closure of non-CDQ sablefish by vessels using trawl gear in the Bering Sea subarea in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of June 26, 2023.

The Assistant Administrator for Fisheries, NOAA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: June 26, 2023.

Jennifer M. Wallace,

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

[FR Doc. 2023–13896 Filed 6–27–23; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 88, No. 124
Thursday, June 29, 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.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 02–278; FCC 23–49; FR ID 149026]

Prior Express Consent Under the Telephone Consumer Protection Act of 1991

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) proposes measures to clarify and strengthen consumers' ability to revoke consent to receive both robocalls and robotexts. The Commission proposes to codify past guidance on prior express consent to make these requirements more apparent to callers and consumers. In addition, the Commission proposes to amend its rules to strengthen the ability of consumers to decide which robocalls and robotexts they wish to receive by exercising their right to grant and revoke consent to individual callers. Specifically, the Commission proposes to: ensure that revocation of consent does not require the use of specific words or burdensome methods; require that callers honor do-not-call and consent revocation requests within a reasonable time, not to exceed 24 hours of receipt; codify the ruling that consumers only need to revoke consent once to stop getting all robocalls and robotexts from a specific entity; and allow wireless consumers the option to stop robocalls and robotexts from their own wireless service provider.

DATES: Comments are due on or before July 31, 2023, and reply comments are due on or before August 14, 2023.

ADDRESSES: You may submit comments, identified by CG Docket No. 02–278, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *https://apps.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy,* Public Notice, DA 20–304 (March 19, 2020), *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*

FOR FURTHER INFORMATION CONTACT: Richard D. Smith of the Consumer and Governmental Affairs Bureau at (717) 338–2797 or *Richard.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (*NPRM*), in CG Docket No. 02–278, FCC 23–49, adopted on June 8, 2023 and released on June 9, 2023. The full text of the document is available for public inspection and copying via the Commission's Electronic Comment Filing System (ECFS). To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice).

This matter shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. 47 CFR 1.1200 through 1.1216. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substances of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. *See* 47 CFR 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in § 1.1206(b) of the Commission's rules, 47 CFR 1.1206(b).

Initial Paperwork Reduction Act of 1995 Analysis

The *NPRM* seeks comment on proposed rule amendments that may result in modified information collection requirements. If the Commission adopts any modified information collection requirements, the Commission will publish a notice in the **Federal Register** inviting the public to comment on the requirements, as required by the Paperwork Reduction Act. Public Law 104–13; 44 U.S.C. 3501–3520. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, the Commission seeks comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees. Public Law 107–198; 44 U.S.C. 3506(c)(4).

Synopsis

1. The Commission initiates this proceeding to clarify and strengthen consumers' rights under the TCPA to grant and revoke consent to receive robocalls and robotexts. Specifically, the Commission proposes to: (1) ensure that revocation of consent does not require the use of specific words or burdensome methods; (2) require that callers honor do-not-call and consent revocation requests within a reasonable time, not to exceed 24 hours of receipt; (3) codify the ruling that consumers only need to revoke consent once to stop getting all robocalls and robotexts from a specific entity; and (4) allow wireless consumers the option to stop robocalls and robotexts from their own wireless service provider. As discussed below,

the Commission seeks comment on these proposals and on the costs and benefits of the proposals, including for smaller businesses and consumers.

A. Revoking Consent in Any Reasonable Way

2. The Commission proposes to codify its 2015 ruling confirming that consumers who have provided prior express consent to receive autodialed or prerecorded voice calls may revoke such consent through any reasonable means. *See Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991,* CG Docket No. 02–278, WC Docket No. 07–135, Declaratory Ruling and Order, published at 80 FR 61129, October 9, 2015. The Commission believes this will make clearer to callers and consumers that a consumer has a right to revoke consent under the TCPA. Specifically, the Commission proposes codifying a rule that would make clear that consumers may revoke prior express consent in any reasonable manner that clearly expresses a desire not to receive further calls or text messages, including using words such as ''stop,'' ''revoke,'' ''end,'' or ''opt out,'' and that callers may not infringe on that right by designating an exclusive means to revoke consent that precludes the use of any other reasonable method. The Commission seeks comment on this proposal.

3. Additionally, the Commission proposes to codify that reasonable methods to revoke consent typically include revocation requests made by text message, voicemail, or email to any telephone number or email address at which the consumer can reasonably expect to reach the caller. The Commission proposes to codify that, when a consumer uses any such method to revoke consent, doing so creates a presumption that the consumer has revoked consent, absent evidence to the contrary. For example, the use of reply text messages is a reasonable and widely recognized means for text recipients to revoke prior consent to text messages. The sending of a ''STOP'' message in reply to an incoming text message is the standard recommended by industry groups such as the Mobile Marketing Association. In addition, text messages may, on occasion, inadvertently be directed to reassigned or wrong numbers. In these instances, the text recipient may have no contact information other than the text itself, since the recipient is not the party that provided prior consent to the sender, and the only method they may have to contact the sender is with a reply text message. Thus, the Commission proposes to codify that the sending of ''STOP'' or a similar message that reasonably conveys a desire to not receive further messages in reply to an incoming text message creates a presumption that the consumer has revoked consent in a reasonable way. Should the text initiator choose to use a texting protocol that does not allow reply texts, we propose that it would bear the risk of potential liability under the TCPA unless it both provides a clear and conspicuous disclosure on each text to the consumer that two-way texting is not available due to technical limitations of the texting protocol and clearly and conspicuously provides alternative ways for a consumer to revoke consent, such as a link or instructions to text a different number. The Commission seeks comment on these proposed rules.

4. The Commission believes that these proposed rules are consistent with the Commission's prior finding that placing significant burdens on the called party who no longer wishes to receive such calls or texts is inconsistent with the TCPA and with our finding that the TCPA requires ''only that the called party clearly express his or her desire not to receive further calls'' to invoke this right to revoke consent. The Commission seeks comment on whether callers have encountered any difficulties in complying with this longstanding precedent that consumers can revoke consent via any reasonable method. Based on this experience, are there specific issues or circumstances that have arisen that the Commission should address in the context of this proceeding to provide clarity as to the factors that make the means of revocation ''reasonable'' both from a consumer's perspective and that of a caller? Has the Commission struck an appropriate balance here between protecting the consumer's privacy interests and facilitating the caller's ability to process opt-out requests?

5. The Commission also recognizes that the scope of a ''reasonable'' means to revoke consent is not unlimited. The Commission seeks comment on any such limitations it should codify. What are the most common situations in which callers are unable to process opt-out requests from consumers? Are there ways that the Commission could address these situations in this proceeding consistent with its goal not to place an unreasonable burden on consumers to opt out of robocalls? The Commission proposes to codify that callers that do not believe that consumers have used a reasonable method to convey a request to revoke consent will be afforded an opportunity to rebut the presumption on a case-by-case basis, should a complaint be filed with the Commission or finder of fact. The Commission seeks comment on the types of evidence that would suffice to rebut the presumption. For example, if the consumer directs the request to a telephone number or email address, and the caller presents evidence that the consumer lacks a reasonable basis to expect that the request will be received by it, should the Commission hold that such a method to revoke consent is not in fact reasonable? The Commission believes such a rule would balance the consumer's right to revoke consent in an easy and reasonable manner with the caller's ability to process such revocation requests. The Commission seeks comment on this proposal, including any impact on small entities.

B. Timeframe for Honoring a Do-Not-Call or Revocation Request

6. The Commission proposes to require that, within 24 hours of receipt, callers must honor company-specific do-not-call and revocation-of-consent requests for robocalls and robotexts that are subject to the TCPA. The Commission's rules currently provide no specific timeframes for honoring revocation-of-consent requests for robocalls and robotexts made to residential or wireless telephone numbers. The Commission's rules currently require callers making telemarketing calls or exempted artificial and prerecorded voice calls to residential telephone numbers and exempted package delivery calls and texts to wireless consumers to honor do-not-call requests within a reasonable time not to exceed 30 days from the date of any such request. This proposal will require amending those existing rules and establishing new rules where no specific timeframe for honoring such requests currently exists. The Commission seeks comment on this proposal, including on the 24-hour period. Is this period reasonable? Should the Commission, rather, require that revocations be honored immediately upon receipt or consider some other timeframe?

7. Consumers are understandably frustrated when they receive robocalls and robotext messages days or even weeks following a request to stop such communications. Such delays also undermine a consumer's right to determine which robocalls and robotexts they wish to receive under the privacy protections afforded by the TCPA. In addition, the Commission believes that advances in technology over the years, including automated and interactive technologies, have made the

processing of do-not-call and consent revocation requests more efficient and timely than in the past. The Commission believes that such technological advances provide callers and senders of text messages with the tools they need to process all do-not-call and consent revocation requests in near real time. The Commission seeks comment on these beliefs.

8. Consistent with the conditions imposed on other calls to wireless telephone numbers that are exempt from the prior-express-consent requirement, the Commission also proposes to amend its rules for exempted package delivery calls to require that such callers honor an opt-out request immediately. This proposal will place such callers on an equal footing with other categories of callers that have been granted an exemption to call wireless telephone numbers without prior express consent. Alternatively, is there any reason that package delivery calls should continue to be treated differently from other exempted callers to allow for up to 30 days to honor an opt-out request? The Commission believes these proposals will provide consumers with certainty that their do-not-call and consent revocation requests are honored in a timely manner, enhancing the ability of consumers to stop unwanted robocalls and robotexts. The Commission seeks comment on these proposals, including any burdens this may impose on callers, including small entities.

C. Revocation Confirmation Text Message

9. The Commission proposes to codify the *Soundbite Declaratory Ruling* clarifying that a one-time text message confirming a consumer's request that no further text messages be sent does not violate the TCPA or the Commission's rules as long as the confirmation text merely confirms the called party's opt-out request and does not include any marketing or promotional information, and the text is the only additional message sent to the called party after receipt of the opt-out request. In the *Soundbite Declaratory Ruling,* the Commission noted that ''confirmation messages ultimately benefit and protect consumers by helping to ensure, via such confirmation, that the consumer who ostensibly opted out in fact no longer wishes to receive text messages from entities from whom the consumer previously expressed an affirmative desire to receive such messages.'' The Commission believes that codifying this ruling will better ensure that both text senders and recipients are aware of it, including the limitations imposed on such one-time confirmation text messages. The Commission seeks comment on this proposal. In the time since it went into effect, have callers or consumers encountered any issues not addressed in the *Soundbite Declaratory Ruling*?

10. The Commission also proposes to codify that senders can include a request for clarification in the one-time confirmation text, provided the sender ceases all further robocalls and robotexts absent an affirmative response from the consumer that they wish to receive further communications from the sender. The Commission further propose that a lack of any response to the confirmation call or text must be treated by the sender as a revocation of consent for all robocalls and robotexts from the sender. It does so in response to Capital One's petition seeking confirmation that the text sender may request clarification in its one-time confirmation message of the scope of the recipient's revocation request when that recipient has consented to receiving multiple categories of informational messages from the sender. The Commission notes that banks and financial institutions support Capital One's request, indicating that consumers often consent to receive multiple categories of informational messages and that opt-out requests in these situations can be ambiguous as to whether the request applies to all or just certain types of those messages. Consumer groups have also expressed support for Capital One's request, provided that a lack of any response to the confirmation text message must be interpreted by the sender to mean that the consumer's revocation request was intended to encompass all robocalls and robotexts and the sender must therefore cease all further robocalls and robotexts to that consumer absent further clarification from the consumer. The Commission seeks further comment on any additional issues not fully addressed in the record.

11. Consistent with the *Soundbite Declaratory Ruling* and Capital One's request, the Commission proposes to codify that any such clarification message must not contain any marketing or advertising content or seek to persuade the recipient to reconsider their opt-out decision. Rather, this proposed clarification is strictly limited to informing the recipient of the scope of the opt-out request absent some further confirmation from the consumer that they wish to continue receiving certain categories of text messages from the sender. The Commission seeks comment on this limitation.

12. The Commission proposes to emphasize that this confirmation text message is limited to a final one-time text message absent an affirmative response from the consumer that they wish to continue to receive certain categories of informational calls or text messages from the sender. The Commission proposes that, in the absence of any such affirmative response, no further robocalls or robotexts can be made to this consumer. In addition, the Commission proposes that a ''STOP'' text sent in response to the one-time request for confirmation does not then allow the text sender to send another request for further clarification. As noted above, both industry and consumer groups support this proposal. Does the record fully address the views of all parties?

13. The Commission seeks comment on these proposals and any other related issues, such as any impact on smaller entities. Is this the appropriate limit to put on the clarification from the *Soundbite Declaratory Ruling*? Are there other limitations the Commission should impose to protect consumers' rights to opt out of text messages yet ensure callers' ability to correctly interpret consumers' intent in revoking consent? Should the Commission instead decline to offer the clarification Capital One seeks?

D. Wireless Carrier Calls to Subscribers

14. The Commission proposes to require wireless providers to honor their customers' requests to cease autodialed, prerecorded voice, and artificial voice calls, and autodialed texts. To effectuate this change, the Commission proposes to alter our prior ruling to require wireless providers to subject such calls to certain conditions that protect the privacy interests of subscribers.

15. In 1992, the Commission concluded that wireless carriers need not obtain consent prior to initiating autodialed, artificial voice, or prerecorded voice calls to their own subscribers because such communications were not charged to the called party. *See Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991,* CC Docket No. 92–90, Report and Order, published at 57 FR 48333, October 23, 1992. Following this ruling, Congress amended the TCPA to grant the Commission express statutory authority to exempt from the prior-express-consent requirement calls to wireless numbers that are not charged to the called party subject to such conditions as the Commission deems necessary to protect the privacy rights afforded under the TCPA. As a result, the ability of wireless carriers to call their own subscribers without prior

express consent, where the consumer is not charged for the call, was based on the language of § 227(b)(1)(A)(iii) and was not a creation of a § 227(b)(2)(C) exemption; therefore, the Commission has not subjected this ability to conditions to protect the privacy rights of wireless subscribers that the Commission has imposed in other analogous situations where callers have been granted an exemption to make robocalls or send robotexts to wireless numbers without prior express consent.

16. This situation has created disagreements as to whether the Commission has authority to impose an opt-out requirement on communications from wireless service providers to their customers. Two wireless subscribers filed petitions seeking clarification that they can revoke consent to receive calls and messages from their wireless provider after such a request to stop such communications was denied by their wireless providers. In response to requests for comments on these petitions, wireless providers and organizations opposed the relief sought, arguing that the TCPA's prohibitions do not apply to communications from wireless providers to their customers because there is no charge to the subscribers for calls and messages to them. As a result, these commenters contend, there is no prior consent to be revoked because prior express consent is not required to make such calls under the TCPA. The Commission seeks comment on these considerations in the context of its proposed exemption.

17. The Commission proposes to revisit the 1992 ruling that ''cellular carriers need not obtain additional consent from their cellular subscribers prior to initiating autodialer and artificial and prerecorded message calls for which the cellular subscriber is not charged.'' Instead of that blanket exemption for all wireless calls for which the subscriber is not charged, the Commission proposes to create and codify a qualified exemption—based on its authority under § 227(b)(2)(C)—for informational robocalls and robotexts from wireless providers to their subscribers. More specifically, those calls would be exempt from the prior-express-consent requirement if, and only if, certain conditions are satisfied. As noted, the Commission has exercised this statutory authority to recognize certain limited exemptions in other analogous situations where such calls also are made without a charge to the called party. The Commission notes that § 227(b)(2)(C)'s authority to grant exemptions from the prior-express-consent requirement is predicated on the ability of callers to make such calls with no charge to the consumer. The Commission believes that requirement would be meaningless if all such calls or texts were deemed to be wholly outside the prior express consent requirement merely because they were free to the end user, as some wireless providers have argued. Consistent with § 227(b)(2)(C), which permits the Commission to impose such conditions it deems necessary in the interest of privacy, the Commission proposes conditions that are similar to those it imposed to protect the privacy interests of consumers in other situations where it has recognized an exemption from the prior-express-consent requirement for robocalls to wireless telephone numbers. The proposed conditions are as follows:

(A) voice calls and text messages are initiated by a wireless service provider only to an existing subscriber of that wireless service provider at a number maintained by the wireless service provider;

(B) voice calls and text messages must state the name and contact information of the wireless provider (for voice calls, these disclosures must be made at the beginning of the call);

(C) voice calls and text messages must not include any telemarketing, solicitation, or advertising;

(D) voice calls and text messages must be concise, generally one minute or less in length for voice calls or 160 characters or less in length for text messages;

(E) a wireless service provider may initiate a maximum of three voice calls or text messages during any 30-day period;

(F) a wireless service provider must offer recipients within each message an easy means to opt out of future such messages; voice calls that could be answered by a live person must include an automated, interactive voice- and/or key press-activated opt-out mechanism that enables the call recipient to make an opt-out request prior to terminating the call; voice calls that could be answered by an answering machine or voice mail service must include a toll-free number that the consumer can call to opt out of future calls; text messages must inform recipients of the ability to opt out by replying ''STOP''; and,

(G) a wireless service provider must honor opt-out requests immediately.

18. The Commission believes such an exemption, subject to the conditions imposed above, balances the privacy interests of the TCPA with the legitimate interests of wireless providers in communicating with their own subscribers. And because the TCPA only restricts calls initiated with an autodialer or using an artificial or prerecorded voice to a wireless telephone number, wireless providers can use a live agent or equipment that does not constitute an autodialer to make such calls or send texts without running afoul of the TCPA. In addition, the Commission proposes that wireless providers have the option to obtain the prior express consent of their subscribers to avoid the need to rely on this exemption and its accompanying conditions, including the numerical limits imposed on such exempted calls. The Commission seeks comment on these conditions. Are further conditions needed for calls from a wireless service provider to its subscribers? Alternatively, the Commission seeks comment on any benefits consumers receive from calls or messages that may be lost as a consequence of an opt-out or limit on the number of calls or messages sent. Are there any potential drawbacks for consumers to the conditions proposed? If so, should the Commission modify its proposed conditions to account for any such drawbacks?

19. Lastly, the Commission believes such an exemption satisfies the obligations of § 8 of the TRACED Act. Specifically, the class of parties that may make such exempted calls in these situations is strictly limited to the wireless service provider. The class of parties that may be called is limited to an existing subscriber of a wireless service provider, and the number of such calls and messages is limited to three calls within any 30-day period. To the extent that there are any calls or texts that wireless service providers are mandated to make to their subscribers pursuant to any federal or state law, the Commission seeks comment on whether such calls or texts should not be counted toward the numerical limit of such communications that are imposed in the 30-day timeframe. The Commission seeks comment on this proposal, including any burdens this proposal may impose on wireless providers, including small entities.

E. Legal Authority

20. The Commission tentatively concludes that its legal authority for the proposed rules contained herein derives from §§ 154 and 227 of the Communications Act of 1934, as amended (the Act). The Commission further proposes to rely on its authority under § 8 of the TRACED Act to establish limitations on the proposed exemption for wireless providers from the TCPA's prior-express-consent requirement. As discussed above, the Commission as the expert agency on the

TCPA has addressed issues relating to prior express consent by robocall consumers on numerous occasions. The Commission believes that these sources grant it sufficient authority to adopt the proposed rules contained herein, and it seeks comment on this conclusion. Are there any other sources of legal authority the Commission should rely on? Do any of these sources of authority not apply to the rules it proposes?

F. Proposed Effective Date

21. The Commission proposes that the rule changes set forth herein go into effect upon publication of an Order in the **Federal Register**, or for those rules that require OMB review under the Paperwork Reduction Act, upon OMB approval and publication of the notice of approval in the **Federal Register**. The Commission seeks comment on whether this proposed timeline provides a sufficient opportunity for affected parties to comply with any new requirements imposed by the proposed rules or whether a longer implementation period is warranted. The Commission also seeks comment on whether these effective dates should be the same for all affected parties, or whether it should provide more time for small entities to comply.

Initial Regulatory Flexibility Analysis

22. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this *Notice of Proposed Rulemaking* (NPRM). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided on the first page of this document. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

23. The NPRM seeks comment on proposals to clarify and strengthen the right of consumers to grant or revoke consent to receive robocalls and robotexts under the TCPA. Under the Telephone Consumer Protection Act of 1991 (TCPA), certain types of calls and texts may only be sent with the prior express consent of the called party. The ability of consumers to exercise this right to provide or revoke consent is essential to protecting the privacy rights of consumers by allowing them to decide which callers may communicate with them via robocalls and robotexts.

24. The NPRM proposes to codify prior Commission rulings and adopt new requirements to ensure that the requirements relating to providing or revoking consent under the TCPA are clear to both callers and consumers. Specifically, the *NPRM* proposes to make clear that consumers may revoke prior express consent in any reasonable manner that clearly expresses a desire not to receive further calls or text messages, including using words such as ''stop,'' ''revoke,'' ''end,'' or ''opt out,'' and that callers may not infringe on that right by designating an exclusive means to revoke consent that precludes the use of any other reasonable method. The *NPRM* also proposes to require that callers honor do-not-call and revocation requests within a reasonable time not to exceed 24 hours of receipt. Further, the *NPRM* reiterates that consumers only need to revoke consent once to stop getting all calls and texts from a specific entity. It also proposes to codify that a one-time text message confirming a consumer's request that no further text messages be sent does not violate the TCPA or the Commission's rules as long as the confirmation text merely confirms the called party's opt-out request, does not include any marketing or promotional information, and the text is the only additional message sent to the called party after receipt of the opt-out request. Finally, the *NPRM* proposes to require wireless providers to honor a customer's request to cease autodialed, prerecorded voice, and artificial voice calls, and automated texts.

B. Legal Basis

25. The proposed rules are authorized under §§ 4(i), 4(j), and 227 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 227, and § 8 of the TRACED Act.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

26. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small-business concern'' under the Small Business Act. A ''small-business concern'' is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

27. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration's (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 32.5 million businesses.

28. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' The Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2020, there were approximately 447,689 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

29. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2017 Census of Governments indicate there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 36,931 general purpose governments (county, municipal, and town or township) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts with enrollment populations of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, the Commission estimates that at least 48,971 entities fall into the category of ''small governmental jurisdictions.''

30. *Telemarketing Bureaus and Other Contact Centers.* This industry

comprises establishments primarily engaged in operating call centers that initiate or receive communications for others-via telephone, facsimile, email, or other communication modes-for purposes such as (1) promoting clients products or services, (2) taking orders for clients, (3) soliciting contributions for a client, and (4) providing information or assistance regarding a client's products or services. These establishments do not own the product or provide the services they are representing on behalf of clients. The SBA small business size standard for this industry classifies firms having $16.5 million or less in annual receipts as small. According to U.S. Census Bureau data for 2017, there were 2,250 firms in this industry that operated for the entire year. Of this number 1,435 firms had revenue of less than $10 million. Based on this information, the majority of firms in this industry can be considered small under the SBA small business size standard.

31. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year. Of that number, 2,837 firms employed fewer than 250 employees. Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 594 providers that reported they were engaged in the provision of wireless services. Of these providers, the Commission estimates that 511 providers have 1,500 or fewer employees. Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

32. In cases where consumers invoke their right to grant or revoke consent to small entity callers to receive robocalls and robotexts under the TCPA, these callers may need to implement new methods to record and track such requests to honor them within the specified timeframes. At this time however, the Commission is not in a position to determine whether, if adopted, its proposals and the matters upon which it seeks comment will require small entities to hire professionals to comply, and cannot quantify the cost of compliance with the potential rule changes discussed herein. It anticipates the information it receives in comments including where requested, cost and benefit analyses, will help the Commission identify and evaluate additional relevant compliance matters for small entities, including compliance costs and other burdens that may result from the proposals and inquiries it makes in the *NPRM.*

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

33. The RFA requires an agency to describe any significant alternatives, specifically small business alternatives, that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for such small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

34. The *NPRM* specifically seeks comment on any costs or burdens imposed on callers to implement any of the proposals set forth in the *NPRM* which could help the Commission identify burdens for small entities and other actions that can be taken to minimize impact on small entities. For example, the *NPRM* proposes and seeks comment on what constitutes a ''reasonable'' manner to revoke consent, noting that it is not without limitation. An alternative consideration is whether callers will have an opportunity to demonstrate that a consumer has not used a reasonable means to convey their revocation of consent request. Allowing this flexibility may reduce the burden on small entities' ability to respond to process revocation requests. The *NPRM* considers any compliance costs for small businesses if the proposed rules are adopted and seeks comment on ways to minimize any such burdens. The *NPRM* also proposes that callers must honor do-not-call and revocation requests within 24-hours, and seeks comment on whether other timeframes should be considered, including whether small entities may benefit from longer timeframes to implement these requests. Many of the requirements noted in the *NPRM* have been adopted by the Commission in rulings that date back many years. As a result, the Commission anticipates that many callers have already made efforts to comply with these obligations and may have no new burdens.

35. The Commission expects to consider the economic impact on small entities, as identified in comments filed in response to the *NPRM* and this IRFA, in reaching its final conclusions and taking action in this proceeding.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

36. None.

List of Subjects in 47 CFR Part 64

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 64 as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 227b, 228, 251(a), 251(e), 254(k), 255, 262, 276, 403(b)(2)(B), (c), 616, 617, 620, 1401–1473, unless otherwise noted; Pub. L. 115–141, Div. P, sec. 503, 132 Stat. 348, 1091.

Subpart L—Restrictions on Telemarketing, Telephone Solicitations, and Facsimile Advertising

■ 2. Section 64.1200 is amended by revising paragraph (a)(9)(i)(F) and adding paragraphs (a)(9)(v), (10), and (11) and revising paragraph (d)(3) to read as follows:

§ 64.1200 Delivery restrictions.

* * * * *.

(a) * * *

(9) * * *

(i) * * *

(F) The package delivery company must offer package recipients the ability to opt out of receiving future delivery notification calls and messages and

must honor an opt-out request immediately; and,

* * * * *

(v) Calls made by a wireless service provider to an existing subscriber, provided that all of the following conditions are met:

(A) voice calls and text messages are initiated by a wireless service provider only to an existing subscriber of that wireless service provider at a number maintained by the wireless service provider;

(B) voice calls and text messages must state the name and contact information of the wireless provider (for voice calls, these disclosures must be made at the beginning of the call);

(C) voice calls and text messages must not include any telemarketing, solicitation, or advertising;

(D) voice calls and text messages must be concise, generally one minute or less in length for voice calls or 160 characters or less in length for text messages;

(E) a wireless service provider may initiate a maximum of three voice calls or text messages during any 30-day period;

(F) a wireless service provider must offer recipients within each message an easy means to opt out of future such messages; voice calls that could be answered by a live person must include an automated, interactive voice- and/or key press-activated opt-out mechanism that enables the call recipient to make an opt-out request prior to terminating the call; voice calls that could be answered by an answering machine or voice mail service must include a toll-free number that the consumer can call to opt out of future calls; text messages must inform recipients of the ability to opt out by replying ''STOP''; and,

(G) a wireless service provider must honor opt-out requests immediately.

* * * * *

(10) A called party may revoke prior express consent, including prior express written consent, to receive calls or text messages made pursuant to paragraphs (a)(1) through (3) of this section by using any reasonable method to clearly express a desire not to receive further calls or text messages from the caller or sender. The use of text message, voicemail, or email to any telephone number or email address at which the consumer can reasonably expect to reach the caller to revoke consent creates a rebuttable presumption that the consumer has revoked consent absent evidence to the contrary. The sending of ''STOP'' or a similar text message that reasonably conveys a desire to not receive further messages in reply to an incoming text message creates a presumption that the consumer has revoked consent in a reasonable way. Callers or senders of text messages covered by paragraphs (a)(1) through (3) of this section may not designate an exclusive means to request revocation of consent. Should the text initiator choose to use a texting protocol that does not allow reply texts, it must provide a clear and conspicuous disclosure on each text to the consumer that two-way texting is not available due to technical limitations of the texting protocol, and clearly and conspicuously provide reasonable alternative ways to revoke consent. All requests to revoke prior express consent or prior express written consent made in any reasonable manner must be honored in a reasonable time not to exceed 24 hours from receipt of such request.

(11) A one-time text message confirming a request to revoke consent from receiving any further text messages does not violate paragraphs (a)(1) through (2) of this section as long as the confirmation text merely confirms the text recipient's revocation request and does not include any marketing or promotional information, and is the only additional message sent to the called party after receipt of the revocation request. To the extent that the text recipient has consented to several categories of text messages from the text sender, the confirmation message may request clarification as to whether the revocation request was meant to encompass all such messages; the sender must cease all further texts absent further clarification that the recipient wishes to continue to receive certain text messages.

* * * * *

(d) * * *

(3) *Recording, disclosure of do-not-call requests.* If a person or entity making an artificial or prerecorded-voice telephone call pursuant to an exemption under § 64.1200(a)(3)(ii) through (v) or any call for telemarketing purposes (or on whose behalf such a call is made) receives a request from a residential telephone subscriber not to receive calls from that person or entity, the person or entity must record the request and place the subscriber's name, if provided, and telephone number on the do-not-call list at the time the request is made. Persons or entities making such calls (or on whose behalf such calls are made) must honor a residential subscriber's do-not-call request within a reasonable time from the date such request is made. This period may not exceed 24 hours from the receipt of such request. If such requests are recorded or maintained by a party other than the person or entity on whose behalf the call is made, the person or entity on whose behalf the call is made will be liable for any failures to honor the do-not-call request. A person or entity making an artificial or prerecorded-voice telephone call pursuant to an exemption under § 64.1200(a)(3)(ii) through (v) or any call for telemarketing purposes must obtain a consumer's prior express permission to share or forward the consumer's request not to be called to a party other than the person or entity on whose behalf a call is made or an affiliated entity.

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[FR Doc. 2023–13821 Filed 6–28–23; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 88, No. 124
Thursday, June 29, 2023

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

UNITED STATES AFRICAN DEVELOPMENT FOUNDATION

Public Quarterly Meeting of the Board of Directors

AGENCY: United States African Development Foundation.

ACTION: Notice of meeting.

SUMMARY: The U.S. African Development Foundation (USADF) will hold its quarterly meeting of the Board of Directors to discuss the agency's programs and administration. This meeting will occur at the USADF office.

DATES: The meeting date is Tuesday, July 25, 2023, 9:00 a.m. to 12:00 noon.

ADDRESSES: The meeting location is USADF, 1400 I St. NW, Suite 1000, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Kerline Perry, (202)233–8805.

Authority: Public Law 96–533 (22 U.S.C. 290h).

Dated: June 26, 2023.

Wendy Carver,

Business Manager.

[FR Doc. 2023–13870 Filed 6–28–23; 8:45 am]

BILLING CODE 6117–01–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comments Requested

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology Comments regarding these information collections are best assured of having their full effect if received by July 31, 2023. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function

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

Agricultural Marketing Service

Title: Reporting and Recordkeeping Requirements for 7 CFR, part 29.

OMB Control Number: 0581–0056.

Summary of Collection: The Fair and Equitable Tobacco Reform Act of 2004 (7 U.S.C. 518) eliminated price supports and marketing quotas for all tobacco beginning with the 2005 crop year. Mandatory inspection and grading of domestic and imported tobacco were eliminated as well as the mandatory pesticide testing of imported tobacco and the tobacco Market News Program. The Tobacco Inspection Act (7 U.S.C. 511) requires that all tobacco sold at designated auction markets in the U.S. be inspected and graded. Provision is also made for interested parties to request inspection, pesticide testing and grading services on an ''as needed'' basis. The Act also provides for the establishment and maintenance of tobacco standards for U.S. grown types and the collection and dissemination of market news which are funded by appropriated money.

Need and Use of the Information: Information is collected through various forms and other documents for the inspection and certification process. Upon receiving request information from tobacco dealers and/or manufacturers, tobacco inspectors will pull samples and apply U.S. Standard Grades to tobacco samples providing the customer a Tobacco Inspection Certificate (TB–92). Also, samples can be submitted to a USDA laboratory for pesticide testing and a detailed analysis is provided to the customer.

Description of Respondents: Business or other for-profit.

Number of Respondents: 50.

Frequency of Responses: Recordkeeping; Reporting; On occasion.

Total Burden Hours: 3,651.

Agricultural Marketing Service

Title: Discharge and Delivery Survey Summary and Rate Schedule Forms.

OMB Control Number: 0581–0317.

Summary of Collection: The Food for Peace Act (specifically Pub. L. 480 Title II); Section 416(b) of the Agricultural Act of 1949; Food for Progress Act of 1985; 2002 and 2008 Farm Bills authorizing the McGovern-Dole International Food for Education Program; and Commodity Credit Corporation (CCC) Charter Act, all as amended, authorize the International Procurement Division to procure, sell, and transport, as well as sample, inspect and survey, agricultural commodities at both domestic and foreign locations for use in international food aid program. The Kansas City Commodity Office (KCCO) acting under the authority granted by these acts, purchase discharge survey services conducted at the foreign destinations to ensure count and condition of the commodities shipped. Agricultural Marketing Service (AMS) will collect information using forms KC–334, Discharge/Delivery Survey Summary and KC–337, Rate Schedule.

Need and Use of the Information: The information collected on the KC–334 form is a summary of the amount of cargo delivered versus manifested quantity, the amount and type of damage, etc. The KC–337 form is used to obtain rates that the survey companies charge to perform surveys, by country/region. Without the

information CCC could not meet program requirements.

Description of Respondents: Business or other for-profit; Not for-profit institutions.

Number of Respondents: 41.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Quarterly; Weekly; Semi-annually; Monthly; Annually.

Total Burden Hours: 234.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2023–13845 Filed 6–28–23; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2023–0049]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Importation of Live Swine, Pork and Pork Products, and Swine Semen From the European Union

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the importation of live animals, animal germplasm, and animal products into the United States from the European Union.

DATES: We will consider all comments that we receive on or before August 28, 2023.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Enter APHIS–2023–0049 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2023–0049, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *regulations.gov* or in our reading room, which is located in Room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the importation of animals and animal products into the United States from the European Union, contact Dr. Alexandra MacKenzie, Senior Veterinary Medical Officer, Live Animal Imports/Ruminants, Swine, Semen, and Embryos, Strategy and Policy, VS, APHIS, 4700 River Road, Unit 39, Riverdale, MD 20737; (301) 851–3411; email: *alexandra.mackenzie@usda.gov.* For more information on the information collection reporting process, contact Mr. Joseph Moxey, APHIS' Paperwork Reduction Act Coordinator, at (301) 851–2483; *joseph.moxey@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Importation of Live Swine, Pork and Pork Products, and Swine Semen From the European Union.

OMB Control Number: 0579–0218.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture, among other things, has the authority to detect, control, or eradicate pests or diseases of livestock or poultry. The Secretary may also prohibit or restrict the import or export of any animal or related material if necessary to prevent the spread of any livestock or poultry pest or disease. Disease prevention is the most effective method for maintaining a healthy animal population and for enhancing APHIS' ability to compete in the world market of animal and animal product trade.

In connection with its disease prevention mission, APHIS regulates the importation of animals and animal products into the United States to guard against the introduction of animal diseases not present or prevalent in the United States. The regulations in 9 CFR parts 93, 94, and 98, prohibit or restrict the importation of specified animals, germplasm, and animal products to prevent the introduction of diseases such as classical swine fever (CSF), foot-and-mouth disease, swine vesicular disease, and African swine fever. In part 93, subpart E, among other things, provides importation requirements for live swine. Sections 94.2, 94.4, 94.8, 94.9, and 94.12 through 94.14 deal with the importation of pork and pork products from regions where these diseases exist. Section 94.10 addresses the requirements for the importation of live swine from regions where CSF exists. Section 94.13 concerns restrictions on the importation of pork or pork products from specified regions. Section 98.38 defines APHIS' requirements for the importation of swine semen.

APHIS determined that breeding swine, pork and pork products, and swine germplasm imported from specific regions of the European Union (EU) in accordance with other APHIS import requirements, pose a low risk of introducing foreign animal diseases into the United States. To further ensure that CSF is not introduced into the United States, regulations in parts 93, 94, and 98 allow, under specified conditions, the importation of live swine, pork and pork products, and swine germplasm from the APHIS-defined EU CSF region. These requirements necessitate the use of several information collection activities, including certification statements for the importation of pork, pork products, live swine, and swine germplasm.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

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

(2) Evaluate the accuracy of our estimate of the burden of the 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, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.96 hours per response.

Respondents: Foreign animal health officials and importers of live swine, pork and pork products, and swine semen.

Estimated annual number of respondents: 16.

Estimated annual number of responses per respondent: 473.

Estimated annual number of responses: 7,566.

Estimated total annual burden on respondents: 7,230 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 23rd day of June 2023.

Michael Watson,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2023–13803 Filed 6–28–23; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

International Trade Administration

TRADE AND DEVELOPMENT AGENCY

[Docket Number: 230615–0150]

Change in Deadline for Public Comments on Climate Adaptation Export Competitiveness Request for Information

AGENCY: U.S. Department of Commerce, International Trade Administration (ITA), U.S. Trade and Development Agency (USTDA).

ACTION: Notice and request for public comments; extension of comment period.

SUMMARY: On May 2, 2023, the International Trade Administration (ITA) and the U.S. Agency Trade and Development Agency (USTDA) published in the **Federal Register** a request for public comment on climate adaptation and resilience-related technologies and services to enhance the U.S. government's understanding of opportunities and challenges for U.S. exporters in these sectors. ITA and USTDA have determined that an extension of the comment period until July 28, 2023, is appropriate. Comments previously submitted need not be resubmitted and will be fully considered.

DATES: The comment period for the notice published on May 2, 2023, requesting public comments on climate adaptation export competitiveness, is extended from June 30, 2023, to July 28, 2023.

ADDRESSES: You may submit electronic comments, identified by Docket Number: 230417–0103 via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter Docket Number: 230417–0103 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

If you are unable to comment via *regulations.gov,* you may contact *climate@trade.gov* for instructions on submitting your comment.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by ITA or USTDA. Comments received before the deadline are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change.

Commenters should include the name of the person or organization filing the comment. All personal identifying information (for example, name, address) voluntarily submitted by the commenter may be publicly accessible. ITA and USTDA will not accept anonymous comments.

For those seeking to submit confidential business information (CBI) for government use only, please clearly mark such submissions as CBI and submit an accompanying redacted version to be made public.

FOR FURTHER INFORMATION CONTACT:

ITA, Anna Cron, International Trade Administration, 1401 Constitution Ave. NW, Washington, DC 20230; telephone: (202) 843–2376; email: *climate@trade.gov.* Please direct media inquiries to ITA's Office of Public Affairs (202) 482–3809 or *publicaffairs@trade.gov.*

USTDA, Eric Haxthausen, U.S. Trade and Development Agency; 1101 Wilson Blvd., Suite 1100, Arlington, VA 22209; telephone: (703) 875–4357; email: *climateadaptation@ustda.gov.* Please direct media inquiries to Paul Marin in USTDA's Office of Public Affairs at (703) 875–4357.

SUPPLEMENTARY INFORMATION: On May 2, 2023, ITA and USTDA published in the **Federal Register** a request for public comment on climate adaptation export competitiveness (88 FR 27552) to align U.S. government trade promotion and trade policy activities to those sectors and markets that present the greatest opportunities for exporters of climate adaptation and resilience-related technologies and services, as well as to address relevant trade barriers and promote U.S. industry competitiveness, as part of the initiative under Executive Order 14008, ''Tackling the Climate Crisis at Home and Abroad'' (86 FR 7619). E.O. 14008 puts climate considerations at the forefront of U.S. foreign policy and national security. The request for public comment stated that the comment period would close June 30, 2023. An extension of the comment period will provide additional opportunity for the public to prepare comments to address the questions posed by ITA and USTDA. Therefore, ITA and USTDA are extending the end of the comment period from June 30, 2023, to July 28, 2023. Comments previously submitted need not be resubmitted and will be fully considered.

Dated: June 21, 2023.

Man K. Cho,

Deputy Director, Office of Energy and Environmental Industries.

Eric M. Haxthausen,

Senior Advisor for Climate, Partnerships, and Innovation, U.S. Trade and Development Agency.

[FR Doc. 2023–13706 Filed 6–28–23; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Open Meetings of the Internet of Things Advisory Board

AGENCY: National Institute of Standards and Technology (NIST).

ACTION: Notice of open meetings.

SUMMARY: The Internet of Things (IoT) Advisory Board will meet August 22–23, 2023, and September 26–27, 2023, from 11 a.m. until 5 p.m., eastern time. All sessions will be open to the public.

DATES: The meetings will be held on August 22–23, 2023, and September 26–27, 2023, from 11 a.m. until 5 p.m., eastern time.

ADDRESSES: The meetings will be conducted virtually via Webex webcast hosted by the National Cybersecurity Center of Excellence (NCCoE) at NIST. Please note registration instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Barbara Cuthill, Information Technology Laboratory, National Institute of Standards and Technology, Telephone: (301) 975–3273, Email address: *barbara.cuthill@nist.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. 1001 *et seq.,* notice is hereby given that the IoT Advisory Board will hold open meetings on Tuesday, August 22 and Wednesday,

August 23, 2023; and Tuesday, September 26, 2023, and Wednesday, September 27, 2023, from 11 a.m. until 5 p.m., eastern time. All sessions will be open to the public. The IoT Advisory Board is authorized by section 9204(b)(5) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116–283) and advises the IoT Federal Working Group convened by the Secretary of Commerce pursuant to section 9204(b)(1) of the Act on matters related to the Federal Working Group's activities. Details regarding the IoT Advisory Board's activities are available at *https://www.nist.gov/itl/applied-cybersecurity/nist-cybersecurity-iot-program/internet-things-advisory-board.*

The agendas for the August and September meetings are expected to focus on establishing consensus on the recommendations to be included in the IoT Advisory Board's report for the IoT Federal Working Group.

The recommendations and discussions are expected to focus on the specific focus areas for the report cited in the legislation and the charter:

- Smart traffic and transit technologies.
- Augmented logistics and supply chains.
- Sustainable infrastructure.
- Precision agriculture.
- Environmental monitoring.
- Public safety.
- Health care.

In addition, the IoT Advisory Board may discuss other elements that the legislation called for in the report:

- whether adequate spectrum is available to support the growing Internet of Things and what legal or regulatory barriers may exist to providing any spectrum needed in the future;
- policies, programs, or multi-stakeholder activities that—
  - promote or are related to the privacy of individuals who use or are affected by the Internet of Things;
  - may enhance the security of the Internet of Things, including the security of critical infrastructure;
  - may protect users of the Internet of Things; and
  - may encourage coordination among Federal agencies with jurisdiction over the Internet of Things.

Note that agenda items may change without notice. The final agendas will be posted on the IoT Advisory Board web page: *https://www.nist.gov/itl/applied-cybersecurity/nist-cybersecurity-iot-program/internet-things-advisory-board.*

Public Participation: Written comments from the public are invited and may be submitted electronically by email to Barbara Cuthill at the contact information indicated in the **FOR FURTHER INFORMATION CONTACT** section of this notice by 5 p.m. on August 15 for the August meeting, or by 5 p.m. on September 19 for the September meeting, for advance distribution to members.

Each IoT Advisory Board meeting agenda will include a period, not to exceed sixty minutes, for submitted comments from the public to be presented. Submitted comments from the public will be selected on a first-come, first-served basis and limited to five minutes per person for oral presentation if requested by the commenter.

Members of the public who wish to expand upon their submitted statements, those who had wished to submit a comment but could not be accommodated on the agenda, and those who were unable to attend the meeting via webinar are invited to submit written statements. In addition, written statements are invited and may be submitted to the IoT Advisory Board at any time. All written statements should be directed to the IoT Advisory Board Secretariat, Information Technology Laboratory by email to: *Barbara.Cuthill@nist.gov.*

Admittance Instructions: Participants planning to attend via webinar must register via the instructions found on the IoT Advisory Board's page *https://www.nist.gov/itl/applied-cybersecurity/nist-cybersecurity-iot-program/internet-things-advisory-board.*

Alicia Chambers,

NIST Executive Secretariat.

[FR Doc. 2023–13868 Filed 6–28–23; 8:45 am]

BILLING CODE 3510–13–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; Marine Recreational Information Program Fishing Effort Survey

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on April 11, 2023 (88 FR 21628) during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration (NOAA), Commerce.

Title: Marine Recreational Information Program, Fishing Effort Survey.

OMB Control Number: 0648–0652.

Form Number(s): None.

Type of Request: Regular submission (revision of a current information collection).

Number of Respondents: 183,333.

Average Hours per Response: 5 minutes.

Total Annual Burden Hours: 15,278.

Needs and Uses: This is a request for revision and extension of an approved information collection. The request includes a new pilot study to test a shorter reference period that will increase the utility of survey data and estimates for fisheries managers and stock assessment scientists by providing greater resolution and more timely access to survey products. Additionally, the Reporting Sensitivity Experiment survey has been completed and that collection will be removed from this control number.

Marine recreational anglers are surveyed to collect catch and effort data, fish biology data, and angler socioeconomic characteristics. These data are required to carry out provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), as amended, regarding conservation and management of fishery resources.

Marine recreational fishing catch and effort data are collected through a combination of mail surveys, telephone surveys, and on-site intercept surveys with recreational anglers. The Marine Recreational Information Program (MRIP) Fishing Effort Survey (FES) is a self-administered, household mail survey that samples from a residential address frame to collect data on the number of recreational anglers and the number of recreational fishing trips. The survey estimates marine recreational fishing activity for all coastal states from Maine through Mississippi, as well as Hawaii and Puerto Rico. Currently, MRIP produces estimates for two-month reference waves. The proposed collection will include experimental work to evaluate shorter reference

periods that would more fully support fisheries management and stock assessment needs.

FES estimates are combined with estimates derived from complementary surveys of fishing trips, the Access-Point Angler Intercept Survey, to estimate total, state-level fishing catch, by species. These estimates are used in the development, implementation, and monitoring of fishery management programs by NOAA Fisheries, regional fishery management councils, interstate marine fisheries commissions, and state fishery agencies.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

Legal Authority: Magnuson-Stevens Fishery Conservation and Management Act.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0648–0652.

Sheleen Dumas,

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

[FR Doc. 2023–13802 Filed 6–28–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD111]

New England 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 New England Fishery Management Council (Council) is scheduling a public meeting of its Monkfish Research Set-Aside Working Group via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This webinar will be held on Monday, July 24, 2023, at 9 a.m.

ADDRESSES:

Webinar registration URL information: https://attendee.gotowebinar.com/register/5103572767688354907.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Monkfish Research Set-Aside (RSA) Working Group will meet to discuss any additional challenges to the Monkfish RSA program not previously identified. They will also discuss potential solutions to improve the Monkfish RSA program. For each potential solution, identify a concern/challenge that the solution addresses and any pros and cons for the potential solution. These will be further evaluated by working group members.

Other business may be discussed, as necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: June 26, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–13872 Filed 6–28–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD115]

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 meeting (webinar) of its Mackerel, Squid, and Butterfish (MSB) Advisory Panel. See **SUPPLEMENTARY INFORMATION** for agenda details.

DATES: The meeting will be held on Friday, July 14, 2023, from 9 a.m. to 12 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 main purpose of the meeting is for the Advisory Panel (AP) to create Fishery Performance Reports that include advisor input on specifications and management measures for Atlantic mackerel and longfin squid, which have management track stock assessments underway. The AP will also review in-progress analyses being done to evaluate the historical performance of the Scup Gear Restricted Areas (GRAs), which impact squid fishing. 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 26, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–13874 Filed 6–28–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD105]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (MAFMC) Bluefish Monitoring Committee (MC) will hold a public meeting.

DATES: The meeting will be held on Wednesday, July 26, 2023, from 9 a.m. to 12:30 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held via webinar. Webinar connection, agenda items, and any additional information will be available at *www.mafmc.org/council-events.*

Council address: Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331 or on their website at *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is for the Bluefish Monitoring Committee (MC) to recommend 2024–25 catch and landings limits as well as commercial and recreational management measures. To inform their recommendations, the MC will review recent catch and landings information, the Fishery Performance Report developed by the Advisory Panel, the 2024–25 ABC recommendation by the SSC, and other relevant information.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shelley Spedden at the Council Office, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: June 26, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–13873 Filed 6–28–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD114]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic and New England Fishery Management Councils will hold a public meeting of their joint Northeast Trawl Advisory Panel.

DATES: The meeting will be held on Thursday, July 20, 2023, from 9 a.m. to 5 p.m. EDT. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: This meeting will be conducted in person with a virtual option available.

Meeting address: The meeting will be held at the Maritime Conference Center, 692 Maritime Boulevard, Linthicum Heights, MD 21090; telephone: 410–859–2893. Webinar registration details will be posted to the calendar at *www.mafmc.org* prior to the meeting.

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 Councils' Northeast Trawl Advisory Panel will meet to review recent developments related to relevant fishery surveys as well as discuss future priorities, research projects, and offshore wind fisheries monitoring surveys and survey mitigation.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shelley Spedden, (302) 526–5251 at least 5 days prior to the meeting date.

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

Dated: June 26, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–13880 Filed 6–28–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–C–2023–0009]

Study of the Patent Pro Bono Programs; Request for Comments; Extension of the Comment Period

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

ACTION: Request for comments; extension of the comment period.

SUMMARY: The United States Patent and Trademark Office (USPTO) recently sought public comments on topics related to the study of the patent pro bono programs identified in the Unleashing American Innovators Act of 2022. This study builds on the work the USPTO has conducted for over a decade, and has scaled during the Biden Administration, to bring more people in America into the innovation ecosystem. The USPTO believes that broadening access to the intellectual property system will create more jobs, foster economic prosperity, and promote the development of solutions for societal challenges. In response to stakeholder feedback, the USPTO is extending the comment period until August 11, 2023, to give interested members of the public additional time to submit comments.

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

ADDRESSES: For reasons of Government efficiency, comments must be submitted through the Federal eRulemaking Portal at *www.regulations.gov.* To submit comments via the portal, enter docket number PTO–C–2023–0009 on the homepage and click ''search.'' The site will provide a search results page listing all documents associated with this docket. Find a reference to this request for comments and click on the ''Comment'' icon, complete the required fields, and enter or attach your comments. Attachments to electronic comments will be accepted in ADOBE® portable document format (PDF) or MICROSOFT WORD® format. Since comments will be made available for public inspection, information that the submitter does not desire to make public, such as an address or phone

number, should not be included in the comments.

Visit the Federal eRulemaking Portal for additional instructions on providing comments via the portal. If electronic submission of comments is not feasible due to a lack of access to a computer and/or the internet, please contact the USPTO using the contact information below for special instructions regarding how to submit comments by mail or by hand delivery.

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

SUPPLEMENTARY INFORMATION: On April 12, 2023, the USPTO sought input from the public on the patent pro bono programs to evaluate the programs and make recommendations and improvements that will strengthen their reach and impact. See Study of the Patent Pro Bono Programs; Notice of Public Listening Sessions and Request for Comments, 88 FR 22012. The notice requested public comments by July 11, 2023.

In view of the importance of this effort, and in response to stakeholder feedback, the USPTO is extending the period for public comments on the patent pro bono programs until August 11, 2023. As stated in the April 12, 2023, notice, the USPTO seeks feedback from a broad range of stakeholders, including, but not limited to, inventors, small businesses, entrepreneurs, patent attorneys, patent agents, law firms, nonprofit organizations, academic institutions, public interest groups, and the general public. The USPTO desires feedback from stakeholders so it can, as appropriate, evaluate the programs and make recommendations to Congress regarding possible administrative and legislative actions. All other information provided in the April 12, 2023, notice remains unchanged. Previously submitted comments do not need to be resubmitted.

Katherine K. Vidal,

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

[FR Doc. 2023–13869 Filed 6–28–23; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Global Markets Advisory Committee

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of meeting.

SUMMARY: The Commodity Futures Trading Commission (CFTC) announces that on July 17, 2023, from 9 a.m. to 4 p.m. (Eastern Daylight Time), the Global Markets Advisory Committee (GMAC or Committee) will hold an in-person meeting for GMAC members at the New York Stock Exchange, 11 Wall Street, New York, New York, with options for the public to attend virtually. At this meeting, the GMAC will focus on topics related to U.S. Treasury market reforms, swap block thresholds, and tokenization of assets. The GMAC will also address procedural matters, including topics of discussion on a forward-looking basis.

DATES: The meeting will be held on July 17, 2023, from 9 a.m. to 4 p.m. (Eastern Standard Time). Members of the public who wish to submit written statements in connection with the meeting should submit them by July 24, 2023.

ADDRESSES: The meeting will take place at the New York Stock Exchange, 11 Wall Street, New York, New York, for GMAC members. Members of the public may attend the meeting virtually via teleconference or live webcast. You may submit public comments, identified by Global Markets 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 Brigitte Weyls, 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: Brigitte Weyls, GMAC Designated Federal Officer, Commodity Futures Trading Commission, 77 West Jackson Blvd., Suite 800, Chicago, IL 60604; (312) 596–0700; or Gates S. Hurand, GMAC Alternate Designated Federal Officer, Commodity Futures Trading Commission, 290 Broadway, 6th Floor, New York, New York 10007 (646) 746–9700, *GMAC_Submissions@CFTC.gov.*

SUPPLEMENTARY INFORMATION: Members of the public may 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. The meeting will also be open to the public via teleconference.

Domestic Toll and Toll-Free Numbers:

833 435 1820 U.S. Toll Free
833 568 8864 U.S. Toll Free

+1 669 254 5252 U.S. (San Jose)
+1 646 828 7666 U.S. (New York)
+1 646 964 1167 U.S. (U.S. Spanish Line)
+1 415 449 4000 U.S. (U.S. Spanish Line)
+1 551 285 1373 U.S.
+1 669 216 1590 US (San Jose)

International Toll- and Toll Free 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: 161 909 7276.

Passcode/Pin Code: 284176.

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 Committee priorities. For agenda updates, please visit *https://www.cftc.gov/About/AdvisoryCommittees/GMAC.*

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 virtually or via teleconference because of a disability should notify the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Authority: 5 U.S.C. 1001 et seq.

Dated: June 26, 2023.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2023–13871 Filed 6–28–23; 8:45 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Agricultural Advisory Committee

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of meeting.

SUMMARY: The Commodity Futures Trading Commission (CFTC) announces that on July 19, 2023, from 9:00 a.m. to 10:45 a.m. (Eastern Daylight Time), the Agricultural Advisory Committee (AAC 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 AAC will discuss topics related to the agricultural economy, including geopolitical and sustainability issues, as well as recent developments in the agricultural derivatives markets.

DATES: The meeting will be held on July 19, 2023, from 9:00 a.m. to 10:45 a.m. (Eastern Daylight Time). Members of the

public who wish to submit written statements in connection with the meeting should submit them by July 26, 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 ''Agricultural 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 Swati Shah, 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: Swati Shah, AAC Designated Federal Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC; (202) 418–5042; or *aac@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 Toll-Free Number: 833–435–1820 or 833–568–8864.

Domestic Toll Number: 1–669–254–5252 or 1–646–828–7666 or 1–646–964–1167 or 1–551–285–1373 or 1–669–216–1590 or 1–415–449–4000.

International Toll- and Toll-Free 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: 161 586 1406.

Pass Code/Pin Code: 609636.

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 Committee priorities. For agenda updates, please visit *https://www.cftc.gov/About/AdvisoryCommittees/AAC.*

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 26, 2023.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2023–13830 Filed 6–28–23; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2023–HQ–0011]

Proposed Collection; Comment Request

AGENCY: Department of the Army, Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Department of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by August 28, 2023.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

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

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Army Headquarters Services, 9301 Chapek Road, Ft. Belvoir, VA 22060–5605, ATTN: Mr. Douglas Fravel, or call 571–515–0220.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: ArmyFit Program Azimuth Check Survey; OMB Control Number 0702–AFIT.

Needs and Uses: This collection supports the mission of the Army Resiliency Directorate (ARD), HQDA G–1, to improve the readiness of the force and quality of life for the soldiers. ARD owns the Army Fitness Platform (ArmyFit). ArmyFit hosts the Global Assessment Tool (GAT), which is an assessment promoting self-development through its user feedback and enables the creation of a customized ArmyFit profile that directs individuals to tailored self-development and training resources for soldiers, their families, and Army civilians. The Family GAT is a self-appraisal survey for assessing an individual's fitness in dimensions of strength: physical, emotional, social, spiritual, and family. It is a tool for building resilience. The survey is taken by all Soldiers and offered to family members, Department of the Army Civilians, and contractors.

Affected Public: Individuals or households.

Annual Burden Hours: 425.

Number of Respondents: 1,700.

Responses per Respondent: 1.

Annual Responses: 1,700.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

Dated: June 22, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–13810 Filed 6–28–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Research and Engineering, Department of Defense (DoD).

ACTION: Notice of Federal advisory committee meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal advisory committee meeting of the Defense Science Board (DSB) will take place.

DATES: Closed to the public Wednesday, July 19, 2023 from 8:15 a.m. to 5:00 p.m. and Thursday, July 20, 2023 from 8:15 a.m. to 4:00 p.m.

ADDRESSES: The address of the closed meeting is the Executive Conference Center, 4075 Wilson Blvd., Floor 3, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Doxey, Designated Federal Officer (DFO), (703) 571–0081 (Voice), (703) 697–1860 (Facsimile), *kevin.a.doxey.civ@mail.mil* (Email). Mailing address is Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301–3140. Website: *http://www.acq.osd.mil/dsb/.* The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of 5 United States Code (U.S.C.) chapter 10 (commonly known as the ''Federal Advisory Committee Act (FACA)''), 5 U.S.C. 552b(c) (commonly known as the ''Government in the Sunshine Act''), and sections 102–3.140 and 102–3.150 of title 41, Code of Federal Regulations (CFR).

Purpose of the Meeting: The mission of the DSB is to provide independent advice and recommendations on matters relating to the DoD's scientific and technical enterprise. The objective of the meeting is to obtain, review, and evaluate classified information related to the DSB's mission. DSB membership will meet to discuss the 2023 DSB Summer Study on Climate Change and Global Security (''the DSB Summer Study'').

Agenda: The meeting will begin on Wednesday, July 19, 2023 at 8:15 a.m. with administrative opening remarks from Mr. Kevin Doxey, DFO and Executive Director, and a classified overview of the objectives of the Summer Study from Dr. Eric Evans, the DSB Chair. Next, the DSB members will meet in a plenary session to discuss classified strategies for anticipating the global stresses and possible conflict due to climate change. Following break, the DSB members will meet in a plenary session to discuss classified strategies for anticipating the global stresses and possible conflict due to climate change. Next, members will meet in a breakout session to discuss classified strategies for anticipating the global stresses and possible conflict due to climate change. The meeting will adjourn at 5:00 p.m. On Thursday, July 20, 2023, the DSB members will meet in a breakout session to discuss classified strategies for anticipating the global stresses and possible conflict due to climate change. Next, the DSB members will meet in a plenary session to discuss classified strategies for anticipating the global stresses and possible conflict due to climate change. Following break, the DSB members will meet in a plenary session to discuss classified strategies for anticipating the global stresses and possible conflict due to climate change. The meeting will adjourn at 4:00 p.m.

Meeting Accessibility: In accordance with 5 U.S.C. 1009(d) and 41 CFR 102–3.155, the DoD has determined that the DSB meeting will be closed to the public. Specifically, the Under Secretary of Defense for Research and Engineering, in consultation with the DoD Office of the General Counsel, has determined in writing that the meeting will be closed to the public because it will consider matters covered by 5 U.S.C. 552b(c)(1). The determination is based on the consideration that it is expected that discussions throughout will involve classified matters of national security concern. Such classified material is so intertwined with the unclassified material that it cannot reasonably be segregated into separate discussions without defeating the effectiveness and meaning of the overall meetings. To permit the meeting to be open to the public would preclude discussion of such matters and would greatly diminish the ultimate utility of the DSB's findings and recommendations to the Secretary of Defense and to the Under Secretary of Defense for Research and Engineering.

Written Statements: In accordance with 5 U.S.C. 1009(a)(3) and 41 CFR 102–3.105(j) and 102–3.140, interested persons may submit a written statement for consideration by the DSB at any time regarding its mission or in response to the stated agenda of a planned meeting. Individuals submitting a written statement must submit their statement to the DSB DFO at the email address provided in the **FOR FURTHER INFORMATION CONTACT** section at any point; however, if a written statement is not received at least three calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the DSB until a later date.

Dated: June 21, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–13807 Filed 6–28–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2023–HA–0014]

Submission for OMB Review; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs (OASD(HA)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by July 31, 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: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Health Related Behaviors Survey; OMB Control Number 0720–HRBS.

Type of Request: New.

Number of Respondents: 22,100.

Responses per Respondent: 1.

Annual Responses: 22,100.

Average Burden per Response: 20 minutes.

Annual Burden Hours: 7,367.

Needs and Uses: The Department of Defense's (DoD) Health Related Behaviors Survey (HRBS) is the largest population-based health survey of service members that collects self-report data on a number of important behavioral health issues affecting the wellbeing of active duty and reserve personnel. It provides a valuable snapshot of the overall behavioral health of the Force, both Active and

Reserve Components, and alerts DoD leadership to areas of success, as well as areas where more attention—resources and policies—may be needed.

The survey fulfills several DoD requirements. First, Department of Defense Instruction (DoDI) 1010.01, dated September 13, 2012, on the Military Personnel Drug Abuse Testing Program (MPDATP) states: ''Targeted and periodic surveys will be conducted of DoD MPDATP policy and guidance'' (p. 9); the HRBS is the survey used for that documentation and to assess the effectiveness of DoD's Drug Demand Reduction Program (DDRP). Second, the HRBS permits comparisons between military populations in health behaviors over time. Importantly and contrary to other similar total force surveys in the military, the HRBS is a confidential survey conducted external to the DoD by a Federally Funded Research and Development Center. Thus, the HRBS has the advantage of reducing the possibility of underreporting of health behavior concerns associated with possible career impacts such as substance misuse. The items in the HRBS are informed directly by stakeholders and workgroups across the DoD who use the findings and data to respond to a variety of requests related to frequency of health-related problems in their services and health topic areas. The HRBS also allows for comparisons between military and civilian populations and can be used to assess progress with respect to identified goals and objectives for population health and well-being. For roughly the past 40 years, the Office of Disease Prevention and Health Promotion has developed a set of evidence-based objectives aimed at improving the health of American citizens. Benchmarks are established for 10-year cycles and the current set of goals is outlined in Healthy People 2030 (HP2030). DoDI 1010.10 states that it is Department policy to ''Support the achievement of the Department of Health and Human Services' vision for improving the health of all Americans as outlined in Healthy People 2020.'' Data from the HRBS facilitate comparisons to the updated HP2030 objectives. The 2023 version of the HRBS will assess a number of topics, including substance use and abuse (*i.e.,* alcohol, tobacco, and illicit substances), physical and mental health, suicide, mental health service utilization, sexual health, and current topical issues affecting readiness.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: June 22, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–13806 Filed 6–28–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2023–OS–0023]

Submission for OMB Review; Comment Request

AGENCY: Defense Finance and Accounting Service (DFAS), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by July 31, 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: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Certificate for Child Annuitant; DD Form 2828; OMB Control Number 0730–0011.

Type of Request: Extension.

Number of Respondents: 240.

Responses per Respondent: 1.

Annual Responses: 240.

Average Burden per Response: 2 hours.

Annual Burden Hours: 480.

Needs and Uses: The information collection requirement is necessary to support an incapacitation occurring prior to age 18. The form provides the authority for the Defense Finance and Accounting Service (DFAS) to establish and pay a Retired Serviceman's Family Protection Plan (RSFPP) or Survivor Benefit Plan (SBP) annuity to the incapacitated individual.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: June 22, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–13805 Filed 6–28–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2022–OS–0129]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Research and Engineering, (OUSD(R&E)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The DoD has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by July 31, 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: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Scholar Survey and Sponsoring Facilities (SF) Survey; OMB Control Number 0704–DSSS.

Type of Request: New.

SMART 2.0 Scholar Survey

Number of Respondents: 1,800.
Responses per Respondent: 1.
Annual Responses: 1,800.
Average Burden per Response: 30 minutes.
Annual Burden Hours: 900.

SMART 2.0 SF Survey

Number of Respondents: 60.
Responses per Respondent: 1.
Annual Responses: 60.
Average Burden per Response: 15 minutes.
Annual Burden Hours: 15.

Total Burden

Number of Respondents: 1,860.
Annual Responses: 1,860.
Annual Burden Hours: 915.

Needs and Uses: The information gathered through the ''Scholar Survey'' and ''Sponsoring Facilities Survey'' will inform the Department of Defense (DoD) on the Science, Mathematics and Research for Transformation (SMART) Scholarship for Service Program. The purpose of these surveys is to gain a better understanding of scholars' and sponsoring facilities' (SF) perspectives on the program and its impact on the scholar. Both surveys are part of a third-party evaluation of the SMART Program. The purpose of the scholar survey is to gain a deep perspective of SMART scholars who are participating or have participated in the program, understanding their perspective on how the SMART program operates, identifying program processes that are working well, suggesting what could be improved in the program, and determining the detailed outcomes of the program. The purpose of the SF survey is to gain a perspective of DoD facilities who are participating in the program, understanding their perspective on how the SMART program operates, identifying program processes that are working well, and suggesting what could be improved in the program. Both surveys aim to help improve the SMART Program.

Affected Public: Individuals or households.

Frequency: Once.

R*espondent's Obligation:* Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: June 22, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–13804 Filed 6–28–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2023–HQ–0014]

Proposed Collection; Comment Request

AGENCY: Department of the Navy, Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Department of the Navy announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by August 28, 2023.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

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

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Navy Bureau of Medicine and Surgery (BUMED), 7700 Arlington Blvd., Ste. 5113, Falls Church,

VA 22042–5113, ATTN: Ms. Dhara Trivedi, or call 703–681–8984.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Navy Health Care Records System Forms; OMB Control Number 0703–BMFM.

Needs and Uses: The Navy uses the medical forms to document treatment and deliver care to patients who receive or have received care at one or more Department of Defense (DoD) medical treatment facilities (MTFs). The submitted Navy Medicine forms facilitate healthcare operations and ensure optimal medical readiness. In addition, the Navy Medicine forms are used for the initiation and processing, including litigation, of affirmative claims against potential third party payers.

Affected Public: Individuals or households.

Annual Burden Hours: 50,891.

Number of Respondents: 563,054.

Responses per Respondent: 1.

Annual Responses: 563,054.

Average Burden per Response: 5.42 minutes.

Frequency: On occasion.

Dated: June 22, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–13809 Filed 6–28–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket ID ED–2020–FSA–0145]

Privacy Act of 1974; Matching Program

AGENCY: Federal Student Aid, U.S. Department of Education.

ACTION: Notice of a new matching program.

SUMMARY: This document provides notice of a new matching program between the between the U.S. Department of Education (ED or Department), as the recipient agency, and the U.S. Department of the Treasury (Treasury), Internal Revenue Service (IRS) as the source agency.

DATES: The period of this matching program is estimated to cover the 18-month period from July 21, 2023 through January 20, 2025. However, the matching program will become applicable at the later of the following two dates: July 21, 2023, or 30 days after the publication of this notice, on June 29, 2023, unless comments have been received from interested members of the public requiring modification and republication of the notice. The matching program will continue for 18 months after the applicable date and may be extended for up to an additional 12 months, if the Data Integrity Boards (DIBs) of ED and Treasury determine that the conditions specified in 5 U.S.C. 552a(o)(2)(D) have been met.

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. 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 generally to make comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *http://www.regulations.gov*. Therefore, commenters should include in their comments only information about themselves that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Zelma Barrett, Program and Budget Analyst, U.S. Department of Education, Federal Student Aid, Washington, DC 20202. Telephone: (202) 377–4308.

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: Pursuant to the Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988 and the Computer Matching and Privacy Protection Amendments of 1990 (Privacy Act) (5 U.S.C. 552a), and Office of Management and Budget (OMB) guidance on the conduct of matching programs, notice is hereby given of the establishment of a matching program between the U.S. Department of Education, as the recipient agency, and the U.S. Department of the Treasury, Internal Revenue Service, as the source agency, under the authority of the Fostering Undergraduate Talent by Unlocking Resources for Education Act (FUTURE Act), Public Law 116–91, 133 Stat. 1189–1197 (2019), as amended by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116–136, 134 Stat. 281–615 (2020), and the FAFSA Simplification Act, title VII of division FF of Public Law 116–260, 134 Stat. 3137–3201 (2020) (which is part of the Consolidated Appropriations Act, 2021), as amended by the FAFSA Simplification Act Technical Corrections Act, division R of Public Law 117–103, 136 Stat. 819–821 (2022) (which is part of the Consolidated Appropriations Act, 2022).

The FUTURE Act amended section 6103(l)(13) of the Internal Revenue Code (IRC) to authorize the IRS to disclose to ED certain Federal tax information (FTI) of an individual, upon approval being provided by the individual to ED, for the purpose of determining eligibility for, or repayment of obligations under, Income-Driven Repayment (IDR) plans under title IV of the Higher Education Act of 1965, as amended (HEA)(20 U.S.C. 1070 *et seq.*), with respect to loans under part D of title IV of the HEA; and determining eligibility for, and the amount of, Federal student financial aid under a program authorized under subpart 1 of part A, part C, or part D of title IV of the HEA. The FTI that the IRS discloses to ED under sections 6103(l)(13)(A) and (C) of the IRC may also be used by ED for the purposes of: (a) reducing the net cost of improper payments: (i) under IDR plans and (ii) relating to awards of Federal student financial aid under a program authorized under subpart 1 of part A, part C, or part D of the HEA; (b) oversight by ED's Office of Inspector General (OIG) as authorized by chapter 4 of title 5 of the United States Code, except for the purpose of conducting criminal investigations or prosecutions; and (c) conducting analyses and forecasts for estimating costs related to: (i) IDR plans and (ii) awards of Federal student financial aid under a program authorized under subpart 1 of part A, part C, or part D of the HEA as set forth in section 6103(l)(13)(D) of the IRC. The FTI will not duplicated or redisclosed for these uses. However, the FTI may be redisclosed by ED, with the written consent of the taxpayer with respect to whom the FTI relates, in accordance with section 6103(l)(13)(D)(iii) of the IRC, solely for use in the application, award, and administration of financial aid awarded by the Federal government or certain persons described in sections 6103(l)(13)(D)(iii)(I)–(III) of the IRC to an

institution of higher education participating in a program under subpart 1 of part A, part C, or part D of title IV of the HEA, a State higher education agency, or a scholarship organization which is an entity designated by the Secretary of ED prior to December 19, 2019 under section 483(a)(3)(E) of the HEA.

In accordance with the Privacy Act, OMB ''Final Guidance Interpreting the Provisions of Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988,'' published in the **Federal Register** on June 19, 1989 (54 FR 25818–25829), and OMB Circular No. A–108, notice is hereby provided of the establishment of a matching program between the IRS and ED pursuant to which the IRS will disclose to ED certain FTI of an individual, upon approval being provided by the individual to ED, 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 title IV of the HEA; and determining eligibility for, and amount of, Federal student financial aid under a program authorized under subpart 1 of part A, part C, or part D of title IV of the HEA.

The FTI that the IRS discloses to ED under sections 6103(l)(13)(A) and (C) of the IRC may also be used by ED for the purposes of: (a) reducing the net cost of improper payments: (i) under IDR plans and (ii) relating to awards of Federal student financial aid under a program authorized under subpart 1 of part A, part C, or part D of the HEA; (b) oversight by ED's OIG as authorized by chapter 4 of title 5 of the United States Code, except for the purpose of conducting criminal investigations or prosecutions; and (c) conducting analyses and forecasts for estimating costs related to: (i) IDR plans and (ii) awards of Federal student financial aid under a program authorized under subpart 1 of part A, part C, or part D of the HEA, as set forth in section 6103(l)(13)(D) of the IRC. The FTI will not duplicated or redisclosed for these uses.

PARTICIPATING AGENCIES:

ED and IRS.

AUTHORITY FOR CONDUCTING THE MATCHING PROGRAM:

This matching program is authorized by the FUTURE Act, as amended. The FUTURE Act amended section 6103(l)(13) of the IRC to authorize the IRS to disclose to ED certain FTI for the purposes set forth in the **SUPPLEMENTARY INFORMATION** section of this Notice provided certain conditions are satisfied. In addition, 5 U.S.C. 552a(b)(3) provides authority for the IRS to disclose Privacy Act-protected records to ED pursuant to a published routine use in an applicable system of records notice for a purpose that is compatible with the purposes for which the IRS collected the records. Further, ED is authorized to participate in the matching program pursuant to the HEA, including sections 483 and 494(a) and (b) of the HEA (20 U.S.C. 1090 and 1098h(a) and (b)) and the FUTURE Act.

PURPOSE(S):

The purpose of this matching program between the IRS and ED is for the IRS to disclose to ED certain FTI of an individual, upon approval being provided by the individual to ED, for determining eligibility for, or repayment obligations under, IDR plans under title IV of the HEA with respect to loans under part D of title IV of the HEA; and determining eligibility for, and amount of, Federal student financial aid under a program authorized under subpart 1 of part A, part C, or part D of title IV of the HEA.

The FTI that the IRS discloses to ED under sections 6103(l)(13)(A) and (C) of the IRC may also be used by ED for the purposes of: (a) reducing the net cost of improper payments: (i) under IDR plans and (ii) relating to awards of Federal student financial aid under a program authorized under subpart 1 of part A, part C, or part D of the HEA; (b) oversight by ED's OIG as authorized by chapter 4 of title 5 of the United States Code, except for the purpose of conducting criminal investigations or prosecutions; and (c) conducting analyses and forecasts for estimating costs related to: (i) IDR plans and (ii) awards of Federal student financial aid under a program authorized under subpart 1 of part A, part C, or part D of the HEA, as set forth in section 6103(l)(13)(D) of the IRC. The FTI will not be duplicated or redisclosed for these uses.

The FTI information that ED will obtain as a result of this matching program effectuates the purpose of the HEA because it provides an efficient and comprehensive match to determine eligibility for, and the amount of, Federal student financial aid under a program authorized under subpart 1 of part A, part C, or part D of title IV of the HEA, and eligibility for, or repayment obligations under, IDR plans for loans under the Federal Direct Loan Program.

CATEGORIES OF INDIVIDUALS:

This matching program covers students (including a student's spouse for an independent student and a student's parent(s) for dependent student) who apply for Federal student financial assistance under title IV of the HEA through the Free Application for Federal Student Aid (FAFSA®) and borrowers (including spouses of borrowers who are independent students) who have had a loan disbursed and are fully responsible to pay the loan and interest back to the loan holder under applicable Federal student loan programs administered under the authority of title IV of the HEA, or who have such a loan written off due to default. This matching program also includes as a ''borrower'' an individual who is responsible for completing a service obligation and fails to complete the service obligation in exchange for having received a grant under the Teacher Education Assistance for College and Higher Education (TEACH) Grant Program authorized under subpart 9 of part A of title IV of the HEA.

CATEGORIES OF RECORDS:

This matching program covers the following categories of records:

(1) An applicant's information submitted to ED to determine the applicant's eligibility for Federal student financial assistance under a program authorized under subpart 1 of part A, part C, or part D of title IV of the HEA;

(2) A borrower's information submitted to ED to determine the borrower's eligibility for, or repayment obligations under, IDR plans under title IV of the HEA with respect to loans under part D of title IV of the HEA;

(3) An applicant's approval and consent submitted to ED to process an application for determining eligibility for Federal student financial assistance under a program authorized under subpart 1 of part A, part C, or part D of aid under title IV of the HEA;

(4) A borrower's approval and consent submitted to ED to process an application for determining eligibility for, or repayment obligations under, IDR plans under title IV of the HEA with respect to loans under part D of title IV of the HEA; and

(5) FTI on individuals from the IRS' Customer Account Data Engine (CADE) Individual Master File.

More specifically, ED will transmit the following specific data elements to the IRS under the matching program:

(1) Social Security Number (SSN)/ Taxpayer Identification Number (TIN);

(2) Tax year for which FTI is required;

(3) Last name;

(4) Date of birth (DOB);

(5) Unique identifier; and

(6) Date/time stamp of the individual's approval for use of FTI in determining eligibility by ED.

In addition, in response to a valid request submitted by ED to the IRS pursuant to section 6103(l)(13)(A) of the IRC (IDR request) that matches a tax record for the requested SSN/TIN and tax year, the IRS will return the following specific data elements to ED:

(1) SSN/TIN (provided in the request);

(2) Tax year (associated with FTI provided);

(3) Last name;

(4) Filing status code;

(5) Adjusted gross income (AGI) amount;

(6) Total number of exemptions; and

(7) Total number of dependents.

Further, in response to a valid request submitted by ED to the IRS pursuant to section 6103(l)(13)(C) of the IRC (FAFSA request) that matches a tax record for the requested SSN/TIN and tax year, the IRS will return the following specific data elements to ED:

(1) SSN/TIN (provided in the request);

(2) Tax year (provided in the request);

(3) Last name (provided in the request);

(4) Filing status code;

(5) AGI amount;

(6) Total number of exemptions;

(7) Total number of dependents;

(8) Income earned from work (sum of wages, farm income, Schedule C income);

(9) Total amount of income tax paid;

(10) Total allowable education credits;

(11) Sum of untaxed IRA contributions and other payments to qualified plans;

(12) Total amount of untaxed IRA distributions;

(13) Tax exempt interest;

(14) Sum of untaxed pensions and annuities;

(15) Net profit/loss from Schedule C; and

(16) Indicator of filing for Schedules A, B, D, E, F, and H.

SYSTEM(S) OF RECORDS:

ED will disclose, with written consent, to the IRS information under this matching program from ED's systems of records notice entitled ''FUTURE Act System (FAS)'' (18–11–23), which will be published in the **Federal Register**.

The IRS will disclose to ED FTI under this matching program from the IRS's system of records notice entitled ''Customer Account Data Engine (CADE) Individual Master File (IMF)—Treasury/IRS'' (Treasury/IRS 24.030), published in the **Federal Register** on September 8, 2015 (80 FR 54082–54083).

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.

[FR Doc. 2023–13846 Filed 6–28–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0115]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; National Assessment of Educational Progress (NAEP) 2024 Amendment #2

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before July 31, 2023.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Carrie Clarady, 202–245–6347.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: National Assessment of Educational Progress (NAEP) 2024 Amendment #2.

OMB Control Number: 1850–0928.

Type of Review: A revision of a currently approved ICR.

Respondents/Affected Public: Individuals and households.

Total Estimated Number of Annual Responses: 866,587.

Total Estimated Number of Annual Burden Hours: 486,305.

Abstract: The National Assessment of Educational Progress (NAEP), conducted by the National Center for Education Statistics (NCES), is a federally authorized survey of student achievement at grades 4, 8, and 12 in various subject areas, such as mathematics, reading, writing, science, U.S. history, civics, geography, economics, technology, and engineering literacy (TEL), and the arts. The National Assessment of Educational Progress Authorization Act (Pub. L. 107–279 title III, section 303) requires the assessment to collect data on specified student groups and characteristics, including information organized by race/ethnicity, gender, socio-economic status, disability, and limited English proficiency. It requires

fair and accurate presentation of achievement data and permits the collection of background, noncognitive, or descriptive information that is related to academic achievement and aids in fair reporting of results. The intent of the law is to provide representative sample data on student achievement for the nation, the states, and subpopulations of students and to monitor progress over time. NAEP consists of two assessment programs: the NAEP long-term trend (LTT) assessment and the main NAEP assessment. The LTT assessments are given at the national level only and are administered to students at ages 9, 13, and 17 in a manner that is very different from that used for the main NAEP assessments. LTT reports mathematics and reading results that present trend data since the 1970s. In addition to the operational assessments, NAEP uses two other kinds of assessment activities: pilot assessments and special studies. Pilot assessments test items and procedures for future administrations of NAEP, while special studies (including the National Indian Education Study (NIES), the Middle School Transcript Study (MSTS), and the High School Transcript Study (HSTS)) are opportunities for NAEP to investigate particular aspects of the assessment without impacting the reporting of the NAEP results.

The initial request for clearance of NAEP 2024 received OMB approval in April 2023 (OMB# 1850–0928 v.28). Amendment #1 to the NAEP 2024 clearance package received OMB approval in June 2023 (OMB#1850–0928 v.29). Since that package's submission for public comment and OMB approval, changes have occurred to the scope of the 2024 NAEP administration, including the addition of: (1) Addition of Reading Router Pilot for grades 4 and 8, increasing costs, (2) Addition of School and District Technology Coordinator roles and SBE survey completion, increasing burden hours, (3) Addition of protocols for the health and safety of field staff, increasing costs, (4) Reduction in SQ burden time for students, teachers and schools since COVID–19 learning recovery items are no longer adding additional time to the SQs; rather, other items were dropped to accommodate these items, reducing burden hours; and (5) Addition of Field Trial for grades, 4, 8 and 12, increasing burden hours and costs. This revision updates Part A and Part B detailing the changes to scope and references to the communication materials and the amendment schedule, Appendix A, Appendix B, Appendix C, Appendix D (added communication materials), Appendix G, Appendix I, and Appendices J1, J2, J3, and J–S to include the operational survey questionnaires (SQs), COVID–19 Learning Recovery SQs, NIES SQs, and Pilot SQs.

Dated: June 26, 2023.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2023–13832 Filed 6–28–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Personnel Development To Improve Services and Results for Children With Disabilities—National Center for Supporting School Building and Early Intervention Program Administrators To Effectively Implement IDEA and Improve Systems Serving Children With Disabilities

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for a new award for fiscal year (FY) 2023 for a National Center for Supporting School Building and Early Intervention Program (EIP) Administrators to Effectively Implement the Individuals with Disabilities Education Act (IDEA) and Improve Systems Serving Children with Disabilities, Assistance Listing Number 84.325Z. This notice relates to the approved information collection under OMB control number 1820–0028.

DATES:

Applications Available: June 29, 2023.

Deadline for Transmittal of Applications: August 18, 2023.

Pre-Application Webinar Information: No later than July 5, 2023, the Office of Special Education and Rehabilitative Services will post details on pre-recorded informational webinars designed to provide technical assistance (TA) to interested applicants. Links to the webinars may be found at *https://www2.ed.gov/fund/grant/apply/osep/new-osep-grants.html.*

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 7, 2022 (87 FR 75045) and available at *www.federalregister.gov/documents/2022/12/07/2022-26554/common-instructions-for-applicants-to-department-of-education-discretionary-grant-programs.* Please note that these Common Instructions supersede the version published on December 27, 2021.

FOR FURTHER INFORMATION CONTACT: Sarah Allen, U.S. Department of Education, 400 Maryland Avenue SW, Room 5135, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–7875. Email: *Sarah.Allen@ed.gov.*

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purposes of the program are to (1) help address State-identified needs for personnel preparation in special education, early intervention, related services, and regular education to work with children, including infants and toddlers, and youth with disabilities; and (2) ensure that those personnel have the necessary skills and knowledge, derived from practices that have been determined through scientifically based research, to be successful in serving those children.

Priority: This competition includes one absolute priority. In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in the statute (see sections 662 and 681 of IDEA; 20 U.S.C. 1462 and 1481).

Absolute Priority: For FY 2023 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

The National Center for Supporting School Building and EIP Administrators to Effectively Implement IDEA and Improve Systems Serving Children with Disabilities.

Background:

Nearly 50 years after the enactment and implementation of the Education for All Handicapped Children Act of 1975 (reauthorized as IDEA), which mandated that all children with disabilities have access to a free appropriate public education (FAPE) in the least restrictive environment (LRE), to the extent appropriate, the IDEA is still not being implemented fully and

consistently across all States and for all eligible children. Sections 616(d) and 642 of IDEA require the Secretary to make an annual determination as to the extent to which each State's Part B and Part C programs are meeting the requirements of IDEA. In FY 2022, only 37 percent of States and entities, or 22 of 60, met the Part B requirements of IDEA. Similarly, only 54 percent, or 30 of 56, States and entities met the Part C requirements of IDEA (U.S. Department of Education, 2022).

Under section 612(a)(11) of IDEA, the State educational agency (SEA) is responsible for ensuring that all local educational agencies (LEAs) within the State provide FAPE in the LRE to all children and youth with disabilities served under Part B (children with disabilities) within their local jurisdiction. Similarly, under section 635(a)(10) of IDEA, the State lead agency, either directly or through its early intervention service (EIS) providers under 34 CFR 303.12, is responsible for providing early intervention services to eligible infants and toddlers with disabilities and their families. School building administrators, including principals and vice principals, and EIP administrators (which may include administrators responsible for managing personnel in State lead agencies, EIS providers, and EIS programs) are on the front lines of IDEA implementation and are responsible for ensuring children with disabilities are provided the services and supports for which they are eligible under the IDEA as well as others intended to protect children with disabilities, including under Section 504 of the Rehabilitation Act. School building and EIP administrators help set high expectations for performance in schools and among EIS providers and ensure that the unique, individualized needs of each infant, toddler, or child with a disability are met consistent with their individualized education program (IEP) or individualized family service plan (IFSP).

School building and EIP administrators must manage resources, personnel, and a myriad of educational and other programs in their schools and EIPs and ensure compliance with multiple interacting laws protecting children with disabilities. Because these administrators are required to make decisions about the operations and financial support of the programs offered in their building, it is essential that these school building and EIP administrators have the knowledge, skills, and competencies to ensure, consistent with the IDEA requirements, the delivery of FAPE in the LRE for children with disabilities or the provision of early intervention services for infants and toddlers with disabilities and their families.

Given that school building and EIP administrators have complex roles, it is not surprising that those who are well trained handle the multi-faceted demands of the role better and tend to stay in their jobs longer (Herman et al., 2022). They are instrumental in supporting teachers and providers' practices, motivating school and EIP staff, maintaining a positive school or program climate, and ensuring inclusive settings are offered. High turnover of school building and EIP administrators can be disruptive to maintaining an environment that supports appropriate outcomes for children with disabilities. As a result, high administrator turnover can lead to higher teacher and provider turnover and lower child outcomes (*e.g.,* lower student achievement, lower gains in learning or development outcomes for young children) (Levin & Bradley, 2019). Access to professional learning opportunities is an important factor influencing job satisfaction and retention of administrators (Boyce & Bowers, 2016). In addition to covering essential research-based content on topics such as learning and teaching, instructional leadership, data-based decision making, and systems improvement, the structure of continued professional development for administrators also matters (Darling-Hammond et al., 2022; Leung-Gagne et al, 2022). Especially important to building the capacity of administrators is access to coordinated, continued professional development with structured learning opportunities such as through a cohort model, mentoring, one-on-one coaching, networking to build a professional community, applied learning opportunities, and problem solving related to the needs of individual children, including children with disabilities, children who are multilingual, and children from diverse socioeconomic backgrounds. In addition, we know that school and district-based administrators' greatest source of evidence-based practices and policy content are their national and state affiliate professional organizations. As such, partnering with these organizations, for the center and local administrators, would be an effective and efficient way to facilitate the dissemination of IDEA implementation information.

The goals of this national center are to (a) increase the capacity of school building and EIP administrators to meet the statutory and procedural requirements of IDEA to ensure that each child with a disability in their school or EIP receives FAPE consistent with the child's IEP or early intervention services consistent with the infant or toddler's IFSP; and (b) increase the capacity of school building and EIP administrators to improve services and outcomes for children with disabilities. The National Center for Supporting School Building and Early Intervention Program Administrators to Effectively Implement IDEA and Improve Systems Serving Children with Disabilities will (1) develop and provide high-quality professional development on IDEA requirements and implementation (*e.g.,* IDEA related professional competencies) and essential research-based content on topics such as learning and teaching, the structure of continued professional development, instructional leadership, data-based decision making, and systems improvement to school building and EIP administrators; (2) build and support partnerships needed to support and sustain the delivery of intensive professional development on IDEA requirements and implementation to school building and EIP administrators to improve the outcomes of children with disabilities; and (3) develop and implement customized professional development and TA to address the unique needs and context of individual States and local environments.

Priority:

The purpose of this priority is to fund a cooperative agreement to establish and operate a National Center for Supporting School Building and EIP Administrators to Effectively Implement IDEA and Improve Systems Serving Children with Disabilities (Center). The Center will help SEAs and Part C lead agencies effectively implement IDEA by building the capacity of school building and EIP administrators to meet the requirements of IDEA.

The Center must achieve, at a minimum, the following expected outcomes:

(a) Establish and maintain State-level partnerships [1] to help local administrators attain and maintain the essential IDEA-related professional competencies needed to ensure the delivery of FAPE in the LRE for children with disabilities and the provision of early intervention services for infants

[1] For the purpose of this priority, ''State-level partnerships'' refers to State affiliates of nationally recognized professional and family networks that form an infrastructure for policy development, dissemination of information, interaction, and learning with, among other entities, SEA and Part C lead agencies, local educational agencies and service providers, and institutions of higher education (''State-level partners'').

and toddlers with disabilities and their families;

(b) Identify the IDEA-related professional competencies required for school building and EIP administrators to ensure the delivery of FAPE in the LRE for children with disabilities and early intervention services for infants and toddlers with disabilities and their families;

(c) Develop and disseminate openly licensed products designed for adult learners to increase knowledge, build skills, and provide practice-based opportunities that focus on the IDEA-related professional competencies that school building and EIP administrators must master to effectively implement IDEA in their school or EIP in order to improve outcomes for children;

(d) Deliver high-quality professional learning programs using the Center's openly licensed products and other available products designed for adult learners to increase knowledge, build skills, and provide practice-based opportunities that focus on the IDEA-related professional competencies that school building and EIP administrators must master to effectively implement IDEA in their school or EIP in order to improve outcomes for children;

(e) Evaluate the effectiveness over the life of the grant of professional development products and services the Center designed to increase the capacity of school building and EIP administrators to effectively implement IDEA, by identifying specific school building and EIP administrators to participate in a structured professional development program; and

(f) Enhance the capacity of State-level partners to use Center products and deliver high-quality professional development designed to increase the capacity of school building and EIP administrators to effectively implement IDEA.

In addition to these programmatic requirements, to be considered for funding under this priority, applicants must meet the application and administrative requirements in this priority, which are:

(a) Demonstrate, in the narrative section of the application under ''Significance,'' how the proposed project will—

(1) Address the need in the field for increased knowledge of the professional competencies needed by school building and EIP administrators to support effective implementation of IDEA. To meet this requirement, the applicant must—

(i) Demonstrate knowledge of common factors for why States do not meet the requirements of IDEA and strategies to address these challenges to improve outcomes for children;

(ii) Demonstrate knowledge of the professional competencies that school building and EIP administrators need to manage effective implementation of IDEA and its interaction with other Federal laws protecting the rights of children with disabilities; and

(iii) Demonstrate knowledge of effective approaches to forming or expanding and maintaining State-level partnerships to collaboratively develop or expand and deliver knowledge, teaching, and learning tools and resources that support leadership development for school building and EIP administrators managing special education programs and EIPs and that focus on the implementation of IDEA. The leadership development activities must focus on a variety of entities, including local educational and early intervention agencies; schools; EIS providers and programs; institutions of higher education (IHEs); other nonprofit organizations that provide special education, early intervention, or related services to children, infants, and toddlers with disabilities and their families; and other TA providers;

(2) Demonstrate knowledge of effective approaches to forming or expanding and maintaining State-level partnerships to collaboratively develop or expand and deliver evidence-based [2] professional development to a variety of entities, including local educational and early intervention agencies; schools; EIS providers and programs; IHEs; other nonprofit organizations that provide special education, early intervention, or related services to children, infants, and toddlers with disabilities and their families; and other TA providers; and

(3) Improve outcomes for children with disabilities and their families by supporting school building and EIP administrators to effectively implement IDEA and improve systems serving children with disabilities and early intervention services for infants and toddlers with disabilities and their families. To meet this requirement, the applicant must—

(i) Present information and data on the current capacity of LEAs and EIS providers, IHEs, and other entities to provide training and TA needed to build the professional competencies of school building and EIP administrators to support delivery of special education and early intervention services, as mandated by IDEA;

(ii) Present information and data on the current capacity of LEAs and EIS providers, IHEs, and other entities to provide training and TA needed to build the professional competencies of school building and EIP administrators to improve systems delivering special education and early intervention services, as mandated by IDEA; and

(iii) Indicate the likely magnitude or importance of the improvements that the project is expected to make.

(b) Demonstrate, in the narrative section of the application under ''Quality of project services,'' how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability;

(2) Identify the needs of the intended recipients for TA and information, specifically the needs of school building and EIP administrators to meet the statutory and procedural requirements of IDEA, and ensure that products and services meet the needs of the intended recipients;

(3) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes; and

(ii) In Appendix A, the logic model (as defined in 34 CFR 77.1) by which the proposed project will achieve its intended outcomes that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project;

(4) Use a conceptual framework (and provide a copy in Appendix A) to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

Note: The following websites provide more information on logic models and conceptual frameworks: *https://osepideasthatwork.org/sites/default/files/2021-12/ConceptualFramework_Updated.pdf* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.*

(5) Be based on current research and make use of evidence-based practices (EBPs). To meet this requirement, the applicant must describe—

(i) The current research on the professional competencies,

[2] For the purposes of this priority, ''evidence-based'' means, at a minimum, evidence that demonstrates a rationale (as defined in 34 CFR 77.1), where a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

implementation science, systems change, capacity building, and essential research-based content on topics such as learning and teaching, the structure of continued professional development, instructional leadership, data-based decision making, and systems improvement, for school building and EIP administrators of IDEA;

(ii) The current research about adult learning principles that will inform the proposed product development, training, and TA; and

(iii) How the proposed project will incorporate current research and EBPs in the development and delivery of its products and services;

(6) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) How it proposes to develop or expand the knowledge base that delineates the professional competencies (*i.e.,* knowledge, skills, and dispositions) that school building and EIP administrators need to effectively implement IDEA and comply with other Federal laws protecting the rights of children with disabilities, support the delivery of FAPE to children with disabilities and early intervention services to infants and toddlers with disabilities and their families, and improve systems serving children with disabilities and their families;

(ii) Its plan to collaborate with State-level partners to develop and disseminate products and services for building the capacity of school building and EIP administrators to effectively implement IDEA, which should include, at a minimum, activities focused on—

(A) Establishing a cohort of States to assist in planning and development of products, training, and technical assistance protocols using their State-level partnerships; and

(B) Building the capacity of school building and EIP administrators in States, or in LEAs or EIPs, that do not meet requirements based on the Secretary's annual determination under section 616(d) of IDEA;

(iii) Its proposed approach to universal, general TA,[3] which must identify the intended recipients, including the type and number of recipients, that will receive the products and services under this approach and must include, at minimum, activities focused on—

(A) Partnering with SEAs and Part C lead agencies to support their efforts to develop and disseminate products for effective implementation of IDEA, including adding State-specific policies and procedures to such products, that align with Federal mandates for the delivery of FAPE in the LRE to children with disabilities and early intervention services to infants and toddlers with disabilities and their families;

(B) Partnering with State-level partners to support dissemination and use of Center products in personnel preparation and continuing professional development, and increase the reach of Center products and services to all States, the District of Columbia, U.S. territories, and, for Part B only, the freely associated States; and

(C) Differentiating products and services to address the roles and responsibilities of school building and EIP administrators in policy relating to, and management of, resources, personnel, and programs needed for effective implementation of IDEA;

(iv) Its proposed approach to targeted, specialized TA,[4] which must identify—

(A) The intended recipients, including the type and number of recipients, that will receive the products and services, a description of the products and services that the Center proposes to make available, and the expected impact of those products and services under this approach;

(B) Its proposed approach to identify the need for and measure the readiness of potential TA recipients to work with the project, assessing, at a minimum, the State's current determination status, with priority given to States that do not meet IDEA requirements based on the Secretary's annual determination under section 616(d) of IDEA, infrastructure, available resources, and ability to build capacity at the local level; and

(C) Its proposed approach to partner with SEAs and Part C lead agencies and collaborate with State-affiliated partners and Office of Special Education Programs (OSEP)-funded centers to support dissemination of products, training, and TA designed to address the needs of school building and EIP administrators across policy, management, and service delivery roles and responsibilities; and

(v) Its proposed approach to intensive, sustained TA,[5] which must—

(A) Identify the intended participants, including by Year 2, school building and EIP administrators in States or LEAs or EIPs that do not meet IDEA requirements based on the Secretary's annual determination under section 616(d) of IDEA;

(B) Include a description of the products and services that the Center proposes to make available, and the expected impact of those products and service under this approach;

(C) Describe its proposed approach to measure the readiness of the SEAs and Part C lead agencies to partner with the project; and

(D) Include its proposed plan for assisting SEAs and Part C lead agencies to partner with State-affiliated partners and OSEP-funded centers to build or enhance training systems that include professional development based on adult learning principles and coaching for school building and EIP administrators;

(7) Develop products and implement services that maximize efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration; and

(iii) How the proposed project will use non-project resources to achieve the intended project outcomes; and

(8) Develop a dissemination plan that describes how the applicant will systematically distribute information, products, and services to varied intended audiences, using a variety of dissemination strategies, to promote awareness and use of the Center's products and services.

[3] ''Universal, general TA'' means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA Center staff and including one-time, invited, or offered conference presentations by TA Center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA Center's website by independent users. Brief communications by TA Center staff with recipients, either by telephone or email, are also considered universal, general TA.

[4] ''Targeted, specialized TA'' means TA services based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA Center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

[5] ''Intensive, sustained TA'' means TA services often provided on-site and requiring a stable, ongoing relationship between the TA Center staff and the TA recipient. ''TA services'' are defined as negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

(c) In the narrative section of the application under ''Quality of the project evaluation,'' include an evaluation plan for the project as described in the following paragraphs. The evaluation plan must describe measures of progress in implementation, including the criteria for determining the extent to which the project's products and services have met the goals for reaching its target population; measures of intended outcomes or results of the project's activities in order to evaluate those activities; and how well the goals or objectives of the proposed project, as described in its logic model, have been met.

The applicant must provide an assurance that, in designing the evaluation plan, it will—

(1) Designate, with the approval of the OSEP project officer, a project liaison with sufficient dedicated time, experience in evaluation, and knowledge of the project to work in collaboration with the Center to Improve Program and Project Performance (CIPP),[6] the project director, and the OSEP project officer on the following tasks:

(i) Revise the logic model submitted in the application to provide for a more comprehensive measurement of implementation and outcomes and to reflect any changes or clarifications to the model discussed at the kick-off meeting;

(ii) Refine the evaluation design and instrumentation proposed in the application consistent with the revised logic model and using the most rigorous design suitable (*e.g.,* prepare evaluation questions about significant program processes and outcomes; develop quantitative or qualitative data collections that permit both the collection of progress data, including fidelity of implementation, as appropriate, and the assessment of project outcomes; and identify analytic strategies); and

(iii) Revise the evaluation plan submitted in the application such that it clearly—

(A) Specifies the evaluation questions, measures, and associated instruments or sources for data appropriate to answer these questions, suggests analytic strategies for those data, provides a timeline for conducting the evaluation, and includes staff assignments for completing the evaluation activities;

(B) Delineates the data expected to be available by the end of the second project year for use during the project's evaluation (3+2 review) for continued funding described under the heading *Fourth and Fifth Years of the Project;* and

(C) Can be used to assist the project director and the OSEP project officer, with the assistance of CIPP, as needed, to specify the project performance measures to be addressed in the project's annual performance report;

(2) Dedicate sufficient staff time and other resources during the first six months of the project to collaborate with CIPP staff, including regular meetings (*e.g.,* weekly, biweekly, or monthly) with CIPP and the OSEP project officer, to accomplish the tasks described in paragraph (c)(1) of this section; and

(3) Dedicate sufficient funds in each budget year to cover the costs of carrying out the tasks described in paragraphs (c)(1) and (2) of this section and revising and implementing the evaluation plan. Please note in your budget narrative the funds dedicated for this activity.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of resources and quality of project personnel,'' how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under ''Quality of the management plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality, relevant, and useful to recipients; and

(4) The proposed project will benefit from a diversity of perspectives, including those of families, educators, TA providers, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must—

(1) Include, in Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(2) Include, in the budget, attendance at the following:

(i) A one and one-half day kick-off meeting in Washington, DC, after receipt of the award, and an annual planning meeting in Washington, DC, with the OSEP project officer and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A two and one-half day project directors' conference in Washington, DC, during each year of the project period;

(iii) Two annual two-day trips to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(iv) A one-day intensive 3+2 review meeting in Washington, DC, during the last half of the second year of the project period;

(3) Include, in the budget, a line item for an annual set-aside of 5 percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with, and approved by, the OSEP project officer. With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period;

(4) Maintain a high-quality website, with an easy-to-navigate design, that

[6] The major tasks of CIPP are to guide, coordinate, and oversee the design of formative evaluations for every large discretionary investment (*i.e.,* those awarded $500,000 or more per year and required to participate in the 3+2 process) in OSEP's Technical Assistance and Dissemination; Personnel Development; Parent Training and Information Centers; and Educational Technology, Media, and Materials programs. The efforts of CIPP are expected to enhance individual project evaluation plans by providing expert and unbiased TA in designing the evaluations with due consideration of the project's budget. CIPP does not function as a third-party evaluator.

meets government or industry-recognized standards for accessibility;

(5) Ensure that annual project progress toward meeting project goals is posted on the project website; and

(6) Include, in Appendix A, an assurance to assist OSEP with the transfer of pertinent resources and products and to maintain the continuity of services to States during the transition to this new award period and at the end of this award period, as appropriate.

Fourth and Fifth Years of the Project: In deciding whether to continue funding the project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), including—

(a) The recommendations of a 3+2 review team consisting of experts who have experience and knowledge in implementing IDEA and improving systems serving children with disabilities. This review will be conducted during a one-day intensive meeting that will be held during the last half of the second year of the project period;

(b) The timeliness with which, and how well, the requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The quality, relevance, and usefulness of the project's products and services and the extent to which the project's products and services are aligned with the project's objectives and likely to result in the project achieving its intended outcomes.

Under 34 CFR 75.253, the Secretary may reduce continuation awards or discontinue awards in any year of the project period for excessive carryover balances or a failure to make substantial progress. The Department intends to closely monitor unobligated balances and substantial progress under this program and may reduce or discontinue funding accordingly.

References

Boyce, J. & Bowers, A.J. (2016). Principal turnover: Are there different types of principals who move from or leave their schools? A latent class analysis of the 2007–2008 Schools and Staffing Survey and the 2008–2009 Principal Follow-Up Survey. *Leadership and Policy in Schools, 15*(3), 237–272.

Darling-Hammond, L., Wechsler, M.E., Levin, S., Leung-Gagné, M., & Tozer, S. (2022). Developing effective principals: What kind of learning matters? [Report]. Learning Policy Institute. *https://doi.org/10.54300/641.201.*

Herman, R., Wang, E.L., Woo, A., Gates, S.M., Berglund, T., Schweig, J., Andrew, M., & Todd, I. (2022). Redesigning university principal preparation programs: A systemic approach for change and sustainability. *A Rand Principal Preparation Series, 3*(2). *www.wallacefoundation.org/knowledge-center/pages/redesigning-university-principal-preparation-programs-a-systemic-approach-for-change-and-sustainability.aspx.*

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Levin, S. & Bradley, K. (2019). *Understanding and addressing principal turnover: A review of the research.* National Association of Secondary School Principals. *https://learningpolicyinstitute.org/product/nassp-understanding-addressing-principal-turnover-review-research-report.*

U.S. Department of Education, Office of Special Education Programs. 2022. 43rd Annual Report to Congress on the Implementation of the Individuals with Disabilities Education Act, 2021. *www.ed.gov/about/reports/annual/osep.*

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the absolute priority in this notice.

Program Authority: 20 U.S.C. 1462 and 1481.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: $3,000,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2024 from the list of unfunded applications from this competition.

Maximum Award: We will not make an award exceeding $15,000,000 for a project period of 60 months or an award that exceeds $4,000,000 for any single budget period.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* SEAs; IHEs; other public agencies, including State lead agencies; private nonprofit organizations; public agencies from the freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations.

2.a. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

b. *Indirect Cost Rate Information:* This program uses an unrestricted indirect cost rate. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see *www2.ed.gov/about/offices/list/ocfo/intro.html.*

c. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to the Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* Under 34 CFR 75.708(b) and (c), a grantee under this competition may award subgrants—to directly carry out project activities described in its application—to the following types of entities: IHEs, nonprofit organizations, and public agencies. The grantee may award subgrants to entities it has identified in an approved application or that it selects through a competition under procedures established by the grantee, consistent with 34 CFR 75.708(b)(2).

4. *Other General Requirements:* a. Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

b. Applicants for, and recipients of, funding must, with respect to the aspects of their proposed project relating to the absolute priority, involve individuals with disabilities, or parents

of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 7, 2022 (87 FR 75045) and available at *www.federalregister.gov/documents/2022/12/07/2022-26554/common-instructions-for-applicants-to-department-of-education-discretionary-grant-programs,* which contain requirements and information on how to submit an application. Please note that these Common Instructions supersede the version published on December 27, 2021.

2. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. However, under 34 CFR 79.8, we waive intergovernmental review in order to man an award by the end of FY 2023.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 70 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the recommended page limit does apply to all of the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are listed below:

(a) *Significance (10 points).*

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(ii) The importance or magnitude of the results or outcomes likely to be attained by the proposed project.

(b) *Quality of project services (35 points).*

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which there is a conceptual framework underlying the proposed research or demonstration activities and the quality of that framework.

(iii) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice.

(iv) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(v) The extent to which the TA services to be provided by the proposed project involve the use of efficient strategies, including the use of technology, as appropriate, and the leveraging of non-project resources.

(c) *Quality of the project evaluation (20 points).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies.

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(d) *Adequacy of resources and quality of project personnel (15 points).*

(1) The Secretary considers the adequacy of resources for the proposed project and the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of key project personnel.

(ii) The qualifications, including relevant training and experience, of project consultants or subcontractors.

(iii) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization.

(iv) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project.

(v) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(e) *Quality of the management plan (20 points).*

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and

milestones for accomplishing project tasks.

(ii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(iii) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project.

(iv) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that applications may be separated into two or more groups and ranked and selected for funding within specific groups for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

6. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with—

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

5. *Performance Measures:* For the purposes of Department reporting under 34 CFR 75.110, we have established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Technical Assistance and Dissemination to Improve Services and Results for Children With Disabilities program, which apply to projects funded under this competition. Grantees are required to submit data on these measures as directed by OSEP. These measures are:

- *Program Performance Measure 1:* The percentage of Technical Assistance and Dissemination products and services deemed to be of high quality by an independent review panel of experts qualified to review the substantive content of the products and services.
- *Program Performance Measure 2:* The percentage of Special Education Technical Assistance and Dissemination products and services deemed by an independent review panel of qualified experts to be of high relevance to special education personnel preparation and professional development, or practice.
- *Program Performance Measure 3:* The percentage of all Special Education Technical Assistance and Dissemination products and services deemed by an independent review panel of qualified experts to be useful in improving special education personnel preparation and professional development, or practice.
- *Program Performance Measure 4:* The cost efficiency of the Technical Assistance and Dissemination Program, including the percentage of milestones achieved in the current annual performance report period and the percentage of funds spent during the current fiscal year.
- *Long-term Program Performance Measure:* The percentage of States receiving Special Education Technical Assistance and Dissemination services regarding scientifically or evidence-based practices for children and youth with disabilities that successfully promote the implementation of those practices in school districts and service agencies.

Grantees will be required to report information on their project's performance in annual and final performance reports to the Department (34 CFR 75.590).

The Department will also closely monitor the extent to which the products and services provided by the Center meet needs identified by stakeholders and may require the Center to report on such alignment in its annual and final performance reports.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, 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.

Glenna Wright-Gallo,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2023–13934 Filed 6–27–23; 4:15 pm]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0116]

Agency Information Collection Activities; Comment Request; Student Support Services Annual Performance Report

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved 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–0116. 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* 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 Lavelle Wright, 202–453–7739.

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: Student Support Services Annual Performance Report.

OMB Control Number: 1840–0525.

Type of Review: A revision of a currently approved ICR.

Respondents/Affected Public: Private sector.

Total Estimated Number of Annual Responses: 1,161.

Total Estimated Number of Annual Burden Hours: 17,821.

Abstract: Student Support Services (SSS) program grantees must submit the Annual Performance Report (APR) annually. The reports are used to evaluate grantees' performance for substantial progress, respond to Government Performance and Results Act requirements, and award prior experience points at the end of each project (budget) period. The Department also aggregates the data to provide descriptive information on the projects and to analyze the impact of the SSS program on the academic progress of participating students.

The form has been revised to include an additional field addressing the Higher Education Act provision that requires the Secretary to report comparable data on the performance of not only first-generation and low-income students but also on students with disabilities. This field adds a small amount of additional burden per grantee.

Dated: June 26, 2023.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2023–13878 Filed 6–28–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas & Oil Pipeline Rate and Refund Report filings:

Filings in Existing Proceedings

Docket Numbers: PR23–48–001.

Applicants: Spire Storage Salt Plains LLC.

Description: Amendment Filing: Salt Plains revised SOC June 2023 to be effective 4/1/2023.

Filed Date: 6/22/23.

Accession Number: 20230622–5066.

Comment Date: 5 p.m. ET 7/13/23.

Protest Date: 5 p.m. ET 8/21/23

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

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 23, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–13837 Filed 6–28–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2742–039]

Copper Valley Electric Association, Inc.; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 2742–039.

c. *Date Filed:* April 28, 2023.

d. *Submitted By:* Copper Valley Electric Association, Inc. (CVEA).

e. *Name of Project:* Solomon Gulch Hydroelectric Project.

f. *Location:* On Solomon Lake and Solomon Gulch Creek, in the Chugach Census Area, in Valdez, Alaska. The project occupies Federal lands under the jurisdiction of the U.S. Bureau of Land Management.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Coreen Palacios, Copper Valley Electric, P.O. Box 45, Mile 187 Glenn Highway, Glenallen, AK 99588; (907) 822–8301; email—*CPalacios@cvea.org.*

i. *FERC Contact:* Lauren Townson at (202) 502–8572; or email at *Lauren.Townson@ferc.gov.*

j. CVEA filed a request to use the Traditional Licensing Process on April 28, 2023. CVEA provided public notice of its request on April 27, 2023. In a letter dated June 23, 2023, the Director of the Division of Hydropower

Licensing approved CVEA's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the Alaska State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating CVEA as the Commission's non-Federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act and section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act; and consultation pursuant to section 106 of the National Historic Preservation Act.

m. CVEA filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD may be viewed and/or printed on the Commission's website (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. 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.

o. The licensee states its unequivocal intent to submit an application for a new license for Project No.2742–039. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by May 31, 2026.

p. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

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 23, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–13838 Filed 6–28–23; 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: ER10–2126–007; ER10–2126–006; EL23–9–000.

Applicants: Idaho Power Company, Idaho Power Company.

Description: Supplement to March 7, 2023, Idaho Power Company to Notice of Change in Status and Response to Letter Requesting Additional Information, et al.

Filed Date: 6/15/23.

Accession Number: 20230615–5178.

Comment Date: 5 p.m. ET 7/6/23.

Docket Numbers: ER18–2358–007.

Applicants: GridLiance High Plains LLC, Southwest Power Pool, Inc.

Description: Compliance filing: Southwest Power Pool, Inc. submits tariff filing per 35: GridLiance—Compliance Filing in Response to Order issued in ER18–2358 to be effective 11/1/2018.

Filed Date: 6/23/23.

Accession Number: 20230623–5055.

Comment Date: 5 p.m. ET 7/14/23.

Docket Numbers: ER23–1765–001.

Applicants: Duke Energy Florida, LLC.

Description: Tariff Amendment: DEF–CFOTD Amended NITSA SA 147 to be effective 4/1/2023.

Filed Date: 6/23/23.

Accession Number: 20230623–5128.

Comment Date: 5 p.m. ET 7/14/23.

Docket Numbers: ER23–1814–001.

Applicants: Public Service Company of Colorado.

Description: Tariff Amendment: 2023–06–23–CSU SISA–744–Errata Filing to be effective 7/1/2023.

Filed Date: 6/23/23.

Accession Number: 20230623–5086.

Comment Date: 5 p.m. ET 7/14/23.

Docket Numbers: ER23–1854–001.

Applicants: Public Service Company of Colorado.

Description: Tariff Amendment: 2023–06–23–GrndVly–Ute Hydro–DWA–734–Errata Filing to be effective 6/1/2023.

Filed Date: 6/23/23.

Accession Number: 20230623–5081.

Comment Date: 5 p.m. ET 7/14/23.

Docket Numbers: ER23–1856–001.

Applicants: Arizona Public Service Company.

Description: Tariff Amendment: Rate Schedule No. 217, Exhibit B Administrative Filing, Amendment No. 1 to be effective 11/15/2010.

Filed Date: 6/23/23.

Accession Number: 20230623–5143.

Comment Date: 5 p.m. ET 7/14/23.

Docket Numbers: ER23–2217–000.

Applicants: AEP Texas Inc.

Description: § 205(d) Rate Filing: AEPTX–AP Sunray 2nd A&R System Upgrade Agreement to be effective 6/1/2023.

Filed Date: 6/23/23.

Accession Number: 20230623–5036.

Comment Date: 5 p.m. ET 7/14/23.

Docket Numbers: ER23–2218–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA and ICSA, SA Nos. 6606 and 6607; Queue No. AD1–022 to be effective 9/2/2023.

Filed Date: 6/23/23.

Accession Number: 20230623–5047.

Comment Date: 5 p.m. ET 7/14/23.

Docket Numbers: ER23–2219–000.

Applicants: Kentucky Utilities Company.

Description: § 205(d) Rate Filing: Revisions to Wholesale Requirements Contracts for Bardstown and Nicholasville to be effective 7/1/2023.

Filed Date: 6/23/23.

Accession Number: 20230623–5054.

Comment Date: 5 p.m. ET 7/14/23.

Docket Numbers: ER23–2220–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2023–06–23_SA 4094 NIPSCO–Valpo Solar GIA (J1332) to be effective 8/23/2023.

Filed Date: 6/23/23.

Accession Number: 20230623–5067.

Comment Date: 5 p.m. ET 7/14/23.

Docket Numbers: ER23–2221–000.

Applicants: Big Savage, LLC.

Description: § 205(d) Rate Filing: Normal filing 2023 name change to be effective 6/24/2023.

Filed Date: 6/23/23.

Accession Number: 20230623–5073.
Comment Date: 5 p.m. ET 7/14/23.

Docket Numbers: ER23–2222–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 2881R16 City of Chanute, KS NITSA NOA to be effective 9/1/2023.
Filed Date: 6/23/23.
Accession Number: 20230623–5084.
Comment Date: 5 p.m. ET 7/14/23.

Docket Numbers: ER23–2223–000.
Applicants: San Diego Gas & Electric Company.
Description: § 205(d) Rate Filing: Arizona Transmission System Participation Agreement to be effective 7/18/2023.
Filed Date: 6/23/23.
Accession Number: 20230623–5088.
Comment Date: 5 p.m. ET 7/14/23.

Docket Numbers: ER23–2224–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1976R13 FreeState Electric Cooperative, Inc. NITSA and NOA to be effective 9/1/2023.
Filed Date: 6/23/23.
Accession Number: 20230623–5090.
Comment Date: 5 p.m. ET 7/14/23.

Docket Numbers: ER23–2225–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original ISA, SA No. 6949; Queue No. NQ–173 to be effective 5/26/2023.
Filed Date: 6/23/23.
Accession Number: 20230623–5094
Comment Date: 5 p.m. ET 7/14/23.

Docket Numbers: ER23–2226–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3620R5 Kansas City Board of Public Utilities NITSA NOA to be effective 9/1/2023.
Filed Date: 6/23/23.
Accession Number: 20230623–5098.
Comment Date: 5 p.m. ET 7/14/23.

Docket Numbers: ER23–2227–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original ISA, SA No. 6963; Queue No. AF2–150 to be effective 5/24/2023.
Filed Date: 6/23/23.
Accession Number: 20230623–5108.
Comment Date: 5 p.m. ET 7/14/23.

Docket Numbers: ER23–2228–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 1636R29 Kansas Electric Power Cooperative, Inc. NITSA and NOA to be effective 9/1/2023.
Filed Date: 6/23/23.
Accession Number: 20230623–5111.
Comment Date: 5 p.m. ET 7/14/23.

Docket Numbers: ER23–2229–000.
Applicants: San Diego Gas & Electric Company.
Description: § 205(d) Rate Filing: Service Agreement No. 67 to be effective 6/24/2023.
Filed Date: 6/23/23.
Accession Number: 20230623–5116.
Comment Date: 5 p.m. ET 7/14/23.

Docket Numbers: ER23–2230–000.
Applicants: Boulder Solar II, LLC.
Description: § 205(d) Rate Filing: Boulder SFA, Boulder Shared Facilities Agreement No. 1 to be effective 6/26/2023.
Filed Date: 6/23/23.
Accession Number: 20230623–5136.
Comment Date: 5 p.m. ET 7/14/23.

Docket Numbers: ER23–2231–000.
Applicants: Idaho Power Company.
Description: § 205(d) Rate Filing: IPC/PAC B2H Transmission Project Construction Funding Agreement to be effective 6/7/2023.
Filed Date: 6/23/23.
Accession Number: 20230623–5141.
Comment Date: 5 p.m. ET 7/14/23.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: June 23, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–13836 Filed 6–28–23; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0136; FRL–11049–01–OCSPP]

Pesticide Registration Review; Sulfuryl Fluoride Revised Mitigation and Response to Comments on the Draft Interim Re-Entry Mitigation Measures Memorandum; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's Sulfuryl Fluoride Revised Mitigation and Response to Comments on the Draft Interim Re-Entry Mitigation Measures Memorandum, which is being issued to address human health concerns and in response to EPA's Office of Inspector General 2016 (OIG) Report, *Additional Measures Can Be Taken to Prevent Deaths and Serious Injuries from Residential Fumigations* (No. 17–P–0053). Sulfuryl flouride is currently in registration review which is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, that the pesticide can perform its intended function without causing unreasonable adverse effects on human health or the environment. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment. EPA may pursue mitigation at any time during the registration review process if it finds that a pesticide poses unreasonable adverse effects to human health or the environment. EPA believes that the mitigation measures outlined in the Sulfuryl Fluoride Revised Mitigation and Response to Comments on the Draft Interim Re-Entry Mitigation Measures Memorandum are necessary to address identified human health risk concerns from the use of sulfuryl fluoride as a structural fumigant in residential use sites.

ADDRESSES: The docket for this action, identified under docket identification (ID) number EPA–HQ–OPP–2009–0136, is available online at *https://www.regulations.gov.* Additional instructions on visiting the docket,

along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information contact:* Moana Appleyard, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–2220; email address: *appleyard.moana@epa.gov.*

For general questions on the registration review program, contact: Melanie Biscoe, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–0701; email address: *biscoe.melanie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental and human health advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the Chemical Review Manager listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2009–0136, is available at *https://www.regulations.gov.*

II. Background

Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. The sulfuryl flouride decision document, which is ahead of the typical mitigation phase of Registration Review, is in response to the EPA Office of the Inspector General's (OIG) 2016 report entitled *Additional Measures Can Be Taken to Prevent Deaths and Serious Injuries From Residential Fumigations* (available at: *https://www.epa.gov/sites/production/files/2016-12/documents/_epaoig_20161212-17-p-0053.pdf*). The Agency issued the Sulfuryl Fluoride Draft Interim Re-Entry Mitigation Measures in May 2021 for public comment. During the comment period, comments were received that resulted in changes to the Agency's mitigation decision, including revising the aeration procedures. The purpose of the Sulfuryl Fluoride Revised Mitigation and Response to Comments on the Draft Interim Re-Entry Mitigation Measures Memorandum is to announce the final risk mitigation measures to address these recommendations from the OIG Report and provide responses to the comments received on the draft interim risk mitigation measures. EPA expects that the implementation of the mitigation measures described in this risk mitigation document will allow sulfuryl fluoride products to remain available to users while addressing the recommendations from the OIG report.

Once all the risk assessments are completed for all the uses of sulfuryl fluoride, EPA may propose additional mitigation to address potential risks, as part of the normal registration review process. EPA will solicit public input on any additional risk mitigation in a Proposed Interim Decision (PID). Through the registration review program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

III. Authority

EPA is conducting its registration review of the sulfuryl fluoride documents listed in Unit IV pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

IV. What action is the Agency taking?

Pursuant to 40 CFR 155.58, this notice announces the availability of EPA's Sulfuryl Fluoride Revised Mitigation and Response to Comments on the Draft Interim Re-Entry Mitigation Measures, to finalize the Agency's early mitigation in response to the OIG Report.

As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed. Background on the registration review program is provided at: *https://www.epa.gov/pesticide-reevaluation.*

Authority: 7 U.S.C. 136 *et seq.*

Dated: June 26, 2023.

Mary Elissa Reaves,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2023–13879 Filed 6–28–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2013–0437; FRL–11114–01–OMS]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Emission Control System Performance Warranty Regulations and Voluntary Aftermarket Part Certification Program (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Emission Control System Performance Warranty Regulations and Voluntary Aftermarket Part Certification Program (EPA ICR Number 0116.13, OMB Control Number 2060–0060) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through June 30, 2023. Public comments were previously requested via the **Federal Register** on October 5, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Comments may be submitted on or before July 31, 2023.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2013–0437, to EPA online using *www.regulations.gov* (our preferred method), by email to *a-and-r-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Lynn Sohacki, Compliance Division, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 2000 Traverwood, Ann Arbor, Michigan 48105; telephone number: 734–214–4851; fax number 734–214–4869; email address: *sohacki.lynn@epa.gov.*

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through June 30, 2023. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Public comments were previously requested via the **Federal Register** on October 5, 2022 during a 60-day comment period (87 FR 60393). This notice allows for an additional 30 days for public comments. Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: Under Section 206(a) of the Clean Air Act (42 U.S.C. 7521), on-highway engine and vehicle manufacturers may not legally introduce their products into U.S. commerce unless EPA has certified that their production complies with applicable emission standards. Per section 207(a), original vehicle manufacturers must warrant that vehicles are free from defects in materials and workmanship that would cause the vehicles not to comply with emission regulations during their useful life. Section 207(a) directs EPA to provide certification to those manufacturers or builders of automotive aftermarket parts that demonstrate that the installation and use of their products will not cause failure of the engine or result in the vehicle not complying with emission standards. An aftermarket part is any part offered for sale for installation in or on a motor vehicle after such vehicle has left the vehicle manufacturer's production line (40 CFR 85.2113(b)). Participation in the aftermarket certification program is voluntary. Due to the fact that EPA has received only two aftermarket part certification applications since 1989, the Agency does not expect to receive any applications in the next three years. The purpose of this ICR renewal is to preserve EPA's authority to receive such an application in the event that one is submitted. Consequently, for the purposes of this information collection request, EPA has assumed that one manufacturer will apply for aftermarket part certification during the three-year period covered by this collection.

Aftermarket part manufacturers or builders (manufacturers) electing to participate conduct emission and durability testing as described in 40 CFR part 85, subpart V, and submit data about their products and testing procedures. Any information submitted to the Agency for which a claim of confidentiality is made is safeguarded according to policies set forth in CFR title 40, chapter 1, part 2, subpart B—Confidentiality of Business Information (see 40 CFR part 2).

Form Numbers: None.

Respondents/affected entities: Manufacturers or builders of automotive aftermarket parts.

Respondent's obligation to respond: Required to obtain or retain a benefit (Clean Air Act.)

Estimated number of respondents: 1 (total).

Frequency of response: On occasion.

Total estimated burden: 547 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $37,208 (per year), which includes $1,955 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is no change in the total estimated respondent burden compared with the ICR currently approved by OMB.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2023–13799 Filed 6–28–23; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0790, OMB 3060–0859; FR ID 151041]

Information Collections Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before August 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: 3060–0790.

Title: Section 68.110 (b), Availability of Inside Wiring Information.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 200 respondents; 1,200 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: Recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Mandatory. Providers of wireline telecommunications services that willfully or repeatedly fail to comply with this rule are subject to forfeitures under 47 CFR 1.80. Statutory authority for this collection of information is contained in 47 U.S.C. 151, 154, 201–205, 218, 220 and 405 of the Communications Act of 1934, as amended.

Total Annual Burden: 1,200 hours.

Total Annual Cost: $5,000.

Needs and Uses: Section 68.110(b) requires that any available technical information concerning carrier-installed wiring on the customer's side of the demarcation point, including copies of existing schematic diagrams and service records, shall be provided by the telephone company upon request of the building owner or agent thereof. The provider of wireline telecommunications services may charge the building owner a reasonable fee for this service, which shall not exceed the cost involved in locating and copying the documents. In the alternative, the provider may make these documents available for review and copying by the building owner or his agent. In this case, the wireline telecommunications carrier may charge a reasonable fee, which shall not exceed the cost involved in making the documents available, and may also require the building owner or his agent to pay a deposit to guarantee the documents' return. The information is needed so that building owners may choose to contract with an installer of their choice on inside wiring maintenance and installation services to modify existing wiring or assist with the installation of additional inside wiring.

OMB Control Number: 3060–0859.

Title: Suggested Guidelines for Petitions for Ruling Under Section 253 of the Communications Act of 1934, as amended.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities and State, local, or Tribal governments.

Number of Respondents and Responses: 24 respondents; 24 responses.

Estimated Time per Response: 63–125 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Voluntary. Statutory authority for this information collection is contained in 47 U.S.C. 253 of the Communications Act of 1934, as amended.

Total Annual Burden: 1,698 hours.

Total Annual Cost: No Cost.

Needs and Uses: The Commission will submit this extension to the OMB after this 60-day comment period in order to obtain the full three-year clearance from them. Although very few petitions for preemption under section 253 have been filed in the past few years, there is reason to believe that the current estimate is more likely to reflect future developments than a reduction in the number of estimated filings. The Commission published a Public Notice in November 1998 which established suggested guidelines for the filing of petitions for preemption pursuant to section 253 of the Communications Act of 1934, as amended, as well as suggested guidelines for the filing of comments opposing such requests for preemption. The Commission will use this information to resolve petitions for preemption of state or local statutes, regulations, or other state or local legal requirements that are alleged to prohibit or have the effect of prohibiting any entity from providing a telecommunications service. Section 253 of the Communications Act of 1934, as amended, which was added by the Telecommunications Act of 1996, requires the Commission, with certain important exceptions, to preempt (to the extent necessary) the enforcement of any state or local statute or regulation, or other state or local legal requirement that prohibits or has the effect of prohibiting any entity from providing any interstate or intrastate telecommunications service. The Commission's consideration of preemption under section 253 typically begins with the filing of a petition by an aggrieved party. The Commission typically places such petitions on public notice and requests comment by interested parties. The Commission's decision is based on the public record, generally composed of the petition and comments. The Commission has considered a number of preemption items since the passage of the Telecommunications Act of 1996, and believes it is in the public interest to inform the public of the information necessary for full consideration of the issues likely to be involved in section 253 preemption proceedings. In order to render a timely and informed decision, the Commission expects petitioners and commenters to provide it with relevant information sufficient to describe the legal regime involved in the controversy and to provide the factual information necessary for a decision.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–13843 Filed 6–28–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1285; FR ID 150556]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (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: 3060–1285.

Title: Compliance with the Non-IP Call Authentication Solution Rules; Robocall Mitigation Database (RMD).

Form Number: N/A.

Type of Review: Revision of a currently approved information collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 12,800 respondents; 12,800 responses.

Estimated Time per Response: 0.5–6 hours.

Frequency of Response: Recordkeeping requirement and on occasion reporting requirement.

Obligation to Respond: Mandatory and required to obtain or retain benefits. Statutory authority for these collections are contained in sections 227b, 251(e), and 227(e) of the Communications Act of 1934.

Total Annual Burden: 39,663 hours.

Total Annual Cost: No cost.

Needs and Uses: The Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act directs the Commission to require, no later than 18 months from enactment, all voice service providers to implement STIR/SHAKEN caller ID authentication technology in the internet protocol (IP) portions of their networks and implement an effective caller ID authentication framework in the non-IP portions of their networks. Among other provisions, the TRACED Act also directs the Commission to create extension mechanisms for voice service providers. On September 29, 2020, the Commission adopted its *Call Authentication Trust Anchor Second Report and Order. See Call Authentication Trust Anchor,* WC Docket No. 17–97, Second Report and Order, 36 FCC Rcd 1859 (adopted Sept. 29, 2020). The *Second Report and Order* implemented section 4(b)(1)(B) of the TRACED Act, in part, by requiring a voice service provider maintain and be ready to provide the Commission upon request with documented proof that it is participating, either on its own or through a representative, including third party representatives, as a member of a working group, industry standards group, or consortium that is working to develop a non-internet Protocol caller identification authentication solution, or actively testing such a solution. The *Second Report and Order* also implemented the extension mechanisms in section 4(b)(5) by, in part, requiring voice service providers to certify in the Robocall Mitigation Database that they have either implemented STIR/SHAKEN or a adopted a robocall mitigation program and describe that program in a filed plan. On May 19, 2022, the Commission adopted similar obligations for gateway providers. *See Advanced Methods to Target and Eliminate Unlawful Robocalls, Call Authentication Trust Anchor,* CG Docket No. 17–59, WC Docket No. 17–97, Sixth Report and Order *et al.,* FCC 22–27 (adopted May 19, 2022). Specifically, like voice service providers, gateway providers were required to maintain and be ready to provide the Commission upon request with documented proof that it is participating, either on its own or through a representative, including third party representatives, as a member of a working group, industry standards group, or consortium that is working to develop a non-internet Protocol caller identification authentication solution, or actively testing such a solution.

Gateway providers were also required to implement both STIR/SHAKEN on the IP portions of their networks as well as a robocall mitigation program. They must also certify to their implementation and describe their robocall mitigation program in the Robocall Mitigation Database. On March 16, 2023, the Commission adopted an Order imposing largely the same obligations that applied to gateway providers on a new class of providers: non-gateway intermediate providers. *See Call Authentication Trust Anchor,* Sixth Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 17–97, FCC 23–18 (adopted March 16, 2023). In that action, the Commission also required all voice service providers to adopt a robocall mitigation program and file a description of that program in the Robocall Mitigation Database as well as requiring all classes of providers to file additional information in the Robocall Mitigation Database. On May 18, 2023, the Commission adopted an Order modifying some of these requirements. *See Call Authentication Trist Anchor, et al.,* WC Docket No. 17–97 et al., Seventh Report and Order et al., FCC 23–37 (adopted May 18, 2023).

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–13840 Filed 6–28–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0917; OMB 3060–1270; FR ID 150641]

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 might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.'' The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before July 31, 2023.

ADDRESSES: Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under

30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Nicole Ongele, FCC, via email to *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page *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: 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: 3060–0917.

Title: CORES Registration Form, FCC Form 160.

Form Number: FCC Form 160.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit entities; individuals or households; not-for-profit institutions; and State, local, or Tribal governments.

Number of Respondents and Responses: 145,726 respondents; 145,726 responses.

Estimated Time per Response: 10 minutes (0.167 hours).

Frequency of Response: One-time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in the Debt Collection Act of 1996 (DCCA), Public Law 104–134, chapter 10, section 31001.

Total Annual Burden: 24,336 hours.

Total Annual Costs: No cost.

Needs and Uses: Respondents use FCC Form 160 to register in FCC's Commission Registration System (CORES). Entities must register in CORES to do regulatory transactions with FCC, including receiving licenses, paying fees, participating in auctions, etc. Without this collection of information, FCC would not have a database of the identity and contact information of the entities it does regulatory business with.

OMB Control Number: 3060–1270.

Title: Protecting National Security Through FCC Programs.

Form Number: FCC Form 5640.

Type of Review: Revision of a currently-approved collection.

Respondents: Business or other for profit entities.

Number of Respondents and Responses: 3,500 respondents; 6,584 responses.

Estimated Time per Response: 0.5–12 hours.

Frequency of Response: Annual, semiannual, and recordkeeping requirements.

Obligation to Respond: Mandatory and required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 1603–1604.

Total Annual Burden: 20,236 hours.

Total Annual Cost: $472,500.

Needs and Uses: The Communications Act of 1934, as amended, requires the ''preservation and advancement of universal service.'' 47 U.S.C. 254(b). The information collection requirements reported under this collection are the result of the Commission's actions to promote the Act's universal service goals.

On November 22, 2019, the Commission adopted the *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs,* WC Docket No. 18–89, Report and Order, Order, and Further Notice of Proposed Rulemaking, 34 FCC Rcd 11423 (2019) (*Report and Order*). The *Report and Order* prohibits future use of Universal Service Fund (USF) monies to purchase, maintain, improve, modify, obtain, or otherwise support any equipment or services produced or provided by a company that poses a national security threat to the integrity of communications networks or the communications supply chain.

On March 12, 2020, the President signed into law the Secure and Trusted Communications Networks Act of 2019 (Secure Networks Act), Public Law 116–124, 133 Stat. 158 (2020) (codified as amended at 47 U.S.C. 1601–1609), which, among other measures, directs the FCC to establish the Secure and Trusted Communications Networks Reimbursement Program (Reimbursement Program). This program is intended to provide funding to providers of advanced communications service for the removal, replacement and disposal of certain communications equipment and services that poses an unacceptable national security risk (*i.e.,* covered equipment and services) from their networks. The Commission has designated two entities—Huawei Technologies Company (Huawei) and ZTE Corporation (ZTE), along with their affiliates, subsidiaries, and parents—as covered companies posing such a national security threat. *See Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs—Huawei Designation,* PS Docket No. 19–351, Memorandum Opinion and Order, 35 FCC Rcd 14435 (2020); *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs—ZTE Designation,* PS Docket No. 19–352, Memorandum Opinion and Order, DA 20–1399 (PSHSB rel. Nov. 24, 2020).

On December 10, 2020, the Commission adopted the Second Report and Order implementing the Secure Networks Act, which contained new information collection requirements. *See Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs,* WC Docket No. 18–89, Second Report and Order, 35 FCC Rcd 14284 (2020) (*Second Report and Order*). These requirements allow the Commission to receive, review and make eligibility determinations and funding decisions on applications to participate in the

Reimbursement Program that are filed by certain providers of advanced communications service. These information collection requirements also assist the Commission in processing funding disbursement requests and in monitoring and furthering compliance with applicable program requirements to protect against waste, fraud, and abuse. Participation in the Reimbursement Program is voluntary, but compliance with the information collection requirements is required to obtain Reimbursement Program support.

On August 3, 2021, the Wireline Competition Bureau (Bureau) released a Public Notice adopting procedures for filing and processing applications submitted for the Reimbursement Program. These procedures largely tracked the procedural rules previously adopted by the Commission in the *Second Report and Order,* but also adopted a new requirement that Reimbursement Program participants notify the Commission of changes in ownership, to ensure accurate information is on file for participants and to help protect the Reimbursement Program against waste, fraud, and abuse.

This submission proposes to revise this currently-approved collection by deleting an existing question on FCC Form 5640 and replacing it with a more detailed query. The new question will ask program participants to describe in detail how they have spent Reimbursement Program funds. The addition of this question will allow the Bureau to satisfy its statutory obligations to collect information about how Reimbursement Program funds have been spent, including detailed accounting of the covered communications equipment and services permanently removed and disposed of, and the replacement equipment or services purchased, rented, leased, or otherwise obtained using Reimbursement Program funds, as well as to combat waste, fraud, and abuse, as required under the Secure Networks Act. The Bureau determined that FCC Form 5640 required this revision in order to elicit the information necessary for the Bureau to better satisfy its statutory obligations.

This proposed addition will increase the information collected, and will impose an additional burden on respondents, which will vary with the number of invoices respondents submit during the relevant reporting period. However, this submission also reflects a decrease in the estimated total annual responses, total annual burden hours, and total annual costs for this collection. These adjustments are due to a reduction of the number of respondents for several categories of information to be collected on Form 5640, based on the Bureau's experience with the Reimbursement Program since this collection was first approved.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–13841 Filed 6–28–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1167; FR ID 150753]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before August 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 Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1167.

Title: Accessible Telecommunications and Advanced Communications Services and Equipment.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; businesses or other for-profit entities; not-for-profit institutions.

Number of Respondents and Responses: 3,541 respondents; 42,106 responses.

Estimated Time per Response: .50 hours (30 minutes) to 40 hours.

Frequency of Response: Annual, one-time, and on occasion reporting requirements; recordkeeping requirement; third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 1–4, 255, 303(r), 403, 503, 716, 717, and 718 of the Communications Act, as amended, 47 U.S.C. 151–154, 255, 303(r), 403, 503, 617, 618, and 619.

Total Annual Burden: 120,999 hours.

Total Annual Cost: $17,800.

Needs and Uses: In 2011, in document FCC 11–151, published at 76 FR 82354, December 30, 2011, the FCC adopted rules to implement sections 716 and 717 of the Communications Act of 1934 (the Act), as amended, which were added to the Act by the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA). *See* Public Law 111–260, 104. Section 716 of the Act requires providers of advanced communications services and manufacturers of equipment used for advanced communications services to make their services and equipment accessible to individuals with disabilities, unless doing so is not achievable. 47 U.S.C. 617. Section 717 of the Act established new recordkeeping requirements and enforcement procedures for service providers and equipment manufacturers that are subject to sections 255, 716, and 718 of the Act. 47 U.S.C. 618. Section 255 of the Act requires telecommunications and interconnected VoIP services and equipment to be accessible to individuals with

disabilities, if readily achievable. 47 U.S.C. 255. Section 718 of the Act requires internet browsers built into mobile phones to be accessible to and usable by individuals who are blind or have a visual impairment, unless doing so is not achievable. 47 U.S.C. 619.

In document FCC 11–151, the Commission adopted rules relating to the following:

(a) Service providers and equipment manufacturers that are subject to sections 255, 716, and 718 of the Act must ensure that the information and documentation that they provide is accessible to individuals with disabilities.

(b) Service providers and equipment manufacturers may seek waivers from the accessibility obligations of section 716 of the Act for services or equipment that are designed for multiple purposes, including advanced communications services, but are designed primarily for purposes other than using advanced communications services.

(c) Service providers and equipment manufacturers that are subject to sections 255, 716, and 718 of the Act must maintain records of their efforts to implement those sections.

(d) Service providers and equipment manufacturers that are subject to sections 255, 716, and 718 of the Act must certify annually to the Commission that records are kept in accordance with the recordkeeping requirements. The certification must include contact details of the person(s) authorized to resolve accessibility complaints and the agent designated for service of process.

(e) The Commission established procedures to facilitate the filing of formal and informal complaints alleging violations of sections 255, 716, or 718 of the Act. Those procedures include a nondiscretionary pre-filing notice procedure to facilitate dispute resolution, that is, as a prerequisite to filing an informal complaint, complainants must first request dispute assistance from the Consumer and Governmental Affairs Bureau's Disability Rights Office.

In 2013, in document FCC 13–57, published at 78 FR 30226, May 22, 2013, the FCC adopted rules to implement section 718 of the Act.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–13842 Filed 6–28–23; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–23–1180]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''Airline and Vessel Traveler Information Collection'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on April 27, 2023, to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. 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. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Airline and Vessel Traveler Information Collection (OMB Control No. 0920–1180, Exp. 6/30/2023)—Revision—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The rapid speed and tremendous volume of international travel, commerce, and human migration enable infectious disease threats to disperse worldwide in 24 hours—less time than the incubation period of most communicable diseases. These and other forces intrinsic to modern technology and ways of life favor the emergence of new communicable diseases and the reemergence or increased severity of known communicable diseases.

Stopping a communicable disease outbreak—whether it is naturally occurring or intentionally caused—requires the use of the most rapid and effective public health tools available. Basic public health practices, such as collaborating with airlines in the identification and notification of potentially exposed travelers, are critical tools in the fight against the introduction, transmission, and spread of communicable disease in the United States. The collection of timely, accurate, and complete conveyance and traveler information enables CDC to notify state and local health departments, in order for them to make contact with individuals who may have been exposed to a communicable disease during travel, or due to an outbreak of disease in a geographic location and identify appropriate next steps.

Section 361 of the Public Health Service Act (42 U.S.C. 264) authorizes the Secretary of the Department of Health and Human Services to make and enforce regulations necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the United States, or from one State or possession into any other State or possession. Regulations that implement federal quarantine authority are currently

promulgated in 42 CFR parts 70 and 71. Part 71 contains regulations to prevent the introduction, transmission, and spread of communicable diseases into the states and possessions of the United States.

Passenger and crewmember manifests are used to collect travelers' information from airlines and vessels after travel has been completed and when a disease is confirmed or there is a suspected exposure. Manifests include locating and contact information, as well as information concerning where passengers sat while aboard an airline or their location (*e.g.,* cabin numbers) and activities aboard a vessel. Manifests collect the following data elements:

- Full name (last, first, and, if available, middle or others);
- Date of birth;
- Sex;
- Country of residence;
- If a passport is required; passport number, passport country of issuance, and passport expiration date;
- If a travel document, other than a passport is required, travel document type, travel document number, travel document country of issuance and travel document expiration date;
- Address while in the United States (number and street, city, state, and zip code), except that U.S. citizens and lawful permanent residents will provide address of permanent residence in the U.S. (number and street, city, state, and zip code; as applicable);
- Primary contact phone number to include country code;
- Secondary contact phone number to include country code;
- Email address;
- Airline name;
- Flight number;
- City of departure;
- Departure date and time;
- City of arrival;
- Arrival date and time; and
- Seat number for all passengers.
- CDC also requests seat configuration for the requested contact area (example: AB/aisle/CDE/aisle/FG, bulkhead in front of row 9), identification on the manifest of the crew and what zone crew were assigned to, the identification of any babes-in-arms, and finally CDC requests the total number of passengers on board if measles is the cause of the investigation, due to the highly infectious nature of the disease.

CDC then uses this passenger and crew manifest information to coordinate with state and local health departments or International Health Regulation (IHR) National Focal Points (NFPs) so they can follow-up with residents who live or are currently located in their jurisdiction. In most cases, the manifests are issued for air travel and state and local health departments or IHR NFPs are responsible for the contact investigations; airlines and vessels may take responsibility for follow-up of crew members. In rare cases, CDC may use the manifest data to perform the contact investigation directly.

CDC requests OMB approval for an estimated 875 annual burden hours. There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Airline Medical Officer or Equivalent/ Analysist/Travel Specialist/Manager Equivalent.	International Manifest Template/Informal Manifest Request Template.	350	1	150/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2023–13897 Filed 6–27–23; 11:15 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–R–266]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by August 28, 2023.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number:_____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–R–266 Medicaid Disproportionate Share Hospital (DSH) Annual Reporting Requirements

Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires Federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicaid Disproportionate Share Hospital (DSH) Annual Reporting Requirements; *Use:* States are required to submit an annual report that identifies each disproportionate share hospital (DSH) that received a DSH payment under the state's Medicaid program in the preceding fiscal year and the amount of DSH payments paid to that hospital in the same year along with other information that the Secretary determines necessary to ensure the appropriateness of DSH payments; *Form Number:* CMS–R–266 (OMB control number: 0938–0746); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 51; *Total Annual Responses:* 51; *Total Annual Hours:* 2,142. (For policy questions regarding this collection contact Rich Cuno at 410–786–1111.)

Dated: June 26, 2023.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2023–13877 Filed 6–28–23; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Voluntary Acknowledgment of Paternity and Required Data Elements for Paternity Establishment Affidavits

AGENCY: Office of Child Support Services, Administration for Children and Families, United States Department of Health and Human Services.

ACTION: Request for public comments.

SUMMARY: The Office of Child Support Services (OCSS), Administration for Children and Families (ACF), United States Department of Health and Human Services, is requesting a three-year extension of the Voluntary Acknowledgment of Paternity and Required Data Elements for Paternity Establishment Affidavits (OMB #0970–0171, expiration 1/31/2024). No changes are proposed.

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: Section 466(a)(5)(C) of the Social Security Act requires States to enact laws ensuring a simple civil process for voluntarily acknowledging paternity via an affidavit. The development and use of an affidavit for the voluntary acknowledgment of paternity would include the minimum requirements of the affidavit specified by the Secretary under section 452(a)(7) of the Social Security Act and give full faith and credit to such an affidavit signed in any other State according to its procedures. The State must provide that, before a mother and putative father can sign a voluntary acknowledgment of paternity, the mother and putative father must be given notice, orally, or through the use of video equipment, and in writing, of the alternatives to, the legal consequences of, and the rights (including any rights, if one parent is a minor, due to minority status) and responsibilities of acknowledging paternity. The affidavits will be used by hospitals, birth record agencies, and other entities participating in the voluntary paternity establishment program to collect information from the parents of nonmarital children.

Respondents: The parents of nonmarital children, State and Tribal agencies operating child support programs under Title IV–D of the Social Security Act, hospitals, birth record agencies, and other entities participating in the voluntary paternity establishment program.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of responses per respondent	Average burden hours per response	Annual burden hours
Training	130,240	1	1	130,240
Paternity Acknowledgment Process	1,618,412	1	0.17	275,130
Data Elements	54	1	1	54
Ordering Brochures	2,604,802	1	.08	208,384

Estimated Total Annual Burden Hours: 613,808.

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: 42 U.S.C. 666(a)(5)(C) and 652(a)(7).

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2023–13855 Filed 6–28–23; 8:45 am]

BILLING CODE 4184–41–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Tribal Consultation Meetings

AGENCY: Office of Head Start (OHS), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS).

ACTION: Notice of meetings.

SUMMARY: Pursuant to the Head Start Act, notice is hereby given of two tribal consultation sessions to be held between HHS/ACF OHS leadership and the leadership of tribal governments operating Head Start and Early Head Start programs. The purpose of these consultation sessions is to discuss ways to better meet the needs of American Indian and Alaska Native (AI/AN) children and their families, taking into consideration funding allocations, distribution formulas, and other issues affecting the delivery of Head Start services in their geographic locations. Two tribal consultations will be held as part of HHS/ACF or ACF Tribal Consultation Sessions.

DATES:

Wednesday, September 13, 2023
Tuesday, December 5, 2023

ADDRESSES:

- September 13, 2023—1–4 p.m. ET (Virtual)
- December 5, 2023—2–5 p.m. PT (Hilton Costa Mesa, 3050 Bristol Street, Costa Mesa, CA 92626)

FOR FURTHER INFORMATION CONTACT: Todd Lertjuntharangool, Regional Program Manager, Region XI/AIAN, Office of Head Start, email *Todd.Lertjuntharangool@acf.hhs.gov,* or phone (866) 763–6481. Additional information and online meeting registration will be forthcoming.

SUPPLEMENTARY INFORMATION: In accordance with section 640(l)(4) of the Head Start Act, 42 U.S.C. 9835(1)(4), ACF announces OHS Tribal Consultation Sessions for leaders of tribal governments operating Head Start and Early Head Start programs.

The agenda for the scheduled OHS Tribal Consultations reflects the statutory purposes of Head Start tribal consultations related to meeting the needs of AI/AN children and families. OHS will also highlight the progress made in addressing issues and concerns raised in the previous OHS Tribal Consultations.

The consultation sessions include elected or appointed leaders of Tribal governments and their designated representatives. Designees must have a letter from the Tribal government authorizing them to represent the Tribe. Tribal governments must submit the designee letter at least 3 days before the consultation sessions to Todd Lertjuntharangool at *Todd.Lertjuntharangool@acf.hhs.gov*. Other representatives of tribal organizations and Native nonprofit organizations are welcome to attend as observers.

Within 45 days of the consultation sessions, a detailed report of each consultation session will be available for all tribal governments receiving funds for Head Start and Early Head Start programs. Tribes can submit written testimony for the report to Todd Lertjuntharangool at *Todd.Lertjuntharangool@acf.hhs.gov* prior to each consultation session or within 30 days of each meeting. OHS will summarize oral testimony and comments from the consultation sessions in each report without attribution, along with topics of concern and recommendations.

Megan E. Steel,

ACF Certifying Officer.

[FR Doc. 2023–13793 Filed 6–28–23; 8:45 am]

BILLING CODE 4184–40–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–N–3657]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Accreditation Scheme for Conformity Assessment Program

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 31, 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 0910–0889. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Accreditation Scheme for Conformity Assessment Program

OMB Control Number 0910–0889—Revision

Section 514 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360d) provides for the establishment of performance standards, authorizing the Accreditation Scheme for Conformity Assessment Program (ASCA Program) under section 514(d). On September 25, 2020 (85 FR 60471), we announced the

implementation of a pilot program under which testing laboratories may be accredited by ASCA-recognized accreditation bodies meeting criteria specified by FDA to assess the conformance of a device to certain FDA-recognized standards. These testing laboratories then receive ASCA Accreditation from FDA. Determinations by ASCA-accredited testing laboratories that a device conforms with an eligible standard included as part of the program are accepted by FDA for the purposes of demonstrating conformity unless FDA finds that a particular such determination shall not be so accepted.[1] The statute provides that FDA may review determinations by accredited testing laboratories, including by conducting periodic audits of such determinations or processes of accreditation bodies or testing laboratories.[2]

Following such a review, or if FDA becomes aware of information materially bearing on safety or effectiveness of a device tested by an ASCA-accredited testing laboratory, FDA may take additional measures as determined appropriate, including suspension or withdrawal of ASCA Accreditation of a testing laboratory, withdrawal of ASCA Recognition of an accreditation body, or a request for additional information regarding a specific device.[3] The establishment of the goals, scope, procedures, and a suitable framework for the voluntary ASCA Program supports the Agency's continued efforts to use its scientific resources effectively and efficiently to protect and promote public health. FDA believes the voluntary ASCA Program may further encourage international harmonization of medical device regulation because it incorporates elements, where appropriate, from a well-established set of international conformity assessment practices and standards (*e.g.,* ISO/IEC 17000 series). The voluntary ASCA Program does not supplant or alter any other existing statutory or regulatory requirements governing the decision-making process for premarket submissions.

We are revising the information collection to reflect recent legislative changes. In accordance with amendments made to section 514 by the FDA Reauthorization Act of 2022 (FDARA),[4] and as part of the enactment of the Medical Device User Fee Amendments of 2022 (MDUFA V),[5] the ''pilot'' language and sunset clause was removed from the section, allowing FDA to conclude the pilot and continue to operate the program consistent with the amended section 514(d) of the FD&C Act. In accordance with these updates and as included in the Center for Devices and Radiological Health Proposed Guidances for Fiscal Year 2023,[6] we intend to update the applicable guidance documents.

Finally, to assist testing laboratories and accreditation bodies in submitting information to FDA, we are developing webforms for applying for ASCA Accreditation and ASCA Recognition, respectively.

Under the ASCA Program's conformity assessment scheme, ASCA-recognized accreditation bodies accredit testing laboratories using ISO/IEC 17025:2017: ''General requirements for the competence of testing and calibration laboratories'' and the ASCA program specifications associated with each eligible standard and test method included in the ASCA Program. ASCA-accredited testing laboratories may conduct testing to determine conformance of a device with at least one of the standards eligible for inclusion in the ASCA Program. When an ASCA-accredited testing laboratory conducts such testing, it provides a complete test report and an ASCA Summary Test Report to the device manufacturer. A device manufacturer who utilizes an ASCA-accredited testing laboratory to perform testing in accordance with the provisions of the ASCA Program can then include a declaration of conformity with supplemental documentation (including an ASCA Summary Test Report) as part of a premarket submission to FDA. Testing performed by an ASCA-accredited testing laboratory can be used to support a premarket submission for any device if the testing was conducted using a standard included in the ASCA Program and in accordance with the ASCA program specifications for that standard.

The ASCA Program includes participation from accreditation bodies, testing laboratories, device manufacturers, and FDA staff. Each of these entities plays a critical role in the ASCA Program to ensure that patients and healthcare providers have timely and continued access to safe, effective, and high-quality medical devices.

To participate in the ASCA Program, accreditation bodies and testing laboratories apply to FDA to demonstrate that they have the qualifications for their respective roles within the program. An application includes agreement to terms of participation. For example, a participating accreditation body or testing laboratory agrees to attend training, regularly communicate with FDA, and support periodic FDA audits. FDA will identify the scope of ASCA Recognition (for accreditation bodies) and ASCA Accreditation (for testing laboratories) for specific standards and test methods to which each participant may accredit or test as part of the ASCA Program.

During the ASCA Program, FDA generally will accept test results from ASCA-accredited testing laboratories to support conformity of a medical device to a particular standard and does not intend to review complete test reports from ASCA-accredited testing laboratories in support of a declaration of conformity submitted with a premarket submission except in certain circumstances.

Note that ASCA Accreditation is separate from any accreditation that an accreditation body may provide to a testing laboratory for purposes other than the ASCA Program.

The ASCA Program does not address specific content for a particular premarket submission. Information collections associated with premarket submissions have been previously approved.

We plan to issue draft guidance updates to the three published ASCA Pilot guidance documents[7] to improve and streamline the ASCA Program. The guidance updates are being issued to discuss the lessons learned during ASCA's pilot phase and to help

[1] *See* section 514(d)(1)(B) of the FD&C Act.

[2] *See* section 514(d)(2)(A) of the FD&C Act.

[3] *See* section 514(d)(2)(A)–(B) of the FD&C Act.

[4] *See* Public Law 117–180, section 2005.

[5] *See also* MDUFA V Commitment Letter: *https://www.fda.gov/media/158308/download*.

[6] *See* CDRH Proposed Guidances for Fiscal Year 2023, B-list: *https://www.fda.gov/medical-devices/guidance-documents-medical-devices-and-radiation-emitting-products/cdrh-proposed-guidances-fiscal-year-2023-fy2023#b*.

[7] The Accreditation Scheme for Conformity Assessment (ASCA) Pilot Program (*https://www.fda.gov/regulatory-information/search-fda-guidance-documents/accreditation-scheme-conformity-assessment-asca-pilot-program*). Basic Safety and Essential Performance of Medical Electrical Equipment, Medical Electrical Systems, and Laboratory Medical Equipment—Standards Specific Information for the Accreditation Scheme for Conformity Assessment (ASCA) Pilot Program (*https://www.fda.gov/regulatory-information/search-fda-guidance-documents/basic-safety-and-essential-performance-medical-electrical-equipment-medical-electrical-systems-and*). Biocompatibility Testing of Medical Devices—Standards Specific Information for the Accreditation Scheme for Conformity Assessment (ASCA) Pilot Program (*https://www.fda.gov/regulatory-information/search-fda-guidance-documents/biocompatibility-testing-medical-devices-standards-specific-information-accreditation-scheme*).

facilitate the transition from a pilot to a permanent program. As a result of these guidance updates, there is minimal adjustment to the burden estimate.

Respondents are accreditation bodies (ABs) and testing laboratories (TLs). In tables 1 through 3, these abbreviations are used.

In the **Federal Register** of January 19, 2023 (88 FR 3419), we published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

We estimate the burden of the information collection as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours [2]
Application by AB for ASCA Recognition	8	1	8	6	48
Request by AB to continue ASCA Recognition	2	1	2	6	12
Request by AB for ASCA Recognition (subsequent to withdrawal).	1	1	1	6	6
Request by AB to expand scope of ASCA Recognition	1	1	1	6	6
AB annual status report	8	1	8	3	24
AB notification of change	8	1	8	1	8
Application by TL for ASCA Accreditation	150	1	150	4	600
Request by TL to continue ASCA Accreditation	75	1	75	4	300
Request by TL for ASCA Accreditation (subsequent to withdrawal or suspension).	5	1	5	4	20
Request by TL to expand scope of ASCA Accreditation	75	1	75	4	300
TL annual status report	150	1	150	1.5	225
TL notification of change	5	1	5	1	5
Request for withdrawal or suspension of ASCA Accreditation (TLs) or request for withdrawal of ASCA Recognition (ABs).	6	1	6	0.08 (5 minutes).	1
Feedback questionnaire (ABs and TLs)	158	1	158	0.5 (30 minutes).	79
Total					1,634

[1] Totals have been rounded to the nearest hour.
[2] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
AB setup documentation standard operating procedures (SOPs) & training (one-time burden)	3	1	3	25	75
TL setup documentation SOPs & training (one-time burden)	20	1	20	25	500
AB record maintenance	8	1	8	1	8
TL record maintenance	150	1	150	1	150
Total					733

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

Activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
Request for Accreditation (TLs requesting accreditation from ABs).	150	1	150	0.5 (30 minutes).	75
Review/Acknowledgement of accreditation request (ABs)	8	22	176	40	7,040
Test Reports (TLs)	880	1	880	1	880
Total					7,995

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Our estimate of eight ABs is based on the number of International Laboratory Accreditation Cooperation signatories in the U.S. economy. We estimate that approximately 150 testing labs will seek ASCA Accreditation. Our estimate of Test Reports is based on the number of premarket submissions we expect per year with testing from an ASCA-accredited testing laboratory.

Our estimates for the number of respondents and average burden per

response, recordkeeping, and disclosure are based on our experience with the pilot program.

Our estimated burden for the information collection reflects an overall decrease of 3,129 hours and an increase of 94 responses/records. We attribute this adjustment to a decrease in the one-time burden for accreditation bodies and testing laboratories training and SOPs because much of this activity was completed during the pilot. In addition, there is an increase in the annual responses/records because there is an increase in renewal requests (by accreditation bodies to continue ASCA Recognition and by testing laboratories to continue ASCA Accreditation) since the pilot program was initiated.

Dated: June 26, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–13860 Filed 6–28–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–0366]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Food and Drug Administration Advisory Committee Regulations

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 31, 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 0910–0833. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

FDA Advisory Committee Regulations

OMB Control No. 0910–0833—Revision

This information collection helps support implementation of FDA regulations found in part 14 (21 CFR part 14). These regulations govern procedures applicable to presenting information and views before an FDA advisory committee in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2 and 3, Pub. L. 92–463). FACA is designed to assure that Congress and the public are kept informed with respect to the purpose, membership, and activities of advisory committees. It does not specify the manner in which advisory committee members and staff must be appointed.

Public advisory committee regulations in part 14 set forth requirements governing the administrative procedures to follow for the operation of advisory committees. Agency regulations in part 14, subpart A (§§ 14.1 through 14.15) identify scope of coverage, applicable definitions, and establish general provisions. The regulations in part 14, subpart B (§§ 14.20 through 14.39) set forth content and format requirements along with required schedules for submission of information. The regulations in part 14 subparts C, D, and E (§§ 14.40 through 14.95) set forth requirements governing advisory committee establishment, recordkeeping, and maintenance, respectively.

FDA will also require that nominees to serve on advisory committees submit a consent form authorizing FDA to post, without removing or redacting any information, to FDA's public website (*http://www.fda.gov/AdvisoryCommittees*) the curriculum vitae (CV) submitted as part of their nomination materials if the nominee is selected to serve on an advisory committee. The consent form requires that the nominee affirm that the CV does not include any confidential information, including information pertaining to third parties, that the nominee is not permitted to disclose. A nominee will be required to submit a signed consent form as a part of the nomination package for the nomination to be considered complete.

All nominations for new advisory committee members will be required to be submitted through FDA's website at *http://accessdata.test.fda.gov/scripts/FACTRSPortal/FACTRS/index.cfm,* or any successor system, and the submission will be required to be accompanied by the consent form, on or after the date of OMB approval for this information collection. Although we are developing collection instruments, as communicated on our website, respondents may submit information to: Advisory Committee Oversight and Management Staff, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Silver Spring, MD 20993, 800–741–8138 or 301–443–0572.

In the **Federal Register** of February 13, 2023 (88 FR 9294), FDA published a 60-day notice requesting public comment on the proposed collection of information. Four comments were received but were not responsive to the information collection topics solicited under the PRA. On our own initiative, we are clarifying the scope of coverage for the information collections.

We estimate the burden of the collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR part 14	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Subpart E—Members of Advisory Committees					
Advisory Committee Membership Nominations	308	1	308	0.25 (15 minutes).	77
Member Submission of Updated Information	452	1	452	0.25 (15 minutes).	113
Total					190

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Dated: June 26, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–13863 Filed 6–28–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–2474]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; New Animal Drugs for Minor Use and Minor Species

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by July 31, 2023.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0605. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Rachel Showalter, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 240–994–7399, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

New Animal Drugs for Minor Use and Minor Species

OMB Control Number 0910–0605—Revision

This information collection supports FDA regulations that implement sections 572 and 573 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360ccc–1 and 21 U.S.C. 360ccc–2) which establish an index of legally marketed unapproved new animal drugs for minor species and requirements for the designation of minor use or minor species new animal drugs, respectively. Agency regulations are codified in part 516 (21 CFR part 516) and include recordkeeping and reporting requirements. The purpose of these regulations is to encourage the development of these new animal drugs, while still ensuring appropriate safeguards for animal and human health. The general provisions in part 516, subpart A, set forth its purpose, scope, and applicable definitions.

Our regulations in part 516, subpart B, provide for designation status for Minor Use and Minor Species (MUMS) drugs prior to their approval or conditional approval. MUMS-drug designation makes the sponsor eligible for incentives to support the approval or conditional approval of the designated use and is completely optional for drug sponsors. The regulations describe how to apply for designation, what needs to be submitted, and other information pertaining to this option. Sponsors of designated new animal drugs are required to demonstrate due diligence toward approval or conditional approval through submission of annual reports documenting their progress for each designated use. We use this information to allow for determining eligibility for designation and the associated incentives and benefits, including a 7-year period of exclusive marketing rights, as provided by section 573 of the FD&C Act. It enables us to process requests for MUMS-drug designation, requests to amend MUMS-drug designation, changes in sponsorship, termination of MUMS-drug designation, requirements for annual reports from sponsors, and provisions for insufficient quantities of MUMS-designated drugs.

Regulations in part 516, subpart C, are intended to make more medications legally available to veterinarians and animal owners for the treatment of minor animal species. In some cases, a minor species drug is intended for use in species that are too rare or too varied to be the subject of adequate and well-controlled studies in support of a drug approval. In such cases, FDA may add the drug to the public index listing of legally marketed unapproved new animal drugs for minor species animals (Index), as provided for by section 572 of the FD&C Act. Within limitations established by the statute, such indexing provides a basis for legally marketing an unapproved new animal drug intended for use in a minor species. Our regulations in part 516, subpart C, specify, among other things, the criteria and procedures for requesting eligibility for indexing and for requesting addition to the Index, as well as the annual reporting requirements for holders of an index listing. The administrative procedures and criteria for indexing a new animal drug for use in a minor species, as well as modifications and removal of a drug from the Index are also set forth. FDA uses the information for the activities described above.

In the **Federal Register** of August 1, 2022 (87 FR 46961), FDA published a 60-day notice requesting public

comment on the information collection requirements related to designation status for MUMS drugs. No comments were received. We are revising the information collection to add the information collection requirements associated with the index listing of legally marketed unapproved new animal drugs for minor species, for efficiency of Agency operations.

Description of Respondents: The respondents to this information collection are pharmaceutical companies that sponsor new animal drugs for designation or requesters wishing to add a new animal drug to the Index.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section; activity	Number of respondents	Number of responses per respondent	Total annual responses [2]	Average burden per response (hours)	Total hours [3]
Designated New Animal Drugs for Minor Use and Minor Species, Part 516, Subpart B					
516.20, 516.26, 516.27, 516.29, 516.30, and 516.36; Reporting burden associated with drug designation requests and termination of designation	26	~2.65	69	4	276
Index of Legally Marketed Unapproved New Animal Drugs for Minor Species, Part 516, Subpart C					
516.119, 516.121, 516.123, 516.125, 516.141, 516.143, 516.145; 516.161, 516.163, and 516.165; Reporting burden associated with requests for index listing and modifying indexed drugs	30	~10.33	310	~16.954	5,256
Total					5,532

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Decimal rounded.
[3] Rounded up.

Burden we attribute to reporting activities is assumed to be distributed among the individual elements and averaged among respondents. Our estimate of the burden per disclosure (4 and 16.954 hours, respectively) reflect what we believe is the average burden based on the reporting required by the information collection.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR section, activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Designated New Animal Drugs for Minor Use and Minor Species, Part 516, Subpart B					
One-time recordkeeping burden associated with reading and understanding the rule [2].	474	1	474	0.68 (~41 minutes) [3].	323
Index of Legally Marketed Unapproved New Animal Drugs for Minor Species, Part 516, Subpart C					
516.141 and 516.165; recordkeeping associated with panel deliberations and the information pertinent to the safety and effectiveness from foreign sources.	40	2	80	0.625 (37.5 minutes).	50
Total					373

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Direct Final Rule, ''Defining 'Small Number of Animals' for Minor Use Determination; Periodic Reassessment'' (September 15, 2022; 87 FR 56583). Preliminary Regulatory Impact Analysis (*https://www.regulations.gov/document/FDA-2022-N-1128-0007*).
[3] Rounded up.

Burden we attribute to recordkeeping activities for the indexing provisions is assumed to be distributed among the individual elements and averaged among respondents. Our estimate of the burden per record (0.625 hours) reflects what we believe is the average burden based on the recordkeeping required by the information collection.

For efficiency of Agency operations, we are consolidating the related information collection activities currently approved in OMB control numbers 0910–0605 and 0910–0620 into a single collection request. The burden estimates reflect our current experience with the information collection and requests received by respondents over the past 3 years. We also include burden that may be attributable to rulemaking (RIN 0910–A146), which became effective on December 14, 2022. Although the rulemaking revised the definition of ''small number of animals,'' for purposes of determining whether a particular intended use of a drug in a major species qualifies as a minor use, we believe only nominal adjustments in burden associated with designation status for MUMS drugs may result, other than a one-time recordkeeping burden. In addition, upon review of the previous information collection submission related to

indexing, we include burden associated with recordkeeping to address a data-entry error in the RISC/ORIA Combined Information System (ROCIS system). Cumulatively, these changes and adjustments reflect an overall increase of 5,905 hours and a corresponding increase of 864 responses, annually, to the information collection.

Dated: June 26, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–13853 Filed 6–28–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Rural Communities Opioid Response Program Performance Measures—OMB No. 0906–0044—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA's ICR only after the 30-day comment period for this notice has closed.

DATES: Comments on this ICR should be received no later than July 31, 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 Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email *paperwork@hrsa.gov* or call Samantha Miller, the HRSA Information Collection Clearance Officer, at (301) 443–3983.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Rural Communities Opioid Response Program Performance Measures—OMB No. 0906–0044—Revision.

Abstract: HRSA administers the Rural Communities Opioid Response Program (RCORP), which is authorized by section 711(b)(5) of the Social Security Act (42 U.S.C. 912(b)(5)) and is a multi-initiative program that aims to: (1) support treatment for and prevention of substance use disorder (SUD), including opioid use disorder (OUD); and (2) reduce morbidity and mortality associated with SUD, to include OUD, by improving access to and delivering prevention, treatment, and recovery support services to high-risk rural communities. To support this purpose, RCORP grant initiatives include:

- RCORP—Implementation grants to fund established networks and consortia to deliver SUD/OUD prevention, treatment, and recovery activities in high-risk rural communities;
- RCORP—Neonatal Abstinence Syndrome grants to reduce the incidence and impact of Neonatal Abstinence Syndrome in rural communities by improving systems of care, family supports, and social determinants of health;
- RCORP—Psychostimulant Support grants to strengthen and expand prevention, treatment, and recovery services for individuals in rural areas who misuse psychostimulants; to enhance their ability to access treatment and move toward recovery;
- RCORP—Medication Assisted Treatment (MAT) Access grants aim to establish new access points in rural facilities where none currently exist; and
- RCORP—Behavioral Health Care support grants aim to expand access to and quality of behavioral health care services at the individual-, provider-, and community-levels.
- Note that additional grant initiatives may be added pending fiscal year 2024 and future fiscal year appropriations.

HRSA currently collects information about RCORP grants using approved performance measures. HRSA developed separate performance measures for RCORP's new MAT Access and Behavioral Health Care Support grants and seeks OMB approval for the new collection.

A 60-day notice published in the **Federal Register** on April 23, 2023, vol. 88, No. 63; pp. 19651–52. There were no public comments.

Need and Proposed Use of the Information: Due to the growth in the number of grant initiatives included within RCORP, as well as emerging SUD and other behavioral health trends in rural communities, HRSA is submitting a revised ICR that includes measures for RCORP's new MAT Access and Behavioral Health Care Support grants. For this program, performance measures were developed to provide data on each RCORP initiative and enable HRSA to provide aggregate program data required by Congress under the Government Performance and Results Act of 1993. These measures cover the principal topic areas of interest to the Federal Office of Rural Health Policy, including: (a) provision of, and referral to, rural behavioral health care services, including SUD prevention, treatment and recovery support services; (b) behavioral health care, including SUD prevention, treatment, and recovery, process and outcomes; (c) education of health care providers and community members; (d) emerging trends in rural behavioral health care needs and areas of concern; and (e) consortium strength and sustainability. All measures will speak to the Federal Office of Rural Health Policy's progress toward meeting the goals set.

Likely Respondents: The respondents will be recipients of the RCORP grants.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent (annually)	Total responses	Average burden per response (in hours)	Total burden hours
Rural Communities Opioid Response Program—Implementation/Neonatal Abstinence Syndrome/MAT Expansion	290	2	580	1.24	719.20
Rural Communities Opioid Response Program—Psychostimulant Support	15	1	15	1.30	19.50
Rural Communities Opioid Response Program—MAT Access—NEW	11	1	11	1.95	21.45
Rural Communities Opioid Response Program—Behavioral Health Care Support—NEW	58	1	58	2.02	117.16
Total	374		664		877.31

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2023–13827 Filed 6–28–23; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Questionnaire and Data Collection Testing, Evaluation, and Research for the Health Resources and Services Administration, OMB No. 0915–0379 Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA's ICR only after the 30-day comment period for this notice has closed.

DATES: Comments on this ICR should be received no later than July 31, 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 Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Samantha Miller, the HRSA Information Collection Clearance Officer, at (301) 443–3983.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Questionnaire and Data Collection Testing, Evaluation, and Research for HRSA—OMB No. 0915–0379—Revision.

Abstract: The purpose of information collections under this generic umbrella ICR package is to allow HRSA to continue collecting feedback from members of the public for HRSA to use when developing new questions, questionnaires, and tools; pilot/pre-test instruments to be deployed by HRSA; and to identify problems in instruments currently in use. This generic clearance is limited to data collection for the development or revision of HRSA tools and data collection instruments, as well as reports for internal decision-making and development purposes. Information collected under this generic clearance will not be used for data collection, reports, or policy documents to be released to the public. It is anticipated that data collection approved under this generic clearance will rely heavily on qualitative techniques and not the collection of numerical data. In general, these activities are not designed to yield results that meet generally accepted standards of statistical rigor but designed to obtain information to develop clearer and more effective and efficient data collection tools that will yield more accurate results and decrease public non-response. The forms submitted under this generic clearance will be voluntary, low-burden, and uncontroversial.

HRSA originally developed this generic umbrella ICR to support similar needs across HRSA's bureaus and offices as reflected in their specific activities informed by their specific authorizing statutes. The purpose is to collect qualitative data from small groups of people in response to short questionnaires, using questions posed on HRSA's website, through focus groups and individual interviews of HRSA staff and members of the public. The abbreviated clearance process of the generic clearance helps ensure timely data gathering on current issues HRSA is addressing (*e.g.,* allows program offices to gather a suitable pool of candidates for piloting future instruments).

HRSA seeks to extend OMB approval of this ICR and existing ICRs that fall under it while including a slight increase in the burden estimate to account for HRSA's implementation of Executive Order 13985, which calls on agencies to advance racial equity and support for underserved communities through identifying and addressing barriers to equal opportunity that underserved communities may face; HRSA will likely conduct additional information collection requests so that HRSA may effectively implement this Executive Order.

A 60-day notice published in the **Federal Register** on April 13, 2023, vol. 88, No. 71; pp. 22459–61. There were no public comments.

Need and Proposed Use of the Information: HRSA conducts interviews, focus groups, usability tests, and field tests/pilot interviews for data collection instrument development and evaluation (including assessment of response errors in data collection instruments). HRSA staff use various techniques to evaluate interviewer-administered, self-administered, telephone, Computer Assisted Personal Interviewing, Computer Assisted Self-Interviewing, Audio Computer-Assisted Self-Interviewing, and web-based questionnaires.

Each information collection under this generic clearance will specify the specific testing and evaluation procedures to be used. Participation will be fully voluntary, and non-participation will not affect eligibility for, or receipt of, future HRSA health services research activities or grant awards, recruitment, or participation. Appropriate consent procedures will be customized and used for each information collection activity and any collection of personal, privacy-protected information will be handled in accordance with all applicable federal requirements. If HRSA wishes to record the encounter, the respondent's permission to record will be obtained before beginning the interview. If consent is not provided, the interview either will not be recorded or not be conducted. When screening is used (*e.g.,* quota sampling), the screening will be as brief as possible, and the screening questionnaire will be provided to OMB for review.

Collection methods—The particular information collection methods used will vary, but may include the following:

- Individual in-depth interviews—In-depth interviews will commonly be used to ensure that the respondent understands the meaning of a questionnaire or strategy. When in-depth interviewing is used, the interview guide will be provided to OMB for review.
- Focus groups—Focus groups will be used to obtain insights into beliefs and understandings of the target audience early in the development of a questionnaire or tool. When focus groups are used, the focus group discussion guide will be provided to OMB for review.
- Expert/Gatekeeper review of tools—In some instances, medical providers or other gatekeepers may review tools to provide feedback on the acceptability and usability of a particular tool. This will usually be in addition to an individual user pretesting the tool.
- Record abstractions—On occasion, the development of a tool or other information collection requires review and interaction with records, rather than individuals.
- ''Dress rehearsal'' of a specific protocol—In some instances, the proposed pre-testing will constitute a walkthrough of the intended data collection procedure. In these cases, the request will mirror what is expected to occur for the larger scale data collection.

Professionally recognized procedures are followed in each information collection activity to ensure collection of high-quality information. Examples of these procedures could include the following:

- Monitoring by supervisory staff of some telephone interviews;
- Conducting interviews using methods including ''think-aloud'' techniques and debriefings;
- Computerizing data-entry from mail or paper-and-pencil surveys using scannable forms or double-key entry (*i.e.,* two people input the data from mail or paper-and-pencil surveys into an electronic format, and then comparing the two sets of entries for anomalies);
- Monitoring by observers of focus groups and recording (*e.g.,* video recording, audio recording) of focus group proceedings (subject to participant consent); and
- Employing commonly used statistical validation techniques to ensure accuracy (such as disallowing out-of-range values) of data submitted through on-line surveys.

HRSA is requesting approval for generic information collections previously approved by OMB. These include:

- Health Center Workforce Well-Being Survey: Listening Sessions
- Health Center Workforce Well-Being Survey: Cognitive Sessions
- Health Center Workforce Well-Being Survey: Pilot Testing
- Health Center Workforce Survey Evaluation and Technical Assistance: Pilot Survey
- Fast Track Interviews with National Hypertension Control Initiative Group 2 Participants

HRSA notes that the previously approved collections are mostly unchanged, except that they may have updates to include any advances in burden estimation or information collection protocols. HRSA also anticipates conducting additional collections as the agency implements Executive Order 13985. To identify areas for improvement, HRSA anticipates collecting and aggregating data by race, ethnicity, gender, disability, income, veteran status, or other key demographic variables, while protecting individual privacy, so that HRSA can use the information to help increase equity in its programs for people from a robust range of demographic groups.

Likely Respondents: Participation in any collections under this clearance will be entirely voluntary, and the privacy of respondents will be preserved to the extent requested by participants and as permitted by law.

Respondents will be recruited by means of advertisements in public venues or through techniques that replicate prospective data collection activities that are the focus of the project. For instance, a survey on physician communication, designed to be administered following an office visit, might be pretested using the same procedure. Each ICR will specify the recruitment procedure to be used.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Type of information collection	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Mail/email [1]	1,000	1	1,000	0.26	260
Telephone	1,000	1	1,000	0.26	260
Web-based	1,200	1	1,200	0.25	300
Focus Groups	925	1	925	1.00	925
In-person	250	1	250	1.00	250
Automated [2]	500	1	500	1.00	500

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of information collection	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Cognitive Testing	700	1	700	1.41	987
Total	5,575		5,575		3482

[1] May include telephone non-response follow-up in which case the burden will not change.
[2] May include testing of database software, Computer Assisted Personal Interviewing software, or other automated technologies.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2023–13829 Filed 6–28–23; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Information Collection Request; Application for Federally Supported Health Centers Assistance Act/Federal Tort Claims Act Particularized Determination of Coverage, 0906–XXXX, New

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA submitted an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA's ICR only after the 30-day comment period for this notice has closed.

DATES: Comments on this ICR must be received no later than July 31, 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 Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Samantha Miller, the HRSA Information Collection Clearance Officer, at *paperwork@hrsa.gov* or call (301) 443–3983.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the ICR title for reference.

Information Collection Request Title: Application for Federally Supported Health Centers Assistance Act/Federal Tort Claims Act Particularized Determination of Coverage. OMB No. 0906–XXXX–New.

Abstract: Section 224(g)–(n) of the Public Health Service (PHS) Act (42 U.S.C. 233(g)–(n)), as amended, authorizes the Secretary to ''deem'' entities receiving funds under section 330 of the PHS Act (HRSA's Health Center Program) as PHS employees for the purposes of establishing eligibility for liability protections under the Federally Supported Health Centers Assistance Act (FSHCAA) including Federal Tort Claims Act (FTCA) coverage, for covered activities and individuals. Health centers submit deeming applications annually to HRSA's Bureau of Primary Health Care, which administers the Health Center Program and the Health Center FTCA Program, in the prescribed form and manner to obtain deemed PHS employee status for this purpose.

FSHCAA and 42 CFR 6.6(d) authorize FTCA coverage for the provision of medical services to non-health center patients in certain situations. Section 224(g)(1)(C) of the PHS Act and 42 CFR 6.6(d) explain the criteria by which the Secretary will determine whether FSHCAA's liability protections, including FTCA coverage, will extend to the provision of medical care to individuals who are not patients of the health center. 42 CFR 6.6(e) identifies examples that are approvable for FTCA coverage under 42 CFR 6.6(d) and section 224(g)(1)(B)(ii) of the PHS Act if there is compliance with all other coverage requirements under FSHCAA. 42 CFR 6.6(e)(4) provides examples of specific activities that the Department has determined are eligible for FSCHAA's liability protections, including FTCA coverage, without the need for a specific application for a coverage determination. As indicated in 42 CFR 6.6(e)(4), if any element of an activity or arrangement does not fit squarely into the examples listed in 42 CFR 6.6(e), the covered entity should request a particularized determination of coverage. Acts and omissions related to services provided to individuals who are not patients of a covered entity that do not fit squarely within the examples in 42 CFR 6.6(e)(4) will be covered only if the Secretary makes a coverage determination under 42 CFR 6.6(d). The FTCA program uses a web-based application system within HRSA's Electronic Handbooks (EHB) system for deeming applications. These electronic application forms decrease the time and effort required to complete the older, paper-based approved deeming application forms. HRSA is proposing a new paper application that will be transitioned into an electronic application within the EHB system for Particularized Determinations (PD). PDs extend liability protections under FSCHAA, including FTCA coverage, for certain medical services provided to individuals who are not patients of a covered entity. This application will help ensure health centers provide all the necessary information required to make determinations appropriately and efficiently in response to their requests. By including the application within the EHBs, health centers will have access to all information from prior applications and have that information readily available if making future requests. The paper form of the application is an interim solution to support health centers until the electronic application becomes available in the FTCA module of the EHBs. After the electronic application is available in the EHBs, all PD requests will be submitted

electronically, and the paper application will no longer be used for submissions.

A 60-day notice published in the **Federal Register** on March 8, 2023, Vol. 88, No. 45; pp. 14377, received no public comments.

Need and Proposed Use of the Information: PDs of coverage applications are provided in compliance with 42 CFR 6.6 and must address certain specified criteria for coverage determinations to be issued. The application provides the Bureau of Primary Health Care with the information that is essential for evaluation of compliance with legal requirements and making a deeming determination of coverage under 42 CFR 6.6.

Likely Respondents: Respondents include recipients of Health Center Program funds with deemed PHS employee status under section 224(g)–(n) of the PHS Act (42 U.S.C. 233(g)–(n)).

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Application for Federally Supported Health Center Assistance Act (FSHCAA)/Federal Tort Claims Act (FTCA) Particularized Determination	12	1	12	2	24
Total	12	1	12	24	24

HRSA specifically requests comments on (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.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2023–13822 Filed 6–28–23; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Secretary's Advisory Committee on Human Research Protections

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, notice is hereby given that the Secretary's Advisory Committee on Human Research Protections (SACHRP) will hold a meeting that will be open to the public. Information about SACHRP, the full meeting agenda, and instructions for linking to public access will be posted on the SACHRP website at *http://www.dhhs.gov/ohrp/sachrp-committee/meetings/index.html.*

DATES: The meeting will be held on Wednesday, July 19, 2023 from 11:00 a.m. until 5:00 p.m., and Thursday, July 20, 2023, from 11:00 a.m. until 5:00 p.m. (times are tentative and subject to change). The confirmed times and agenda will be posted on the SACHRP website as this information becomes available.

ADDRESSES: This meeting will be held via webcast. Members of the public may also attend the meeting via webcast. Instructions for attending via webcast will be posted at least one week prior to the meeting at *https://www.hhs.gov/ohrp/sachrp-committee/meetings/index.html.*

FOR FURTHER INFORMATION CONTACT: Julia Gorey, J.D., Executive Director, SACHRP; U.S. Department of Health and Human Services, 1101 Wootton Parkway, Suite 200, Rockville, Maryland 20852; telephone: 240–453–8141; fax: 240–453–6909; email address: *SACHRP@hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the authority of 42 U.S.C. 217a, section 222 of the Public Health Service Act, as amended, SACHRP was established to provide expert advice and recommendations to the Secretary of Health and Human Services, through the Assistant Secretary for Health, on issues and topics pertaining to or associated with the protection of human research subjects.

The Subpart A Subcommittee (SAS) was established by SACHRP in October 2006 and is charged with developing recommendations for consideration by SACHRP regarding the application of subpart A of 45 CFR part 46 in the current research environment.

The Subcommittee on Harmonization (SOH) was established by SACHRP at its July 2009 meeting and charged with identifying and prioritizing areas in which regulations and/or guidelines for human subjects research adopted by various agencies or offices within HHS would benefit from harmonization, consistency, clarity, simplification and/or coordination.

The SACHRP meeting will open to the public at 11:00 a.m., on Wednesday, July 19, 2023, followed by opening remarks from Julie Kaneshiro, Acting Director of OHRP and Dr. Douglas Diekema, SACHRP Chair. The meeting will begin with a discussion of IRB effectiveness, topic #4 of the recently published GAO report #GAO–23–104721, Institutional Review Boards: Actions Needed to Improve Federal Oversight and Examine Effectiveness. This will be followed by commentary on the FDA draft guidance, Decentralized Clinical Trials for Drugs, Biological Products, and Devices, in addition to discussion of recommendations that address the ethical conduct of decentralized clinical trials in human subjects research more broadly.

Discussion of both topics will continue on July 20, in addition to commentary on the recently released

draft HHS guidance, *Frequently Asked Questions: Limited Institutional Review Board Review and Related Exemptions.* Other topics may be added; for the full and updated meeting agenda, see *http://www.dhhs.gov/ohrp/sachrp-committee/meetings/index.html.* The meeting will adjourn by 5:00 p.m. July 20, 2023.

Time will be allotted for public comment on both days of the meeting. The public may submit written public comment in advance to *SACHRP@hhs.gov* no later than midnight July 12, 2023, ET. Written comments will be shared with SACHRP members and may be read aloud during the meeting. Public comment must be relevant to topics being addressed by the SACHRP.

Dated: June 12, 2023.

Julia G. Gorey,

Executive Director, SACHRP, Office for Human Research Protections.

[FR Doc. 2023–13833 Filed 6–28–23; 8:45 am]

BILLING CODE 4150–36–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Research Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Findings of research misconduct have been made against Yiorgos (Georgios) I. Laliotis, M.D. (Respondent), who was a Postdoctoral Fellow, Department of Cancer Biology and Genetics, College of Medicine, The Ohio State University (OSU), and Postdoctoral Fellow, Department of Oncology, Johns Hopkins University (JHU). Respondent engaged in research misconduct in research supported by U.S. Public Health Service (PHS) funds, specifically National Cancer Institute (NCI), National Institutes of Health (NIH), grants R01 CA186729, R01 CA198117, P30 CA016058, K22 CA245487, and R21 CA252530 and included in grant applications submitted for PHS funds, specifically R01 CA186729–07 and R01 CA198117–05 submitted to NCI, NIH. The administrative actions, including supervision for a period of three (3) years, were implemented beginning on June 12, 2023, and are detailed below.

FOR FURTHER INFORMATION CONTACT: Sheila Garrity, JD, MPH, MBA, Director, Office of Research Integrity, 1101 Wootton Parkway, Suite 240, Rockville, MD 20852, (240) 453–8200.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Office of Research Integrity (ORI) has taken final action in the following case:

Yiorgos (Georgios) I. Laliotis, M.D., The Ohio State University and Johns Hopkins University: Based on the reports of inquiries conducted by OSU and JHU, admissions by Respondent, and analysis conducted by ORI in its oversight review, ORI found that Yiorgos (Georgios) I. Laliotis, M.D., former Postdoctoral Fellow, Department of Cancer Biology and Genetics, College of Medicine, OSU, and former Postdoctoral Fellow, Department of Oncology, JHU, engaged in research misconduct in research supported by U.S. Public Health Service (PHS) funds, specifically NCI, NIH, grants R01 CA186729, R01 CA198117, P30 CA016058, K22 CA245487, and R21 CA252530 and included in grant applications submitted for PHS funds, specifically R01 CA186729–07 and R01 CA198117–05 submitted to NCI, NIH.

ORI found that Respondent engaged in research misconduct by intentionally and knowingly falsifying and/or fabricating data, methods, results, and conclusions by representing a fabricated Exon 2 splice variant of *U2AF2,* which would translate as a Serine-Arginine-Rich deficient U2AF65 isoform, leading to the repression of lung adenocarcinomas and by enhancing the role of splicing in mutant *PIK3CA* breast cancer cell lines in the following three (3) published papers, two (2) NIH grant applications, and two (2) unpublished manuscripts:

- AKT3-mediated IWS1 phosphorylation promotes the proliferation of EGFR-mutant lung adenocarcinomas through cell cycle-regulated *U2AF2* RNA splicing. *Nat. Commun.* 2021 Jul 30; 12(1):4624. doi: 10.1038/s41467–021–24795–1 (hereafter referred to as ''*Nat. Commun.* 2021''). Retraction in: *Nat. Commun.* 2022 Jun 28;13(1):3711. doi: 10.1038/s41467–022–31445–7.
- Phosphor-IWS1-dependent *U2AF2* splicing regulates trafficking of CAR–E-positive intronless gene mRNAs and sensitivity to viral infection. *Commun. Biol.* 2021 Oct 11; 4(1):1179. doi: 10.1038/s42003–021–02668-z (hereafter referred to as ''*Commun. Biol.* 2021''). Retraction in: *Commun. Biol.* 2021 Dec 15;4(1):1419. doi: 10.1038/s42003–021–02941–1.
- Overexpression of the SETD2 WW domain inhibits the phosphor-IWS1/SETD2 interaction and the oncogenic AKT/IWS1 RNA splicing program. *bioRxiv* 2021.08.12.454141. doi: 10.1101/2021.08.12.454141 (hereafter referred to as ''*bioRxiv* 2021''). Withdrawn. The manuscript also was submitted to *Commun. Biol.* in 2021 but was withdrawn prior to completion of peer review.
- R01 CA186729–07, ''The role of IWS1-dependent alternative RNA splicing in lung cancer,'' submitted to NCI, NIH, on November 5, 2020.
- R01 CA198117–05, ''The role of IWS1 in development and tumorigenesis,'' submitted to NCI, NIH, on June 3, 2019.
- The transcriptomic landscape of oncogenic P13K reveals key functions in splicing and gene expression regulation. Manuscript submitted to *Cancer Res.* (hereafter referred to as the ''*Cancer Res.* manuscript'').
- Interpretable deep learning for chromatin-informed inference of transcriptional programs driven by somatic alterations across cancers. Manuscript in preparation (hereafter referred to as ''Manuscript 2021'').

Specifically, ORI finds that Respondent knowingly and intentionally:

- falsified the sequencing data in Figure 1g of *Nat. Commun.* 2021 by splicing two sequencing chromatograms together to falsely represent a novel identification of a previously undescribed *U2AF2* RNA transcript lacking Exon 2
- falsified conclusions about the fabricated *U2AF2* splice variant in RT–PCR results in Figures 1f, 2a, 2b, 2c, 3d, 4a, 4b, 4c, 4e, 5h, 6f, 6i, and 7c of *Nat. Commun.* 2021
- falsified conclusions about the fabricated *U2AF2* splice variant as the source of two endogenous protein isoforms in immunoblot panels in Figures 5c and 5g of *Nat. Commun.* 2021 and Figure 2 of R01 CA186729–07
- falsified the experimental conditions of p-ERK1/2 (Y202/T204), p-CDK1 (Y15), CDK1, and Cyclin B1 immunoblot panels in Figure 5g of *Nat. Commun.* 2021 and Figure 2 of R01 CA186729–07 by using shControl or shIWS1 instead of the samples as reported in the figure labels to falsely represent the immunoblots as the result of *U2AF2* containing spliced Exon 2
- falsified the experimental conditions of the α-actinin immunoblot panel in Figure 1e of *Commun. Biol.* 2021 by using shIWS1 instead of shISWS1/U2AF65β-V5 as reported in the figure label
- in *Commun. Biol.* 2021, *bioRxiv* 2021, R01 CA186729–07, and R01 CA198117–05, reported falsified conclusions highlighting the role of the fabricated *U2AF2* RNA transcript lacking Exon 2 from *Nat. Commun.* 2021

- fabricated and/or falsified the dose response curves in Figures 3k and S5N of the *Cancer Res.* manuscript by treating the MCF7 and T47D cells lines with DMSO or Alpelisib instead of treating with the presence or absence of splicing inhibitors H3B–8800 or E7070 as reported in the figure legend
- fabricated and/or falsified the quantitative RNA immunoprecipitation qPCR data in Figures S4c and S4d of the *Cancer Res.* Manuscript
- fabricated and/or falsified the qPCR data in Figure 6 of Manuscript 2021 to show changes in gene expression between control and inhibitor treatment
- fabricated and/or falsified the experimental methods described in the legend of Figure 6 of Manuscript 2021 by using CREB1 as a control gene instead of ACTIN as reported in the figure legend

Respondent entered into a Voluntary Settlement Agreement (Agreement) and voluntarily agreed to the following:

(1) Respondent will have his research supervised for a period of three (3) years beginning on June 12, 2023 (the ''Supervision Period''). Prior to the submission of an application for PHS support for a research project on which Respondent's participation is proposed and prior to Respondent's participation in any capacity in PHS-supported research, Respondent will submit a plan for supervision of Respondent's duties to ORI for approval. The supervision plan must be designed to ensure the integrity of Respondent's research. Respondent will not participate in any PHS-supported research until such a supervision plan is approved by ORI. Respondent will comply with the agreed-upon supervision plan.

(2) The requirements for Respondent's supervision plan are as follows:

i. A committee of 2–3 senior faculty members at the institution who are familiar with Respondent's field of research, but not including Respondent's supervisor or collaborators, will provide oversight and guidance for a period of three (3) years from the effective date of the Agreement. The committee will review primary data from Respondent's laboratory on a quarterly basis and submit a report to ORI at six (6)-month intervals setting forth the committee meeting dates and Respondent's compliance with appropriate research standards and confirming the integrity of Respondent's research.

ii. The committee will conduct an advance review of each application for PHS funds, or report, manuscript, or abstract involving PHS-supported research in which Respondent is involved. The review will include a discussion with Respondent of the primary data represented in those documents and will include a certification to ORI that the data presented in the proposed application, report, manuscript, or abstract are supported by the research record.

(3) During the Supervision Period, Respondent will ensure that any institution employing him submits, in conjunction with each application for PHS funds, or report, manuscript, or abstract involving PHS-supported research in which Respondent is involved, a certification to ORI that the data provided by Respondent are based on actual experiments or are otherwise legitimately derived and that the data, procedures, and methodology are accurately reported and not plagiarized in the application, report, manuscript, or abstract.

(4) If no supervision plan is provided to ORI, Respondent will provide certification to ORI at the conclusion of the Supervision Period that his participation was not proposed on a research project for which an application for PHS support was submitted and that he has not participated in any capacity in PHS-supported research.

(5) During the Supervision Period, Respondent will exclude himself voluntarily from serving in any advisory or consultant capacity to PHS including, but not limited to, service on any PHS advisory committee, board, and/or peer review committee.

Dated: June 26, 2023.

Sheila Garrity,

Director, Office of Research Integrity, Office of the Assistant Secretary for Health.

[FR Doc. 2023–13847 Filed 6–28–23; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Global Affairs: Stakeholder Listening Session in Preparation for the G20 Health Working Group Ministers Meeting

ACTION: Notice of public listening session; request for comments.

Time and Date: The listening session will be held on Wednesday, August 9, 2023, from 12 to 2:00 p.m., Eastern Daylight Time.

Place: The session will be held virtually, with online and dial-in information shared with registered participants.

Status: This meeting is open to the public but requires RSVP to *oga.rsvp@hhs.gov* by August 4, 2023. See RSVP section below for details.

SUPPLEMENTARY INFORMATION:

Purpose: The U.S. Department of Health and Human Services (HHS), with support from relevant health-related U.S. Government offices, is charged with leading the U.S. delegation to the Group of 20 (G20) Health Working Group Ministers' Meeting and will convene an informal Stakeholder Listening Session.

The Stakeholder Listening Session is designed to seek input from stakeholders and subject matter experts to help inform and prepare for U.S. government engagement with the G20 Health Ministers. The G20 comprises 19 countries (Argentina, Australia, Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Japan, Republic of Korea, Mexico, Russia, Saudi Arabia, South Africa, Turkey, United Kingdom and United States) and the European Union. The G20 members represent around 85% of the global GDP, over 75% of the global trade, and about two-thirds of the world population. The G20 is the premier forum for international economic cooperation and plays an important role in shaping and strengthening global architecture and governance on all major international economic issues.

Each year, a different member country holds the presidency of the group and hosts the meetings. The presidency proposes the group's priorities for the year and hosts discussions to work towards consensus positions and actions on those priorities. This year's G20 presidency is India, which will be hosting the Health Working Group Ministers' Meeting on August 18 and 19, 2023.

Matters to be Discussed: The Stakeholder Listening Session will cover priority areas expected to be addressed at the G20 Health Working Group Ministers Meeting. The following have been identified as priorities for the G20 Health Working Group:

Priority I: Health emergencies' prevention, preparedness and response (including a focus on a One Health approach & antimicrobial resistance).

Priority II: Strengthening cooperation on availability of and access to safe, effective, quality and affordable medical countermeasures during health emergencies.

Priority III: Digital health innovations and solutions to aid universal health coverage and improve health care service delivery.

Participation is welcome from all stakeholder communities.

RSVP: Persons seeking to speak at the listening session must register by Friday, August 4, 2023. Persons seeking to attend the listening session in a listen-only capacity must register by Monday, August 7, 2023.

Registrants must include their full name and organization, if any, and indicate whether they are registering as a listen-only attendee or as a speaker participant to *oga.rsvp@hhs.gov.*

Requests to participate as a speaker must include:

1. The name and email address of the person desiring to participate.
2. The organization(s) that person represents, if any.
3. Identification of the primary topic of interest.

Other Information: Written comments should be emailed to *oga.rsvp@hhs.gov* with the subject line ''Written Comment Re: Stakeholder Listening Session in preparation for the G20 Health Working Group Ministers Meeting'' by Friday, August 11, 2023.

We look forward to your comments on U.S. engagement with the G20 Health Working Group Ministers Meeting.

Dated: June 9, 2023.

Susan Kim,

Principal Deputy Assistant Secretary for Global Affairs.

[FR Doc. 2023–13798 Filed 6–28–23; 8:45 am]

BILLING CODE 4150–38–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: Basic Translational Cancer.

Date: July 25, 2023.

Time: 12 to 5 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: Angela Y. Ng, Ph.D., MBA, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 710–C, MSC 7806, Bethesda, MD 20892, (301) 435–1715, *nga@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Medical Imaging Investigations.

Date: July 26, 2023.

Time: 9 a.m. to 8 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: Yuanna Cheng, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7814, Bethesda, MD 20892, (301) 435–1195, *Chengy5@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Physiology and Pathobiology of Cardiovascular and Respiratory Systems.

Date: July 27–28, 2023.

Time: 9 a.m. to 9 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Kimm Hamann, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118A, MSC 7814, Bethesda, MD 20892, 301–435–5575, *hamannkj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Endocrinology and Metabolism.

Date: July 27, 2023.

Time: 10 a.m. to 4 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: Dianne Hardy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6175, MSC 7892, Bethesda, MD 20892, 301–435–1154, *dianne.hardy@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; AREA/REAP: Respiratory, Cardiac and Circulatory Sciences.

Date: July 27, 2023.

Time: 1 to 5 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: Kirk Edward Dineley, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 806E, Bethesda, MD 20892, (301) 867–5309, *dineleyke@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Molecular Transducers of Physical Activity Consortium (MoTrPAC) Clinical Centers and Coordinating Center.

Date: July 27, 2023.

Time: 12:30 to 6:30 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: Heidi B. Friedman, Ph.D., Senior Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 907–H, Bethesda, MD 20892, (301) 379–5632, *hfriedman@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Vascular Biology and Hematology.

Date: July 28, 2023.

Time: 10 a.m. to 8 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: Ai-Ping Zou, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, Bethesda, MD 20892, (301) 408–9497, *zouai@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer Prevention and Therapeutics.

Date: July 28, 2023.

Time: 12:30 to 7 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: Shahana Majid, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 867–5309, *shahana.majid@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 23, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–13796 Filed 6–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. to achieve expeditious commercialization of results of federally-funded research and development.

FOR FURTHER INFORMATION CONTACT: Licensing information may be obtained by emailing the indicated licensing contact at the National Heart, Lung, and Blood, Office of Technology Transfer and Development Office of Technology Transfer, 31 Center Drive, Room 4A29, MSC2479, Bethesda, MD 20892–2479; Michael Shmilovich; *shmilovm@nih.gov;* telephone: 301–435–5019. A signed Confidential Disclosure Agreement may be required to receive any unpublished information.

SUPPLEMENTARY INFORMATION: Technology description follows.

Cannabinoid Receptor Modulating Compounds

Available for licensing and commercial development are potentially therapeutic compounds for metabolic, inflammatory and fibrotic disorders. The filed patent applications includes extensive descriptions of the exemplary molecules and their various constituents. The cannabinoid receptor mediating compounds can be neutral antagonists. A CB_1 inverse agonist is a drug that on its own produces an effect opposite to that of a CB_1 agonist, and is also able to block the effect of a CB_1 agonist. In contrast, a CB_1 neutral antagonist can only do the latter (*i.e.,* blocking the effect of a CB_1 agonist), but has no effect on its own. CB_1 inverse agonism is usually documented by the ability of a drug to decrease GTPγS binding and/or to increase adenylate cyclase activity. The compounds may show functional bias for GTPγS or β-Arrestin or activity for both GTPγS and β-Arrestin. Secondary targets could include, but not limited to, the enzyme inducible nitric oxide synthase (iNOS) or adenosine monophosphate kinase (AMPK), as suggested by findings that inhibition of iNOS or activation of AMPK improves insulin resistance, and reduces fibrosis and inflammation. The rights pursued claim compounds, pharmaceutical compositions, and methods of use.

Potential Commercial Applications

- Pharmaceuticals
- Cancer therapy
- Anti-fibrotic therapy
- Inflammatory and autoimmune disease

Development Stage

- Early stage

Inventors: Malliga R. Iyer, Ph.D.; Pinaki Bhattacharjee, Ph.D.; Resat Cinar, PharmD, MBA; George Kunos, M.D., Ph.D.; Szabolcs Dvoracsko Ph.D., (all of NIAAA).

Intellectual Property: HHS Reference No. E–189–2021–0; U.S. Provisional Patent Application No. 63/319,642 filed March 14, 2022; International Patent Application PCT/U2023/014846 filed March 8, 2023.

Licensing Contact: Michael Shmilovich; 301–435–5019; *michael.shmilovich@nih.gov*.

This notice is in accordance with 35 U.S.C. 209 and 37 CFR part 404 to achieve expeditious commercialization of results of federally-funded research and development.

Dated: June 23, 2023.

Michael A. Shmilovich,

Senior Licensing and Patenting Manager, National Heart, Lung, and Blood Institute, Office of Technology Transfer and Development.

[FR Doc. 2023–13792 Filed 6–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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 Heart, Lung, and Blood Institute Special Emphasis Panel; Clinical Trials SEP (UG3, U24).

Date: July 27, 2023.

Time: 2:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge I, 6705 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Zhihong Shan, Ph.D., MD, Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 205–J, Bethesda, MD 20892, (301) 827–7085, *zhihong.shan@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: June 26, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–13854 Filed 6–28–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–0361.

Project: SAMHSA Generic Clearance for Grant Program Monitoring Activities

To carry out OMB Circular A–102 [1] and 2 CFR part 215.51,[2] SAMHSA must collect grant program information necessary to ensure compliance with Federal and programmatic requirements. The Generic Clearance for Grant Program Monitoring Activities allows SAMHSA to collect standardized information from its grant recipients necessary to perform agency program oversight activities such as monitoring progress on recipient activities and determining and responding to

[1] Circular A–102: *https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/circulars/A102/a102.pdf.*

[2] 2 CFR part 215.51: *https://www.govinfo.gov/content/pkg/CFR-2012-title2-vol1/pdf/CFR-2012-title2-vol1-subtitleA.pdf.*

recipient's training and technical assistance (T/TA) needs. SAMHSA currently manages grant programs that provide prevention, treatment, recovery support services, and T/TA for substance use treatment and mental health providers along the continuum of care including prevention, harm reduction, treatment, and recovery.

SAMHSA's grant recipients are currently required to submit various types of performance reports in accordance with their individual program requirements. The data collections will be designed to standardize program monitoring and performance reports of SAMHSA's grants. Program offices will use information collected under this generic clearance to monitor funding recipient activities and to provide support or take appropriate action, as needed.

A generic clearance would provide SAMHSA's program offices the flexibility to create and use tailored information collection templates based on current program reporting requirements. This is important to allow for SAMHSA's:

- Monitoring of compliance with federal practice, guidelines, and requirements,
- Oversight of the implementation of the scope of the grant activities with the grant recipients' proposed project,
- Assessment of the efficiency and efficacy of recipient activities,
- Quick understanding of and remediation to national, regional, and/or site-specific issues,
- Provision of additional support and technical assistance, as needed,
- Documentation of promising practices, innovative services, and program strengths, and
- Flexible and responsive oversight of federal funds.

A variety of performance reports will be used for collection. Program offices will use information collected under this generic clearance to monitor funding recipient activities and to provide support or take appropriate action, as needed.

A variety of instruments and platforms will be used to collect information from respondents. The annual burden hours requested (180,000) are based on the number of collections we expect to conduct over the requested period for this clearance.

The estimated annual hour burden is as follows:

Type of respondent	Number of respondents	Responses per respondent	Total responses	Hours per response	Total annual burden hours	Hourly wage cost	Total hour cost
Progress Report Template (Annual)	4,000	1	4,000	8	32,000	$26	$832,000
Progress Report (Interim)	2,500	2	5,000	6	30,000	26	780,000
Grant Closeouts	1,000	1	1,000	10	10,000	26	260,000
Site Visit Report Template	4,000	1	4,000	6	24,000	26	624,000
Other	4,000	1	4,000	6	24,000	26	624,000
Total	20,000		28,000		180,000		3,120,000

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 information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Alicia Broadus,

Public Health Advisor.

[FR Doc. 2023–13844 Filed 6–28–23; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0092]

Agency Information Collection Activities; Revision of a Currently Approved Collection: E-Verify Program

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed 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 1615–0092 in the body of the letter, the agency name and Docket ID USCIS–2007–0023. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2007–0023.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and entering USCIS–2007–0023 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:* E-Verify Program.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* No Agency Form Number; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. E-Verify is a web-based system which allows employers to electronically confirm the employment eligibility of newly hired employees.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection E-Verify Program for New Users Entry (Employer Enrollment) is 66,330 and the estimated hour burden per response is 2.26 hours; the estimated total number of respondents for the information collection E-Verify Program for New User Training is 66,330 and the estimated hour burden per responses is 1 hour; the estimated total number of respondents for the information collection E-Verify Program for Existing User Annual Training is 358,670 and the estimated hour burden per responses is 0.5 hours; the estimated total number of respondents for the information collection E-Verify Program for Queries and Initial Cases is 235,985 and the estimated hour burden per responses is 0.121 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 1,966,051 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $1,887,000.

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. 2023–13794 Filed 6–28–23; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0047]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Employment Eligibility Verification

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 1615–0047 in the body of the letter, the agency name and Docket ID USCIS–2006–0068. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2006–0068.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and entering USCIS–2006–0068 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:* Employment Eligibility Verification.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–9; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households; Business or other for-profit; Not-for-profit institutions. The Form I–9 was developed to facilitate compliance with Section 274A of the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986, making employment of unauthorized aliens unlawful and diminishing the flow of illegal workers in the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–9 Employers is 62,063,950 and the estimated hour burden per response is 0.35 hours; the estimated total number of respondents for the information collection I–9 Employees is 62,063,950 and the estimated hour burden per response is 0.15 hours; the estimated total number of respondents for the information collection by Record Keeping is 27,200,000 and the estimated hour burden per response is 0.17 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 35,655,976 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $0. Any requirements to support the verification process are already available through other approved collections of information that may be employment related or occur as a part of the hiring process. There is no submission to USCIS of materials which eliminates mailing and photocopying costs.

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. 2023–13789 Filed 6–28–23; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–NEW]

Agency Information Collection Activities; New Collection: E-Verify NextGen, I–9NG

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 new 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–NEW in the body of the letter, the agency name and Docket ID USCIS–2023–0011. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2023–0011.

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:

Background

With this demonstration project, called ''E-Verify NextGen,'' USCIS intends to further integrate the Form I–9, Employment Eligibility Verification, process with the E-Verify electronic employment eligibility confirmation process to create a more secure and less burdensome employment eligibility verification process overall for employees and employers. This integrated internet-based project will permit employees to create their own secure account, resolve E-Verify tentative non-confirmations (also referred to as ''mismatches'') in advance and directly with the government, instead of through their employer, and then receive an electronic verification response that they can use and update with subsequent employers.

The current employment eligibility verification process relies on employer participation to ensure both employees and employers correctly enter information on the Form I–9 and then subsequently transfer that information into the E-Verify system. This employer intervention with employee-related information is less secure and sometimes results in data entry errors with the cases created in E-Verify. These cases can result in E-Verify mismatches that may require additional actions by the employer, the employee, the Social Security Administration, and DHS, to complete an employment eligibility verification. The burden of initiating this resolution process currently falls mostly on employers. If an employer does not correctly follow the E-Verify steps needed to communicate the mismatch resolution processes to employees, including failing to notify the employee of the mismatch, the employees and the government have difficulty resolving the mismatch, and the employees and employers may not receive timely and appropriate confirmation of their employment eligibility. Employees who are not notified of their mismatch may not have an opportunity to resolve it and can face termination if their E-Verify case results in a final nonconfirmation.

The goal of E-Verify NextGen is to streamline the employment eligibility verification and confirmation process for employers and employees by:

- Resolving E-Verify mismatches and electronically issuing an employment authorized result to individuals who E-Verify finds to be work authorized, which will expedite future E-Verify

checks and make an employee's employment eligibility verification easier for future employment.

- Giving employees more direct control over their data privacy and a more direct stake in their employment eligibility verification process by creating a secure, individual account for employment eligibility verification. This better protects personally identifiable information and helps improve data accuracy.
- Allowing employees to receive notification of and resolve E-Verify mismatches directly with the government without requiring the employer to be an intermediary to print and distribute forms, which is a more secure and private process that can speed up case resolution.
- Removing the employer's primary role in the mismatch resolution process. While employers would be informed about their employee's mismatch, this process removes employers as the intermediary to communicate a mismatch to the employee, as affected employees are instead notified directly and provided the instructions required to resolve the mismatch.

The demonstration project will be built upon the existing USCIS and E-Verify web services capabilities and will be enhanced by two electronic applications for the employee and employer, respectively, each of which will have its own terms of service. USCIS will conduct detailed internal assessments of the demonstration project and intends to provide necessary reports and briefings on the project status as required by law. USCIS now welcomes comments to the proposed collection of information associated with these new functionalities.

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–2023–0011 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:* New Collection.

(2) *Title of the Form/Collection:* E-Verify NextGen.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–9NG; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households; Business or other for-profit; Not-for-profit institutions. E-Verify NextGen, I–9NG, was developed as a demonstration project to further integrate the Form I–9, Employment Eligibility Verification, process with the E-Verify electronic employment eligibility confirmation process to create a more secure and less burdensome employment eligibility verification process overall for employees and employers.

(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–9NG Employers, Recruiters and Referrers for a fee, and State Employment Agencies is 189,015 and the estimated hour burden per response is 0.05 hours; the estimated total number of respondents for the information collection I–9NG Employees (New User Account Creation) is 11,668,584 and the estimated burden per response is 0.17 hours; the estimated total number of respondents for the information collection I–9NG Employees (Employment Eligibility Verification, Form I–9NG) is 13,231,050 and the estimated burden per response is 0.08 hours; the estimated total number of respondents for the information collection by Record Keeping and Audits is 13,248,648 and the estimated burden per response is 0.17 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 5,955,966 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $0. This is a voluntary program. Any requirements to support the verification process are already available through other approved collections of information that may be employment related or occur as a part of the hiring process.

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. 2023–13786 Filed 6–28–23; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0075]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: I–864, Affidavit of Support Under Section 213A of the INA; I–864A, Contract Between Sponsor and Household Member; I–864EZ, Affidavit of Support Under Section 213A of the INA; I–864W, Request for Exemption for Intending Immigrant's Affidavit of Support

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security (DHS), invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In

accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until August 28, 2023.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0075 in the body of the letter, the agency name and Docket ID USCIS–2007–0029. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2007–0029.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and entering USCIS–2007–0029 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *https://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) Type of Information Collection: Extension, Without Change, of a Currently Approved Collection.

(2) Title of the Form/Collection: I–864, Affidavit of Support Under Section 213A of the INA; I–864A, Contract Between Sponsor and Household Member; I–864EZ, Affidavit of Support Under Section 213A of the INA; I–864W, Request for Exemption for Intending Immigrant's Affidavit of Support.

(3) Agency form number, if any, and the applicable component of the DHS sponsoring the collection: I–864; I–864A; I–864EZ; I–864W; 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 Form I–864 to determine whether the sponsor has the ability to support the sponsored immigrant under section 213A of the Immigration and Nationality Act. This form standardizes evaluation of a sponsor's ability to support the sponsored immigrant and ensures that basic information required to assess eligibility is provided by sponsors.

Form I–864A is a contract between the sponsor and the sponsor's household members. It is only required if the sponsor used income of their household members to reach the required 125 percent of the Federal poverty guidelines. The contract holds these household members jointly and severally liable for the support of the sponsored immigrant. The information collection required on Form I–864A is necessary for public benefit agencies to enforce the Affidavit of Support in the event the sponsor used income of their household members to reach the required income level and the public benefit agencies are requesting reimbursement from the sponsor.

USCIS uses Form I–864EZ in exactly the same way as Form I–864; however, USCIS collects less information from the sponsors as less information is needed from those who qualify in order to make a thorough adjudication.

USCIS uses Form I–864W to determine whether the intending immigrant meets the criteria for exemption from section 213A requirements. This form collects the immigrant's basic information, such as name and address, the reason for the exemption, and accompanying documentation in support of the immigrant's claim that they are not subject to section 213.

(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–864 is 453,345 and the estimated hour burden per response is 6 hours; the estimated total number of respondents for the information collection Form I–864A is 215,800 and the estimated hour burden per response is 1.75 hours; the estimated total number of respondents for the information collection Form I–864EZ is 100,000 and the estimated hour burden per response is 2.5 hours; the estimated total number of respondents for the information collection Form I–864W is 98,119 and the estimated hour burden per response is 1 hour.

(6) An estimate of the total public burden (in hours) associated with the collection: The total estimated annual hour burden associated with this collection is 3,445,839 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 $159,608,680.

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. 2023–13801 Filed 6–28–23; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7070–N 35]

30-Day Notice of Proposed Information Collection: Housing Counseling Notice of Funding Opportunity (NOFO) OMB Control No.: 2502–0621

AGENCY: Office of Policy Development and Research, Chief Data Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* July 31, 2023.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_submission@omb.eop.gov* or *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech and communication disabilities. To learn more about how to make an accessible telephone call, please visit: *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.*

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on March 21, 2023, at 87 FR 17000.

A. Overview of Information Collection

Title of Information Collection: Housing Counseling Notice of Funding Opportunity (NOFO).

OMB Approval Number: 2502–0621.

OMB Expiration Date: June 30, 2023.

Type of Request: Revision of a currently approved collection.

Form Numbers: HUD–9906–L; HUD–9906–P; NOFO 9906 Charts (A, B, E); HUD 424–CB; HUD–2880; SF–424; SF–LLL.

Description of the need for the information and proposed use: This is a revision of the collection because minor and clarifying revisions were made to the Form 9906 and its supplemental charts. This information is collected in connection with HUD's Housing Counseling Program and will be used by HUD to determine that the Housing Counseling grant applicant meets the requirements of the Notice of Funding Opportunity (NOFO). Information collected is also used to assign points for awarding grant funds on a competitive and equitable basis. HUD's Office of Housing Counseling will also use the information to provide housing counseling services through private or public organizations with special competence and knowledge in counseling low and moderate-income families. The information is collected from housing counseling agencies that participate in HUD's Housing Counseling Program. The information is collected via the Form 9906 (grant application chart) and its supplemental charts.

Respondents: Not-for-profit institutions; State, Local or Tribal government.

Estimated Number of Respondents: 300.

Estimated Number of Responses: 300.

Frequency of Response: 1.

Average Hours per Response: 40.

Total Estimated Burden: 12,000.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

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

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

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

(5) Ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Colette Pollard,

Department Reports Management Officer, Office of Policy Development and Research, Chief Data Officer.

[FR Doc. 2023–13713 Filed 6–28–23; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0036096; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Beloit College, Logan Museum of Anthropology, Beloit, WI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Beloit College, Logan Museum of Anthropology (LMA) has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice. The human remains were removed from Yell County, AR.

DATES: Repatriation of the human remains in this notice may occur on or after July 31, 2023.

ADDRESSES: Nicolette B. Meister, Logan Museum of Anthropology, 700 College Street, Beloit, WI 53511, telephone (608) 363–2305, email *meistern@beloit.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the LMA. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including

the results of consultation, can be found in the inventory or related records held by the LMA.

Description

Human remains representing, at minimum, one individual were removed from Havana in Yell County, AR. Sometime between 1915 and 1926, these human remains (catalog number 1872) were purchased by the LMA from Warren K. Moorehead. Moorehead was Curator (1901–1924) and Director (1924–1938) of the Phillips Academy Department of Archaeology. No known individual was identified. No associated funerary objects are present.

Cultural Affiliation

The human remains in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following type of information was used to reasonably trace the relationship: geographical.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the LMA has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- There is a relationship of shared group identity that can be reasonably traced between the human remains described in this notice and the Caddo Nation of Oklahoma; Quapaw Nation; and The Osage Nation.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains in this notice to a requestor may occur on or after July 31, 2023. If competing requests for repatriation are received, the LMA must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. The LMA is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: June 21, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–13815 Filed 6–28–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0036095; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Beloit College, Logan Museum of Anthropology, Beloit, WI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Beloit College, Logan Museum of Anthropology (LMA) has completed an inventory of human remains and an associated funerary object and has determined that there is no cultural affiliation between the human remains and associated funerary object and any Indian Tribe. The human remains and associated funerary object were removed from Logan County, Kentucky.

DATES: Disposition of the human remains and associated funerary object in this notice may occur on or after July 31, 2023.

ADDRESSES: Nicolette B. Meister, Logan Museum of Anthropology, 700 College Street, Beloit, WI 53511, telephone (608) 363–2305, email *meistern@beloit.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the LMA. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the LMA.

Description

Human remains representing, at minimum, five individuals were removed from mounds in Lewisburg in Logan County, KY. These human remains (lot numbers 1851; 1852; 1853; 1854; 1855; 1856; 1857; 1858; 1859; 1860; 1861) were purchased from Warren K. Moorehead in 1926. Moorehead was Curator (1901–1924) and Director (1924–1938) of the Phillips Academy Department of Archaeology. Lot 1860 is currently missing. No known individuals were identified. The one associated funerary object (15488) is a plainware jar removed from a mound in Lewisburg in Logan County, KY.

Aboriginal Land

The human remains and associated funerary object in this notice were removed from known geographic locations. These locations are the aboriginal lands of one or more Indian Tribes. The following information was used to identify the aboriginal land: a final judgment of the Indian Claims Commission or the United States Court of Claims, a treaty, Act of Congress, or Executive Order.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes, the LMA has determined that:

- The human remains described in this notice represent the physical remains of five individuals of Native American ancestry.
- The one object described in this notice is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- No relationship of shared group identity can be reasonably traced between the human remains and any Indian Tribe.
- The human remains and associated funerary object described in this notice were removed from the aboriginal land of the Absentee-Shawnee Tribe of Indians of Oklahoma; Cherokee Nation; Eastern Band of Cherokee Indians; Eastern Shawnee Tribe of Oklahoma; Miami Tribe of Oklahoma; Quapaw Nation; Shawnee Tribe; The Osage Nation; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

Requests for Disposition

Written requests for disposition of the human remains and associated funerary object in this notice must be sent to the Responsible Official identified in

ADDRESSES. Requests for disposition may be submitted by:

1. Any one or more of the Indian Tribes identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization, or who shows that the requestor is an aboriginal land Indian Tribe.

Disposition of the human remains and associated funerary object described in this notice to a requestor may occur on or after July 31, 2023. If competing requests for disposition are received, the LMA must determine the most appropriate requestor prior to disposition. Requests for joint disposition of the human remains and associated funerary object are considered a single request and not competing requests. The LMA is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9 and 10.11.

Dated: June 21, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–13814 Filed 6–28–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0036099; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: The Filson Historical Society, Louisville, KY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Filson Historical Society has completed an inventory of human remains and has determined that there is no cultural affiliation between the human remains and any Indian Tribe. The human remains were removed from Muhlenberg County, KY.

DATES: Disposition of the human remains in this notice may occur on or after July 31, 2023.

ADDRESSES: Kelly Hyberger, The Filson Historical Society, 1310 South 3rd Street, Louisville, KY 40208, telephone (502) 635–5083, email *khyberger@filsonhistorical.org.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Filson Historical Society. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the Filson Historical Society.

Description

Human remains representing, at minimum, two individuals were removed from Muhlenberg County, KY. Sometime around 1910, Otto A. Rothert collected these human remains from site 15Mu3, a mound south of the town of Greenville and near Buckner's Stack, in Muhlenberg County, KY. In 1929, Rothert donated these human remains to the Filson Historical Society. No known individuals were identified. No associated funerary objects are present.

Aboriginal Land

The human remains in this notice were removed from known geographic locations. These locations are the aboriginal lands of one or more Indian Tribes. The following information was used to identify the aboriginal land: a treaty.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes, the Filson Historical Society has determined that:

- The human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- No relationship of shared group identity can be reasonably traced between the human remains and any Indian Tribe.
- The human remains described in this notice were removed from the aboriginal land of the Cherokee Nation; Eastern Band of Cherokee Indians; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

Requests for Disposition

Written requests for disposition of the human remains in this notice must be sent to the Responsible Official identified in **ADDRESSES.** Requests for disposition may be submitted by:

1. Any one or more of the Indian Tribes identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization, or who shows that the requestor is an aboriginal land Indian Tribe.

Disposition of the human remains described in this notice to a requestor may occur on or after July 31, 2023. If competing requests for disposition are received, the Filson Historical Society must determine the most appropriate requestor prior to disposition. Requests for joint disposition of the human remains are considered a single request and not competing requests. The Filson Historical Society is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9 and 10.11.

Dated: June 21, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–13818 Filed 6–28–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0036097; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: California State University, Chico, Chico, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the California State University Chico (CSU Chico) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from Butte County, CA.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after July 31, 2023.

ADDRESSES: Dawn Rewolinski, California State University, Chico, 400 W 1st Street, Chico, CA 95929, telephone (530) 898–3090, email *drewolinski@csuchico.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of CSU Chico The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by CSU Chico.

Description

Accession 47

Human remains representing, at minimum, 14 individuals were removed from site CA–BUT–323 in Butte County, CA. This site was first recorded by John R. Sterling in 1962. It was re-recorded by M. Boyton of Chico State College (now CSU Chico) in 1971, by which time it had been nearly destroyed. Collections records indicate that artifacts and human remains were collected by Chico State College in 1971. The 8,800 associated funerary objects are three antler awls, two charcoal samples, 4,655 fragments of debitage, 98 modified faunal elements, 33 modified shells, 182 modified stone tools, nine oversized stone tools, 115 projectile points, 10 soil samples, five clay samples, 3,316 unmodified faunal elements, 220 unmodified shell fragments, and 152 organics.

Accession 48

Human remains representing, at minimum, 67 individuals were removed from the Cana Highway site (CA–BUT–288) in Butte County, CA. This site was first recorded by Dorothy Hill and Keith Johnson in 1966. From 1971 to 1974, it was excavated by a CSU Chico field class supervised by Professor Makato Kowta. The 7,513 associated funerary objects are 13 organics, 3,165 lots consisting of debitage, 948 modified stones, 150 projectile points, 332 unmodified shells, 32 modified shells, 145 ash samples, 246 charcoal samples, 35 soil samples, 386 faunal remains, 97 modified faunal remains, 157 clay samples, and 1,807 pieces of modified clay.

Accession 79

Human remains representing, at minimum, eight individuals were removed from Butte County, CA. In 1974, after four burials were exposed by land levelling operations, these human remains were collected from The Carmen Ranch Site by John Furry, who was likely a student at CSU Chico. The collection has been at CSU Chico since that time. The 18 associated funerary objects are one bone awl, one stone core, 10 modified stones, five unmodified animal bones, and one antler wedge.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: anthropological, archeological, historical, and expert opinion.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, CSU Chico has determined that:

- The human remains described in this notice represent the physical remains of 89 individuals of Native American ancestry.
- The 16,331 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Mechoopda Indian Tribe of Chico Rancheria, California and the Paskenta Band of Nomlaki Indians of California.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after July 31, 2023. If competing requests for repatriation are received, CSU Chico must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. CSU Chico is responsible for sending a copy of this notice to the Indian Tribes identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: June 21, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–13816 Filed 6–28–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0036098; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: California State University, Chico, Chico, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the California State University Chico (CSU Chico) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from Butte and Glenn Counties, CA.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after July 31, 2023.

ADDRESSES: Dawn Rewolinski, California State University, Chico, 400 W 1st Street, Chico, CA 95929, telephone (530) 898–3090, email *drewolinski@csuchico.edu.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of CSU Chico. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including

the results of consultation, can be found in the inventory or related records held by CSU Chico.

Description

CA–BUT–1

Human remains representing, at minimum, 58 individuals were removed from the Patrick site (CA–BUT–1) in Butte County, CA. This site was first recorded in 1947 by T. D. McCown, University of California, Berkeley, for the U.S. Archeological Survey. In 1965 and 1966, excavations at the Patrick site were led by Donald S. Miller, University of California, Los Angeles (UCLA), and Keith R. Johnson, CSU Chico. Between 1966 and 1969, the collection was at UCLA for storage and analysis. At an unknown point, some of the materials and records were moved to CSU Chico. The 874 associated funerary objects are 55 organics, two lots consisting of debitage, two projectile points, 518 fragments of shell, 25 samples of soil, 239 lots consisting of faunal remains, and 33 fragments of ochre.

Accession 4

Human remains representing, at minimum, eight individuals were removed from the Finch site (CA–BUT–12) in Butte County, CA. This site was first recorded by A. Pilling in 1949 and was rerecorded by Dorothy Hill in 1963. In the summer of 1963, Francis Riddell led a Chico State College (now CSU Chico) field class in excavations at the site, and in the spring of 1964, Professor Keith Johnson, accompanied by Riddell, led a second excavation at the site, again with a Chico State College field class. In the summer of 1967, Joseph Chartkoff (then at UCLA) led an excavation at the site (the 1967 collections are not under the control of CSU Chico). In the spring of 1983 and the spring of 1984, Professor Makoto Kowta led a CSU Chico field class in excavations at the site. The 12,302 associated funerary objects are 373 organics, 7,708 lots consisting of debitage, 272 modified stone fragments, 234 projectile points, 160 unmodified shells, 410 modified shell beads, five lots of ash, 196 samples of charcoal, one piece of petrified wood, 56 lots of soil, 2,479 unmodified faunal elements, 370 modified faunal elements, 23 clay fragments, 14 modified clay fragments, and one ochre fragment.

Accession 10

Human remains representing, at minimum, three individuals were removed from the Sycamore Canyon Rock shelter site (CA–BUT–473) in Butte County, CA. This site was first recorded by Keith Johnson and two Chico State College (now CSU Chico) students in 1964, and in 1965, it was excavated by a Chico State College field class led by Keith Johnson. The 251 associated funerary objects are five organics, 17 lots consisting of debitage, 48 modified stone fragments, 57 projectile points, 114 unmodified shell fragments, three modified shell beads, three unmodified faunal elements, and four modified faunal elements.

Accession 19

Human remains representing, at minimum, 66 individuals were removed from the Llano Seco site in Butte County, CA. This site was first recorded in 1965 by G. Yamamoto, and it was rerecorded by Dorothy Hill and Keith Johnson of Chico State College (now CSU Chico) in 1966. From 1966 to 1968, excavations were conducted at the site by Keith Johnson and the Chico State College field school. The 3,498 associated funerary objects are 190 organics, 1,387 lots consisting of debitage, 504 modified stone fragments, 192 projectile points, three unmodified shells, 439 modified shell fragments, two lots of ash, 96 samples of charcoal, one piece of petrified wood, five lots of soil, 525 unmodified faunal elements, 131 modified faunal elements, and 23 clay fragments.

Accession 21

Human remains representing, at minimum, two individuals were removed from the Rock Creek Levee Mound site in Butte, County, CA. This site was first recorded by Dorothy Hill of CSU Chico. She indicated that the site had been partially destroyed by levelling activities and the creation of a cut for a levee. Collections records suggest that cultural items and human remains were collected at that time and no further collection took place. The three associated funerary objects are modified stone fragments.

Accession 25

Human remains representing, at minimum, one individual were removed from the M&T Ranch site (CA–BUT–434) in Butte County, CA. This site was first recorded by Dorothy Hill of Chico State College (now CSU Chico) in 1962 after a burial was found eroding into the Sacramento River. Collections records indicate that the burial and affiliated artifacts were excavated by Dorothy Hill in 1967. The 283 associated funerary objects are 278 modified shell fragments and five modified faunal elements.

Accession 26

Human remains representing, at minimum, one individual were removed from the Chico Rancheria Cemetery site (CA–BUT–574) in Butte County, CA. This site is a historic Mechoopda cemetery that lies within the city of Chico. In 1967, three burials in cedar caskets were exposed when a septic tank was installed. Burials One and Two were heavily disturbed. Collections records indicate that only human remains and affiliated burial objects from Burial One were brought to CSU Chico, where they are currently housed. Some artifacts and human remains from these burials were removed by construction workers, and their current location is unknown. Burial Three was intact and the contents were reburied on site. The 1,667 associated funerary objects are 315 modified shells, 1,350 glass beads, one modified stone, and one coffin fragment.

Accession 32

Human remains representing, at minimum, 147 individuals were removed from the Wurlitzer Ranch site in Butte County, CA. This site was first recorded by Dorothy Hill in 1968, though it had been known to locals for many years. Chico State College field schools archeologically investigated the site from 1969 to 1971. The collection was formally donated to CSU Chico in 1981. The 4,201 associated funerary objects are five organics, 1,590 lots consisting of debitage, 1,660 modified stone fragments, 454 projectile points, six unmodified shell fragments, 76 modified shell fragments, three lots of ash, 19 samples of soil, 230 faunal elements, 76 modified faunal elements, 77 clay fragments, and five ochre fragments.

Accession 33

Human remains representing, at minimum, one individual were removed from the Whiskey Dog site (CA–BUT–300) in Butte County, CA. This site was first recorded in 1969 by CSU Chico under the direction of Chico State College faculty. The 70 associated funerary objects are seven lots consisting of debitage, 27 modified stone fragments, nine projectile points, 19 samples of charcoal, five modified faunal elements, two clay fragments, and one modified clay fragment.

Accessions 40–44

Human remains representing, at minimum, six individuals were removed from the Richardson Springs site (CA–BUT–7) in Butte County, CA. This site was first located and recorded in 1949 by A. R. Pilling and was rerecorded in 1971. In 1970, it was excavated by a joint Chico State College and Queens College, City University of

New York field school. In 1973, Richardson Springs was listed on the National Register of Historic Places under the name Mud Creek Canyon. The 7,777 associated funerary objects are 89 lots of organics, 3,033 lots consisting of debitage, 1,254 modified stone fragments, 347 projectile points, 398 lots consisting of unmodified shell fragments, 163 modified shell fragments, one sample of ash, 443 samples of charcoal, 11 pieces of petrified wood, 132 samples of soil, 1,849 lots consisting of faunal elements, 42 modified faunal elements, 14 clay fragments, and one ochre fragment.

Accession 52

Human remains representing, at minimum, one individual were removed from the Wilson Landing Road site (CA–BUT–529) in Butte County, CA. This site was first identified by Dorothy Hill at an unknown date. In 1971, after reports of a burial removed by a worker discing the site in preparation for planting, it was recorded by Makato Kowta and M. Boyton, at which time cultural items and human remains were collected. The 22 associated funerary objects are four lots consisting of debitage, one oversized stone tool, and 17 modified stones.

Accession 55

Human remains representing, at minimum, 22 individuals were removed from the Ellsworth Whyler site (CA–GLE–101) in Glenn County, CA. This site was first recorded by Keith Johnson of CSU Chico in 1971. In the summer of 1972, it was excavated by a CSU Chico field class under the supervision of Keith Johnson. The 1,348 associated funerary objects are one organic, 160 lots consisting of debitage, 60 modified stone fragments, 54 projectile points, 14 unmodified shell fragments, six modified shell fragments, 23 ash samples, one soil sample, 926 faunal elements, 100 modified faunal elements, and three modified clay fragments.

Accession 68

Human remains representing, at minimum, six individuals were removed from Site CA–GLE–105 in Glenn County, CA. This site was originally recorded by Keith Johnson in 1973. Johnson noted that potentially 50% of the site had already eroded into the Sacramento River. In the Spring of 1973, Keith Johnson and the CSU Chico field class excavated portions of the site. In 1986, the site was determined to be adversely affected by a planned U.S. Army Corps of Engineers Riverbank Stabilization Project. Consequently, in 1987, the Army Corps of Engineers contracted CSU Chico archeologists to further excavate the site to determine its eligibility for the National Register of Historic Places. The 1987 excavations included removal of three burials. The 844 associated funerary objects are eight organics, 391 lots consisting of debitage, 25 modified stones, 12 projectile points, 34 fragments of shell, 63 samples of soil, five samples of charcoal, 293 faunal elements, three modified faunal elements, and 10 pieces of clay.

Accession 123

Human remains representing, at minimum, three individuals were removed from Site CA–BUT–563 in Butte County, CA. This site was excavated by CSU Chico-affiliated archeologists in the spring of 1977 and the collection has been housed at CSU Chico since that time. The 7,495 associated funerary objects are 15 organics, 5,086 lots consisting of debitage, 486 modified stone fragments, 16 projectile points, 308 fragments of shell, six fragments of modified shell, 21 samples of ash, 343 samples of charcoal, four pieces of petrified wood, 70 samples of soil, 1,133 faunal elements, two modified faunal elements, three pieces of clay, and two ochre fragments.

Accession 148

Human remains representing, at minimum, two individuals were removed from Site CA–GLE–19 in Glenn County, CA. This site was first recorded in 1972 while part of the site was eroding into the Sacramento River. In March of 1979, CSU Chico-affiliated archeologists collected human remains and artifacts from that portion of the site exposed by erosion, and between March and September of 1979, they conducted a complete excavation. All excavated materials have been housed at CSU Chico since their removal from the site. The 826 associated funerary objects are 151 lots consisting of debitage, 26 modified stone fragments, 21 modified shell fragments, three samples of charcoal, five pieces of petrified wood, 63 faunal elements, and 557 ochre fragments.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: anthropological, archeological, historical, and expert opinion.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, CSU Chico has determined that:

- The human remains described in this notice represent the physical remains of 327 individuals of Native American ancestry.
- The 41,461 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Mechoopda Indian Tribe of Chico Rancheria, California.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after July 31, 2023. If competing requests for repatriation are received, CSU Chico must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. CSU Chico is responsible for sending a copy of this notice to the Indian Tribe identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: June 21, 2023.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2023–13817 Filed 6–28–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

[Docket No. ONRR–2011–0008; DS63644000 DRT000000.CH7000 234D1113RT; OMB Control Number 1012–0006]

Agency Information Collection Activities; Suspensions Pending Appeal and Bonding

AGENCY: Office of Natural Resources Revenue, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (''PRA''), the Office of Natural Resources Revenue (''ONRR'') is proposing to renew an information collection. Through this Information Collection Request renewal (''ICR''), ONRR seeks renewed authority to collect information related to the paperwork requirements necessary to post a bond or other surety, or to demonstrate financial solvency to suspend compliance with an order or to stay the assessment or accrual of civil penalties.

DATES: Submit written comments on or before July 31, 2023.

ADDRESSES: All comment submissions must (1) reference ''OMB Control Number 1012–0006'' in the subject line; (2) be sent to ONRR before the close of the comment period listed under **DATES**; and (3) be sent using the following method:

Electronically via the Federal eRulemaking Portal: Please visit *https://www.regulations.gov.* In the Search Box, enter the Docket ID Number for this ICR renewal (''ONRR–2011–0008'') and click ''search'' to view the publications associated with the docket folder. Locate the document with an open comment period and click the ''Comment Now!'' button. Follow the prompts to submit your comment prior to the close of the comment period.

Docket: To access the docket folder to view the ICR **Federal Register** publications, go to *https://www.regulations.gov* and search ''ONRR–2011–0008'' to view renewal notices recently published in the **Federal Register**, publications associated with prior renewals, and applicable public comments received for this ICR. ONRR will make the comments submitted in response to this notice available for public viewing at *https://www.regulations.gov.*

OMB ICR Data: OMB also maintains information on ICR renewals and approvals. You may access this information at *https://www.reginfo.gov/public/do/PRASearch.* Please use the following instructions: Under the ''OMB Control Number'' heading enter ''1012–0006'' and click the ''Search'' button located at the bottom of the page. To view the ICR renewal or OMB approval status, click on the latest entry (based on the most recent date). On the ''View ICR—OIRA Conclusion'' page, check the box next to ''All'' to display all available ICR information provided by OMB.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, please contact Kimberly Werner, Financial Services, ONRR, by telephone at (303) 231–3801 or email to *Kimberly.Werner@onrr.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: Pursuant to the PRA, 44 U.S.C. 3501, *et seq.,* and 5 CFR 1320.5, all information collections, as defined in 5 CFR 1320.3, require approval by OMB. ONRR may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

As part of ONRR's continuing effort to reduce paperwork and respondent burdens, ONRR is inviting the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information in accordance with the PRA and 5 CFR 1320.8(d)(1). This helps ONRR to assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand ONRR's information collection requirements and provide the requested data in the desired format.

ONRR is especially interested in public comments addressing the following:

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

(2) The accuracy of ONRR's estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

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

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

On January 13, 2023, the Bureau of Indian Affairs (''BIA'') published a proposed rule (88 FR 2430) to amend its regulations to allow ONRR to issue certain types of orders relating to the Osage Nation mineral estate in Osage County, Oklahoma (''Osage Mineral Estate''). The proposed rule would allow a person adversely affected by an ONRR order concerning the Osage Mineral Estate to post a surety instrument to suspend compliance with the order during an appeal (*see* 88 FR 2498–99). On January 19, 2023, ONRR published a 60-day notice (88 FR 3430) proposing to both renew this ICR and expand it to include ONRR's additional surety information collections for Osage Mineral Estate orders if the BIA's proposed amendments become final.

Because the BIA has not published a final rule as of this date, ONRR is not seeking in this 30-day notice to expand this ICR to include Osage Mineral Estate information collections. Accordingly, this 30-day notice only seeks renewed authority to collect information related to the surety and financial solvency paperwork requirements under 30 CFR part 1243. ONRR may later seek to expand this ICR to include surety information collections for Osage Mineral Estate orders if the BIA adopts its proposed amendments.

ONRR did not receive any comments in response to the **Federal Register** 60-day notice available at *www.regulations.gov.* However, ONRR reached out to members of industry to solicit comments and received four comments in response to this information collection request renewal. Three of those comments agreed with the content of this ICR. One commenter disagreed with the amount of time that ONRR uses to calculate the burden hours. ONRR acknowledged and provided responses to all commenters accordingly.

Comments that you submit in response to this 30-day notice are a matter of public record. ONRR will include or summarize each comment in its request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask ONRR in your comment to withhold your personal

identifying information from public review, ONRR cannot guarantee that it will be able to do so.

Abstract: (a) General Information: ONRR issues orders and assesses civil penalties in performing mineral revenue management responsibilities for the Secretary of the Interior. *See* U.S. Department of the Interior Departmental Manual, 112 DM 34.1 (Sept. 9, 2020). A person who timely appeals an ONRR order may post a bond or other surety instrument pursuant to 30 CFR part 1243, or, for Federal leases, demonstrate financial solvency pursuant to 30 CFR part 1243, subpart C, to suspend its compliance with the order during the appeal. *See* 30 CFR 1243.1. Similarly, if an administrative law judge determines that a stay is warranted, the recipient of a civil penalty notice who timely requests a hearing may post a surety instrument or demonstrate financial solvency under these same subparts to stay the assessment or accrual of penalties pending a hearing on the record and decision by the administrative law judge. *See* 30 CFR 1241.11.

(b) Information Collections: ONRR accepts the following surety types: Form ONRR–4435, Administrative Appeal Bond; Form ONRR–4436, Letter of Credit; Form ONRR–4437, Assignment of Certificate of Deposit; Self-bonding; and U.S. Treasury Securities. *See* 30 CFR 1210.157. Instructions for submitting these surety instruments or self-bonding are located at *https://www.onrr.gov/document/SuretyInst.pdf.* This ICR covers the burden hours associated with submitting surety instruments and self-bonding pursuant to 30 CFR part 1243 as follows:

(1) Form ONRR–4435, Administrative Appeal Bond: A person using this form of surety supplies various information on the form ONRR–4435, such as its contact information, surety company name and address, and surety amount. The bond must be issued by a qualified surety company approved by the U.S. Department of the Treasury (*see* Department of the Treasury Circular No. 570, revised periodically in the **Federal Register**). ONRR maintains the bond in a secure facility.

(2) Form ONRR–4436, Letter of Credit: A person using this form of surety must complete the form ONRR–4436, with no modifications. The person supplies various information on the form, such as bank name and address, bank ABA number, and effective date. ONRR maintains the letter of credit in a secure facility. The person submitting the letter of credit is responsible for verifying that the bank provides a current Fitch rating to ONRR.

(3) Form ONRR–4437, Assignment of Certificate of Deposit: A person seeking to use a Certificate of Deposit (CD) as surety must submit a written request to ONRR to do so. A person using this form of surety supplies various information on the form ONRR–4437, such as the CD number, CD amount, and bank name. ONRR will accept only a book-entry CD that explicitly assigns the CD to ONRR's Director.

(4) U.S. Treasury Securities: A person seeking to use a U.S. Treasury Security (''TS'') as surety must submit a written request to ONRR to do so. The TS must be a U.S. Treasury note or bond with maturity equal to or greater than one year. The TS must equal 120 percent of the appealed amount plus 1 year of estimated interest (necessary to protect ONRR against interest rate fluctuations). ONRR only accepts a book-entry TS.

(5) Self-bonding: For Federal oil and gas leases only (not Indian leases), 30 CFR 1243.201 provides that no surety instrument is required when a person periodically demonstrates, to the satisfaction of ONRR, that it is financially solvent or otherwise able to pay the obligation. ONRR requires the person to submit a consolidated balance sheet, subject to annual audit. In some cases, ONRR also requires copies of the most recent tax returns (up to three years).

In addition, the person must annually submit financial statements, subject to audit, to support its net worth. If the person does not have a consolidated balance sheet documenting its net worth, or if it does not meet the $300 million net worth requirement, ONRR will select a business information or credit reporting service to provide information concerning its financial solvency. ONRR charges a $50 fee each time it reviews data from a business information or credit reporting service. The fee covers ONRR's cost to determine financial solvency.

Title of Collection: Suspensions Pending Appeal and Bonding.

OMB Control Number: 1012–0006.

Form Number: Forms ONRR–4435, ONRR–4436, and ONRR–4437.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Businesses.

Total Estimated Number of Annual Respondents: 105 Federal or Indian appellants.

Total Estimated Number of Annual Responses: 105.

Estimated Completion Time per Response: 2 hours.

Total Estimated Number of Annual Burden Hours: 210.

Respondent's Obligation: Mandatory.

Frequency of Collection: Annual and on occasion.

Total Estimated Annual Non-hour Burden Cost: There are no additional recordkeeping costs associated with this information collection. However, ONRR estimates 5 appellants per year will pay a $50 fee to obtain credit data from a business information or credit reporting service, which is a total ''non-hour'' cost burden of $250 per year (5 appellants per year $50 = $250).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the PRA (44 U.S.C. 3501 *et seq.*).

Howard Cantor,

Director, Office of Natural Resources Revenue.

[FR Doc. 2023–13867 Filed 6–28–23; 8:45 am]

BILLING CODE 4335–30–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1330 (Review)]

Dioctyl Terephthalate From South Korea

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the antidumping duty order on dioctyl terephthalate from South Korea would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on July 1, 2022 (87 FR 39556) and determined on October 4, 2022 that it would conduct a full review (87 FR 75067, December 7, 2022). Notice of the scheduling of the Commission's review and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on December 22, 2022 (87 FR 78708). Since one party requested cancellation of a hearing and no other parties requested a hearing, the

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

public hearing in connection with the review, originally scheduled for April 27, 2023, was cancelled (88 FR 26598, April 25, 2023).

The Commission made this determination pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determination in this review on June 26, 2023. The views of the Commission are contained in USITC Publication 5433 (June 2023), entitled *Dioctyl Terephthalate from South Korea: Investigation No. 731–TA–1330 (Review).*

By order of the Commission.

Issued: June 26, 2023.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2023–13862 Filed 6–28–23; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1197]

Importer of Controlled Substances Application: Irvine Labs, Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Irvine Labs, Inc. has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to Supplementary Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before July 31, 2023. Such persons may also file a written request for a hearing on the application on or before July 31, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA **Federal Register** Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on April 20, 2023, Irvine Labs, Inc. 7305 Murdy Circle, Huntington Beach, California 92647–3533, applied to be registered as an importer of the following basic class(es) of controlled substance(s).

Controlled substance	Drug code	Schedule
Lysergic acid diethylamide	7315	I
Marihuana Extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Mescaline	7381	I
Peyote	7415	I
Diethyltryptamine	7434	I
Dimethyltryptamine	7435	I
Psilocybin	7437	I
Psilocyn	7438	I

The company plans to import the bulk substances to support internal research, clinical trials, analytical purposes, and distribution to their customers. In reference to drug codes 7360 (Marihuana), 7350 (Marihuana Extract), and 7370 (Tetrahydrocannabinols) the company plans to import a raw plant material and extracts. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2023–13812 Filed 6–28–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

[OMB Control No. 1240–0021]

Proposed Extension of Existing Collection; Comment Request

AGENCY: Office of Workers' Compensation Programs, Labor.

ACTION: Request for public comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance request for comment to provide the general public and Federal agencies with an opportunity to comment on proposed collections of information in accordance with the Paperwork Reduction Act of 1995. This request helps to ensure that: requested data can be provided in the desired format; reporting burden (time and financial resources) is minimized; collection instruments are clearly understood; and the impact of collection requirements on respondents can be properly assessed. Currently, OWCP is soliciting comments on the information collection for the Provider Enrollment Form (PE–1168).

DATES: All comments must be received on or before August 28, 2023.

ADDRESSES: You may submit comment as follows. Please note that late, untimely filed comments will not be considered.

Written/Paper Submissions: Submit written/paper submissions in the following way:

- *Mail/Hand Delivery*: Mail or visit DOL–OWCP, Office of Workers' Compensation Programs, U.S. Department of Labor, 200 Constitution Ave. NW, Room S–3323, Washington, DC 20210.
- OWCP will post your comment as well as any attachments, except for information submitted and marked as confidential, in the docket at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Anjanette Suggs, Office of Workers' Compensation Programs, at *suggs.anjanette@dol.gov* (email) or by telephone at (202) 354–9660 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background: The Office of Workers' Compensation Programs (OWCP) is the agency responsible for administration of the Federal Employees' Compensation Act (FECA), 5 U.S.C. 8101 *et seq.,* the Black Lung Benefits Act (BLBA), 30 U.S.C. 901 *et seq.,* and the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA), 42 U.S.C. 7384 *et seq.* These statutes require OWCP to pay for appropriate medical and vocational rehabilitation services provided to beneficiaries. In order for OWCP's billing contractor to pay providers of these services with its automated bill processing system, providers must ''enroll'' with one or more of the OWCP programs that administer the statutes by submitting certain profile information, including identifying information, tax I.D. information, and whether they possess specialty or sub-specialty training. Form OWCP–1168 is used to obtain this information from each provider. This information collection is currently approved for use through December 31, 2023.

II. Desired Focus of Comments: OWCP is soliciting comments concerning the proposed information collection (ICR) titled ''Provider Enrollment Form'', PE–1164. The Department of Labor is particularly interested in comments which:

- 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 in the estimate;
- Suggest methods to enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Background documents related to this information collection request are available at *https://regulations.gov* and at DOL–OWCP located at 200 Constitution Avenue NW, Room S3323, Washington, DC 20210. Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions: This information collection request concerns the Provider Enrollment Form, PE–1164. OWCP has updated the data with respect to the number of respondents, responses, burden hours, and burden costs supporting the information collection requests from the previous information request.

Type of Review: Extension.

Agency: Office of Workers' Compensation Programs.

Title: Provider Enrollment Form.

OMB Number: 1240–0021.

Agency Number: OWCP–1168.

Affected Public: Businesses or other for-profit.

Total Respondents: 23,318.

Total Responses: 23,318.

Time per Response: 25 minutes.

Estimated Total Burden Hours: 9,719.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $201,601.81.

Comments submitted in response to this notice will be summarized in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record and will be available at *https://reginfo.gov.*

Anjanette C. Suggs,

Agency Clearance Officer, Office of Workers' Compensation Programs, US Department of Labor.

[FR Doc. 2023–13813 Filed 6–28–23; 8:45 am]

BILLING CODE 4510–CR–P

NATIONAL CREDIT UNION ADMINISTRATION

[NCUA–2023–0070]

Minority Depository Institution Preservation Program

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed interpretive ruling and policy statement.

SUMMARY: The NCUA Board is issuing proposed revisions to Interpretive Ruling and Policy Statement 13–1, regarding the Minority Depository Institution Preservation Program for credit unions.

DATES: Comments must be received on or before August 28, 2023.

ADDRESSES: You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: https://www.regulations.gov/.* Follow the instructions for submitting comments for Docket Number NCUA–2023–XXXX.
- *NCUA website:* Rulemakings and Proposals for Comment | NCUA. Follow the instructions for submitting comments.
- *USPS/Hand Delivery/Courier:* Address to Melane Conyers-Ausbrooks, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

Public Inspection: You may view all public comments on the Federal eRulemaking Portal at *https://www.regulations.gov,* as submitted, except for those we cannot post for technical reasons. The NCUA will not edit or remove any identifying or contact information from the public comments submitted. If you are unable to access public comments on the internet, you may contact the NCUA for alternative access by calling (703) 518–6540 or emailing *OGCMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Supervisory Program Manager Kristi Kubista-Hovis or Program Manager Pamela Williams, Office of Credit Union Resources and Expansion, 703–518–6610 or *CUREMDI@ncua.gov.*

I. Background

Congress enacted the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) in response to the savings and loan industry crisis.[1] FIRREA included provisions designed to encourage Federal financial regulators to preserve

[1] Public Law 101–73, 103 Stat. 183 (1989).

and promote minority depository institutions.[2] Specifically, FIRREA section 308 required the Secretary of the Treasury to consult with the Office of Thrift Supervision (OTS) and the Federal Deposit Insurance Corporation (FDIC) on best methods to achieve the following goals:

- Preserving the number of minority depository institutions;
- Preserving the minority character of a minority depository institution involved in a merger or acquisition;
- Providing technical assistance to prevent the insolvency of minority depository institutions;
- Encouraging the formation of new minority depository institutions; and
- Providing training, technical assistance, and educational programs to minority depository institutions.[3]

Those agencies developed various initiatives aimed at preserving federally insured banks and savings institutions that meet FIRREA's definition of a minority depository institution (MDI).[4]

In 2010, Congress enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).[5] Section 367(4)(A) of the Dodd-Frank Act expanded FIRREA section 308 to require the Secretary of the Treasury to consult with the National Credit Union Administration (NCUA) and the Board of Governors of the Federal Reserve System (Fed), in addition to the FDIC and the Office of the Comptroller of the Currency (OCC) on methods for best achieving the FIRREA goals.[6] Section 367(4)(B) of the Dodd-Frank Act also amended FIRREA section 308 to require each agency to submit an annual report to Congress describing actions it has taken to preserve and encourage MDIs.[7]

In 2013, the NCUA Board proposed Interpretive Ruling and Policy Statement (IRPS) 13–1 to establish a Minority Depository Institution Preservation Program (MDI Program) to encourage the preservation of MDIs and the establishment of new ones.[8] In 2015, the NCUA Board approved final IRPS 13–1, establishing the NCUA's MDI Program.[9]

The NCUA Board subsequently restructured the agency in 2018. Among other changes, the restructuring created the Office of Credit Union Resources and Expansion (CURE). CURE assumed administration of the NCUA's MDI Program from the agency's Office of Minority and Women Inclusion.

II. Summary of Proposed Changes to IRPS 13–1 and Request for Comments

The NCUA is proposing to amend IRPS 13–1 to reflect changes to the agency's structure and current administration of the MDI Program by CURE and improve the MDI Program, including: recognizing the transfer of the MDI program administration to CURE, incorporating recent program initiatives, simplifying ''community it services, as designated in its charter'' to refer to an MDI's field of membership, referencing guidance the NCUA provides examination staff who continue to play a significant role in supporting and guiding MDIs under their supervision, explaining how the NCUA will review an MDI's designation status during routine evaluations, and adding new subsections on engagement, technical assistance, MDI examinations, Community Development Revolving Loan Fund grants and loans, training and education, and MDI preservation.

The Board invites comments on all aspects of the proposed amendments to the IRPS. Additionally, the agency welcomes comments on any other aspects of the IRPS and what additional information the agency could provide to help MDIs and how best to deliver the information.

Authority: 12 U.S.C. 1463 note; Sec. 308, Pub. L. 101–73, 103 Stat. 353; as amended by Sec. 367(4), Pub. L. 111–203, 124 Stat. 1556.

III. Interpretive Ruling and Policy Statement 13–1, Minority Depository Institution Preservation Program, as Amended

The text of IRPS 13–1, with proposed amendments, follows:

a. Goals and Objectives of the MDI Preservation Program

Minority Depository Institutions (MDIs) play an important and unique role in promoting the economic viability of minority and underserved communities. The NCUA employs proactive steps and outreach efforts to preserve MDIs and foster their success. The NCUA's MDI Preservation Program (MDI Program) is designed to comply with section 308 of FIRREA, which requires the NCUA to report on the actions it has taken in furtherance of the following goals:[10]

- Preserve the present number of MDIs;
- Preserve the minority character of MDIs involved in mergers and acquisitions;
- Provide technical assistance to prevent insolvency of MDIs that are not now insolvent;
- Promote and encourage the creation of new MDIs; and
- Provide training, technical assistance, and educational programs for MDIs.

b. Description of the MDI Program

The NCUA's MDI Program consists of proactive steps and outreach efforts to promote and preserve MDIs in the credit union system. The NCUA's Office of Credit Union Resources and Expansion (CURE) administers the agency's MDI Program and will meet periodically with State regulators, other Federal regulators, and other stakeholders to discuss outreach efforts, share ideas, and identify areas to work together to assist MDIs.

The NCUA offers MDI-designated credit unions a variety of initiatives to assist in preserving the economic viability of their institutions. The initiatives include technical assistance, educational opportunities, and funding. Examples of such initiatives include the following:

- Consulting and support program;
- Training; and
- Grants and loans through the NCUA's Community Development Revolving Loan Fund (CDRLF), subject to eligibility.[11]

Examples of broad-based and individualized technical assistance include the following:

- Providing guidance in resolving examination concerns;
- Helping MDIs locate new sponsors, mentors, or merger partners;
- Assisting with field of membership expansions;
- Supporting management in setting up new programs and services;
- Attempting to preserve the minority character of failing institutions during the resolution process; and
- Aiding groups that are interested in chartering a new MDI.

[2] *Id.* Title III, sec. 308, 103 Stat. 353, *codified at* 12 U.S.C. 1463 note, ''Preserving Minority Ownership of Minority Financial Institutions.''

[3] *Id.* sec. (a). The Office of the Comptroller of the Currency and the Board of Governors of the Federal Reserve System also initiated minority depository institution programs to comply with the spirit of FIRREA sec. 308, even though neither was originally required to do so. OTS became part of the Office of the Comptroller of the Currency on July 21, 2011.

[4] *Id.* sec. (b).

[5] Public Law 111–203, 124 Stat. 1376 (July 21, 2010); 12 U.S.C. 5301 *et seq.*

[6] 12 U.S.C. 1463 note sec. (a).

[7] *Id.* sec. (c).

[8] 78 FR 46374 (July 31, 2013).

[9] 80 FR 36356 (June 24, 2015).

[10] Public Law 101–73, title III, sec. 308, 103 Stat. 353 (1989), as amended by Public Law 111–203, title III, sec. 367(4), 124 Stat. 1556 (2010), *codified at* 12 U.S.C. 1463 note.

[11] Prior to 2023, under the annual appropriations statutes, grants and loans from the CDRLF were historically only available to low-income designated credit unions, some of which are also MDIs. However, not all MDIs have a low-income designation.

Engagement With MDIs

The NCUA's MDI Program will provide continual engagement with MDIs through interaction with headquarters and field staff. This interaction includes sharing information and expertise on supervisory topics, using various venues to engage in an open dialogue between NCUA, MDIs, and related organizations, seeking feedback on the NCUA's efforts under the MDI program, and providing a variety of training opportunities hosted or sponsored by the NCUA. The NCUA's outreach also includes seeking out, working with, and supporting groups interested in applying for a new Federal or State charter with an MDI designation, and aiding existing credit unions interested in receiving the MDI designation.

Technical Assistance

The NCUA will provide technical assistance to an MDI designated credit union upon request. The agency contacts each MDI at least annually to ask if it would like to receive technical assistance. Also, an MDI can contact its assigned field office, supervisory examiner, or district examiner to request technical assistance.

Technical assistance is not an examination or supervisory activity and will be provided separate from examinations and supervision contacts. Technical assistance includes but is not limited to assistance in understanding applicable laws and regulations, agency processes, reporting requirements, supervisory guidance, accounting standards, supervisory findings and conclusions (only after the conclusion of the applicable examination or supervision contact), applications or requests for agency approval or action (such as field of membership, bidding on a failing institution, regulatory waivers, etc.), and assistance in receiving an MDI designation. In providing technical assistance, agency staff will not perform tasks expected of an institution's management or employees. And while they may help the institution understand how to apply for something or submit a bid, agency staff will not assist or guide the institution in developing the substance of such application or bid.

Examinations of MDIs

MDI-designated credit unions have a unique role in promoting the economic viability of minority and underserved communities, at times necessitating distinct approaches to taking and managing the related financial and operational risks. The NCUA expects examiners to recognize the distinctive characteristics and differences in core objectives of each financial institution and consider these when evaluating the institution's financial and operational condition and related management practices. Examiners are able to evaluate an MDI using peer metrics such as through the Financial Performance Report.

The NCUA provides examiners guidance to educate them about the unique challenges faced by MDIs and the support and services the NCUA offers to assist MDIs to address such challenges. The guidance acknowledges, at times, some MDIs may need more or different support from the NCUA than other credit unions. The guidance also lists specific types of technical assistance an MDI may request of the NCUA. It also advises that MDIs often have unique memberships and provide financial services to consumers and businesses in communities that might not otherwise have access to another federally insured financial institution. Therefore, the policies, processes, risks, and practices of MDIs may vary and comparison to other credit unions based solely on similar size may have limited value. Instead, examiners are instructed to assess each MDI based on its unique strategy and membership.

CDRLF Grants and Loans

The CDRLF provides loans and grants to low-income designated credit unions to expand outreach to underserved populations, improve digital services and cybersecurity, to provide staff training, and to support capacity-building programs for example. In 2023, MDIs without the low-income designation became eligible for CDRLF grants and loans.[12]

Training and Education

The NCUA offers training to credit unions through various formats such as webinars, online courses, videos, and in-person events. Through the Learning Management System, the agency offers training and educational resources to credit union board members, management, employees, and volunteers online and at no charge. Examples of the content provided include guidance on credit union operations, compliance, community partnerships, and strategic planning.[13]

[12] Refer to the Grants and Loans section of the NCUA website for eligibility requirements in future periods.

[13] These training opportunities are accessible to all credit unions through the Learning section the NCUA's website.

Preservation of MDIs

With regard to a potentially failing MDI or the need for an assisted merger of an MDI, as with any insured credit union, the NCUA Board will consider providing Section 208 assistance to reduce the risk or avert a threatened loss to the National Credit Union Share Insurance Fund (NCUSIF), facilitate a merger or consolidation, or to prevent the closing of a credit union that the Board determines is in danger of closing.[14] Requirements concerning field of membership apply to most mergers. In addition, the NCUA must consider resolution costs and safety and soundness implications for all mergers.

The NCUA will attempt to preserve the minority character of failing MDIs during the resolution process. In the event of the potential failure of an MDI, the agency will contact MDIs in the NCUA's merger registry that qualify to bid on a particular failing institution. Agency staff will solicit interest in bidding on the failing MDI and offer technical assistance to any MDI desiring to bid. The NCUA will also provide MDIs interested in submitting a bid with an additional two weeks to submit a bid whenever possible. Except in the cases of conservatorships, liquidations, or assisted mergers, the MDI's board of directors is generally the decision maker on a merger partner provided the selection is consistent with regulatory and safety and soundness standards. For conservatorships, liquidations, or assisted mergers, in the selection process, the NCUA will consider all the requirements applicable to a merger or purchase and assumption, including FIRREA's general preference guidelines.[15]

c. MDI Designation Eligibility

The agency adopted the definition of an MDI in FIRREA section 308 that applies to a mutual institution.[16] Accordingly, a credit union is eligible to receive the MDI designation if it meets all the following criteria:

- A majority of its current members are from any of the eligible minority groups;
- A majority of the members of its board of directors are from any of the eligible minority groups; and

[14] 12 U.S.C. 1788(a)(1)–(2).

[15] Generally, the NCUA is involved in the selection process when the transaction will cause a loss to the Share Insurance Fund or when the failing credit union is in conservatorship and the NCUA Board is the conservator. For additional information on the NCUA's selection process, see Letter to Credit Unions 10–CU–11, *Information on NCUA's Merger and Purchase & Assumption Process.*

[16] 12 U.S.C. 1463 note sec. (b)(1)(C).

• A majority of the community it services, as designated in its field of membership, are from any of the eligible minority groups.

For minority representation to be a ''majority,'' it must be greater than 50 percent.

The NCUA relies on the FIRREA section 308 ''minority'' definition to identify an eligible minority as any Black American, Asian American, Hispanic American, or Native American.[17] For the purpose of this IRPS, Asian American includes anyone who is Native Hawaiian or Other Pacific Islander, and Native American includes anyone who is American Indian or Alaska Native. Also, for the purpose of minority representation under the MDI definition, an individual who falls into more than one of the minority categories will be considered as a single, eligible minority.

A credit union that meets the eligibility requirements can self-certify as an MDI by following agency guidelines as specified on the NCUA's website. The instructions to the NCUA's *Credit Union Profile* form, which credit unions use to self-certify as an MDI, contain detailed directions on how to make the designation.[18] An MDI may participate in the NCUA's MDI Program subject to the eligibility requirements of any specific initiative. An eligible credit union's decision to designate as an MDI or to participate in the MDI Program is voluntary.

A credit union defined as a ''small credit union'' by the NCUA under the Regulatory Flexibility Act (RFA) may self-certify greater than 50 percent representation among its current members, and within the community it services (potential members), based solely on knowledge of those members. Under the RFA, the NCUA currently defines a small credit union as a credit union with total assets of less than $100 million.[19]

A credit union not defined as a small credit union by the NCUA may rely on one of the following methods, as applicable, to determine the minority composition of its current membership exclusively and of the community it services. The credit union must maintain documentation supporting its MDI self-designation.

1. The credit union may ascertain the minority representation using demographic data from the U.S. Census Bureau website, based on the area(s) where the current or potential membership resides, such as a township, borough, city, county, or Metropolitan Statistical Area. If the U.S. Census data—for example, census tracts, zip codes, townships, boroughs, cities, or counties—shows the area's population comprises mostly eligible minorities, the credit union may assume that its current membership and the community it services each have the same minority composition as the Census data indicates.

2. The credit union may use Home Mortgage Disclosure Act (HMDA) data to calculate the reported number of minority mortgage applicants divided by the total number of mortgage applicants within the credit union's membership. If the share of minority representation among applicants is greater than 50 percent, the credit union may assume its current membership has the same minority composition as the HMDA data indicates. If a credit union grants a majority of its mortgage loans to minorities, it is likely the majority of the community the credit union services (its potential members) will consist of minorities.[20]

3. The credit union may elect to collect data from members who voluntarily choose to participate in such collection about their racial identity and use the data to determine minority representation among the credit union's membership. The credit union should consider using an unbiased third party to conduct such a collection. For example, data can be collected through a survey of members, assessing the services they desire, or by mailed electoral ballots for official positions. Once collected, it is essential to maintain the confidentiality of the data; it should not be retained in the members' files or with any personal identifiers, such as, names, accounts, or Social Security numbers. If a majority of its current members are minorities, it is likely the majority of the community the credit union services (its potential members) will consist of minorities.

4. The credit union may use any other reasonable form of data, such as membership address list analyses or an employer's demographic analysis of employees.

An MDI credit union must assess whether it continues to meet the required definition of an MDI whenever there is a significant change in its board of directors, or it changes its field of membership, and update its designation, if necessary, in the NCUA *Credit Union Profile.* In accordance with the regular examination process, the NCUA will review whether a credit union has updated its analysis and made any corresponding changes to its self-certification in the *Credit Union Profile.* Credit unions can expect to have the *Credit Union Profile* reviewed during routine evaluations. An MDI may elect to withdraw its designation by not completing the relevant questions in the *Profile.*

d. Monitoring and Reporting on MDIs

The NCUA will monitor MDIs and report to Congress annually on the number and overall financial condition of MDIs, along with actions taken by the agency to preserve and strengthen them and to encourage the chartering of new ones.[21] The report summarizes the NCUA's efforts to obtain feedback from MDIs on the effectiveness of the agency's MDI support and preservation activities. The NCUA also maintains a list of MDIs on its website.

IV. Regulatory Procedures

Regulatory Flexibility Act

The RFA generally requires that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities. A regulatory flexibility analysis is not required, however, if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (defined for purposes of the RFA to include credit unions with assets less than $100 million) [22] and publishes its certification and a short, explanatory statement in the **Federal Register** together with the rule.

The Board fully considered the potential economic impact of the proposed changes during the development of the revised IRPS. As noted in the preamble, the revised IRPS would clarify the NCUA's current policy on MDI preservation and provide additional services to MDIs. The proposed rule would not impose any new significant burden on credit unions designated as MDIs and may provide some additional resources. The resources gained, however, are unlikely to result in a significant economic impact for affected credit unions. Small credit unions are also not obligated to participate in the MDI program. Accordingly, the NCUA certifies that it would not have a significant economic impact on a substantial number of small federally insured credit unions.

[17] *Id.*

[18] NCUA Form 4501A, *https://ncua.gov/files/publications/regulations/credit-union-profile-form-instructions-4501A-sept-2022.pdf.*

[19] 80 FR 57512 (Sept. 24, 2015).

[20] HMDA data can be obtained from the Federal Financial Institutions Examination Council website.

[21] 12 U.S.C. 1463 note sec. (c).

[22] See 80 FR 57512 (Sept. 24, 2015).

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency creates a new information collection or amends existing information collection requirements.[23] For purposes of the PRA, an information collection requirement may take the form of a reporting, recordkeeping, or a third-party disclosure requirement. The NCUA may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a valid Office of Management and Budget (OMB) control number. The current information collection requirements for the MDI policy are approved under OMB control number 3133–0195, Minority Depository Institution Preservation Program.

The amendments in this proposed revision to IRPS 13–1 do not alter the information collection described under OMB control number 3133–0195, and the NCUA does not anticipate an increase in the burden based on the proposed revisions. There are no additional information collections resulting from these proposed changes.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on State and local interests. The NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the Executive Order to adhere to fundamental federalism principles. This revised IRPS will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Although State-chartered credit unions are eligible to obtain the MDI designation and receive assistance based on it, the NCUA does not believe this affects State governments generally or State credit union regulators in particular. The NCUA will continue to work cooperatively with State credit union regulators to examine federally insured, State-chartered credit unions and does not expect the proposed IRPS to alter these relationships or allocation of responsibilities. The decision about whether to certify as an MDI or seek MDI program benefits will be an individual business decision for each credit union's board. The NCUA has determined that this revised IRPS does not constitute a policy that has federalism implications for purposes of the executive order.

Assessment of Federal Regulations and Policies on Families

The NCUA has determined that these proposed revisions to IRPS 13–1 will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999.[24] The proposed revisions to IRPS 13–1 may increase the ability of MDIs to provide financial services to families. However, the Board does not have a means to quantify how this might affect family well-being as described in factors included in the legislation, which include the effects of the action on the stability and safety of the family; parental authority and rights in the education, supervision, and nurture of their children; the ability of families to support their functions or substitute governmental activity for these functions; and on increases or decreases to disposable income.

By the National Credit Union Administration Board on June 22, 2023.

Melane Conyers-Ausbrooks,

Secretary of the Board.

[FR Doc. 2023–13848 Filed 6–28–23; 8:45 am]

BILLING CODE 7535–01–P

[23] 44 U.S.C. 3507(d); 5 CFR part 1320.

[24] Public Law 105–277, 112 Stat. 2681 (1998).

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–0320; NRC–2023–0042]

TMI–2 Solutions; Three Mile Island Nuclear Station, Unit No. 2

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC, or Commission) is issuing an exemption in response to a September 29, 2022, request from TMI–2 Solutions, LLC (TMI–2 Solutions, or Licensee) for an exemption from NRC regulations. The action exempts TMI–2 Solutions from the requirements to maintain a radiation monitoring system in each area where licensed special nuclear material is handled, used, or stored that would energize clearly audible alarm signals if accidental criticality occurred during decommissioning. In evaluating the exemption request, the NRC staff determined that the Licensee's proposed decommissioning activities do not present any credible criticality hazards.

DATES: The exemption was issued on and was effective on May 2, 2023.

ADDRESSES: Please refer to Docket ID NRC–2023–0042 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2023–0042. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *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.

FOR FURTHER INFORMATION CONTACT: Amy M. Snyder, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–6822, email: *Amy.Snyder@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

TMI–2 Solutions is the holder of Possession Only License (POL) No. DPR–73 for Three Mile Island Nuclear Station, Unit No. 2 (TMI–2). The POL provides, among other things, that the facility is subject to all rules, regulations, and orders of the NRC now or hereafter in effect. TMI–2 is located in Dauphin County, Pennsylvania.

The NRC previously granted TMI–2 an exemption from the criticality accident monitoring requirements of section 70.24 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Criticality accident requirements,'' for Special Nuclear Material (SNM) storage, on June 15, 1992 (ADAMS Accession No. ML20210D729). In its exemption request (ADAMS Accession No. ML22276A024), the Licensee noted that the June 15, 1992, exemption stated:

''. . . it is appropriate to request an exemption from 10 CFR 70.24 if an evaluation determines that a potential for criticality does not exist, as for example where the quantities or form of special nuclear material make criticality practically impossible or where geometric spacing is used to preclude criticality.''

The NRC granted the 1992 exemption based on the lack of a credible criticality hazard related to the storage of fissionable material at the facility (ADAMS Package Accession No. ML20210D728). That exemption, however, only covered the initial cleanup of TMI–2 fuel debris. Consequently, as TMI–2 Solutions progresses to radiological decommissioning of TMI–2, including activities beyond the initial cleanup of TMI–2 fuel debris, the 1992 exemption will no longer apply. Therefore, TMI–2 Solutions requested this exemption from 10 CFR 70.24, which will extend until license termination.

II. Request/Action

Section 70.24 requires, in relevant part, that each licensee authorized to possess special nuclear material in a quantity exceeding 700 grams of contained uranium-235, 520 grams of uranium-233, 450 grams of plutonium, 1,500 grams of contained uranium-235 if no uranium enriched to more than 4 percent by weight of uranium-235 is present, or 450 grams of any combination thereof, shall maintain a monitoring system in each area in which such licensed special nuclear material is handled, used, or stored. The monitoring system must use gamma- or neutron-sensitive radiation detectors which will energize clearly audible alarm signals if accidental criticality occurs.

In its exemption application, TMI–2 Solutions states that criticality is not credible at TMI–2, and therefore it considers an exemption to 10 CFR 70.24 for a criticality monitoring system to be appropriate for decommissioning. The licensee states that TMI2–RA–COR–2022–0008, ''Supplemental Information to License Amendment Request—Three Mile Island, Unit 2, Decommissioning Technical Specifications,'' demonstrates that the spent fuel mass limit (SFML) associated with remaining fuel bearing material at TMI–2 is 1361 kilograms (kg) of uranium oxide (UO_2). The licensee notes that this SFML is 24 percent higher than the previous estimate on record for remaining fuel bearing material at TMI–2, which the NRC staff found to analytically preclude a credible criticality accident at TMI–2 (ADAMS Accession No. ML23094A269). The updated SFML result represents a more accurate and updated calculation from the 1990 SFML calculation. The Licensee arrived at this updated calculation by taking credit for impurities and actual enrichment based on the results of physical samples taken during the defueling effort.

III. Discussion

Pursuant to 10 CFR 70.17(a), ''Specific exemptions,'' the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 70 when the exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the interest of the public.

The NRC staff has reviewed the exemption request and finds that granting the proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, the Commission's regulations, or other laws. As explained as follows, the proposed exemption will not endanger life or property, or the common defense and security, and is otherwise in the public interest. Therefore, the exemption is authorized by law.

The exemption presents no undue risk to the public health and safety and therefore will not endanger life or property. Based on the NRC staff's evaluation, the NRC staff determined that the Licensee's proposed decommissioning activities do not present any credible criticality hazards. Because there are no credible criticality hazards related to the Licensee's proposed decommissioning activities and because all activities will be conducted such that subcriticality is assured under normal and all credible abnormal conditions, the NRC staff concludes that the Licensee's program will provide reasonable assurance of adequate protection of the health and safety of workers and the public.

The exemption is consistent with the Common Defense and Security because the NRC staff determined there would be no impact to the physical protection plan, emergency preparedness, environmental monitoring, effluent monitoring, or material control and accountability programs at TMI–2. Further, as described in the NRC staff's safety evaluation, the NRC staff conducted independent evaluations and concluded that criticality is not credible; therefore, an exemption from criticality monitoring requirements is warranted. The NRC staff agrees with the licensee's conclusion in its application that the requested exemption to the requirements of 10 CFR 70.24 does not involve information or activities that could potentially impact the common defense and security. The Licensee demonstrated that there is no credible criticality hazard, and the existing administrative restrictions described in the TMI–2 Fuel Bearing Material Program prevent proliferation and limit aggregation. The elimination of the criticality monitoring requirements does not involve information or activities that could potentially impact the common defense and security of the United States.

Further, while administrative controls for geometric spacing are not necessary because there is not enough UO_2 to assemble an optimal critical configuration, TMI–2 Solutions will be implementing local administrative controls as part of its Fuel Bearing Material Management Program for the purpose of defense in depth. These administrative controls will apply to the activities which will handle the highest quantities of fuel bearing material (*e.g.,* segmenting the reactor vessel internals which represent 925 kg UO_2 or 68 percent of the SFML). These defense in depth controls will include control on the physical location of segmentation equipment and limiting the number of waste receptacles (*i.e.,* physical manifestations of controls on geometric spacing).

Finally, the NRC staff concludes that the exemption is in the public interest. As stated previously, the Licensee demonstrated that criticality is not credible during site decommissioning activities under credible normal and credible abnormal conditions. Therefore, conducting criticality monitoring at TMI–2 would expend NRC staff inspection and other NRC staff regulatory resources that could be used for other activities at the facility. Additionally, the Licensee states that, if the exemption request were denied, its personnel would experience a slight increase in occupational dose during the maintenance of criticality monitors, which would not be consistent with as low as reasonably achievable principles. The NRC staff agrees.

IV. Conclusions

Accordingly, the Commission has determined that, pursuant to 10 CFR 70.17(a), the exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the interest of the public. Therefore, the Commission hereby grants TMI–2 Solutions an exemption from 10 CFR 70.24 during decommissioning.

Dated: June 26, 2023.

For the Nuclear Regulatory Commission.

Jane E. Marshall,

Director, Division of Decommissioning, Uranium Recovery and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2023–13882 Filed 6–28–23; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2023–174 and CP2023–178; MC2023–175 and CP2023–179; MC2023–176 and CP2023–180]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 5, 2023.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

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

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the Market Dominant or the Competitive product list, or the modification of an existing product currently appearing on the Market Dominant or the Competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2023–174 and CP2023–178; *Filing Title:* USPS Request to Add Priority Mail, First-Class Package Service & Parcel Select Contract 30 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 23, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* July 5, 2023.

2. *Docket No(s).:* MC2023–175 and CP2023–179; *Filing Title:* USPS Request to Add First-Class Package Service & Parcel Select Contract 3 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 23, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* July 5, 2023.

3. *Docket No(s).:* MC2023–176 and CP2023–180; *Filing Title:* USPS Request to Add First-Class Package Service & Parcel Select Contract 4 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 23, 2023; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* July 5, 2023.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2023–13835 Filed 6–28–23; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Request for Information; National Strategy for a Sustainable Ocean Economy

AGENCY: Office of Science and Technology Policy (OSTP).

ACTION: Notice of request for information (RFI).

SUMMARY: The Office of Science and Technology Policy (OSTP) and the Council on Environmental Quality (CEQ), on behalf of the interagency Ocean Policy Committee (OPC), request input from all interested parties to inform the development of a National Strategy for a Sustainable Ocean Economy (National Strategy). The National Strategy will describe the vision, goals, and high-level actions for a robust, equitable, secure, sustainable ocean economy enabled by healthy, resilient ocean ecosystems. It will build on current Federal, Tribal, Territorial, State, and regional sustainable ocean management practices and identify needs and opportunities to enhance these efforts with new and emerging science, technology, knowledge, and policy. Through this request for information (RFI), the Ocean Policy Committee seeks public input on what the goals and outcomes of the National Strategy should be, and how the Federal Government can best advance sustainable management of ocean, coastal, and Great Lakes resources and ecosystems of the United States.

DATES: Responses are due by 11:59 p.m. Eastern Time on August 28, 2023. Submissions received after the deadline may not be taken into consideration.

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**. OSTP will not accept comments by fax or by email, or comments submitted after the comment period closes. To ensure that OSTP does not receive duplicate copies, please submit your comments only once. Additionally, 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 how to use *Regulations.gov,* including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''FAQ'' (*https://www.regulations.gov/faq*).

Privacy Note: OSTP's policy is to make all 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. OSTP requests that no proprietary information, copyrighted information, or personally identifiable information be submitted in response to this RFI.

Instructions: Response to this RFI is voluntary. Each individual or organization is requested to submit only one response. Commenters can respond to one or many questions. Submissions are suggested to not exceed the equivalent of five (5) pages in 12 point or larger font. Submissions should clearly indicate which questions are being addressed. Responses should include the name of the person(s) or organization(s) filing the response. Responses containing references, studies, research, and other empirical data that are not widely published should include copies of or electronic links to the referenced materials. Responses containing profanity, vulgarity, threats, or other inappropriate language or content will not be considered.

Please note that the U.S. Government will not pay for response preparation, or for the use of any information contained in the response. A response to this RFI will not be viewed as a binding commitment to develop or pursue the project or ideas discussed.

FOR FURTHER INFORMATION CONTACT: Deerin Babb-Brott, OSTP Asst. Director for Ocean Policy, (202) 456–3267.

SUPPLEMENTARY INFORMATION:

Background: The Nation's ocean, coasts, and Great Lakes support strong local economies and provide good-paying jobs, healthy food, carbon storage, energy, recreation, culture and heritage, transportation, trade, mobility for our armed forces, natural protection from storm surge and floods, and numerous other benefits. But many of these benefits are not inexhaustible, and the ocean is vulnerable to the impacts of human activity. The myriad impacts of climate change, habitat and biodiversity loss, and ocean pollution, for example, continue to degrade the health, productivity, and resilience of ocean ecosystems and make clear the integral connection between a healthy ocean, coasts, and Great Lakes and the health, prosperity, security, and well-being of all Americans.

To address these continuing challenges, the Administration is committed to advancing the science, knowledge, tools, and activities that support sustainable policies, management, and practices as solutions. Because the challenges are numerous and their scale is great—for example, the country's ocean, coastal, and Great Lakes areas cover as much area as the terrestrial United States—solving them will require a whole-of-country effort, with critical roles for Tribal Nations, local, State, and Territorial governments, the private sector, academia, non-governmental organizations, a wide range of stakeholders, and the public. Actions to address these challenges are being developed and implemented across the country—at all scales, by governments, organizations, businesses, academia, and people of all kinds who are developing new science and tools, recognizing the critical importance of Indigenous Knowledge, building new technologies, and employing policies, management, and practices that prioritize sustainable outcomes and reflect the resilience, interconnectedness, value, and productivity of natural systems. Ocean policies, management, and practices focused on achieving healthy communities, ecosystems, and economies are needed to provide abundant co-benefits, including good-paying jobs, thriving communities, and healthy ocean ecosystems that support future discovery and innovation. These solutions can also provide an opportunity to advance more equitable access to the benefits provided by the ocean to people, and to create and sustain a diverse workforce.

To engage the Nation in developing a vision, goals, and high-level actions for sustainable management of the ocean, coasts, and Great Lakes, the Ocean Policy Committee, a Congressionally mandated, Cabinet-level interagency committee charged with coordinating Federal ocean policy (*https://www.noaa.gov/interagency-ocean-policy*), will develop a National Strategy for a Sustainable Ocean Economy (National Strategy) in consultation with federally recognized Tribes and input from governments, civil society, the private sector, and the public. The National Strategy will: (1) describe a vision and goals for sustainable management of the U.S. ocean, coasts, and Great Lakes; (2) characterize and assess needs and opportunities to achieve the vision and goals; (3) identify existing and new high-level actions by Federal, Tribal, State, Territorial, regional, and local governments that can advance sustainable management; and (4) describe how those actions will be implemented to engage and build on the work of and partnerships with civil society, the private sector, and the public.

Examples of subject matter that may be addressed by the National Strategy include, but are not necessarily limited to: ocean food and human health; ocean energy and resources; ocean-based tourism; ocean transportation; new ocean industries; climate change; marine and coastal ecosystems; ocean pollution; equity and environmental justice; ocean literacy and skills; economic valuation of coastal and ocean natural capital; ocean science and technology; ocean finance; Indigenous Knowledge, ancestral and historical areas of importance, and national security.

At the Federal level, the National Strategy will take into account current actions related to the sustainability of the nation's ocean, coasts, and Great Lakes, including, but not necessarily limited to: the Ocean Climate Action Plan (*https://www.whitehouse.gov/wp-content/uploads/2023/03/Ocean-Climate-Action-Plan_Final.pdf*), the National Nature Assessment (*https://www.globalchange.gov/nna*), and the National Strategy to Develop Statistics for Environmental-Economic Decisions (*https://www.whitehouse.gov/ostp/news-updates/2023/01/19/fact-sheet-biden-harris-administration-releases-national-strategy-to-put-nature-on-the-nations-balance-sheet/*).The Ocean Policy Committee is coordinating the development of the National Strategy in conjunction with the United States'

participation in the ''High Level Panel for a Sustainable Ocean Economy'' (Ocean Panel; *https://oceanpanel.org/*), committing with 16 other nations to develop sustainable ocean plans for their marine areas under national jurisdiction. This initiative aims to advance the prosperity, health, and security of participating nations through the sustainable management of their marine areas, and to provide a range of examples that can be considered as potential models by other nations. The U.S. National Strategy will serve as a sustainable ocean plan for the purposes of the Ocean Panel initiative.

Questions To Inform Development of the Strategy

Respondents may provide information for one or as many topics below as they choose. Submissions should clearly indicate which questions are being addressed. An interagency work group under the Ocean Policy Committee and co-led by the Department of the Interior and the Department of the Navy, in partnership with the CEQ and OSTP, and other Federal agencies and entities, will develop the National Strategy with input from, Tribal Nations, local, State, and Territorial governments, the private sector, academia, non-governmental organizations, a wide range of stakeholders, and the public. The workgroup is seeking input from the public on high-level goals and how to achieve them in the following areas:

- *Sustainable Ocean Economy.* What should the national vision and high-level goals be for a sustainable ocean economy? Are there successful regional or local efforts that could be applied nation-wide? What elements or activities do you consider critical to a sustainable ocean economy? Are there other topics beyond those listed above (*e.g.,* ocean food; ocean energy and resources; ocean-based tourism; ocean transportation; new ocean industries; climate change; marine and coastal ecosystems; ocean pollution; equity and environmental justice; ocean literacy and skills; economic valuation of the ocean's natural capital; ocean science, technology; ocean finance; Indigenous Knowledge and ancestral and historical areas of importance; and national security) that should be addressed?
- *Ocean, Coasts, and Great Lakes Priorities.* What are your priorities for sustainable management of the ocean, coasts, and Great Lakes at a local, state, Tribal, territorial, regional, and/or national scale? What key challenges do you face in achieving them? Are your priorities for ocean, coastal, and Great Lakes management reflected in existing workplans, strategy documents, or other materials? What practices/tactics are you employing or would you need to employ to meet those priorities?
- *An Informed and Responsive National Strategy.* Are there gaps in our knowledge of the ocean, coasts, and Great Lakes that need to be addressed to support sustainable ocean management? Are there opportunities to improve how we manage the use of marine ecosystems to maximize their benefits while minimizing human impacts on them? For example, and as relevant only to the U.S. Exclusive Economic Zone, how can the United States advance its commitment to a precautionary approach to seabed mining and other emerging ocean industries? What co-management and co-stewardship practices are needed to meet ocean, coasts, and Great Lakes sustainability?
- *Additional Considerations.* Is there anything else you would like to be considered in the development of the National Strategy?

Please note that this RFI is designed to complement existing Federal activities in this space. Previous relevant comments submitted to the RFIs for the Ocean Climate Action Plan (*https://www.federalregister.gov/documents/2022/10/04/2022-21480/ocean-climate-action-plan*) and the National Nature Assessment (*https://www.federalregister.gov/documents/2022/10/31/2022-23593/framing-the-national-nature-assessment*) will also be considered to inform the development of the National Strategy.

Dated: June 26, 2023.

Stacy Murphy,

Deputy Chief Operations Officer/Security Officer.

[FR Doc. 2023–13839 Filed 6–28–23; 8:45 am]

BILLING CODE 3270–F1–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–323, OMB Control No. 3235–0362]

Proposed Collection; Comment Request; Extension: Form 5—Annual Statement of Beneficial Ownership

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Under Section 16(a) of the Securities Exchange Act of 1934 (''Exchange Act'') (15 U.S.C. 78a *et seq.*) every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security (other than an exempted security) which registered pursuant to Section 12 of the Exchange Act, or who is a director or an officer of the issuer of such security (collectively ''reporting persons''), must file statements setting forth their security holdings in the issuer with the Commission. Form 5 (17 CFR 249.105) is an annual statement of beneficial ownership of securities. The information disclosure provided on Form 5 is mandatory. All information is provided to the public for review. We estimate that approximately 5,939 reporting persons file Form 5 annually and we estimate that it takes approximately one hour to prepare the form for a total of 5,939 annual burden hours.

An agency may conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov*. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by July 31, 2023 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov*.

Dated: June 23, 2023.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 2023–13787 Filed 6–28–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97789; File No. SR–ICEEU–2023–016]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments FTSE 100 Index Contracts and SARON Futures Contracts

June 22, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 9, 2023, ICE Clear Europe Limited filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes described in Items I, II and III below, which Items have been prepared by ICE Clear Europe. ICE Clear Europe filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] such that the proposed rule change was immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

ICE Clear Europe Limited (''ICE Clear Europe'' or the ''Clearing House'') proposes to amend certain clearing transaction fees for FTSE 100 index contracts and SARON futures contracts (the ''Contracts'').[5]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

ICE Clear Europe is proposing to increase certain clearing fees for specified ICE Futures Europe (''IFEU'') contracts, specifically the ICE Futures Europe FTSE 100 Futures and Options Contracts, FTSE 100 Dividend Index Futures Contracts (collectively the ''Equity Index Contracts'') and Three-Month SARON® Index Futures Contracts (the ''SARON Futures.'') The proposed fee changes are set forth in the following tables:

	Existing clearing fee (£/contract)	Proposed new clearing fee (£/contract)
CONTRACT—FTSE 100 Futures and Options Contract		
Outrights/Basis	0.24	0.27
Block	0.29	0.33
Block with Delayed Publication	0.33	0.35
Cash Settlement fee (Futures)	0.35	0.40
Exercise/Assignment fee (Options)	0.35	0.40
Block fee cap (Options)	2,080	2,350
Block fee cap with Delayed Publication (Options)	2,800	3,100
Exercise/Assignment fee cap (Options)	2,400	2,700
FTSE 100 Trade at Index Close Published	0.28	0.31
FTSE 100 Trade at Index Close Delayed Published	0.35	0.38
CONTRACT—FTSE 100 Dividend Index Futures Contract		
Outrights/Basis	0.24	0.27
Block	0.29	0.33
Block with Delayed Publication	0.33	0.35
Cash Settlement fee	0.35	0.40
CONTRACT—SARON Index Futures		
Outrights/Basis	0.40	0.48
Block	0.40	0.48
Block with Delayed Publication	0.56	0.68
Cash Settlement fee	0.50	0.60

The proposed fee changes are intended to become operative on July 1, 2023, subject to regulatory approval.

The proposed increases in clearing fees for the Equity Index Contracts are intended to provide additional revenue to support the ongoing investments by ICE Clear Europe in developing clearing for derivative products on FTSE indexes, including the Equity Index Contracts. The amendments are also intended to bring fees into line with the fees of similar equity index contracts traded on other European exchanges, which have increased in 2023.

The proposed increases in fees for SARON Futures are intended to provide additional revenue to support ongoing clearing of the SARON Futures, including to support marketing and business development efforts relating to Swiss franc denominated interest rate derivatives in light of the continued evolution of European markets as a result of ongoing regulatory changes under EU law and other factors.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

[5] Capitalized terms used but not defined herein have the meanings specified in the IFEU Equity Index Contracts and SARON Futures or, if not defined therein, the ICE Clear Europe Clearing Rules.

The amendments to the fees for both Equity Index Contracts and SARON Futures will also generally provide additional revenue to support Clearing House investments that enhance the services provided to market participants, including through new clearing technology to augment the existing clearing platform, reduce systems risk, and add additional regulatory reporting related to MIFID and other regulations. Fee increases also reflect the current inflationary macroeconomic environment.

(b) Statutory Basis

ICE Clear Europe believes that the proposed fee amendments for the Equity Index Contracts and SARON Futures are consistent with the requirements of Section 17A of the Act[6] and the regulations thereunder applicable to it. In particular, Section 17A(b)(3)(D) of the Act[7] requires that ''[t]he rules of the clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants.'' ICE Clear Europe believes that its clearing fees, as proposed to be amended, would be reasonable and appropriate for the Contracts. ICE Clear Europe's fees are imposed at the product level on a per transaction basis (as are the applicable exchange fees), and would be generally applicable to market participants trading in the contracts. ICE Clear Europe has determined that the increased clearing fees are appropriate to support continued investments in clearing operations. Specifically, the increased fees for the Equity Index Contracts would support ongoing development of clearing of derivatives on FTSE indices, and will be consistent with fees for other contract for similar equity index futures contracts traded on other exchanges. The increased fees for the SARON Futures would facilitate ongoing market and business development with respect to that contract. ICE Clear Europe has further determined that the increased fees would be commensurate with the size and nature of the contracts and would provide an appropriate balance between the costs of clearing for market participants and the expenses incurred by ICE Clear Europe in offering clearing of the relevant contracts, taking into account the investments ICE Clear Europe has made and will continue to make in clearing such products. As such, in ICE Clear Europe's view, the amendments are consistent with the equitable allocation of reasonable dues, fees, and other charges among its Clearing Members and other market participants, within the meaning of Section 17A(b)(3)(D) of the Act.[8]

The proposed amendments are also consistent with the requirements of Section 17A(b)(3)(F) of the Act[9] which requires, among other things, that the ''rules of a clearing agency [. . .] are not designed to permit unfair discrimination in the admission of participants or among participants in the use of the clearing agency.'' As noted above, the proposed fee changes for the Contracts would apply on a per transaction basis and would apply to Clearing Members and market participants generally. As a result, the amendments would not result in any unfair discrimination among Clearing Members in their use of the Clearing House, within the meaning of Section 17A(b)(3)(F) of the Act.[10]

(B) Clearing Agency's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed amendments would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purposes of the Act. Although ICE is increasing certain clearing fees, as set forth herein, it believes such changes are appropriate to reflect the costs and expenses incurred by the Clearing House and to support continued investment in its operations and infrastructure to support clearing activities for these and other contracts. Further, as discussed above, because fees are imposed on a per transaction basis at the product level, the revised fees would be applied equally to all Clearing Members and other market participants who transact in the Contracts. ICE does not believe that the amendments would adversely affect the ability of such Clearing Members or other market participants generally to access clearing services for the Contracts. Further, since the revised fees will apply to market participants generally, ICE believes that the amendments would not otherwise affect competition among Clearing Members, adversely affect the market for clearing services or limit market participants' choices for obtaining clearing services. Accordingly, ICE Clear Europe does not believe that the amendments would impose any impact or burden on competition that is not appropriate in furtherance of the purpose of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed amendment have not been solicited or received by ICE Clear Europe. ICE Clear Europe will notify the Commission of any written comments received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change, Security-Based Swap Submission and Advance Notice and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and paragraph (f) of Rule 19b–4[12] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–ICEEU–2023–016 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–ICEEU–2023–016. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written

[6] 15 U.S.C. 78q–1.

[7] 15 U.S.C. 78q–1(b)(3)(D).

[8] 15 U.S.C. 78q–1(b)(3)(D).

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] 15 U.S.C. 78q–1(b)(3)(F).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f).

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at *https://www.theice.com/clear-europe/regulation*.

Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR–ICEEU–2023–016 and should be submitted on or before July 20, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 2023–13791 Filed 6–28–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–598, OMB Control No. 3235–0655]

Proposed Collection; Comment Request; Extension: Regulation 14N and Schedule 14N

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Schedule 14N (17 CFR 240.14n–101) requires the filing of certain information with the Commission by shareholders who submit a nominee or nominees for director pursuant to applicable state law, or a company's governing documents. Schedule 14N provides notice to the company of the shareholder's or shareholder group's intent to have the company include the shareholder's or shareholder group's nominee or nominees for director in the company's proxy materials. This information is intended to assist shareholders in making an informed voting decision with regards to any nominee or nominees put forth by a nominating shareholder or group, by allowing shareholders to gauge the nominating shareholder's interest in the company, longevity of ownership, and intent with regard to continued ownership in the company. We estimate that Schedule 14N takes approximately 40 hours per response and will be filed by approximately 10 issuers annually. In addition, we estimate that 75% of the 40 hours per response (30 hours per response) is prepared by the issuer for an annual reporting burden of 300 hours (30 hours per response × 10 responses).

An agency may conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov*. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by July 31, 2023 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov*.

Dated: June 23, 2023.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 2023–13785 Filed 6–28–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–112, OMB Control No. 3235–0101]

Proposed Collection; Comment Request; Extension: Form 144—Notice of Proposed Sale of Securities Pursuant to Rule 144 Under the Securities Act of 1933

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collections of information discussed below.

Form 144 (17 CFR 239.144) is used to report the sale of securities during any three-month period that exceeds 5,000 shares or other units and has an aggregate sales price that does not exceed $50,000. Under Sections 2(a)(11), 4(a)(1), 4(a)(2), 4(a)(4) and 19(a) of the Securities Act of 1933 (15 U.S.C. 77b(a)(11), 77d(a)(1), 77d(a)(2), 77d(a)(4) and 77s(a)) and Rule 144 (17 CFR 230.144) there under, the Commission is authorized to solicit the information required to be supplied by Form 144. The objectives of the rule could not be met, if the information collection was not required. The information collected must be filed with the Commission and is publicly available. Form 144 takes approximately one burden hour per response and is filed by 33,725 respondents for a total of 33,725 total burden hours.

An agency may conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by July 31, 2023 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John

[13] 17 CFR 200.30–3(a)(12).

Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov*.

Dated: June 23, 2023.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 2023–13788 Filed 6–28–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97788; File No. SR–Phlx–2023–26]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Phlx Options 7 Regarding PXL Order Pricing

June 22, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 13, 2023, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Pricing Schedule at Options 7: Section 1, General Provisions; Section 3, Rebates and Fees for Adding and Removing Liquidity in SPY; and Section 6, Other Transaction Fees.[3]

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/phlx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On June 2, 2023, the Exchange withdrew SR–Phlx–2023–20 and replaced it with SR–Phlx–2023–24. On June 5, 2023, the Exchange withdrew SR–Phlx–2023–24 and replaced it with SR–Phlx–2023–25. On June 13, 2023, the Exchange withdrew SR–Phlx–2023–25 and replaced it with the instant filing.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Phlx's Pricing Schedule at Options 7: Section 1, General Provisions; Section 3, Rebates and Fees for Adding and Removing Liquidity in SPY; and Section 6, Other Transaction Fees. Specifically, Phlx proposes to: (1) introduce new references in Options 7, Section 1; and (2) amend its Price Improvement XL (''PIXL'')[4] pricing for both options overlying SPY and other options to provide more detail regarding the pricing of unrelated market or marketable interest and make other amendments to utilize the proposed references. Each change is described below.

Options 7, Section 1

The Exchange proposes to amend Options 7, Section 1(c) to introduce four new references: ''Initiating Order'', ''PIXL Auction Order'', ''PIXL Order'', and ''PIXL Response.''

The Exchange proposes to provide that the term ''Initiating Order'' is one-side of a PIXL Auction Order that represents principal or other interest which is paired with a PIXL Order.

The Exchange proposes to provide that a ''PIXL Auction Order'' is a two-sided, paired order, comprised of a PIXL Order and an Initiating Order.

[4] A member may electronically submit for execution an order it represents as agent on behalf of a Public Customer, broker-dealer, or any other entity (''PIXL Order'') against principal interest or against any other order it represents as agent (an ''Initiating Order'') provided it submits the PIXL Order for electronic execution into the PIXL Auction pursuant to Options 3, Section 13.

The Exchange proposes to provide that a ''PIXL Order'' is one-side of a PIXL Auction Order that represents an agency order on behalf a Public Customer, broker-dealer or other entity which is paired with an Initiating Order.

Finally, the Exchange proposes to provide that a ''PIXL Response'' is interest that executed against the PIXL Order pursuant to Options 3, Section 13.

The Exchange believes that these references will bring more transparency to Phlx's PIXL pricing.[5]

Options 7, Section 3

The Exchange proposes to amend PIXL pricing for options overlying SPY in Options 7, Section 3, Part C. The Exchange proposes to replace the current text below with a proposed table. The current text of Options 7, Section 3, related to PIXL Executions in SPY, provides,

- *Initiating Order:* $0.05 per contract. Members or member organizations that qualify for Options 7, Section 2, Customer Rebate Tiers 2 through 6 or qualify for the Monthly Firm Fee Cap are eligible for a rebate of $0.12 per contract for all SPY Complex PIXL Orders greater than 499 contracts when contra to an Initiating Order, provided the member or member organization executes an average of 2,500 contracts per day of SPY Complex PIXL Orders in a month.
- When the PIXL Order is contra to the Initiating Order, a Customer PIXL Order will be assessed $0.00 per contract and all other Non-Customer market participants will be assessed a $0.38 per contract fee when contra to an Initiating Order.
- When the PIXL Order is contra to other than the Initiating Order, the PIXL Order will be assessed $0.00 per contract, unless the PIXL Order is a Customer, in which case the Customer will receive a rebate of $0.40 per contract.
- All other Non-Customer contra parties to the PIXL Order that are not the Initiating Order will be assessed a Fee for Removing Liquidity of $0.50 per contract or will receive the Rebate for Adding Liquidity. When the PIXL Order is contra to a Lead Market Maker or Market Maker quote, which was established at the initiation of a PIXL auction, the Customer PIXL Order will not be eligible for a rebate.

In lieu of the current rule text, the Exchange proposes the below table.

[5] The Exchange also proposes a technical amendment in Options 7, Section 1(c) to add a period to the end of the reference to ''floor transaction.''

Type of market participant	PIXL Order executes against Initiating Order [1]		PIXL Order executes against a PIXL Response or unrelated market or marketable interest			
	Initiating Order fee	PIXL Order fee	PIXL Order rebate	PIXL Order fee	PIXL Response or unrelated market or marketable interest received *during* a PIXL Auction fee	Unrelated market or marketable interest received *prior* to a PIXL Auction fee
Customer	$0.05	$0.00	[2] $0.40	N/A	$0.00	Options 7, Section 3, Part A Rebate for Adding Liquidity/Options 7, Section 3, Part B Fee for Adding Liquidity.
Non-Customer	0.05	0.38	N/A	$0.00	0.50	Options 7, Section 3 Part A Rebate for Adding Liquidity/Options 7, Section 3 Part B Fee for Adding Liquidity.

The current rule text in the first bullet states that the Initiating Order is $0.05 per contract. This fee currently applies to Customers [6] and Non-Customers [7] and is reflected in the proposed table in a manner consistent with the current rule text. The remainder of the sentence was relocated to footnote 1. The Exchange proposes to amend the original rule text by breaking the current sentence into two sentences and restating the rebate that will be paid by the Exchange for SPY Complex Orders in a succinct manner. This non-substantive amendment to new footnote 1 would provide,

A rebate of $0.12 will be paid to members or member organizations that qualify for Options 7, Section 2, Customer Rebate Tiers 2 through 6 or qualify for the Monthly Firm Fee Cap. The rebate will be paid on all SPY Complex PIXL Orders greater than 499 contracts when contra to an Initiating Order, provided the member or member organization executes an average of 2,500 contracts per day of SPY Complex PIXL Orders in a month.

The current rule text in the second bullet applies to the scenario where the PIXL Order is contra to the Initiating Order. In this case, the Customer PIXL Order is assessed $0.00 per contract and Non-Customer PIXL Orders are assessed a $0.38 per contract fee. The proposed table reflects these current PIXL Order fees and does not substantively amend the rule text in this second bullet.

The current rule text in the third bullet applies to the scenario when the PIXL Order is contra to a PIXL Response or unrelated market or marketable interest. In this case, the PIXL Order is $0.00 for Non-Customers and the Customer receives a rebate of $0.40 per contract. The proposed table reflects these current PIXL Order fees and does not substantively amend the rule text in this third bullet.

Finally, the current rule text in the fourth bullet provides that Non-Customer PIXL Responses or unrelated market or marketable interest that trades with a PIXL Order are assessed a Fee for Removing Liquidity of $0.50 per contract. The Exchange notes that this fee is currently appliable to unrelated market or marketable interest that was received *during* the PIXL Auction. This fee is reflected in the proposed table but is not referred to as a Fee to Remove Liquidity, rather simply as a fee. The rule text states that Non-Customers could also receive a Rebate for Adding Liquidity, but such a rebate is not possible in this scenario as the PIXL Responses and unrelated market or marketable interest would be removing liquidity in this scenario. Because the Rebate for Adding Liquidity is not possible in this scenario, it is being removed. The last sentence of the final bullet is reflected in footnote 2 to the table and the language has been amended to replace the words ''contra to'' with ''executed against.'' Also, the word ''unrelated'' was added before Lead Market Maker or Market Maker quote because that interest would have been placed on the order book. The Exchange amended the language to clearly state ''which was received prior to the PIXL Auction'' instead of ''established at the initiation of a PIXL auction.'' [8] The Exchange believes the proposed rule text adds clarity to understand the particular scenario.

The current rule text does not make clear the fee that a Customer PIXL Response or unrelated market or marketable interest, received *during* a PIXL Auction, would be assessed when that response or interest executes against a PIXL Order. Today, the Customer PIXL Response or unrelated market or marketable interest received *during* a PIXL Auction is not assessed a fee in this scenario. The Exchange proposes to memorialize the $0.00 per contract rate in this proposed table at this time to add transparency to the SPY PIXL pricing. This fee is not changing, rather it is being memorialized in the proposed table.

The Exchange notes that unrelated market or marketable interest received in SPY *during* a PIXL Auction is noted in the current rule text, other than the Customer PIXL Response or unrelated market or marketable interest described above. Today, unrelated market or marketable interest in SPY received *prior* to the PIXL Auction is subject to the simple order book pricing within Options 7, Section 3, Part A and the complex order book pricing within Options 7, Section 3, Part B. At this time, the Exchange proposes to memorialize this pricing in the proposed table. The Exchange applies the order book pricing within Options 7, Section 3, Parts A and B to interest received *prior to* the PIXL Auction, which is considered unrelated market or marketable interest for purposes of the PIXL Auction, because at the time the interest was submitted to the order book, the Phlx members and member organizations would have known [9] that

[6] The term ''Customer'' applies to any transaction that is identified by a member or member organization for clearing in the Customer range at The Options Clearing Corporation (''OCC'') which is not for the account of a broker or dealer or for the account of a ''Professional'' (as that term is defined in Options 1, Section 1(b)(45)). *See* Options 7, Section 1(c).

[7] The term ''Non-Customer'' applies to transactions for the accounts of Lead Market Makers, Market Makers, Firms, Professionals, Broker-Dealers and JBOs. *See* Options 7, Section 1(c).

[8] *See* Securities Exchange Act Release No. 80064 (February 24, 2017), 82 FR 11666 (February 24, 2017) (SR–Phlx–2017–15).

[9] Phlx members and member organizations become aware of ongoing PIXL Auctions when Phlx disseminates a PIXL Auction Notification or ''PAN.'' When the Exchange receives a PIXL Order for Auction processing, a PAN detailing the side and size and option series of the PIXL Order is sent

there was no ongoing PIXL Auction and would not expect to be subject to the PIXL pricing. Rather, these market participants would be subject to SPY order book pricing similar to all other orders entered into Phlx's order book. In contrast, the Exchange applies the SPY PIXL pricing within Options 7, Section 3 to the unrelated market or marketable interest that interest arrived *during* a PIXL Auction because Phlx seeks to incentivize members and member organizations to submit PIXL Auction Orders to receive a guaranteed execution and potential price improvement. Phlx members and member organizations submitting interest to the order book during a PIXL Auction are aware that they may be allocated in the PIXL Auction. The Exchange assesses the SPY PIXL pricing within Options 7, Section 3 in the same manner that responders to the PIXL Auction are assessed fees for their PAN responses. The unrelated market or marketable interest that received an allocation within the PIXL Auction would be uniformly subject to the same fees as those Phlx members and member organizations who submitted PAN responses and were allocated, thereby receiving a guaranteed execution and potential price improvement. The pricing for unrelated market or marketable interest received *during* a PIXL Auction is not changing, this is the pricing being assessed today by Phlx.

Options 7, Section 6

The Exchange proposes to amend Options 7, Section 6.A, PIXL Pricing. The Exchange proposes to create paragraphs in lieu of the single block text within Options 7, Section 6.A which describes the Initiating Order, and demarcate each paragraph with a symbol. The Exchange is not otherwise amending that paragraph.

Next, the Exchange proposes to amend the rule text under the heading, ''PIXL Order Executions in Options 7, Section 4, Multiply Listed Options (including ETFs, ETNs and indexes which are Multiply Listed):'' The Exchange is amending the current rule text in the second bullet which currently states,

When a PIXL Order is contra to a PIXL Auction Responder, a Customer PIXL Order will be assessed $0.00 per contract, other Non-Customer PIXL Orders will be assessed $0.30 per contract in Penny Symbols or $0.38 per contract in Non-Penny Symbols. A Responder that is a Lead Market Maker or a Market Maker will be assessed $0.25 per contract in Penny Symbols or $0.40 per contract in Non-Penny Symbols. Other Non-Customer Responders will be assessed $0.48 per contract in Penny Symbols or $0.70 per contract in Non-Penny Symbols when contra to a PIXL Order. A Responder that is a Customer will be assessed $0.00 per contract in Penny Symbols and Non-Penny Symbols.

The Exchange proposes to create two separate bullets in lieu of this one bullet. The first bullet would provide,

When a PIXL Order executes against a PIXL Response or unrelated market or marketable interest received during a PIXL Auction, a Customer PIXL Order will be assessed $0.00 per contract, and other Non-Customer PIXL Orders will be assessed $0.30 per contract in Penny Symbols or $0.38 per contract in Non-Penny Symbols.

In amending this sentence, the Exchange proposes to replace the words ''is contra to'' with ''executes against.'' Also, the Exchange proposes to replace the words ''Auction Responder'' with ''PIXL Response or unrelated market or marketable interest received during a PIXL Auction.'' Finally, the Exchange is adding an ''and'' in the sentence to make the sentence clear. These non-substantive changes utilize the references proposed within Options 7, Section 1. As amended, the second bullet would provide,

A PIXL Response or unrelated market or marketable interest received during a PIXL Auction from a Lead Market Maker or a Market Maker will be assessed $0.25 per contract in Penny Symbols or $0.40 per contract in Non-Penny Symbols. Other Non-Customer PIXL Responses and unrelated market or marketable interest received during a PIXL Auction will be assessed $0.48 per contract in Penny Symbols or $0.70 per contract in Non-Penny Symbols when contra to a PIXL Order. A PIXL Response or unrelated market or marketable interest received during a PIXL Auction from a Customer will be assessed $0.00 per contract in Penny Symbols and Non-Penny Symbols.

Similar to the first bullet, the Exchange proposes to replace ''Responder'' with ''PIXL Response or unrelated market or marketable interest received during a PIXL Auction.'' [10] These non-substantive changes utilize the references proposed within Options 7, Section 1.

The Exchange is also amending the current rule text in the third bullet which currently states,

When a PIXL Order is contra to a resting order or quote a Customer PIXL Order will be assessed $0.00 per contract, other Non-Customer will be assessed $0.30 per contract and the resting order or quote will be assessed the appropriate Options Transaction Charge in Options 7, Section 4.

The Exchange proposes to create two separate bullets in lieu of this one bullet. The first bullet would provide,

When a PIXL Order is a Customer order and executes against unrelated market or marketable interest received prior to a PIXL Auction, the Customer order will be assessed $0.00 per contract. Unrelated market or marketable interest received prior to a PIXL Auction will be assessed the appropriate Options Transaction Charge in Options 7, Section 4.

In amending this sentence, the Exchange proposes to replace the words ''is contra to a resting order or quote'' with ''executes against unrelated market or marketable interest received prior to a PIXL Auction'' and ''PIXL Order'' with ''Customer PIXL Order.'' Any order resting on the order book would have been received prior to the PIXL Auction. The Exchange also proposes to add a new sentence that states, ''Unrelated market or marketable interest received prior to a PIXL Auction will be assessed the appropriate Options Transaction Charge in Options 7, Section 4.'' Today, the rule text does not describe the manner in which the Exchange prices unrelated market or marketable interest received prior to the commencement of a PIXL Auction. This new sentence memorializes the current pricing that Phlx members and member organizations are assessed for such interest, which is order book pricing. As amended, the second bullet would provide,

Non-Customer PIXL Orders will be assessed $0.30 per contract when trading with an unrelated market or marketable interest received prior to the PIXL Auction and the unrelated market or marketable interest received prior to the PIXL Auction will be assessed the appropriate Options Transaction Charge in Options 7, Section 4.

The Exchange is adding the words ''PIXL Order'' after Non-Customer since it started a new sentence to retain the original reference to a PIXL Order at the beginning of the current sentence.[11] To add more context to this scenario, the Exchange is also noting that ''when trading with an unrelated market or marketable interest received prior to the PIXL Auction'' to make clear the type of interest trading with the Non-Customer PIXL Order. The Exchange is also replacing the phrase ''resting order or quote'' with ''unrelated market or marketable interest received prior to the PIXL Auction.'' These non-substantive amendments utilize the references within Options 7, Section 1. Also, of note, any order resting on the order

over the Exchange's TOPO data feed pursuant to Options 3, Section 23(a)(1) and Specialized Quote Feed pursuant to Options 3, Section (a)(i)(B). *See* Phlx Options 3, Section 13(b)(1)(C).

[10] The Exchange proposes other technical amendments for readability of the sentence.

[11] The Exchange is also making other technical changes to start a new paragraph, removing '', other.''

book would have been received prior to the PIXL Auction.

As noted herein, the Exchange applies the order book pricing within Options 7, Section 4 to interest received *prior to* the PIXL Auction, which is considered unrelated market or marketable interest for purposes of the PIXL Auction, because at the time the interest was submitted to the order book, the Phlx members and member organizations would have known that there was no ongoing PIXL Auction and would not expect to be subject to the PIXL pricing. In contrast, the Exchange applies PIXL pricing within Options 7, Section 6 to the unrelated market or marketable interest when interest arrived *during* a PIXL Auction because Phlx seeks to incentivize members and member organizations to submit PIXL Auction Orders to receive a guaranteed execution, and potential price improvement. Phlx members and member organizations submitting interest to the order book during a PIXL Auction are aware that they may be allocated in the PIXL Auction. These market participants would be subject to order book pricing similar to all other orders entered into Phlx's order book. The Exchange assesses the PIXL pricing in Options 7, Section 6 in the same manner that responders to the PIXL Auction are assessed fees for their PAN responses. The unrelated market or marketable interest that received an allocation within the PIXL Auction would be uniformly subject to the same fees as those Phlx members and member organizations who submitted PAN responses and were allocated, thereby receiving a guaranteed execution and potential price improvement.

The Exchange's pricing models for the order book and PIXL Auction each seek to attract liquidity to Phlx and reward members and member organizations differently for the order flow. To this end, the Exchange's pricing considers the manner in which orders interact with the PIXL Auction based on the timing of when the order entered the order book. The Exchange's pricing is consistent with its current practice of assigning the applicable pricing for auctions versus order book pricing depending on how and when the order was submitted to the Exchange.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[13] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed changes to its Pricing Schedule are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission* [14] (''NetCoalition''), the D.C. Circuit stated, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .'' [15]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for options transaction services. The Exchange is only one of sixteen options exchanges to which market participants may direct their order flow. Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. Within the foregoing context, the proposal represents a reasonable attempt by the Exchange to attract additional order flow to the Exchange and increase its market share relative to its competitors.

Options 7, Section 1

The Exchange's proposal to amend Options 7, Section 1(c) to introduce four new references: ''Initiating Order'', ''PIXL Auction Order'', ''PIXL Order'', and ''PIXL Response'' is reasonable, equitable and not unfairly discriminatory because these references will bring more transparency to Phlx's PIXL pricing and also apply in the same manner to all PIXL transactions executed on the Exchange.

Options 7, Section 3

The Exchange's proposal to amend PIXL pricing for options overlying SPY in Options 7, Section 3, Part C by replacing the current text below with a proposed table is reasonable, equitable and not unfairly discriminatory because the proposed table reflects the current pricing offered today on Phlx and adds transparency to that pricing. The proposed table does not amend the current rule text except to add the Customer PIXL Response or unrelated market or marketable interest received *during* a PIXL Auction, which is currently not described in the rule text, and to specify the pricing for unrelated market or marketable interest received *during* a PIXL Auction.

Assessing a SPY Customer PIXL Response or unrelated market or marketable interest received *during* a PIXL Auction is reasonable because the Exchange currently does not assess a Customer a PIXL Order fee when the PIXL Order trades against a PIXL Response or unrelated market or marketable interest. The Exchange believes that not assessing a fee will attract more SPY Customer liquidity to Phlx's PIXL Auction. The proposed SPY Customer PIXL Response and unrelated market or marketable interest of $0.00 per contract reflects the current rate assessed today to these participants.

Assessing a SPY Customer PIXL Response or unrelated market or marketable interest received *during* a PIXL Auction is equitable and not unfairly discriminatory because Customer orders bring valuable liquidity to the market, which liquidity benefits other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Lead Market Makers and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

Assessing unrelated market or marketable interest in SPY received *prior* to a PIXL Auction the simple order book pricing within Options 7, Section 3, Part A and the complex order book pricing within Options 7, Section 3, Part B is reasonable because at the time the interest was submitted to the order book, the Phlx members and member organizations would have known that there was no ongoing PIXL Auction and would not expect to be subject to the PIXL pricing. In contrast, applying SPY PIXL pricing within Options 7, Section

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4) and (5).

[14] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[15] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

3 to the unrelated market or marketable interest that interest arrived *during* a PIXL Auction is reasonable because Phlx seeks to incentivize members and member organizations to submit PIXL Auction Orders to receive a guaranteed execution and potential price improvement. Phlx members and member organizations submitting interest to the order book during a PIXL Auction are aware that they may be allocated in the PIXL Auction. The Exchange's pricing models for the order book and PIXL Auction each seek to attract liquidity to Phlx and reward members and member organizations differently for the order flow. To this end, the Exchange's pricing considers the manner in which orders interact with the PIXL Auction based on the timing of when the order entered the order book. The Exchange's pricing is consistent with its current practice of assigning the applicable pricing for auctions versus order book pricing depending on how and when the order was submitted to the Exchange.

Assessing unrelated market or marketable interest in SPY received *prior* to a PIXL Auction the simple order book pricing within Options 7, Section 3, Part A and the complex order book pricing within Options 7, Section 3, Part B is equitable and not unfairly discriminatory because all Phlx members and member organizations who submitted unrelated market or marketable interest which rested on the order book *prior* to the commencement of a PIXL Auction will be uniformly assessed the applicable order book pricing for adding liquidity. The Exchange's proposal would treat Phlx members and member organizations who submitted unrelated market or marketable interest in SPY which rested on the order book *prior* to the commencement of a PIXL Auction in the same manner as other Phlx members and member organizations who posted liquidity on the order book as they would both be considered makers of liquidity. Conversely, the Exchange assesses the SPY PIXL pricing within Options 7, Section 3 in the same manner that responders to the PIXL Auction are assessed fees for their PAN responses. The unrelated market or marketable interest that received an allocation within the PIXL Auction would be uniformly subject to the same fees as those Phlx members and member organizations who submitted PAN responses and were allocated, thereby receiving a guaranteed execution and potential price improvement.

The Exchange's proposal to amend the rule text in the last sentence of the final bullet that is being relocated to footnote 2 to state ''which was received prior to the PIXL Auction'' instead of ''established at the initiation of a PIXL auction'' is reasonable, equitable and not unfairly discriminatory because the proposed new language continues to reflect the intent of the original language.[16] The amended rule text makes clear that the Lead Market Maker or Market Maker quote that is being referenced would have been resting on the order book prior to the PIXL Order. Today, the rebate is paid to the PIXL Order where the Lead Market Maker or Market Maker executes against the PIXL Order portion of the paired order as a response. The Exchange would apply new footnote 2 uniformly to Customer PIXL Orders.

Options 7, Section 6

The Exchange's proposal to amend Options 7, Section 6.A, PIXL Pricing to make technical non-substantive rule changes and replace certain text with the proposed references within Options 7, Section 1 is reasonable, equitable and not unfairly discriminatory as it will clarify and harmonize the current rule text by utilizing specified terms.

The Exchange's proposal to add a new sentence that states, ''Unrelated market or marketable interest received prior to a PIXL Auction will be assessed the appropriate Options Transaction Charge in Options 7, Section 4,'' is reasonable because the proposed rule text will describe the manner in which the Exchange prices unrelated market or marketable interest received prior to the commencement of a PIXL Auction. This new sentence memorializes the current pricing that Phlx members and member organizations are assessed for such interest, which is order book pricing. The Exchange applies the order book pricing within Options 7, Section 4 to interest received *prior to* the PIXL Auction, which is considered unrelated market or marketable interest for purposes of the PIXL Auction, because at the time the interest was submitted to the order book, the Phlx members and member organizations would have known that there was no ongoing PIXL Auction and would not expect to be subject to the PIXL pricing. In contrast, the Exchange applies PIXL pricing within Options 7, Section 6 to the unrelated market or marketable interest when interest arrived *during* a PIXL Auction because Phlx seeks to incentivize Participants to submit PIXL Auction Orders to receive a guaranteed execution and potential price improvement. Phlx members and member organizations submitting interest to the order book during a PIXL Auction are aware that they may be allocated in the PIXL Auction. Additionally, the Exchange's pricing models for the order book and PIXL Auction each seek to attract liquidity to Phlx and reward members and member organizations differently for the order flow. To this end, the Exchange's pricing considers the manner in which orders interact with the PIXL Auction based on the timing of when the order entered the order book. The Exchange's pricing is consistent with its current practice of assigning the applicable pricing for auctions versus order book pricing depending on how and when the order was submitted to the Exchange.

The Exchange's proposal to add a new sentence that states, ''Unrelated market or marketable interest received prior to a PIXL Auction will be assessed the appropriate Options Transaction Charge in Options 7, Section 4,'' is equitable and not unfairly discriminatory because all Phlx members and member organizations who submitted unrelated market or marketable interest which rested on the order book *prior* to the commencement of a PIXL Auction will be uniformly assessed the applicable order book pricing for adding liquidity. The Exchange's proposal would treat Phlx members and member organizations who submitted unrelated market or marketable interest which rested on the order book *prior* to the commencement of a PIXL Auction in the same manner as other Phlx members and member organizations who posted liquidity on the order book as they would both be considered makers of liquidity. Conversely, the Exchange assesses the SPY PIXL pricing within Options 7, Section 3 in the same manner that responders to the PIXL Auction are assessed fees for their PAN responses. The unrelated market or marketable interest that received an allocation within the PIXL Auction would be uniformly subject to the same fees as those Phlx members and member organizations who submitted PAN responses and were allocated, thereby receiving a guaranteed execution and potential price improvement.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

[16] *See* Securities Exchange Act Release No. 80064 (February 24, 2017), 82 FR 11666 (February 24, 2017) (SR–Phlx–2017–15).

Intermarket Competition

The proposal does not impose an undue burden on inter-market competition. The Exchange believes its proposal remains competitive with other options markets and will offer market participants with another choice to initiate a price improvement auction. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

Intramarket Competition

The Exchange's proposal to amend Options 7, Section 1(c) to introduce four new references: ''Initiating Order'', ''PIXL Auction Order'', ''PIXL Order'', and ''PIXL Response'' does not impose an undue burden on competition because these references will apply in the same manner to all PIXL transactions executed on the Exchange.

Assessing a Customer PIXL Response or unrelated market or marketable interest received *during* a PIXL Auction does not impose an undue burden on competition because Customer orders bring valuable liquidity to the market, which liquidity benefits other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Lead Market Makers and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

Assessing unrelated market or marketable interest within Options 7, Section 3, related to SPY, that was received *prior* to a PIXL Auction the simple order book pricing within Options 7, Section 3, Part A and the complex order book pricing within Options 7, Section 3, Part B does not impose an undue burden on competition because all Phlx members and member organizations who submitted unrelated market or marketable interest which rested on the order book *prior* to the commencement of a PIXL Auction will be uniformly assessed the applicable order book pricing for adding liquidity. The Exchange's proposal would treat Phlx members and member organizations who submitted unrelated market or marketable interest in SPY which rested on the order book *prior* to the commencement of a PIXL Auction in the same manner as other Phlx members and member organizations who posted liquidity on the order book as they would both be considered makers of liquidity. Conversely, the Exchange assesses the SPY PIXL pricing within Options 7, Section 3 in the same manner that responders to the PIXL Auction are assessed fees for their PAN responses. The unrelated market or marketable interest that received an allocation within the PIXL Auction would be uniformly subject to the same fees as those Phlx members and member organizations who submitted PAN responses and were allocated, thereby receiving a guaranteed execution and potential price improvement. The Exchange would apply new footnote 2 uniformly to Customer PIXL Orders.

The Exchange's proposal to add a new sentence that states, ''Unrelated market or marketable interest received prior to a PIXL Auction will be assessed the appropriate Options Transaction Charge in Options 7, Section 4,'' does not impose an undue burden on competition because all Phlx members and member organizations who submitted unrelated market or marketable interest which rested on the order book *prior* to the commencement of a PIXL Auction will be uniformly assessed the applicable order book pricing for adding liquidity. The Exchange's proposal would treat Phlx members and member organizations who submitted unrelated market or marketable interest which rested on the order book *prior* to the commencement of a PIXL Auction in the same manner as other Phlx members and member organizations who posted liquidity on the order book as they would both be considered makers of liquidity. Conversely, the Exchange assesses the SPY PIXL pricing within Options 7, Section 3 in the same manner that responders to the PIXL Auction are assessed fees for their PAN responses. The unrelated market or marketable interest that received an allocation within the PIXL Auction would be uniformly subject to the same fees as those Phlx members and member organizations who submitted PAN responses and were allocated, thereby receiving a guaranteed execution and potential price improvement.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–Phlx–2023–26 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–Phlx–2023–26. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than

[17] 15 U.S.C. 78s(b)(3)(A)(ii).

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–Phlx–2023–26 and should be submitted on or before July 20, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 2023–13790 Filed 6–28–23; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–456, OMB Control No. 3235–0515]

Proposed Collection; Comment Request; Extension: Schedule TO

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget the request for extension of the previously approved collection of information discussed below.

Schedule TO (17 CFR 240.14d–100) must be filed by a reporting company that makes a tender offer for its own securities. Also, persons other than the reporting company making a tender offer for equity securities registered under Section 12 of the Exchange Act (15 U.S.C. 78l) (which offer, if consummated, would cause that person to own over 5% of that class of the securities) must file Schedule TO. The purpose of Schedule TO is to improve communications between public companies and investors before companies file registration statements involving tender offer statements. Schedule TO takes approximately 44.752 hours per response and is filed by approximately 1,378 issuers annually. We estimate that 50% of the 44.752 hours per response (22.376 hours) is prepared by the issuer for an annual reporting burden of 30,834 hours (22.376 hours per response × 1,378 responses). An agency may conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by July 31, 2023 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: June 23, 2023.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 2023–13784 Filed 6–28–23; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97794; File No. SR–BOX–2023–17]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 7660 (Communications and Equipment)

June 23, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 12, 2023, BOX Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7660 (Communications and Equipment). The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *https://rules.boxexchange.com/rulefilings.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Rule 7660 to modernize and clarify the scope of the recordkeeping obligations for Floor Participants[3] relating to communication devices. Specifically, the Exchange is proposing to amend Rule 7660 to: (1) codify that the registration requirement is only applicable to any communication device to be used for business purposes; and (2) explicitly provide that Floor Participants must maintain records of the use of any communication devices on the Trading Floor.[4]

Rule 7660, which applies to the use of electronic communication devices on the Trading Floor, was adopted in 2017

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Floor Participant'' means Floor Brokers as defined in Rule 7540 and Floor Market Makers as defined in Rule 8510(b). *See* BOX Rule 100(a)(26).

[4] The term ''Trading Floor'' or ''Options Floor'' means the physical trading floor of the Exchange located in Chicago. The Trading Floor shall consist of one ''Crowd Area'' or ''Pit'' where all option classes will be located. The Crowd Area or Pit shall be marked with specific visible boundaries on the Trading Floor, as determined by the Exchange. A Floor Broker must open outcry an order in the Crowd Area. *See* BOX Rule 100(a)(68).

with the establishment of the BOX Trading Floor. The Exchange is now proposing to update and modernize Rule 7660(k).

Currently Rule 7660(f) provides that Floor Participants must register, prior to use, any new communication device to be used on the Trading Floor. Each device registered with the Exchange must be registered by category of user. If there is a change in the category of any user, the device must be re-registered with the Exchange. At the time of registration, Floor Participant representatives must sign a statement that they are aware of and understand the rules and procedures governing the use of communication devices on the Options Floor. The Exchange is proposing to update Rule 7660(f) to codify that the registration requirement is only applicable to communication devices to be used for business purposes. Specifically, the Exchange is proposing to amend Rule 7660(f) to state: ''Floor Participants must register, prior to use, any new communication device to be used for business purposes on the Trading Floor. Each device registered with the Exchange must be registered by category of user. If there is a change in the category of any user, the device must be re-registered with the Exchange. At the time of registration, Floor Participant representatives must sign a statement that they are aware of and understand the rules and procedures governing the use of communication devices on the Options Floor.''

The proposed updates to Rule 7660(f) are intended to codify an existing requirement that Floor Participants must register, prior to use, any new communication device to be used for business purposes on the Trading Floor. The Exchange is proposing this additional language to clarify that the registration requirement is only applicable to communication devices to be used for business purposes. This requirement is already reflected on the BOX Communication Device Registration Form and the Exchange is not proposing to change the existing practice. The Exchange is looking to codify this existing requirement into the Rulebook to provide additional clarity to Floor Participants. The Exchange believes that this proposed change will help provide greater clarity to the existing practices on the Trading Floor and may reduce the potential for confusion regarding the requirements relating to communication devices on the Trading Floor.

The Exchange notes that proposed Rule 7660(f) is similar in relevant part to an existing rule governing recordkeeping on the trading floor at another exchange.[5]

Currently, Rule 7660(k) provides that Floor Participants must maintain their cellular or cordless telephone records, including logs of calls placed, for a period of not less than three years, the first two in an easily accessible place. The Exchange reserves the right to inspect and/or examine such telephone records. The Exchange is proposing to modernize Rule 7660(k) to make it clear that the recordkeeping obligations are applicable to any registered communication devices and not limited to telephone records. Specifically, the Exchange is proposing to update Rule 7660(k) to state: ''Floor Participants must maintain records of the use of telephones and all other registered communication devices, including, but not limited to, logs of calls, emails, and chats, for a period of not less than three years, the first two in an easily accessible place. The Exchange reserves the right to inspect and/or examine such records.''

The proposed updates to Rule 7660(k) are intended to modernize and clarify that the recordkeeping obligations are applicable to all registered communication devices and that records of Floor Participant's use of any communication devices, including, but not limited to, emails and chats, are also required to be maintained. The Exchange believes that this proposed change will help with the Exchange's surveillance function. Additionally, the Exchange has notified all Participants that their record keeping obligations apply to all communication devices and extend to chats and emails by Regulatory Notice.[6]

The Exchange notes that proposed Rule 7660(k) is similar in relevant part to an existing rule governing recordkeeping on the trading floor at another exchange [7] and to an existing Exchange recordkeeping rule.[8]

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[9] in general, and Section 6(b)(5) of the Act,[10] in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

The Exchange believes that the rule change will promote just and equitable principles of trade by making the rules clearer and easier to use. The Exchange is proposing to update Rule 7660(f) to codify the requirement that Floor Participants must register, prior to use, any new communication device to be used for business purposes on the Trading Floor. The Exchange is proposing this additional language to clarify that the registration requirement is only applicable to communication devices to be used for business purposes. As noted above, the proposed amendment to 7660(f) is an effort to codify an existing Exchange practice that is detailed in the BOX Communication Device Policy and is similar in relevant part to a provision governing the registration of devices in the communications and equipment rules at another exchange.[11] The Exchange believes that this proposed update to codify the requirement to register all communication devices that to be used for a business purpose on the Trading Floor will help provide greater

[5] *See* Cboe Exchange, Inc. (''Cboe'') Rule 5.81(a). The registration requirements relating to communication devices and equipment on the trading floor at Cboe explicitly provides that prior to use, all communication devices for business purposes must be registered with the exchange. Proposed Rule 7660(f) states: Floor Participants must register, prior to use, any new communication device to be used for business purposes on the Trading Floor. Each device registered with the Exchange must be registered by category of user. If there is a change in the category of any user, the device must be re-registered with the Exchange. At the time of registration, Floor Participant representatives must sign a statement that they are aware of and understand the rules and procedures governing the use of communication devices on the Options Floor. Cboe Rule 5.81(a) states: (a) Subject to the requirements of this Rule, Trading Permit Holders may use any communication device (*e.g.,* any hardware or software related to a phone, system, or other device, including an instant messaging system, email system, or similar device) on the trading floor and in any trading crowd of the Exchange. Prior to using a communications device for business purposes on the trading floor of the Exchange, Trading Permit Holders must register the communications device by identifying (in a form and manner prescribed by the Exchange) the hardware (*i.e.,* headset, cellular telephone, tablet, or other similar hardware).

[6] *See* Exchange Notice 2023–11. Available at: *https://boxexchange.com/assets/Communications-and-Equipment-Notice_2.28.2023.pdf.*

[7] *See* Cboe Rule 5.81(g). The recordkeeping obligations relating to communication devices and equipment on the trading floor at Cboe explicitly covers all communication devices and includes emails and chats as well. Proposed Rule 7660(k) states: Floor Participants must maintain records of the use of telephones and all other registered communication devices, including, but not limited to, logs of calls, emails, and chats, for a period of not less than three years, the first two in an easily accessible place. The Exchange reserves the right to inspect and/or examine such records. Cboe Rule 5.81(g) states: Trading Permit Holders must maintain records of the use of communication devices, including, but not limited to, (1) logs of calls placed, (2) emails, and (3) chats, for a period of not less than three years, the first two years in an easily accessible place. The Exchange reserves the right to inspect such records pursuant to Rule 13.2.

[8] *See* BOX Rule 7670(a)(1)(G).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] *See supra* note 5.

clarity into existing practices on the Trading Floor and may reduce the potential for confusion regarding the requirements relating to communication devices on the Trading Floor. As such, the Exchange believes that the proposed changes to codify this existing registration requirement in Rule 7660(f) is in the public interest, and therefore, consistent with the Act.

The Exchange is also proposing to modernize Rule 7660(k) to amend the records retention requirement for telephone records to explicitly provide that, the recordkeeping obligations are applicable to all registered communication devices and that records of Floor Participant's use of any communication devices, including, but not limited to, emails and chats are also required to be maintained for a period of not less than three years, the first two in an easily accessible place. As noted above, these proposed amendments are similar in relevant part to a provision governing recordkeeping in the communications and equipment rules at another exchange [12] and to an existing Exchange recordkeeping rule.[13] The Exchange believes that this modernization and clarification of the scope of the recordkeeping requirements under Rule 7660(k), will help with the Exchange's surveillance function and make the Rule clearer for Participants. As such, the Exchange believes that the proposed changes to modernize and clarify Rule 7660(k) is in the public interest, and therefore, consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The Exchange believes that the proposed change will not impose a burden on intermarket or intramarket competition, as the proposed change applies equally to all market participants. While the Exchange does not believe that the proposed non-controversial change is a burden on competition, or is competitive in nature, the Exchange believes that proposed updates to codify an existing practice and provide for clearer, modernized recordkeeping obligations will benefit market participants. The Exchange also notes that the proposed updates to 7660(f) are similar in relevant part to an existing provision governing communication device registration in the communications and equipment rules at another options exchange [14] and that the proposed updates to 7660(k) are similar in relevant part to an existing provision governing recordkeeping in the communications and equipment rules at another options exchange [15] and to an existing Exchange recordkeeping rule.[16] As such, the Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [17] and Rule 19b–4(f)(6) thereunder.[18] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [19] and Rule 19b–4(f)(6)(iii) thereunder.[20]

A proposed rule change filed under Rule 19b–4(f)(6) [21] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[22] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. As discussed above, the Exchange states that this proposed update to 7660(f) to codify the existing requirement to register all communication devices to be used for a business purpose on the Trading Floor will help provide greater clarity into existing practices on the Trading Floor and may reduce the potential for confusion regarding the requirements relating to communication devices on the Trading Floor. The Exchange believes that the waiver of the operative delay will protect investors by allowing the Exchange to quickly codify existing practices and to modernize and clarify the scope of the recordkeeping requirements under Rule 7660(k). The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to immediately codify an existing practice within Rule 7660(f) and amend Rule 7660(k) to modernize the requirements applicable to communication devices. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[23]

At any time within 60 days of the filing of this proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [24] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–BOX–2023–17 on the subject line.

[12] *See supra* note 7.

[13] *See supra* note 8.

[14] *See supra* note 5.

[15] *See supra* note 7.

[16] *See supra* note 8.

[17] 15 U.S.C. 78s(b)(3)(A)(iii).

[18] 17 CFR 240.19b–4(f)(6).

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[21] 17 CFR 240.19b–4(f)(6).

[22] 17 CFR 240.19b–4(f)(6)(iii).

[23] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[24] 15 U.S.C. 78s(b)(2)(B).

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–BOX–2023–17. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–BOX–2023–17 and should be submitted on or before July 20, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 2023–13795 Filed 6–28–23; 8:45 am]

BILLING CODE 8011–01–P

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97792; File No. SR–ICC–2023–008]

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to the ICC Clearing Participant Default Management Procedures

June 26, 2023.

I. Introduction

On May 2, 2023, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the ICC Clearing Participant Default Management Procedures. The proposed rule change was published for comment in the **Federal Register** on May 12, 2023.[3] The Commission did not receive comments regarding the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

ICC is registered with the Commission as a clearing agency for the purpose of clearing CDS contracts. ICC clears CDS contracts for its members, which it refers to as Clearing Participants.[4] Clearing CDS contracts for Clearing Participants presents certain risks to ICC, such as the risk that a Clearing Participant may default on payments or other obligations it owes to ICC. Accordingly, ICC has developed a comprehensive set of tools to manage and mitigate such risks. These tools include, among other things, collecting margin from Clearing Participants, maintaining a Guaranty Fund, and establishing procedures to manage a Clearing Participant's default.

The proposed rule change relates to the third set of risk management tools—procedures that explain what happens when a Clearing Participant is in default and how ICC responds to the default, which ICC refers to as its Clearing Participant Default Management Procedures (the ''Procedures''). The proposed rule change would amend the Procedures.

The proposed rule change would add Section 4.6 to the Procedures, which would explain how ICC tests both its Recovery Plan and its Wind-Down Plan (together the ''Plans''). ICC would test the Plans at least once every twelve months, and the purpose of these annual tests would be to demonstrate that ICC is ready to execute the Plans when needed. ICC would need to execute the plans, for example, in the following circumstances: (i) to address uncovered credit losses, liquidity shortfalls and general business risk, operational risk, or any other risk that threatens ICC's viability as a going concern and (ii) to wind-down ICC in an orderly manner.

Section 4.6 would detail (i) the ICC personnel responsible for planning and conducting the tests and (ii) the overall scope of the tests. With respect to responsible personnel, the ICC Risk Oversight Officer (''ROO'') would have overall responsibility for planning and coordinating the execution of each test. In doing so, the ROO would work with other members of the Close-Out Team [5] to determine the scope of the test. The proposed scope and format of the test would be presented to the ICC Board of Managers for review prior to execution of the test. After Board review, the Close-Out Team would then be responsible for executing the tests, capturing the results of the tests, and providing the results to the ROO.

Once provided with the results, the ROO would collate the information, summarize any lessons learned, and identify possible revisions that should be made to the Plans. The ROO would then develop a presentation to summarize the tests. The Close-Out Team, ICC Risk Committee, and Board would review this presentation. Going forward, the ROO would maintain a list of work items for the future development and/or enhancement of the business processes and capabilities necessary to execute the Plans.

With respect to the overall scope of each test, this would include choosing the recovery and wind-down scenarios and the recovery tools to test. In choosing the scenarios and tools, ICC would give consideration to scenarios, business processes, and tools which have not been recently tested. In addition, ICC would consider the applicability of new Rules, procedures, or newly implemented ICC capabilities

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to the ICC Clearing Participant Default Management Procedures; Exchange Act Release No. 97455 (May 8, 2023), 88 FR 30812 (May 12, 2023) (File No. SR–ICC–2023–008) (''Notice'').

[4] Capitalized terms not otherwise defined herein have the meanings assigned to them in the ICC Clearing Participant Default Management Procedures or the ICC Clearing Rules.

[5] The ICC Close-Out Team is comprised of ICC management, the ROO, and the most senior member of the ICC Treasury Department.

(such as new cleared contracts). Finally, Section 4.6 would specify that ICC would always include in the test all three wind-down options set forth in the Wind-Down Plan.

Section 4.6 would also state that ICC could conduct some of the testing as part of its annual default management tests. Specifically, Section 4.6 would explain that ICC may test those parts of the Plans that address a Clearing Participant's default, such as business processes and tools, as part of its annual default management tests. With respect to the business processes and tools to address losses not related to a Clearing Participant's default, however, Section 4.6 would clarify that ICC will test those in a separate table-top exercise. ICC will test those parts of the Plans that relate to non-default losses apart from its annual default management tests.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.[6] For the reasons given below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act[7] and Rules 17Ad–22(e)(2)(i), (e)(2)(v), and (e)(3)(ii)[8] thereunder.

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of ICE Clear Credit be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions.[9] Based on its review of the record, and for the reasons discussed below, the Commission believes the proposed changes to the Procedures are consistent with the promotion of the prompt and accurate clearance and settlement of securities transactions.

As discussed above, the proposed rule change would modify the Procedures to require that ICC conduct annual testing of the Plans. Section 4.6 also would detail (i) the ICC personnel responsible for planning and conducting the tests and (ii) the overall scope of the tests. The Commission believes that requiring annual testing and establishing relevant responsibilities for conducting the tests would each help to ensure that ICC tests the Plans at least once every twelve months. The Commission further believes that the proposed scope for the tests would help to ensure that the tests identify any possible issues with, or improvements to, the Plans. Thus, the Commission believes that the proposed rule change would help to ensure that ICC maintains and enforces an effective Recovery Plan and an effective Wind-Down Plan.

The Commission believes that ICC's Recovery Plan is designed to help ICC promote the prompt and accurate clearance and settlement of securities transactions, by providing a roadmap for actions it may employ to monitor and manage its risks, and, as needed, to stabilize its financial condition in the event those risks materialize. The Commission similarly believes ICC's Wind-Down Plan is designed to help ICC to promote the prompt and accurate clearance and settlement of securities transactions by providing a roadmap to wind-down as needed. The Commission believes the actions set forth in the Plans would help to ensure the availability of ICC's services to the marketplace in the event of a recovery or wind-down, while reducing disruption to the operations of Clearing Participants and financial markets.[10] The Commission thus believes both Plans would help ICC to avoid disruption to its operations, and therefore promote ICC's ability to promptly and accurately clear and settle transactions.

Because the proposed rule change would help ICC to maintain, enforce, and improve the Plans, and because the Commission believes the Plans would promote the prompt and accurate clearance and settlement of securities transactions, the Commission therefore believes the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act.[11]

B. Consistency With Rules 17Ad–22(e)(2)(i) and (v)

Rules 17Ad–22(e)(2)(i) and (v) require ICC to establish, implement, maintain, and enforce written policies and procedures reasonably designed to, as applicable, provide for governance arrangements that are clear and transparent and specify clear and direct lines of responsibility.[12] The Commission believes the governance arrangements for testing the Plans, as discussed above, would be clear and transparent and would specify clear and direct lines of responsibility. For example, the ROO would, among other things, have overall responsibility for planning and coordinating the execution of each test; work with other members of the Close-Out Team to determine the scope of each the test; and collate and summarize the results of each test. The Close-Out Team would be responsible for executing the tests, capturing the results of the tests, and providing the results to the ROO. The Board would review the scope and format prior to the execution of each test as well as the results of each test. The Commission believes overall these arrangements would be clear and transparent and specify clear and direct responsibilities for the ROO, Close-Out Team, and Board, consistent with Rules 17Ad–22(e)(2)(i) and (v).[13]

C. Consistency With Rule 17Ad–22(e)(3)(ii)

Rule 17Ad–22(e)(3)(ii) requires ICC to establish, implement, maintain, and enforce written policies and procedures reasonably designed to maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by ICC, which includes plans for the recovery and orderly wind-down of ICC necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses.[14] As discussed above, the Commission believes the proposed rule change would help ICC to maintain, enforce, and improve the Plans. The Commission further believes that the Plans generally would provide for the recovery and orderly wind-down of ICC necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses.[15] The Commission therefore believes that the proposed rule change, in helping to maintain, enforce, and improve the

[6] 15 U.S.C. 78s(b)(2)(C).

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 17 CFR 240.17Ad–22(e)(2)(i), (e)(2)(v), and (e)(3)(ii).

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] For a further discussion of the Plans, *see* Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to the ICC Recovery Plan and the ICC Wind-Down Plan, Exchange Act Release No. 91806 (May 10, 2021), 86 FR 26561 (May 14, 2021) (SR–ICC–2021–005).

[11] 15 U.S.C. 78q–1(b)(3)(F).

[12] 17 CFR 240.17Ad–22(e)(2)(i), (v).

[13] 17 CFR 240.17Ad–22(e)(2)(i), (v).

[14] 17 CFR 240.17Ad–22(e)(3)(ii).

[15] For a further discussion of the Plans, *see* Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to the ICC Recovery Plan and the ICC Wind-Down Plan, Exchange Act Release No. 91806 (May 10, 2021), 86 FR 26561 (May 14, 2021) (SR–ICC–2021–005).

Plans, would be consistent with Rule 17Ad–22(e)(3)(ii).[16]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A(b)(3)(F) of the Act, and Rules 17Ad–22(e)(2)(i), (e)(2)(v), and (e)(3)(ii) thereunder.[17]

It is therefore ordered pursuant to Section 19(b)(2) of the Act[18] that the proposed rule change (SR–ICC–2023–008), be, and hereby is, approved.[19]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 2023–13864 Filed 6–28–23; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-day notice.

SUMMARY: The Small Business Administration (SBA) is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act and OMB procedures, SBA is publishing this notice to allow all interested member of the public an additional 30 days to provide comments on the proposed collection of information.

DATES: Submit comments on or before July 31, 2023.

ADDRESSES: Written comments and recommendations for this information collection request should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection request by selecting ''Small Business Administration''; ''Currently Under Review,'' then select the ''Only Show ICR for Public Comment'' checkbox. This information collection can be identified by title and/or OMB Control Number.

FOR FURTHER INFORMATION CONTACT: You may obtain a copy of the information collection and supporting documents from the Agency Clearance Office at *Curtis.Rich@sba.gov;* (202) 205–7030, or from *www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: To obtain the information needed to carry out its oversight responsibilities under the Small Business Investment Act, the Small Business Administration (SBA) requires Small Business Investment Companies (SBICs) to submit financial statements and supplementary information on SBA Form 468. SBA uses this information to monitor SBIC financial condition and regulatory compliance, for credit analysis when considering SBIC leverage applications, and to evaluate financial risk and economic impact for individual SBICs and the program as a whole.

Solicitation of Public Comments

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

OMB Control Number: 3245–0063.

Title: SBIC Financial Reports.

Description of Respondents: Small Business Investment Companies.

SBA Form Number: 468 (Short Form, Long Form, Reinvest or Reporting Appendix).

Estimated Number of Respondents: 309.

Estimated Annual Responses: 1,047.

Estimated Annual Hour Burden: 26,973.

Curtis Rich,

Agency Clearance Officer.

[FR Doc. 2023–13826 Filed 6–28–23; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act and OMB procedures, SBA is publishing this notice to allow all interested member of the public an additional 30 days to provide comments on the proposed collection of information.

DATES: Submit comments on or before July 31, 2023.

ADDRESSES: Written comments and recommendations for this information collection request should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection request by selecting ''Small Business Administration''; ''Currently Under Review,'' then select the ''Only Show ICR for Public Comment'' checkbox. This information collection can be identified by title and/or OMB Control Number.

FOR FURTHER INFORMATION CONTACT: You may obtain a copy of the information collection and supporting documents from the Agency Clearance Office at *Curtis.Rich@sba.gov;* (202) 205–7030, or from *www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: To obtain the information needed to carry out its program evaluation and oversight responsibilities. SBA requires small business investment companies (SBICs) to provide information on SBA Form 1031 each time financing is extended to a small business concern. SBA uses this information to evaluate how SBICs fill market financing gaps and contribute to economic growth, and to monitor the regulatory compliance of individual SBICs.

Solicitation of Public Comments

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

OMB Control Number: 3245–0078.

Title: Portfolio Financial Reports.

Description of Respondents: Small Business Investment Companies.

SBA Form Number: 1031.

Estimated Number of Respondents: 309.

Estimated Annual Responses: 2,755.

[16] 17 CFR 240.17Ad–22(e)(3)(ii).

[17] 15 U.S.C. 78q–1(b)(3)(F); 17 CFR 240.17Ad–22(e)(2)(i), (e)(2)(v), and (e)(3)(ii).

[18] 15 U.S.C. 78s(b)(2).

[19] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[20] 17 CFR 200.30–3(a)(12).

Estimated Annual Hour Burden: 2,755.

Curtis Rich,

Agency Clearance Officer.

[FR Doc. 2023–13828 Filed 6–28–23; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF STATE

[Public Notice: 12111]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''Eternal Medium: Seeing the World in Stone'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to an agreement with their foreign owner or custodian for temporary display in the exhibition ''Eternal Medium: Seeing the World in Stone'' at the Los Angeles County Museum of Art, Los Angeles, California, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Nicole L. Elkon,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2023–13881 Filed 6–28–23; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 12107]

60-Day Notice of Proposed Information Collection: Affidavit of Relationship for Minors Who Are Nationals of El Salvador, Guatemala, or Honduras

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. 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 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to August 28, 2023.

ADDRESSES: You may submit comments by any of the following methods:

- *Web:* Persons with access to the internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering ''Docket Number: DOS–2023–0020'' in the Search field. Then click the ''Comment Now'' button and complete the comment form.
- *Email: LeCR@state.gov.* You must include 60-Day Submission Comment on ''information collection title'' in the subject line of your message.
- *Regular Mail:* Send written comments to Cassie Le, PRM/A, 2025 E St. NW, Washington, DC 20006.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Affidavit of Relationship for Minors who are Nationals of El Salvador, Guatemala, or Honduras.
- *OMB Control Number:* 1405–0217.
- *Type of Request:* Notice of request for public comment.
- *Originating Office:* PRM/A.
- *Form Number:* DS–7699.
- *Respondents:* Those seeking qualified family members to access the U.S. Refugee Admissions Program.
- *Estimated Number of Respondents:* 3,000.
- *Estimated Number of Responses:* 3,000.
- *Average Time per Response:* One hour.
- *Total Estimated Burden Time:* 3,000 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Voluntary.

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

To obtain biographical information about children overseas who intend to seek access to the USRAP, as well as other eligible family members or caregivers, for verification by the U.S. government. This form also assists DHS's U.S. Citizenship and Immigration Services to verify parent-child relationships during refugee case adjudication. This form is necessary for implementation of this program.

Methodology

Working with a State Department contracted Resettlement Agencies (RA), qualifying individuals in the United States must complete the AOR and submit supporting documentation to: (a) establish that they meet the requirements for being a qualifying individual who currently falls into one of the aforementioned categories; (b) provide a list of qualifying family members who may seek access to refugee resettlement in the United States. Once completed, the form is sent by the RA to the Refugee Processing Center (RPC) for case creation and processing. The information is used by the RPC for case management; by USCIS to determine that the qualifying individual falls into one of the aforementioned categories; and by the Resettlement Support Center (RSC) for case prescreening and further processing after DHS interview. The International Organization for Migration (IOM) administers the RSC in Latin America under a Memorandum of Understanding with the Department to

conduct case prescreening and assist in the processing of refugee applicants.

Sarah R. Cross,

Deputy Assistant Secretary, Bureau of Population, Refugees and Migration, Department of State.

[FR Doc. 2023–13834 Filed 6–28–23; 8:45 am]

BILLING CODE 4710–33–P

DEPARTMENT OF STATE

[Public Notice: 12116]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''Picasso: A Cubist Commission in Brooklyn'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition ''Picasso: A Cubist Commission in Brooklyn'' at The Metropolitan Museum of Art, New York, New York, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Nicole L. Elkon,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2023–13797 Filed 6–28–23; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 748]

Indexing the Annual Operating Revenues of Railroads

The Surface Transportation Board (the Board) is publishing the annual inflation-adjusted index and deflator factors for 2022. The deflator factors are used by the railroads to adjust their gross annual operating revenues for classification purposes. This indexing methodology ensures that railroads are classified based on real business expansion and not on the effects of inflation. Classification is important because it determines the extent to which individual railroads must comply with the Board's reporting requirements.

The Board's deflator factors are based on the annual average Railroad Freight Price Index developed by the Bureau of Labor Statistics. The Board's deflator factor is used to deflate revenues for comparison with established revenue thresholds.

RAILROAD REVENUE THRESHOLDS [1]

Year	Factor	Class I	Class II
2018	0.5103	489,935,956	39,194,876
2019 [2]	0.4952	504,803,294	40,384,263
2020 [3]	1.0000	900,000,000	40,400,000
2021	0.9535	943,898,958	42,370,575
2022	0.8721	1,032,002,719	46,325,455

[1] In *Montana Rail Link, Inc., & Wisconsin Central Ltd., Joint Petition for Rulemaking with Respect to 49 CFR part 1201,* 8 I.C.C.2d 625 (1992), the Board's predecessor, the Interstate Commerce Commission, raised the revenue classification level for Class I railroads from $50 million (1978 dollars) to $250 million (1991 dollars), effective for the reporting year beginning January 1, 1992. The Class II threshold was also raised from $10 million (1978 dollars) to $20 million (1991 dollars). In *Montana Rail Link, Inc.—Petition for Rulemaking—Classification of Carriers,* EP 763 (STB served Apr. 5, 2021), the revenue classification level for Class I railroads was raised from $250 million (1991 dollars) to $900 million (2019 dollars), and the Class II threshold was converted and rounded from $20 million (1991 dollars) to $40.4 million (2019 dollars), effective for the reporting year beginning January 1, 2020.

[2] The 2019 values reflect those in *Indexing the Annual Operating Revenues of Railroads,* EP 748 (STB served June 10, 2020).

[3] The 2020 and subsequent values are based on the thresholds established in Docket No. EP 763, and the deflator factor is referenced to the new base year of 2019. As the Railroad Freight Price Index remained the same from 2019 to 2020, the annual deflator factor for 2020 was 1.0000.

DATES: The inflation-adjusted indexes and deflator factors are effective January 1, 2022.

FOR FURTHER INFORMATION CONTACT: Pedro Ramirez at (202) 245–0333. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

Board decisions and notices are available at *www.stb.gov.*

Decided: June 23, 2023.

By the Board, William Brennan, Ph.D., Chief Economist & Director, Office of Economics.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2023–13852 Filed 6–28–23; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Joint notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the OCC, the Board, and the FDIC (the agencies) 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 Federal Financial Institutions Examination Council (FFIEC), of which the agencies are members, has approved the agencies' publication for public comment of a proposal to extend for three years, without revision, the Regulatory Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework (FFIEC 101), which is currently an approved collection of information for each agency. At the end of the comment period for this notice, the FFIEC and the agencies will review any comments received. As required by the PRA, the agencies will then publish a second **Federal Register** notice for a 30-day comment period and submit the final FFIEC 101 to OMB for review and approval.

DATES: Comments must be submitted on or before August 28, 2023.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the OMB control number(s), will be shared among the agencies.

OCC: 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: 1557–0239, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

Instructions: You must include ''OCC'' as the agency name and ''1557–0239'' 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.

Viewing Comments Electronically: Go to *www.reginfo.gov.* Hover over the ''Information Collection Review'' drop down menu and select ''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 by OMB control number ''1557–0239'' or ''Regulatory Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework (FFIEC 101).'' 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.

Board: You may submit comments, which should refer to ''FFIEC 101,'' by any of the following methods:

- *Agency Website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at: *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Email: regs.comments@federalreserve.gov.* Include ''FFIEC 101'' in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information.

FDIC: You may submit comments, which should refer to ''FFIEC 101,'' by any of the following methods:

- *Agency Website: https://www.fdic.gov/resources/regulations/federal-register-publications/.* Follow the instructions for submitting comments on the FDIC's website.
- *Email: comments@FDIC.gov.* Include ''FFIEC 101'' in the subject line of the message.
- *Mail:* Manuel E. Cabeza, Counsel, Attn: Comments, Room MB–3007, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street NW building (located on F Street NW) on business days between 7 a.m. and 5 p.m.

Public Inspection: All comments received will be posted without change to *https://www.fdic.gov/resources/regulations/federal-register-publications/,* including any personal information provided. Paper copies of public comments may be requested from the FDIC Public Information Center by telephone at (877) 275–3342 or (703) 562–2200.

Additionally, commenters may send a copy of their comments to the OMB desk officers for the agencies by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503; by fax to (202) 395–6974; or by email to *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: For further information about the information collections discussed in this notice, please contact any of the agency staff whose names appear below. In addition, copies of the FFIEC 101 reporting forms and instructions can be obtained at the FFIEC's website (*https://www.ffiec.gov/ffiec_report_forms.htm*).

OCC: Kevin Korzeniewski, Counsel, Chief Counsel's Office, (202) 649–5490, or for persons who are hearing impaired, TTY, (202) 649–5597. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

Board: Nuha Elmaghrabi, Federal Reserve Board Clearance Officer, (202) 452–3884, Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

Telecommunications Device for the Deaf (TDD) users may call (202) 263–4869.

FDIC: Manuel E. Cabeza, Counsel, (202) 898–3767, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Report Title: Regulatory Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework.

Form Number: FFIEC 101.

Frequency of Response: Quarterly.

Affected Public: Business or other for-profit.

OCC:

OMB Control No.: 1557–0239.

Estimated Number of Respondents: 10 national banks and Federal savings associations.

Estimated Time per Response: 674 burden hours per quarter to file for banks and Federal savings associations.

Estimated Total Annual Burden: 26,960 burden hours to file.

Board:

OMB Control No.: 7100–0319.

Estimated Number of Respondents: 4 State member banks; 5 bank holding companies and savings and loan holding companies that complete Supplementary Leverage Ratio (SLR) Tables 1 and 2 only; 9 other bank holding companies and savings and loan holding companies; and 6 intermediate holding companies.

Estimated Time per Response: 674 burden hours per quarter to file for State member banks; 3 burden hours per quarter to file for bank holding companies and savings and loan holding companies that complete Supplementary Leverage Ratio (SLR) Tables 1 and 2 only; 677 burden hours per quarter to file for other bank holding companies and savings and loan holding companies; and 3 burden hours per quarter to file for intermediate holding companies.

Estimated Total Annual Burden: 10,784 burden hours for State member banks to file; 60 burden hours for bank holding companies and savings and loan holding companies that complete Supplementary Leverage Ratio (SLR) Tables 1 and 2 only to file; 24,372 burden hours for other bank holding companies and savings and loan holding companies to file; and 72 burden hours for intermediate holding companies to file.

FDIC:

OMB Control No.: 3064–0159.

Estimated Number of Respondents: 1 insured State nonmember bank and State savings association.

Estimated Time per Response: 674 burden hours per quarter to file.

Estimated Total Annual Burden: 2,696 burden hours to file.

General Description of Report

Each advanced approaches institution [1] is required to report quarterly regulatory capital data on the FFIEC 101. Each top-tier advanced approaches institution and Category III institution [2] is required to report supplementary leverage ratio information on the FFIEC 101. The FFIEC 101 information collections are mandatory for advanced approaches and top-tier Category III banking organizations under the following authorities: 12 U.S.C. 161 (national banks), 12 U.S.C. 324 (State member banks), 12 U.S.C. 1844(c) (bank holding companies), 12 U.S.C. 1467a(b) (savings and loan holding companies), 12 U.S.C. 1817 (insured State nonmember commercial and savings banks), 12 U.S.C. 1464 (Federal and State savings associations), and 12 U.S.C. 1844(c), 3106, and 3108 (intermediate holding companies). Certain data items in this information collection are given confidential treatment under 5 U.S.C. 552(b)(4) and (8).

The agencies use data reported in the FFIEC 101 to assess and monitor the levels and components of each reporting entity's applicable capital requirements and the adequacy of the entity's capital under the Advanced Capital Adequacy Framework [3] and the supplementary leverage ratio,[4] as applicable; to evaluate the impact of the Advanced Capital Adequacy Framework and the supplementary leverage ratio, as applicable, on individual reporting entities and on an industry-wide basis and its competitive implications; and to supplement on-site examination processes. The reporting schedules also assist advanced approaches institutions and top-tier Category III banking organizations in understanding expectations relating to the system development necessary for implementation and validation of the capital rule and the supplementary leverage ratio, as applicable. Submitted data that are released publicly will also provide other interested parties with additional information about advanced approaches institutions' and top-tier Category III institutions' regulatory capital.

Request for Comment

The agencies invite comment on the following related topics to these collections of information:

(a) Whether the information collections are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) The accuracy of the agencies' estimates of the burden of the information collections, including the validity of the methodology and assumption used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments submitted in response to this joint notice will be shared among the agencies. All comments will become a matter of public record.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on June 20, 2023.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2023–13861 Filed 6–28–23; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P

[1] 12 CFR 3.100(b) (OCC); 12 CFR 217.100(b) (Board); 12 CFR 324.100(b) (FDIC).

[2] 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

[3] 12 CFR part 3, subpart E (OCC); 12 CFR part 217, subpart E (Board); 12 CFR part 324, subpart E (FDIC).

[4] 12 CFR 3.10(c) (OCC); 12 CFR 217.10(c) (Board); 12 CFR 324.10(c) (FDIC).

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property

subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea Gacki, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Actions

On June 23, 2023, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Individuals

1. POPOV, Yegor Sergeyevich (Cyrillic: ПОПОВ, Егор Сергеевич) (a.k.a. POPOV, Egor Sergeevich; a.k.a. POPOV, Igor; a.k.a. "KONTORA, Egor"; a.k.a. "ZHUKOV, Egor"), Moscow, Russia; DOB 25 Jan 1992; POB Volgograd, Russia; nationality Russia; citizen Russia; Gender Male; National ID No. 1811675248 (Russia) (individual) [RUSSIA-EO14024].

   Designated pursuant to section 1(a)(vii) of Executive Order 14024 of April 15, 2021, "Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation," 86 FR 20249, 3 CFR, 2021 Comp., p. 542 (Apr. 15, 2021) (E.O. 14024) for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, the Government of the Russian Federation.

2. SUKHODOLOV, Aleksei Borisovich (Cyrillic: СУХОДОЛОВ, Алексей Борисович) (a.k.a. SUKHODOLOV, Alexey Borisovich), Moscow, Russia; DOB 19 Apr 1974; POB Voronezh, Russia; nationality Russia; citizen Russia; Gender Male; Passport 100137518 (Russia) (individual) [RUSSIA-EO14024].

   Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, the Government of the Russian Federation.

Dated: June 23, 2023.

Andrea Gacki,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2023–13820 Filed 6–28–23; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Joint Committee: Change

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of meeting: Change.

SUMMARY: In the **Federal Register** notice that was originally published on June 5, 2023, the day for this meeting changed from Monday, June 26, 2023, to Monday, July 17, 2023 at 3:00 p.m. Eastern Time. All other meeting details remain unchanged. This meeting will be held via teleconference.

DATES: The meeting will be held Monday, July 17, 2023.

FOR FURTHER INFORMATION CONTACT: Rosalind Matherne at 1–888–912–1227 or 202–317–4115.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Joint Committee will be held Monday, July 17, 2023, at 3:00 p.m. Eastern Time via teleconference. This meeting was previously announced in the **Federal Register** June 5, 2023 at 88 FR 37141. The public is invited to make oral comments or submit written statements for consideration. For more information, please contact Rosalind Matherne at 1–888–912–1227 or 202–317–4115, or write TAP Office, 1111 Constitution Ave. NW, Room 1503, Washington, DC 20224 or contact us at the website: *http://www.improveirs.org.*

The agenda will include Tax Forms and Publications committee referral #52664 to be discussed. Public input is welcomed.

Dated: June 23, 2023.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2023–13800 Filed 6–28–23; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

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Part II

Department of the Interior

Bureau of Ocean Energy Management

30 CFR Parts 550, 556, and 590

Risk Management and Financial Assurance for OCS Lease and Grant Obligations; Proposed Rule

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

30 CFR Parts 550, 556, and 590

[Docket ID: BOEM–2023–0027]

RIN 1010–AE14

Risk Management and Financial Assurance for OCS Lease and Grant Obligations

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of proposed rulemaking and request for comment.

SUMMARY: The Department of the Interior (the Department or DOI), acting through BOEM, proposes to modify its criteria for determining whether oil, gas, and sulfur lessees, right-of-use and easement (RUE) grant holders, and pipeline right-of-way (ROW) grant holders may be required to provide bonds or other financial assurance above the current regulatorily prescribed base bonds to ensure compliance with their Outer Continental Shelf Lands Act (OCSLA) obligations. This proposed rule would also remove existing restrictive provisions for third-party guarantees and decommissioning accounts and would add new criteria under which a bond or third-party guarantee that was provided as supplemental financial assurance may be canceled. Additionally, this proposed rule would clarify bonding requirements for RUEs serving Federal leases. Based on the proposed framework, BOEM estimates that the aggregate amount of supplemental financial assurance required of lessees and grant holders under this proposed rulemaking available to the U.S. government for decommissioning activities would increase by an estimated $9.2 billion over current levels. This value represents less than one-quarter of all offshore decommissioning liabilities, which is currently estimated at $42.8 billion. This proposed rulemaking would not apply to renewable energy activities.

DATES: BOEM must receive your comments on or before August 28, 2023. BOEM has the discretion not to consider comments received after this date. The Office of Management and Budget (OMB) and BOEM must receive your comments on the information collection (IC) burden in this rulemaking on or before July 31, 2023. The IC burden comment opportunity does not affect the deadline for the public to comment to BOEM on the proposed regulations.

ADDRESSES: You may submit comments on the rulemaking by any of the following methods. In your comments, please reference ''Risk Management and Financial Assurance for OCS Lease and Grant Obligations, RIN 1010–AE14.'' Please include your name, and phone number or email address, so we can contact you if we have questions regarding your submission.

- *Federal rulemaking portal: https://www.regulations.gov.* In the entry titled, ''Enter Keyword or ID,'' enter BOEM–2023–0027 then click search. Follow the instructions to submit public comments and view supporting and related materials available for this rulemaking.
- *Mail or delivery service:* Send comments on the BOEM proposed rule to the Department of the Interior, Bureau of Ocean Energy Management, Office of Regulations, Attention: Kelley Spence, 45600 Woodland Road, Mailstop VAM–BOEM DIR, Sterling, VA 20166.

Submit comments on the IC in this proposed rule to *www.reginfo.gov/public/do/PRAMain.* From this main web page, you can find and submit comments on this particular information collection by proceeding to the boldface heading ''Currently under Review,'' selecting ''Department of the Interior'' in the ''Select Agency'' pull down menu, clicking ''Submit,'' then, checking the box ''Only Show ICR for Public Comment'' on the next web page, scrolling to this proposed rule, and clicking the ''Comment'' button at the right margin. Or, you may use the search function to locate the IC request related to the proposed rule on the main web page. Please provide a copy of your comments to the Information Collection Clearance Officer, Office of Regulations, Bureau of Ocean Energy Management, Attention: Anna Atkinson, 45600 Woodland Road, Sterling, Virginia 20166; or by email to *anna.atkinson@boem.gov.* Please reference OMB Control Number 1010–0006 in the subject line of your comments.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking (1010–AE14). All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Public Availability of Comments:'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Kelley Spence, Office of Regulations, BOEM, at *kelley.spence@boem.gov* or at (984) 298–7345; or Karen Thundiyil, Chief, Office of Regulations, BOEM, at *Karen.Thundiyil@boem.gov* or at (202) 742–0970.

To obtain a copy of the information collection supporting statement, contact: Information Collection Clearance Officer, Office of Regulations, Bureau of Ocean Energy Management, Attention: Anna Atkinson, at *anna.atkinson@boem.gov* or at (703) 787–1025.

SUPPLEMENTARY INFORMATION:

Public Availability of Comments: BOEM may post all submitted comments to *regulations.gov.* Before including your name, return address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment—including your personally identifiable information—may be made publicly available. In order for BOEM to withhold from disclosure your personally identifiable information, you must identify, in a cover letter, any information contained in the submittal of your comments that, if released, would constitute a clearly unwarranted invasion of your personal privacy. You must also briefly describe in such cover letter any possible harmful consequences of the disclosure of information, such as embarrassment, injury, or other harm. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so. Even if BOEM withholds your information in the context of this rulemaking, your submission is subject to the Freedom of Information Act (FOIA) and any relevant court orders, and if your submission is requested under the FOIA or such court order, your information will only be withheld if a determination is made that one of the FOIA's exemptions to disclosure applies or if such court order is challenged. Such a determination will be made in accordance with the Department's FOIA regulations and applicable law.

Organization of this document. The information in this preamble is organized as follows:

I. Table of Acronyms and Terms

Several acronyms and terms are included in this preamble. To ease the reading of this preamble and for reference purposes, we list the following acronyms and their meanings here.

ANCSA Alaska Native Claims Settlement Act
ANPRM Advance Notice of Proposed Rulemaking
BOEM Bureau of Ocean Energy Management
BSEE Bureau of Safety and Environmental Enforcement
DOI Department of the Interior
E.O. Executive Order
FASB Financial Accounting Standards Board
FDIC Federal Deposit Insurance Corporation
FR Federal Register
GAAP Generally Accepted Accounting Principles
GAO Government Accountability Office
IC Information Collection
INC Incidents of Non-Compliance
IRFA Initial Regulatory Flexibility Analysis
IRIA Initial Regulatory Impact Assessment
MMS Minerals Management Service
NAICS North American Industry Classification System
NEPA National Environmental Policy Act
NRSRO Nationally Recognized Statistical Rating Organization
NTL Notice to Lessees
OIRA Office of Information and Regulatory Affairs (a component of OMB)
OMB Office of Management and Budget
OCS Outer Continental Shelf
OCSLA Outer Continental Shelf Lands Act
PRA Paperwork Reduction Act
RIA Regulatory Impact Analysis
RUE Right-of-Use and Easement
ROW Right-of-Way
SBA Small Business Administration
SEC Securities and Exchange Commission
S&P Standard and Poor's
U.S.C. United States Code

II. Executive Summary

This proposed rule would require that the holders of interests in Outer Continental Shelf (OCS) leases and grants provide financial assurance for their own contractual and regulatory obligations, including decommissioning obligations, to prevent the Federal Government from incurring costs to perform those obligations and to avoid the environmental or safety hazards associated with delayed compliance. This approach adheres to the general principle that the private parties enjoying the benefit of producing the mineral resources of the OCS should not shift the cost of satisfying their contractual and environmental obligations to the public. Based on the proposed framework, BOEM estimates that the aggregate amount of supplemental financial assurance required of lessees and grant holders under this proposed rulemaking available to the U.S. government for decommissioning activities would increase by an estimated $9.2 billion over current levels. This value represents less than one-quarter of all decommissioning liabilities, which is currently estimated at $42.8 billion.

This proposed rule is intended to update BOEM's criteria for determining whether oil, gas, and sulfur lessees, RUE grant holders, and ROW grant holders may be required to provide surety bonds or other financial assurance above the prescribed base financial assurance to ensure compliance with OCSLA. Provisions of this proposed rulemaking would change the existing criteria used to determine whether supplemental financial assurance should be required of OCS oil and gas lessees and grantees. Under the existing regulations, BOEM considers five criteria in making this determination for lessees: financial capacity; projected financial strength; business stability; record of compliance with existing rules and regulations; and reliability. This rulemaking proposes to eliminate those five criteria and replace them with two new criteria: credit rating and the ratio of the value of proved oil and gas reserves on the lease to the lease decommissioning liability associated with those reserves.

Using the credit rating of the lessee (to determine its financial strength) and the value of proved oil and gas reserves available to meet future financial obligations, BOEM would not require supplemental financial assurance in three cases. First, under this proposed rule, a lessee with an investment grade credit rating would not be required to post supplemental financial assurance beyond a base bond to cover its lease and regulatory obligations. These base bonds can range from $50,000 for a lease-specific bond with no approved operational activity to $3 million for an area-wide bond that includes a development production plan. Second, where there are multiple co-lessees on a lease, if any one co-lessee meets the credit rating threshold, none of the other co-lessees would be required to post supplemental financial assurance. Finally, for any lease on which all lessees are rated below investment grade, BOEM would next look to the value of the lease's proved oil and gas reserves relative to lease decommissioning obligations associated with the production of those reserves. For any such lease, if a lease has proved reserves with a value of at least three times that of the estimated decommissioning cost, no supplemental financial assurance would be required. In any case other than the three mentioned here, supplemental financial assurance would be mandatory.

Overall, this proposed rule would impose greater supplemental financial assurance requirements on lessees than the amounts currently required. This proposed rule also contains a provision that would allow phased-in compliance over a period of three years, which could ease burdens on individual lessees and operators in the short term.

This proposed rule would also make other less significant changes. This proposed rule would provide more specific bonding requirements for Federal RUEs and would remove restrictive provisions for third-party guarantees and decommissioning

accounts. Finally, it would add new criteria under which supplemental bonds and third-party guarantees may be cancelled.

On October 16, 2020, BOEM proposed a joint rulemaking with the Bureau of Safety and Environmental Enforcement (BSEE) to update BOEM's financial assurance criteria and other BSEE-administered regulations. On January 20, 2021, President Biden signed Executive Order (E.O.) 13990, ''Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis.'' This Executive order, among other things, instructs agencies to review actions taken between January 20, 2017, and January 20, 2021, and consider publishing a notice of proposed rulemaking suspending, revising, or rescinding that action. Upon conducting such a review of the 2020 proposal and the record postdating the review, BOEM has decided, as an exercise of its judgment and expertise, not to move forward with the BOEM-administered portions of that 2020 proposed rulemaking. BOEM has instead decided to issue this new notice of proposed rulemaking to address its financial assurance policy concerns. BOEM is no longer considering any BOEM-related topics or proposals from that 2020 proposed joint rulemaking that are not discussed in this current proposed rule. BSEE finalized the BSEE-related provisions of the 2020 joint proposed rule on April 18, 2023 (88 FR 23569). This proposed rulemaking takes a new approach to update the financial assurance criteria to ensure that current lessees have sufficient resources to meet their lease and regulatory obligations, therefore providing more protection to the taxpayer. BSEE is expected to continue to exercise its regulatory authority to issue decommissioning orders to predecessor lessees, seek an appropriation, or intervene as necessary to address an environmental or safety risk, regardless of the outcome of this proposed rule. However, without this proposed rule (*i.e.,* without the financial assurance fully in place), it could take longer to arrange for decommissioning, which could result in additional environmental damage or increased obstacles to navigation. A reduction in decommissioning activity lead-time could reduce environmental damage, but BOEM cannot quantify this benefit in this rulemaking.

This proposed rulemaking would not apply to renewable energy activities.

III. Background of BOEM Regulations

A. BOEM Statutory and Regulatory Authority and Responsibilities

BOEM's authority to promulgate this rulemaking is granted by section 5 of OCSLA, 43 U.S.C. 1334. That section authorizes the Secretary of the Interior (Secretary) to issue regulations to administer OCS leasing for mineral development. Section 5(a) of OCSLA (43 U.S.C. 1334(a)) authorizes the Secretary to ''prescribe such rules and regulations as may be necessary to carry out'' the ''provisions of [OCSLA] relating to the leasing of the'' OCS. Section 5(b) of OCSLA (43 U.S.C. 1334(b)) provides that ''compliance with regulations issued under'' OCSLA must be a condition of ''[t]he issuance and continuance in effect of any lease, or of any assignment or other transfer of any lease, under the provisions of'' OCSLA.

43 U.S.C. 1338a reflects Congress' intent to authorize BOEM to collect financial assurance by specifically addressing the forfeiture of bonds and financial assurances by an OCS permittee, lessee, or right-of-way holder that does not fulfill the requirements of its permit, lease, or right-of-way or does not comply with the regulations of the Secretary, which includes defaulting on decommissioning activities.

The Secretary, in Secretary's Order 3299, as amended, delegated the authority to BOEM to carry out offshore conventional energy-related (*e.g.,* oil and gas) and renewable energy-related functions including, but not limited to, activities involving resource evaluation, planning, and leasing. Thus, BOEM is responsible for managing development of the Nation's offshore energy and mineral resources in an environmentally and economically responsible way. Secretary's Order 3299 also assigned authority to BSEE, including, but not limited to, enforcement of a lessee's obligation to perform decommissioning. BSEE provides estimates of decommissioning costs to BOEM so that the financial assurance required by BOEM will be sufficient to cover the estimated cost to perform decommissioning, thereby protecting the Federal Government from incurring financial loss. While BOEM also has program oversight for the financial assurance requirements set forth in 30 CFR parts 551, 581, 582, and 585, this proposed rule pertains only to the financial assurance requirements for oil and gas or sulfur leases under 30 CFR part 556, associated RUE grants and ROW grants under 30 CFR part 550, and appeals of supplemental financial assurance demands under 30 CFR part 590.

B. History of Bonding Regulations and Guidance

BOEM's existing financial assurance requirements for oil and gas leases (30 CFR 556.900 through 556.907) and pipeline ROW grants (30 CFR 550.1011), published by BOEM's predecessor, the Minerals Management Service (MMS), on May 22, 1997 (62 FR 27948),[1] authorize the Regional Director to require bonding for oil and gas leases and pipeline ROW grants. Sections 556.900(a) and 556.901(a) and (b) require lease-specific or area-wide base bonds in prescribed amounts, depending on the level of activity on a lease or leases. Section 556.901(d) authorizes the Regional Director to require supplemental financial assurance for leases above the amounts for lease and area-wide base bonds prescribed in the regulations. Similarly, § 550.1011 authorizes the Regional Director to require an area-wide base surety bond in a prescribed amount and, when determined necessary, supplemental financial assurance above the prescribed amount, for ROW grants.

BOEM's existing bonding regulations for RUE grants (§§ 550.160 and 550.166), published by MMS on December 28, 1999 (64 FR 72756),[2] empower the Regional Director to require surety bonds or other financial assurance for RUE grants. Section 550.160(c) states that an applicant for a RUE serving an OCS lease ''must meet bonding requirements.'' *See* 30 CFR 550.160(c). While no regulation prescribes a particular bond amount for a RUE that applies to an OCS lease, § 550.160 authorizes the Regional Director to require financial assurance if, and in the amount, the Regional Director determines necessary.

Section 550.166(a) requires an applicant for a RUE that serves a State lease to provide a base surety bond of $500,000. Section 550.166(b) provides that the Regional Director may require supplemental financial assurance above the prescribed $500,000 base surety bond from the holder of a such a RUE. MMS and now BOEM have employed the criteria used for determining whether supplemental financial assurance is required for leases to such

[1] The 1997 rule amended 30 CFR parts 250 and 256; 30 CFR parts 550 and 556 did not exist at that time. BOEM published the current regulations in 30 CFR parts 550 and 556 on October 18, 2011, 76 FR 64432. However, the 2011 rule did not make any substantive changes to the bonding and financial assurance requirements that were adopted in 1997; thus, the 1997 rule represents the last substantive update to the regulatory provisions for lessees.

[2] The financial assurance regulations for RUE and ROW grants, then at §§ 250.160 and 250.166, were substantively modified in 1999. These provisions were renumbered in October 2011.

determinations for RUE and ROW grants because specific criteria for grants do not exist in the current regulations.

BOEM regulations at §§ 556.604(d) and 556.605(e) and BSEE regulations at § 250.1701 hold predecessors and current co-lessees responsible for decommissioning when a current lessee is unable to perform. The existing lease bonding regulations under § 556.901(d) provide five criteria [3] that the Regional Director uses to determine whether a lessee's potential inability to carry out present and future financial obligations warrants a demand for supplemental financial assurance. However, the existing regulations do not specifically describe how the agency weighs those criteria. To provide guidance, MMS issued Notice to Lessees (NTL) No. 98–18N, effective December 28, 1998, which provided details on how it would apply the five criteria. This NTL was superseded by NTL No. 2003–N06, effective June 17, 2003, and that NTL was later superseded by NTL No. 2008–N07, which was effective August 28, 2008, but which was superseded on September 12, 2016. The September 12, 2016, NTL was subsequently rescinded.

Pursuant to BOEM's practice under NTL No. 2008–N07, a lessee or grant holder that did not pass established financial thresholds [4] was required to provide supplemental financial assurance to cover its decommissioning liabilities. However, a lessee or grant holder that did pass such thresholds—including an analysis whether its cumulative potential decommissioning liability was less than or equal to 50 percent of its net worth [5]—did not have to provide supplemental financial assurance and was considered ''waived.'' Additionally, if one lessee on a lease was waived, no other co-lessee (regardless of its own financial strength) would be required to provide supplemental financial assurance to cover the decommissioning liability for the lease. In a situation involving multiple lessees and two or more co-lessees that qualified for a waiver, none of the co-lessees was required to provide financial assurance, and the decommissioning liability on the lease was not attributable to any lessee. Because companies in this situation would not have the decommissioning liability associated with their lease(s) attributed to them (*i.e.,* the decommissioning liability would not be attributed to any company), that liability would not have been considered in determining whether that company met the net worth requirements to obtain a waiver.

For a company in this situation, the financial capacity of the lessee would have appeared better than it actually was, because its total decommissioning liability appeared artificially low; the lessee could potentially qualify for a waiver to which it might not otherwise be entitled. Undergirding this rationale was an assumption that the chances of two waived lessees becoming financially distressed was unlikely. This proposed rule addresses that potential risk by allowing BOEM to obtain additional data to take contingent liabilities into consideration.

Since 2009, more than 30 corporate bankruptcies have occurred involving offshore oil and gas lessees with unbonded decommissioning liabilities. The fact that bankruptcies and reorganizations have involved unbonded decommissioning liabilities demonstrates that the waiver criteria in NTL No. 2008–N07 were inadequate to protect the public from potential responsibility for OCS decommissioning liabilities, especially during periods of low oil and gas prices. For example, ATP Oil & Gas was a mid-sized company with a supplemental financial assurance waiver when it filed for bankruptcy in 2012. Similarly, Bennu Oil & Gas, LLC, had a waiver at the time of its bankruptcy filing, and Energy XXI, Ltd., and Stone Energy Corporation obtained waivers within a year of filing for bankruptcy. While most OCS leases affected by the bankruptcies were ultimately sold or retained by the companies reorganized under chapter 11 of the U.S. Bankruptcy Code, these bankruptcies highlighted the weaknesses in BOEM's supplemental financial assurance program, including the waiver criteria in NTL No. 2008–N07, and BOEM's inability to forecast financial distress of these waived operators with sufficient time to require and receive financial assurance.

These bankruptcies involved a total offshore decommissioning liability of approximately $7.5 billion. This figure includes properties with co-lessees and predecessor lessees and properties held by companies that successfully emerged from a chapter 11 reorganization. However, the actual financial risk to the United States is significantly less than the total offshore decommissioning liability associated with offshore corporate bankruptcies. This is in part because other private parties may be responsible for decommissioning costs. Co-lessees and predecessors retain pre-existing obligations to fund or perform decommissioning. Also, a bankrupt company's assets were often sold to financially stronger buyers who assumed those liabilities.

Additionally, if BOEM has insufficient supplemental financial assurance at the time of an operator's bankruptcy, BOEM may pursue legal avenues for obtaining performance or funds in bankruptcy proceedings, such as provisions for decommissioning in the terms of the reorganization, the sale of the leases to financially responsible buyers, or limitations on debtor attempts to abandon environmental problems. However, in pursuing legal avenues, favorable outcomes are not assured, and additional funds may not be obtained to cover decommissioning obligations. It is possible that when there are multiple co-lessees on a lease, only one of them meets the credit rating threshold. It is also possible that co-lessees are not required to provide additional financial assurance and predecessors lack sufficient capital to fulfill unexpected decommissioning obligations. In these scenarios, bankrupt assets may prove less valuable than anticipated and fail to generate new buyers at auction. Components and wells for which the bankrupt party is the only liable party on the lease may further complicate decommissioning efforts. These challenges create a risk of unplugged wells and orphaned infrastructure. The American taxpayer may pay the cost of plugging those wells and reclaiming that abandoned infrastructure. BSEE has identified orphaned infrastructure without a predecessor and no financial assurance to cover the cost of decommissioning. BSEE's fiscal year 2023 budget request included $30 million in order to address this uncovered infrastructure.

On May 27, 2009, MMS issued a proposed rule, ''Leasing of Sulphur or Oil and Gas and Bonding Requirements in the Outer Continental Shelf'' (74 FR 25177), to rewrite the majority of 30 CFR part 256 (now redesignated as 30 CFR part 556).[6] However, BOEM (post MMS restructuring) deferred revision of the bonding regulations to a separate rulemaking. The separate rulemaking

[3] The following are the five criteria: (i) Financial capacity substantially in excess of existing and anticipated lease and other obligations; (ii) Projected financial strength significantly in excess of existing and future lease obligations; (iii) Business stability based on five years of continuous operation and production of oil and gas or sulfur in the OCS or in the onshore oil and gas industry; (iv) Reliability in meeting obligations based on: (A) Credit rating; or (B) Trade references; and (v) Record of compliance with laws, regulations, and lease terms.

[4] The 2008 NTL mandated a minimum net worth of $65 million and imposed a cap on the amount of waived liability at 50% of net worth. Liability covered by two qualified companies was not counted against the 50% cap.

[5] This is not a separate criterion but simply an elaboration of criterion one.

[6] 76 FR 64432, Oct. 18. 2011.

commenced August 19, 2014, with an advance notice of proposed rulemaking (ANPRM), ''Risk Management, Financial Assurance and Loss Prevention'' (79 FR 49027), to solicit ideas for improving the bonding regulations.

In December 2015, the Government Accountability Office (GAO) reviewed BOEM's supplemental financial assurance procedures and issued a report titled ''Offshore Oil and Gas Resources: Actions Needed to Better Protect Against Billions of Dollars in Federal Exposure to Decommissioning Liabilities.'' (GAO Report). While acknowledging BOEM's ongoing efforts to update its policies, the GAO Report recommended, inter alia, that ''BOEM complete its plan to revise its supplemental financial assurance procedures, including the use of alternative measures of financial strength.'' [7]

Following further analysis and a series of stakeholder meetings in 2015 and 2016 to solicit industry input, BOEM attempted to remedy the weaknesses in its supplemental financial assurance program with new NTL No. 2016–N01, ''Requiring Additional Security,'' which became effective September 12, 2016. NTL No. 2016–N01 sought to clarify the procedures and explain how BOEM would use the regulatory criteria to determine if and when supplemental financial assurance would be required for OCS leases and RUE and ROW grants. The NTL used net worth of a lessee as a measure of financial strength, detailed several changes in policy, and refined the criteria used to determine a lessee's or grant holder's financial ability to carry out its obligations. On August 29, 2016, BOEM requested GAO to close the above-stated recommendation in the GAO Report, stating that BOEM had implemented the recommendation by issuance of the NTL. The GAO found that the recommendation had been implemented and closed the audit recommendation later in Fiscal Year 2016.

In December 2016, BOEM began implementing the NTL and issued numerous orders to lessees and grant holders to provide supplemental financial assurance for ''sole liability properties,'' *i.e.,* leases and RUE and ROW grants for which the lessee or grant holder was the only party liable for meeting the lease or grant obligations.

On January 6, 2017, BOEM issued a note to stakeholders extending the implementation timeline for NTL No. 2016–N01 for six months. The extension applied to leases and RUE and ROW grants for which there were co-lessees, predecessors in interest, or both, except where BOEM determined there was a substantial risk of nonperformance of the interest holder's decommissioning obligations. The extension of the implementation timeline allowed BOEM to evaluate which leases and grants would be considered sole liability properties.

BOEM issued a second note to stakeholders on February 17, 2017, further extending the implementation timeline. BOEM also announced in the February note that it would withdraw the December 2016 orders issued on sole liability properties to allow time for the then new administration to review BOEM's supplemental financial assurance program.

In 2017, BOEM began to review its supplemental financial assurance program and NTL No. 2016–N01 to determine whether modifications were necessary and, if so, to what extent. BOEM's objective was ensuring operator compliance with lease terms while minimizing unnecessary burden on industry. As a result of this review, BOEM recognized the need to further develop a comprehensive program to assist in identifying, prioritizing, and managing the risks associated with industry activities on the OCS. This included options for revising or rescinding NTL No. 2016–N01 and revising the financial assurance program through rulemaking.

C. 2020 Joint Notice of Proposed Rulemaking

On October 16, 2020, BOEM and BSEE issued a joint notice of proposed rulemaking to revise certain BSEE policies concerning decommissioning orders and BOEM's financial assurance regulations. (See ''Risk Management, Financial Assurance and Loss Prevention,'' 85 FR 65904). As stated above, under existing regulations, BOEM requires lessees to provide a base bond as financial assurance to ensure that the cost of meeting OCS obligations is not passed to the taxpayer. The Regional Director may also order supplemental financial assurance if necessary to ensure performance of offshore decommissioning obligations.

In the joint proposed rule, BOEM proposed to adjust its supplemental financial assurance criteria to reflect the risk mitigation already provided by the joint and several liability of financially stable co-lessees and predecessor lessees. BSEE and BOEM regulations hold predecessors and current co-lessees responsible for decommissioning when a current lessee is unable to perform.[8] In the joint proposed rule, BOEM would have taken into account the financial stability of predecessor lessees by waiving supplemental financial assurance requirements for a current lessee when there was a financially strong predecessor lessee.

In the joint proposed rule, BOEM also sought to change its methodology for measuring financial strength to focus on a lessee's or its predecessor's credit rating and the value of proved oil and gas reserves. These proposed criteria would have relied on a company's nationally recognized statistical rating organization (NRSRO) credit rating or an equivalent BOEM proxy credit rating determined by evaluating a company's submitted audited financial statements through S&P Global's Credit Analytics credit model or a similar, widely accepted credit rating model. Under the joint proposed rule, a credit rating less than or equal to either BB − from S&P Global's Credit Analytics ratings (S&P), Ba3 from Moody's Investor Service (Moody's) or a proxy credit rating less than or equal to either BB − or Ba3, as determined by the Regional Director, could have constituted grounds for the Regional Director to require a lessee to provide supplemental financial assurance. If a company did not meet the minimum credit rating or proxy credit rating level, BOEM would have inquired into the credit or proxy credit ratings of co-lessees and predecessor lessees, which could be held liable under joint and several liability. If one of these co-lessees or predecessors met the credit rating criteria, BOEM could decide not to require supplemental financial assurance from the lessee. If there were no co-lessee or predecessor lessee that met the credit rating criteria, BOEM would then look to the value of the proved oil and gas reserves on the lease. If the value of those proved reserves was equal to or greater than three times the estimated cost of the decommissioning associated with the production of the reserves on any given lease, supplemental financial assurance would not have been required.

BOEM further proposed to use the same credit rating criteria to determine the financial assurance requirements for RUE grants described in § 550.160 and ROW grants in a revised § 550.1011. This would have included consideration of the credit and proxy credit ratings of co- and predecessor grant holders but would not have considered proved oil and gas reserves, given that neither RUE nor ROW grants entitle the holder to any interest in oil and gas reserves.

[7] *https://www.gao.gov/products/gao-16-40.*

[8] See, for example, 30 CFR 556.604(d), 556.605(e), and 250.1701.

The joint proposed rule would have also applied the same credit rating criteria to its evaluation of potential guarantors. The joint proposed rule also would have removed the requirement for a third-party guarantee to ensure full compliance with the obligations of all lessees, operating rights owners, and operators on the lease and would have allowed a third-party guarantee to be used as supplemental financial assurance for a RUE or ROW grant. The former change would have allowed a guarantor to limit its guarantee to a subset of lease or grant obligations. Additional proposed changes would have applied to third-party guarantees the same terms and conditions that apply to cancellation of supplemental financial assurance surety bonds and return of pledged financial assurance, as well as a clarification to reiterate that ''guarantee'' and ''indemnity agreement'' both refer to the same guarantee agreement.

On January 20, 2021, President Biden signed Executive Order 13990, ''Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis.'' This Executive order, among other things, instructs agencies to review actions taken between January 20, 2017, and January 20, 2021, and consider publishing a notice of proposed rulemaking suspending, revising, or rescinding that action. Upon conducting such a review of the 2020 proposal and the record postdating the review, BOEM has decided, as an exercise of its judgement and expertise, not to move forward with the joint proposed rule and acknowledges that NTL No. 2016–N01 was never fully implemented and has since been rescinded. This NPRM parallels the approach in BOEM's portion of the 2020 proposal but, to increase protection of the taxpayer, it would require a higher threshold credit rating and would not allow a current lessee to avoid posting additional assurance based on a predecessor lessee's strength.

D. Purpose of BOEM's Proposed Rulemaking

This proposed rule is intended to update BOEM's criteria for determining whether oil, gas, and sulfur lessees, RUE grant holders, and ROW grant holders may be required to provide supplemental financial assurance to ensure compliance with their OCS obligations. In its continued efforts to address concerns with the financial assurance program, BOEM has opted to issue this new notice of proposed rulemaking to better protect the taxpayer from bearing the cost of facility decommissioning and other financial risks associated with OCS development, such as oil spill cleanup or other environmental remediation. Although the cases where taxpayers have actually paid costs for decommissioning are rare, some BOEM lessees have entered bankruptcy without the resources to cover decommissioning. In these cases, BOEM is required to negotiate with predecessors, co-lessees, and bankruptcy courts to obtain the funds needed for decommissioning. As mentioned earlier, this process is not always sufficient, as reflected in BSEE's request for additional appropriations to cover decommissioning of facilities for which there is no remaining liable party. BOEM has decided not to set a lower supplemental financial assurance requirement for lessees with financially strong predecessor lessees. Instead, BOEM proposes to require supplemental financial assurance for all leases owned by lessees that do not meet the proposed financial strength threshold or have sufficiently valuable proved oil and gas reserves on their leases that may attract a buyer if the current lessees are in financial distress. The omission of predecessor lessees from this calculus addresses several financial assurance issues. It ensures the current lessees have the financial capability to fulfill its decommissioning obligations, and discourages lessees from ignoring end-of-life decommissioning costs. It also simplifies potential administrative demands, since it obviates the need for parties to distinguish between wells with predecessor lessees and more recent sole-liability wells, side-track wells, and other sole-liability components. This proposed rule would retain the authority to pursue predecessor lessees for the performance of decommissioning; however, this proposed rule would not allow BOEM to rely upon the financial strength of predecessor lessees when determining whether, or how much, supplemental financial assurance should be provided by current OCS leaseholders.

Under this proposed rule, instead of relying primarily on net worth to determine whether a lessee must provide supplemental financial assurance, BOEM's primary consideration would be a lessee's credit rating. Credit rating agencies account for many factors when evaluating a company, including cash flow, debt-to-earnings ratios, debt-to-funds-from-operations ratios, and other financial factors. A credit rating considers the past performance of a company, including, but not limited to, the income statement and cash flow statement, which provide a broad picture of how well a company may be able to meet its liabilities. The rating also considers forward-looking factors, such as the anticipated loss of assets and the anticipated highs and lows of the company's business cycle. Credit ratings provide a measure of the probability of a default on an obligation; studies have shown a very close correlation between the rating level and the probability of default.[9]

On the other hand, a net worth analysis (typically total assets minus total liabilities) uses figures that reflect the last day of the fiscal period. This ''snapshot'' is not adequate to predict a lessee's future financial position because a lessee's financial deterioration can occur quickly due to volatility in oil and gas prices, improper hedging of risks, and other business and economic reasons. Net worth is one financial data point that may not accurately reflect the overall financial risk posed by the company, as compared to the more comprehensive financial review undertaken by the rating agencies. A singular financial ratio analysis may unintentionally penalize some corporate structures where that particular ratio is not as important or relevant to that business, for example midstream master limited partnerships, which the tax code requires to distribute 90% of net income to partners. Relying on the more comprehensive and forward-looking credit rating analysis—both to determine whether supplemental financial assurance may be necessary and to determine whether a company can be a guarantor of the financial obligations of other companies operating on the OCS—would better allow BOEM to demand security before a company becomes financially distressed. For more discussion on credit ratings, see section VI.A (BOEM Evaluation Methodology—Credit Ratings) of this preamble.

After accruing an obligation to decommission certain infrastructure (*e.g.,* well, platform, pipeline), the predecessor lessee remains jointly and severally liable for decommissioning that infrastructure, even in cases where a predecessor lessee has divested its full interest in a lease by assignment to another company. This rulemaking would retain BOEM's existing right to pursue predecessor lessees for the performance of decommissioning; however, this rulemaking would not allow BOEM to rely upon the financial

[9] See for example, ''Ratings vs Default Rates'', Moody's Annual Default Study—February 8, 2022, Douglas J. Lucas, ''Default Correlation and Credit Analysis'', The Journal of Fixed Income Mar 1995, 4 (4) 76–87; DOI: 10.3905/jfi.1995.408124.

strength of predecessor lessees when determining whether, or how much, supplemental financial assurance should be provided by current OCS leaseholders. This change strengthens the financial assurance program by ensuring current lessees have the financial strength or supplemental financial assurance in order to fulfill all their obligations.

In summary, BOEM is proposing this rulemaking to clarify and simplify its financial assurance requirements and to provide greater protection to taxpayers. These proposed regulatory changes provide additional clarity that current grant holders, lessees, and, when appropriate, operating rights holders (sublessees) bear the cost of ensuring compliance with lease obligations, rather than relying on prior owners.

IV. Proposed Revisions to BOEM Supplemental Financial Assurance Requirements

BOEM's existing financial assurance regulatory framework has two main components: (1) Base bonds, generally required in amounts prescribed by regulation, and (2) Supplemental financial assurance, above the prescribed base bond amounts, that may be required upon the Regional Director's determination that an increased amount is necessary to ensure compliance with OCS obligations. BOEM's objective is to ensure that taxpayers do not bear the cost of meeting the obligations of lessees and grant holders on the OCS, particularly the costs of decommissioning that must be met after the cash flow from production ceases. At the same time, BOEM also recognizes the costs and disincentives to additional exploration, development, and production that are imposed on lessees and grant holders by increasing the required amounts of bonds and/or other financial assurance. After taking these considerations into account, BOEM is proposing to: (1) Modify the evaluation process for requiring supplemental financial assurance by clarifying and streamlining the evaluation criteria; and, (2) Remove restrictive provisions for third-party guarantees and decommissioning accounts. This proposed rule would allow the Regional Director to require supplemental financial assurance when a lessee or grant holder poses a substantial risk of becoming financially unable to carry out its obligations under its lease or grant, or when the property may not have sufficient value to be sold to another company that could assume those obligations. In the former case, the risk that the taxpayer might have to take on the financial obligations of a lessee or grant holder is mitigated when there is a co-lessee or co-grant holder that has sufficient financial capacity to carry out the obligations.

A. Leases

Lessees are jointly and severally liable for the lease decommissioning obligations that accrue during their ownership, as well as those that accrued prior to their ownership, which means that each current co-lessee is liable for the full obligation and BSEE may pursue performance from any individual current lessee. *See, e.g.,* 30 CFR 556.604(d). In addition, a lessee that transfers its interest to another party continues to be liable for any unperformed decommissioning obligations that accrued prior to, or during, the time that lessee owned an interest in the lease. *See, e.g.,* 30 CFR 556.710. This transferor liability applies, however, only to those obligations existing at the time of transfer; new facilities, or additions to existing facilities, that were not in existence at the time of any lease transfer are not obligations of a predecessor company and are considered obligations of the party that built such new facilities and its co- and successor lessees.

BOEM's existing supplemental financial assurance evaluation process, contained in § 556.901(d), is based only on the current lessee's ability to carry out present and future obligations. BOEM proposes to codify that this evaluation process includes an evaluation of the ability of a co-lessee to carry out present and future obligations. This codification recognizes that all of the current owners are benefiting from ongoing operations and are jointly and severally liable for compliance with DOI requirements. A current co-lessee is equally liable for present obligations and future obligations that exist while it is a co-lessee, including nonmonetary obligations.

Under BOEM's existing regulations, the Regional Director's evaluation of the need for supplemental financial assurance is based on the following five criteria: financial capacity; projected financial strength; business stability; reliability in meeting obligations based upon credit rating or trade references; and record of compliance with laws, regulations, and lease terms. BOEM is proposing to streamline its evaluation process by using only two criteria to determine whether supplemental financial assurance on a lease may be required: (1) A credit rating, either from an NRSRO, as identified by the United States Securities and Exchange Commission (SEC) pursuant to its grant of authority under the Credit Rating Agency Reform Act of 2006 and its implementing regulations at 17 CFR parts 240 and 249, or a proxy credit rating determined by BOEM based on a company's audited financial statements; [10] or (2) The 3-to-1 ratio of the value of proved oil and gas reserves on a lease to the decommissioning liability associated with these reserves. These criteria better align BOEM's evaluation process with accepted financial risk evaluation methods used by the banking and finance industry. Corporate credit ratings are intended to evaluate the potential for a company to default on its financial obligations and are designed so that the higher the credit rating, the lower the risk of default. Credit ratings and proved oil reserves are good indicators of the likelihood that a company will be able to meet its financial obligations. Eliminating subjective or less precise criteria—such as the length of time in operation to determine business stability, or trade references to determine reliability in meeting obligations—will simplify the process and remove criteria that may not accurately or consistently predict financial distress. For more discussion on credit ratings, see section VI.A (BOEM Evaluation Methodology—Credit Ratings) of this preamble.

BOEM proposes to eliminate the ''business stability'' criterion found in the current version of § 556.901(d)(1)(iii). The existing regulation bases business stability on 5 years of continuous operation and production of oil and gas, but BOEM has determined that there is little correlation between such history and a company's ability to carry out its present and future obligations. BOEM conducted an analysis of offshore bankruptcies, including an assessment of the number of years incorporated prior to bankruptcy, and determined that whether a company was in business for 5 or more years had no relationship to the likelihood of bankruptcy.

BOEM also proposes to eliminate the existing ''record of compliance'' criterion found in the current version of § 556.901(d)(1)(v). BOEM has determined that the number of INCs a company receives correlates with the

[10] In order for BOEM to establish a proxy credit rating, which can be used for the purpose of waiving any supplemental financial assurance requirements that would otherwise be required, BOEM is requiring that any company seeking a proxy credit rating provide audited financial statements. If such statements are not provided, BOEM will require supplemental financial assurance because it will have insufficient basis for concluding that the owners have sufficient capacity to reliably and timely meet their lease obligations.

number of OCS properties it owns, not its financial stability, and therefore, BOEM has concluded that it is not an accurate predictor of its financial health. BOEM reviewed BSEE's Incidents of Non-Compliance (INCs) records and its Increased Oversight List, which represent BSEE's cumulative records of violations of performance standards on the part of OCS operators and lessees and determined that the number of incidents of non-compliance typically increases with the size and complexity of the operator's or lessee's operations, including the ratio of incidents to number of components. Because larger companies (regardless of credit score) tend to have more properties and components and therefore more INCs, BOEM determined that record of compliance criterion does not accurately predict financial default. BOEM's review of this information confirmed the feedback BOEM received in response to the 2016 NTL, namely that companies with a large number of properties and facilities tended to receive a large number of INCs and had more individual properties on the Increased Oversight List.[11] BOEM specifically requests comments regarding the use of fines and violations as a criterion in the determination of a company's ability to fulfill decommissioning obligations, and any data or analysis addressing any correlation between the number of violations and the risk of financial default. BOEM also requests comments on whether the elimination of the INC's criteria would create a disincentive to comply with regulations. BOEM also requests comment on whether or not the cost of decommissioning is likely to increase based on the type, quantity, and magnitude of previous violations.

BOEM proposes to replace the existing ''financial capacity'' and ''reliability'' criteria in existing § 556.901(d)(1) with issuer credit rating or proxy credit rating. BOEM has found credit ratings, which are part of the existing ''reliability'' criterion, to be a more reliable indicator of financial ability to meet obligations than previous financial criteria issued by BOEM via NTLs (ex. NTL 2008–N07, NTL 2016–N01). Issuer credit ratings provided by a NRSRO incorporate a broad range of qualitative and quantitative factors, and a business entity's credit rating most accurately represents its overall ability to meet its financial commitments. An issuer credit rating is a forward-looking opinion about an obligor's overall creditworthiness. This opinion focuses on the obligor's capacity and willingness to meet its financial commitments as they come due.

Under the proposal, if a lessee does not have a credit rating from a NRSRO, the lessee may instead submit audited financial statements, and BOEM will determine a proxy credit rating using a commercially available credit model determined by BOEM to fulfill its financial risk analysis requirements, such as the S&P Global's Credit Analytics credit model. Such audited financial information is currently the basis of one of the five criteria in BOEM's regulations, namely the ''financial capacity'' criterion. Under the proposed rule, this information will be the primary consideration used to evaluate lessees that do not have a NRSRO credit rating. BOEM has concluded that audited financial statements, prepared in accordance with Generally Accepted Accounting Principles (GAAP) and accompanied by an auditor's certificate, provide an accurate representation of the company's economic position and operational performance. Using this audited financial information to generate a proxy credit rating would allow BOEM to accurately determine if supplemental financial assurance is needed when a NRSRO rating is not available.

This proposed rule would provide the Regional Director with the authority to require a lessee to provide supplemental financial assurance if the lessee or its co-lessee does not have an investment grade credit rating, *i.e.,* a credit rating from a NRSRO that is greater than or equal to either BBB- from S&P or Baa3 from Moody's, or its equivalent, or a proxy credit rating greater than or equal to either BBB- or Baa3, as determined by the Regional Director, based on audited financial information with an accompanying auditor's certificate. BOEM has determined that having an investment grade credit rating is important to reliably ensure that a company not pose a substantial risk of default.

Under existing BOEM and BSEE regulations that would not change in this proposed rule, co-lessees are jointly and severally liable for accrued decommissioning obligations, and the risk that the government will be responsible for the decommissioning cost is therefore lower when co-lessees are financially viable. Hence, BOEM will not require supplemental financial assurance for properties where at least one co-lessee has an investment grade credit rating.

If BOEM determines that supplemental financial assurance is required, BOEM bases the amount of supplemental financial assurance required on the BSEE decommissioning cost estimate. Previously, BSEE provided a single algorithm-based deterministic estimate for OCS facilities. In 2020, BSEE updated certain decommissioning costs in the Technical Information Management System (*data.boem.gov*).[12] The new estimates were based on industry-reported decommissioning costs pursuant to NTL 2016–N03—Reporting Requirements for Decommissioning Expenditures on the OCS, later superseded by NTL 2017–N02. Based on the reported data, BSEE has developed three probabilistic estimates of decommissioning costs for each OCS facility on any given lease. The lowest cost estimate would have a fifty percent likelihood of covering the full cost of decommissioning a facility and is thus referred to as ''P50.'' The second lowest cost estimate, P70, would have a seventy percent likelihood of covering the full cost of decommissioning a facility. The third and highest cost estimate, P90, would have a ninety percent likelihood of covering the full decommissioning cost of a facility. These BSEE-generated estimates are based on actual decommissioning expenditures reported by offshore companies.

BOEM proposes to use the P70 value to set the amount of any required supplemental financial assurance. In determining to use the P70 value, BOEM considered using either the P50, P70, or P90 decommissioning liability levels, which respectively represent an approximately 11 percent ($3.5 billion), 30 percent ($9.6 billion), and 55 percent ($17.9 billion) increase in total estimated financial assurances available to address offshore decommissioning liability relative to the previous algorithm-based estimate, based on an analysis of industry-reported decommissioning costs. BOEM weighed the risk of being underfunded (greatest at the P50 level) against the financial impact of requiring more financial assurance (greatest at the P90 level). As an example, a supplemental financial assurance set based on the P70 value means that, based on the uncertainty and risk applied by BSEE to its model, there is a 70% probability of covering the decommissioning cost of the facility (and therefore a 30% probability of exceeding it). The P70 value is not to be confused with the figure representing 70% of the cost of decommissioning a particular facility. Because it is a

[11] The most recent data are available at *https://www.data.bsee.gov/Company/INCs/Default.aspx.*

[12] BSEE decommissioning cost estimates are available at the following URL: *https://www.data.bsee.gov/Leasing/DecomCostEst/Default.aspx.*

statistical concept, it relies on the quality and size of the sample, as well as the uncertainty (variance) existing in these costs. There is also a real possibility that the P70 figure exceeds the actual decommissioning value of many facilities, in which case excess would cover some portion of insufficient assurance in those cases where the assurance is designed to address that entity's full range of liabilities.

BOEM's goal for its financial assurance program continues to be the protection of the American taxpayers from exposure to financial loss associated with OCS development, while ensuring that the financial assurance program does not detrimentally affect offshore investment or position American offshore exploration and production companies at a competitive disadvantage. BOEM's proposal to use P70 would reduce offshore decommissioning risk to taxpayers relative both to previous BSEE decommissioning estimates and to a methodology based on P50, while reducing burden on available capital for offshore investment, including both conventional and renewable energy activities, imposed by the use of P90. BOEM requests comments on potential unknown risks associated with the use of P70. BOEM has examined the impact that the different P values would have on the amount of financial assurance required but lacks the data to estimate the impact that selecting a P90 value might have on offshore capital expenses and investments, and therefore has selected P70 in this proposal. We are also specifically seeking information and data related to these impacts from commenters.

For comparison, at BSEE's P90 levels, the total decommissioning liability is approximately $51.2 billion, compared with $42.8 billion at P70; of that total, the liability estimate associated with lessees who have sub-investment grade credit ratings is approximately $24.7 billion at the P90 level and $20.2 billion at the P70 level. The total liability estimates for properties expected to meet the three times reserves threshold is approximately $9.0 billion at the P90 level and $7.8 billion at P70 level. The difference between the full Tier 2 estimate and that of Tier 2 properties meeting the three times the reserves threshold provides BOEM's total expected bond portfolio value if the rule were to be finalized. For P90 this would be $15.7 billion, reflecting an increase of $3.2 billion in bond demands (increased from $12.5 billion at P70). The annual premium estimate for the forecasted Tier 2 bond portfolio would increase from $380 million to $494 million, an increase of approximately $114 million to bond lessees at the P90 level. This additional burden would be realized by the same population of lessees as at the P70 level but would provide additional certainty of sufficient bonding for that population in the event the facility owners (1) defaulted on their obligations and (2) no viable predecessor is available to fulfill their obligations.

BOEM requests comments and additional data on the costs and benefits of setting the supplemental financial assurance requirements based on each of the P50, P70, and P90 decommissioning liability levels. In particular, BOEM would like information on impacts to offshore capital expenses and investments of each liability level, as well as impacts to potential taxpayer liability. BOEM also solicits comment on whether setting assurance requirements based on different liability levels might be appropriate for different circumstances. BOEM also requests comments on costs and benefits of otherwise considering predecessor lessees or grantees in determining the level of required supplemental financial assurance.

Additionally, BOEM requests comments on the possibility of using a higher BSEE decommissioning estimate (*i.e.,* P90), including on how a P90 estimate would affect small entities.

An offshore oil and gas lease that has a significant reserve-to-liability value that is, a property that can generate a cash flow significantly in excess of the costs associated with the decommissioning of its assets—is likely to be purchased by another company in the event of a default by the current lessee. The acquiring company would then become liable for existing decommissioning obligations, but due to the value of existing reserves, it would acquire sufficient positive cash flow to reduce the risk that the costs associated with the decommissioning of the assets would be borne by the government. BOEM has determined that an adequate threshold for the ratio of reserve value to the level of decommissioning liability should be three to one. This threshold is discussed further in Section VI.B of this preamble. Therefore, supplemental financial assurance will not be required for properties with a value of proved oil and gas reserves (using SEC methodology of reported value in the notes to the publicly traded companies' Form 10–Ks) exceeding three times the decommissioning costs (using the BSEE P70 estimated value) associated with the production of those reserves, as these properties pose minimal risk that the government will be required to bear the cost of decommissioning.

BOEM is proposing to use and is requesting comments on this test as the criterion to replace the existing generalized ''projected financial strength'' criterion found currently at § 556.901(d)(1)(ii), which considers whether the estimated value of a lessee's existing lease production and proved reserves is significantly in excess of the lessee's existing and future lease obligations.

B. Right-of-Use and Easement Grants

BOEM's regulations concerning RUE grants serving a Federal OCS lease or a State lease are found in §§ 550.160 through 550.166. Section 550.160 provides that an applicant for a RUE that serves an OCS lease ''must meet bonding requirements,'' but the regulation does not prescribe a base surety bond amount. The proposed rule would replace this requirement with a cross-reference to the specific criteria governing supplemental financial assurance demands in proposed § 550.166.

BOEM is proposing to revise the bonding regulations to clarify that any RUE grant holder must provide base financial assurance in a specific amount, regardless of whether the RUE serves a State lease or a Federal OCS lease. BOEM is proposing to establish a Federal RUE base financial assurance requirement that matches the existing $500,000 base financial assurance requirement for State RUEs. BOEM is also proposing to establish a requirement for $500,000 area-wide RUE financial assurance, which would satisfy the base financial assurance requirement for any RUE holder that owns one or more RUEs within the same OCS area, regardless of whether the RUE serves a State or Federal lease. BOEM is also proposing to allow any lessee that has posted area-wide lease financial assurance, pursuant to § 556.900(a)(1), 556.901(a)(2), or 556.901(b)(2) for the areas specified in § 556.900(a)(2), to modify that lease surety bond to also cover any RUE(s) in the area owned by the same lessee. The ability to use area-wide lease financial assurance to cover the RUE base financial assurance obligation would be subject to the requirement that the area-wide lease financial assurance would be in an amount equal to or greater than the RUE base financial assurance requirement (*i.e.,* equal to or greater than $500,000). For example, under the proposed regulations a lessee with a $3 million area-wide lease surety bond could establish or acquire any number of Federal or State RUEs in the area

without having to post any additional financial assurance, provided the lessee agrees to modify the terms of its area-wide lease surety bond to also cover any State or Federal RUEs that it owns or acquires. If the existing area-wide bond is not modified, the lessee may satisfy the requirement by providing new financial assurance to cover its RUE(s).

The rule proposes to consider the credit rating or proxy credit rating of a RUE co-grant holder, mirroring the proposed methodology used to determine if a lessee must provide supplemental financial assurance. These credit rating standards provide the most effective and proven method to evaluate a company's financial wherewithal and are widely accepted as a significant demarcation of credit risk between investment and non-investment grade rated companies. BOEM proposes to include consideration of the credit rating or proxy credit rating of co-owners of RUE grants because, like co-lessees, they are jointly and severally liable for accrued decommissioning obligations for facilities and pipelines on their RUE.

These changes to the RUE financial assurance requirements are intended to: (1) Clarify the bonding requirement for Federal RUEs, which is not explicitly defined in the existing regulations; (2) Align the RUE bonding requirements for RUEs serving State and Federal leases; and (3) Ensure that all RUEs are duly covered and that the risk of a RUE holder defaulting on its decommissioning obligations is not transferred to the American taxpayer.

BOEM is also proposing a new regulation to establish the conditions under which the assignment of RUE interests may be disapproved. BOEM may disapprove the assignment of a RUE when the assignee has not satisfied all obligations under the regulations or under any BOEM or BSEE order. BOEM may disapprove the assignment when the assignee has not satisfied the financial assurance requirements.

BOEM is also proposing to revise the financial assurance regulations to clarify that any RUE grant holder, whether the RUE serves a State or Federal lease, may be required to provide supplemental financial assurance for the RUE—above the $500,000 RUE base financial assurance discussed above—if the grant holder does not meet the credit rating or proxy credit rating criteria proposed to be used for lessees. This change aligns the supplemental financial assurance criteria for RUEs with those used in making the same determination for leases. The value of proved oil and gas reserves will not be considered because a RUE grant does not entitle the holder to any interest in oil and gas reserves.

C. Pipeline Right-of-Way Grants

BOEM's bonding requirements for pipeline ROW grants, contained in § 550.1011, prescribe a $300,000 area-wide base surety bond that guarantees compliance with all the terms and conditions of the pipeline ROW grants held by a company in an OCS area. BOEM may require a pipeline ROW grant holder to provide supplemental financial assurance if the Regional Director determines that financial assurance in excess of $300,000 is needed, but, unlike with leases, the regulation provides no factors for the Regional Director's consideration when making this determination. Therefore, BOEM is proposing to revise the financial assurance regulations to provide that the Regional Director will demand that a pipeline ROW grant holder provide supplemental financial assurance when the grant holder does not meet the same credit rating or proxy credit rating criteria proposed to be used for lessees. The value of proved oil and gas reserves will not be considered because a ROW grant does not entitle the holder to any interest in oil and gas reserves.

The rule also proposes to consider the credit rating or proxy credit rating of a co-grant holder. This change would better align BOEM's evaluation process with accepted financial risk evaluation methods used by the banking and finance industry and with the process used to determine if a lessee must provide supplemental financial assurance. BOEM proposes to include consideration of the credit rating or proxy credit rating of co-owners of ROW grants because, like co-lessees, they are jointly and severally liable for accrued decommissioning obligations for facilities and pipelines on their ROW (§ 250.1701(b)).

V. Proposed Revisions to Other Types of Supplemental Financial Assurance

A. Third-Party Guarantees

BOEM is proposing to evaluate a potential guarantor using the same credit rating or proxy credit rating criteria proposed for lessees. The value of proved oil and gas reserves of an associated lease would not be considered because that value is a characteristic of the lease belonging to the guaranteed lessee and not an asset belonging to the guarantor.

The criteria to evaluate a guarantor provided in the existing regulations have proved difficult to apply. For example, § 556.905(a)(3) provides that the guarantor's total outstanding and proposed guarantees may not exceed 25 percent of its unencumbered net worth in the United States. Determining a company's total outstanding and proposed guarantees depends on accurate information provided by the guarantor, and BOEM has no way to confirm whether the 25 percent threshold has been exceeded at the time the guarantee is proffered or afterward. The same provision requires BOEM to consider the unencumbered net worth of the company in the United States, while another provision, § 556.905(c)(2)(iv), requires BOEM to consider the guarantor's unencumbered fixed assets in the United States. Both of these criteria are difficult to apply when the company under evaluation has domestic and international assets that must be separated. Using the same financial evaluation criterion, *i.e.,* issuer credit rating or proxy credit rating, to assess both guarantors and lessees as the most relevant measure of future capacity would provide consistency in evaluations and avoid overreliance on net worth.

To allow more flexibility in the use of third-party guarantees, the proposed rule would allow a third-party guarantee to be used as supplemental financial assurance for a RUE or ROW grant, as well as a lease. Most significantly, in proposed § 556.902(a)(3), this proposed rule would remove the requirement for a third-party guarantee to ensure compliance with the obligations of all lessees, operating rights owners, and operators on the lease, and would allow a guarantee limited to a specific amount, as agreed to by BOEM, or limited to the liabilities of specific parties. Potential guarantors are reluctant to provide a guarantee if they cannot limit the amount of their guarantee or choose the entity for which they are guaranteeing compliance. This change would allow a guarantor to limit its guarantee to a specific amount of the total financial assurance requirement. The remaining amount of required financial assurance must be covered by additional security from the guaranteed lessee/grant holder or its co-lessees or co-grant holders, so the amount of the requirement is fully satisfied. BOEM is proposing this change because the existing regulations do not clearly limit the liability of a guarantor to a fixed monetary amount stated in the guarantee. Therefore, few parties were willing to use third-party guarantees in the past.

By allowing a third-party guarantor to guarantee only the obligations it wishes to cover, BOEM would provide industry with the flexibility to use the guarantee to satisfy supplemental financial

assurance requirements without forcing the guarantor to cover the risks associated with all parties on the lease or grant or operations in which the party they wish to guarantee has no interest and over which the guarantor may have no control. Moreover, the proposal to allow BOEM to accept a third-party guarantee that is limited to specific obligations does not reduce BOEM's protection because the regulations would require that the financial assurance provided secures all lease and grant obligations.

The proposed rule would also allow BOEM to cancel a third-party guarantee under the same terms and conditions that apply to cancellation of other types of financial assurance, as provided in proposed § 556.906(d)(2).

Lastly, the existing regulation refers to both a ''guarantee'' and an ''indemnity agreement'' (which BOEM intended to mean the same thing), and the proposed rule clarifies that the regulations contemplate only one agreement: the guarantee agreement.

B. Decommissioning Accounts

Section 556.904 currently allows lessees to establish a lease-specific abandonment account to satisfy any supplemental financial assurance required by § 556.901(d). BOEM proposes to rename these accounts ''Decommissioning Accounts,'' the terminology used by the industry, to remove any perceived limitation of this type of account to a single lease, and to signify that these accounts may be used to ensure compliance with supplemental financial assurance requirements for a RUE and ROW grant, as well as a lease. To make these accounts more attractive to parties who may desire to use this method of providing supplemental financial assurance, BOEM also proposes to remove the requirement to pledge Treasury securities to fund the account before the funds equal the maximum amount insurable by the Federal Deposit Insurance Corporation (FDIC) (currently capped at $250,000). BOEM notes that, due to this current requirement, lessees may have been unwilling to use decommissioning accounts.

C. Transfers of Lease Interests to Other Lessees or Operating Rights Holders

The proposed rule would update subparts G and H of the Department's existing part 556 regulations to clarify that BOEM will not approve the transfer of a lease interest, whether a record title interest or an operating rights interest, until the transferee complies with all applicable regulations and orders, including the financial assurance requirements. As discussed above, many of the facilities currently on the OCS have decommissioning obligations where the cost of performance greatly exceeds the amount of financial assurance currently available to the Department of the Interior. To address this problem, BOEM is proposing that it may prohibit approval of any new transfer or assignment of any lease interest unless and until the financial assurance demands have been satisfied.

VI. BOEM Evaluation Methodology

A. Credit Ratings

In this rulemaking, BOEM proposes to use an ''Issuer credit rating'' to evaluate the financial health of OCS lessees, grant holders, and guarantors. A review of S&P and Moody's rating methodologies showed that the analyses they perform to determine an issuer credit rating are wide-ranging and include factors beyond corporate financials (such as history, senior management, and commodity price outlook). An issuer credit rating provides the rating agencies' opinions of the entity's ability to honor senior unsecured debt and debt-like obligations. It is common for lessees to have both an issuer credit rating and a bond issuance rating. However, bond issuance ratings are opinions of the credit quality of a specific debt obligation only, which can vary based on the priority of a creditor's claim in bankruptcy or the extent to which assets are pledged as collateral. Due to the varying priority of claims associated with debt and the limited purpose of bond issuance ratings, BOEM proposes to accept only issuer credit ratings from a NRSRO, and references to credit rating in this rulemaking refer only to an issuer credit rating (or a ''proxy rating'' where so noted as appropriate). BOEM proposes to add ''Issuer credit rating,'' as defined by S&P, as a newly defined term in 30 CFR parts 550 and 556.

If an entity does not have an issuer credit rating, BOEM proposes to permit companies to request the Regional Director to determine a proxy credit rating based on audited financial information for the most recent fiscal year, including an income statement, a balance sheet, a statement of cash flows, and the auditor's certificate. By ''most recent fiscal year'' BOEM means a period that includes a 12-month period within the 24 months prior to the Regional Director's determination for which supplemental financial assurance is required. One benefit of this approach is to reduce the adverse effects of the rule on small businesses.

BOEM proposes to use S&P Global's Credit Analytics credit model to calculate proxy credit ratings.[13] However, BOEM proposes to reserve the right to use a different model if it determines that a different model more accurately reflects those factors relevant to the financial evaluation of companies operating on the OCS. The purpose of using S&P Global's Credit Analytics credit models is to provide an accurate and objective method to assess any given company's probability of default on its financial obligations based on its audited financial statements. S&P Global's Credit Analytics credit models would allow BOEM to reliably score and efficiently model BOEM's potential risk exposure from a lessee that could potentially become unable to meet its decommissioning obligations. Credit modeling would allow BOEM to compare the company with similar public companies in the same industry segment. BOEM invites comments on the appropriateness of relying on S&P Global's Credit Analytics credit model, or other similar, widely accepted credit rating models to generate proxy credit ratings. Additionally, BOEM invites comments on the appropriateness of using a proxy credit rating when determining the need to provide financial assurance.

BOEM's financial assurance program is intended to ensure that private companies have the capacity to meet their financial and non-financial (*i.e.,* performance) obligations. In order to both ensure that companies do not ''cause [unmitigated] damage to the environment or to property, or endanger life or health,'' 43 U.S.C. 1332(6), and to promote ''expeditious and orderly development,'' 43 U.S.C. 1332(3), BOEM seeks to balance the financial risk to the government and the taxpayer while minimizing regulatory burdens. See also 43 U.S.C. 1801(7), 1802(1) & (2).

BOEM has determined that establishing an issuer credit rating threshold of BBB- (S&P) or Baa3 (Moody's), an equivalent credit rating provided by another SEC-recognized NRSRO, or an equivalent proxy credit rating, is the best means for accomplishing these objectives. The Moody's Baa3 credit rating is equivalent to the S&P BBB- credit rating. If S&P and Moody's provide different ratings for the same company, BOEM will use the higher rating as the lessee's rating. As discussed in the IRIA, out of the 276 companies analyzed, none of the companies were rated at or above BBB-

[13] *https://www.spglobal.com/marketintelligence/en/documents/mi_risk_609827_credit-analytics_brochure_letter_fd.pdf.*

at the time of bankruptcy nor within 10 years prior to bankruptcy, therefore, BOEM has selected BBB- as the credit rating threshold for providing additional financial assurance. Additionally, under the proposed rule, BOEM would have adequate time to secure needed financial assurance if a company were to drop below the proposed investment grade threshold as BOEM monitors company rating changes throughout the year.

BOEM reviewed historical default rates across the entire credit rating spectrum, as well as the credit profile of oil and gas sector bankruptcies arising from the commodity price downturn in 2014, to determine an appropriate level of risk. As would be expected, the average S&P historical one-year default rates increase significantly with lower ratings. The average S&P one-year default rate [14] for BBB- rated companies from 1981 to 2020 was 0.24 percent. Comparatively, the average one-year default rate for BB- rated companies was 1.21 percent, for B − rated companies was 8.73 percent, and for C rated companies was 24.92 percent. BOEM believes that one-year default rates are an appropriate measure of risk, given BOEM's policy of reviewing the financial status of lessees, ROW holders, and RUE holders at least on an annual basis (the review typically corresponding with the release of audited annual financial statements). In addition, throughout the year, BOEM monitors company credit rating changes, market reports, trade press, articles in major news media and quarterly financial reports to review the financial status of lessees, ROW holders, and RUE holders, and the regulation would not preclude a demand for supplemental financial assurance through the Regional Director's regulatory authority at any time.

BOEM has identified a circumstance in which the use of a proxy credit rating may not adequately account for the potential risk of default. This circumstance would occur in a situation where a company has a substantial contingent liability for decommissioning OCS facilities (*i.e.,* decommissioning exposure by virtue of being a co-lessee) associated with its minority ownership of such facilities if the majority owners are unable or unwilling to meet their obligations. This is particularly the case in the OCS context because existing Department regulations stipulate that all co-owners of any OCS lease, regardless of their ownership share, are jointly and severally liable for all the obligations associated with the lease. Contingent liabilities that are deemed unlikely to financially materialize are not required to be booked as a liability on a balance sheet under Financial Accounting Standards Board (FASB) accounting rules for Asset Retirement Obligations, so would not be included in audited financial statements, and therefore may not be taken into consideration in the generation of proxy credit ratings.

For offshore lessees with a NRSRO issuer credit rating, the current average net worth of investment grade lessees is $115 billion dollars, with average book assets of $155 billion dollars. This implies that the financial risk of non-performance on co-lessee liability exposure from these companies is very low. Given that total U.S. offshore liability is lower than half the average net worth of offshore investment grade companies, such lessees are likely to have the financial capacity to cover the contingent liabilities of co-lessees that have not themselves provided financial assurance.

However, where a non-publicly traded company (*i.e.,* a company without an issuer credit rating) has substantial minority co-ownership interests in OCS leases, the proxy credit rating derived for the minority owner may not adequately represent the risk exposure in circumstances where (1) The ownership interests of the other co-owners are disproportionately large compared to the ownership interest of the minority owner, and; (2) The credit ratings of the majority co-owners are not investment grade. This possibility is relatively likely due to BOEM's historical practice of declining to require supplemental financial assurance from any co-lessees who share ownership of a lease with any company with an investment grade proxy credit rating, regardless of the financial circumstance of the co-owner or the relative ownership share of any co-owner.

In these circumstances, a company may have contingent decommissioning liabilities that are not adequately captured in the company's financial statements. It may be that such decommissioning liabilities amount to a disproportionate share compared to the total assets of the company, such that the company may not have the financial capacity to satisfy these contingent liabilities. If, for example, a small company with a high proxy credit rating were a one percent co-lessee of a lease with financially weak co-lessees, the small company may not have sufficient assets to meet its decommissioning obligations for the remaining ninety-nine percent of the decommissioning costs (which it may be required to satisfy under the joint-and-several liability provisions of the regulations) in the event that its co-lessees were to default on their financial obligations.

For this reason, BOEM is proposing to add a new provision to the regulations that would authorize BOEM to require a company requesting a proxy credit rating to provide information on its ownership of other OCS facilities and leases. This new provision authorizes BOEM to take the contingent liabilities associated with the company's co-ownership of these assets into consideration in determining the appropriate proxy credit rating.

BOEM invites comments on the appropriateness of this approach of relying on lessee and grant holder credit ratings, including whether BOEM has proposed an appropriate credit rating threshold of BBB-, and if not, what threshold or set of thresholds would best protect taxpayer interests while not imposing undue burdens on industry. Also, BOEM invites comments on alternative options for determining the need for financial assurance other than credit ratings. Additionally, BOEM invites comments on whether financial assurance should be required of all companies, regardless of credit rating, and the impacts such a requirement might have on OCS investment and on potential taxpayer liabilities.

B. Valuing Proved Oil and Gas Reserves

Under this proposed rule, if BOEM considers the proved reserves on a particular lease when determining whether supplemental financial assurance is required, BOEM would require the lessee to submit a reserve report for the proved oil and gas reserves (as defined by the SEC regulations at 17 CFR 210.4–10(a)(22)) located on a given lease. The reserve report provided to BOEM would contain the projected future production quantities of proved oil and gas reserves on a per lease basis, the production cost for those reserves also on a per lease basis, and the discounted future cash flows from production. The reserve report would also provide the value of the proved oil and gas reserves per lease, determined under the accounting and reporting standards set forth in SEC Regulation S–X at 17 CFR 210.4–10 and SEC Regulation S–K at 17 CFR, subpart

[14] The one-year default rate represents the percentage of companies having any given credit rating that have failed to meet their financial obligations during any given twelve-month period. For example, for companies having had BBB − rating in 2020, 0.24 percent defaulted on their financial obligations in the subsequent twelve-month period (*i.e.,* approximately one out of every 400 companies having a BBB − credit rating).

229.1200.[15] BOEM proposes to use SEC regulations on reserve reporting because they are commonly accepted and understood by offshore oil and gas companies and are already produced by publicly traded companies. This also allows BOEM to rely on the established SEC regulations on the definitions, qualifications, and requirements for proven reserves, rather than attempting to recreate these regulations. BOEM would use this proved oil and gas reserves per-lease value when determining whether the value of the reserves on any given lease exceeds three times the cost of the P70 decommissioning estimate associated with the production of those reserves.

BOEM believes that a property with a sufficient ''reserves-to-decommissioning cost'' ratio would likely be purchased by another company if a current lessee defaults on its obligations, thereby reducing the risk that decommissioning costs would be borne by the government, and consequently reducing the need for supplemental financial assurance.

A reserves-to-decommissioning cost ratio of one-to-one would mean that the estimated value of remaining oil and gas reserves on a lease is equal to the cost of decommissioning. BOEM does not expect any other company to purchase a lease interest with a ratio of one-to-one, as the new lessee would not receive any return on its investment once it bears the cost of decommissioning. A reserves-to-decommissioning cost ratio below three-to-one might be considered adequate to encourage a new lessee to take on the cost of purchasing the lease and assuming liability for all of the existing decommissioning obligations, however there may be other factors that would reduce the lease's commercial appeal (*e.g.,* macro-economic conditions, maintenance conditions, or higher than typical operating costs).

In BOEM's judgment, a reserves-to-decommissioning cost ratio that meets or exceeds three-to-one provides enough risk reduction to justify a Regional Director determination that the lessee is not required to provide supplemental financial assurance for that lease. Establishing an appropriate reserves-to-decommissioning cost ratio protects the taxpayer during periods of commodity price volatility. If commodity prices decline in a manner similar to late 2014 through early 2016, for example, BOEM believes a ratio of at least three-to-one assures the property would most likely retain its economic viability and financial attractiveness to potential buyers. BOEM requests comment on whether this is an appropriate threshold, or if there are better approaches and/or data sets available for analysis that would provide BOEM with better certainty that taxpayer interests will ultimately be protected.

[15] Unlike this proposed regulation, the SEC regulations at 17 CFR 229.1202(a)(2) say: ''Disclose, in the aggregate and by geographic area and for each country containing 15 percent or more of the registrant's proved reserves, expressed on an oil-equivalent-barrels basis, reserves estimated . . . .'' Although BOEM would require that lessees apply the methodology of the SEC, it would require the analysis on a lease-specific basis.

VII. Phased Compliance With Supplemental Financial Assurance Orders

BOEM recognizes that the proposed regulations may have a significant financial impact on affected companies. For that reason, BOEM is proposing to phase in the new bonding requirements over a three-year period for existing leaseholders. As part of this proposal, BOEM would require that any company receiving a supplemental financial assurance demand post one-third of the total amount by the deadline listed on the demand letter. A second one-third would be required by the end of the second year (*i.e.,* within 24 months of the receipt of the demand letter). The final one-third payment would be due within 36 months of the receipt of the demand letter. If a lessee's credit rating improves to investment grade during the three-year period, BOEM will discontinue collection of the remaining financial assurance and return any supplemental financial assurance previously provided.

BOEM is requesting comments from potentially affected parties about this phased approach and how it could most effectively be implemented to minimize any unnecessarily adverse effects from an increased supplemental financial assurance requirement.

VIII. Appeals Bonds

When BOEM issues a supplemental financial assurance demand, the affected party has the option to appeal the demand to the Department of the Interior's Board of Land Appeals (IBLA). In many cases in which an appeal is filed, it is accompanied by a request to stay BOEM's supplemental financial assurance order pending the outcome of the appeal. Currently, if the stay is granted, BOEM has no ability to ensure that a facility is covered by adequate financial assurance until the appeal is decided. It is important that BOEM ensure that the government's interests are protected immediately because IBLA appeals may continue for several years. If the company appealing the supplemental financial assurance demand declares bankruptcy before its appeal is resolved, BOEM has no financial assurance to cover the costs of corrective action. For this reason, BOEM is proposing a new requirement whereby any company seeking to stay a supplemental financial assurance demand pending appeal must, as a condition of obtaining a stay of the order, post an appeals bond in the amount of supplemental financial assurance required. If the appeal is successful, the amount of the appeals bond in excess of the amount of supplemental financial assurance determined to be required would be released. If the appeal is unsuccessful, the appeals bond could be replaced or converted into bonds to cover the supplemental financial assurance demand.

IX. Proposed Revisions to BOEM Definitions

To implement the changes proposed above, BOEM proposes to add or revise several definitions in 30 CFR parts 550 and 556. For proposed 30 CFR part 550, BOEM proposes to add new terms and definitions for ''Issuer credit rating,'' ''Investment grade credit rating,'' and ''Financial assurance,'' and to revise the definition of ''You.'' BOEM proposes to add a new term and definition for ''Right-of-Use and Easement (RUE)'' and remove the separate definitions of ''Right-of-use'' and ''Easement'' in 30 CFR part 550 because those terms are not used separately in the existing or proposed regulatory text. Similarly, for 30 CFR part 556, BOEM proposes to add definitions for the new term ''Issuer credit rating'' and ''Investment grade credit rating,'' remove the existing term and definition of ''Security or securities,'' add a new term and definition for ''Financial assurance,'' and revise the definitions of ''Right-of-Use and Easement (RUE)'' and ''You,'' all of which will match those in proposed 30 CFR part 550.

Additionally, BOEM is replacing the word ''sulphur'' with the more contemporary spelling of ''sulfur'' throughout the regulatory text where it has not been previously changed. This edit is a technical correction and does not change any meaning or intent of the regulatory provisions. BOEM proposes updating the word ''sulfur'' in §§ 550.101, 550.102, and 550.105.

X. Section-by-Section Analysis

BOEM is proposing to revise the following regulations:

Part 550—Oil and Gas and Sulfur Operations in the Outer Continental Shelf

The terms ''bond,'' ''bonding,'' ''surety bond,'' ''security,'' and ''securities'' would be replaced throughout this part with the new term ''financial assurance.''

Subpart A—General

Section 550.105 Definitions

The proposed rule would add a definition of ''Issuer credit rating,'' which is a newly defined term in 30 CFR part 550, for the reasons set forth above.

BOEM would remove the terms ''Easement,'' and ''Right-of-use,'' neither of which is used separately. In lieu of these two terms, and to define the term actually used in 30 CFR part 550, BOEM would add a definition for ''Right-of-Use and Easement (RUE).''

This proposed rule would also add a new term and definition for ''Financial assurance'' to list the various methods that may be used to ensure compliance with OCS obligations.

The proposed rule would add new definitions for the terms ''Transfer'' and ''Assign'' to clarify that these terms are used interchangeably throughout 30 CFR part 550. This change would also serve to clarify that the related terms ''transferee'' and ''transferor'' are interchangeable with ''assignee'' and ''assignor'' respectively.

The proposed rule would add a new definition for the term ''Investment grade credit rating,'' meaning ''an issuer credit rating of BBB- or higher, or its equivalent, assigned to an issuer of corporate debt by a nationally recognized statistical rating organization as that term defined by the United States Securities and Exchange Commission.'' This definition would become the threshold determination according to which BOEM would define whether financial assurance typically would or would not be required.

BOEM would also revise the definition of the term ''You'' to now include, depending on the context of the regulations, a bidder, a lessee (record title owner), a sublessee (operating rights owner), a Federal or State right-of-use and easement grant holder, a pipeline right-of-way grant holder, an assignor or transferor, a designated operator or agent of the lessee or grant holder, or an applicant seeking to become one of the above. This change to the definition of ''You'' would, in concert with changes proposed in § 550.166, make explicit that any financial assurance provisions applicable to either a State or Federal RUE would apply to the other.

Section 550.160 When will BOEM grant me a right-of-use and easement (RUE), and what requirements must I meet?

The proposed rule would revise the introductory text of this section to clarify that a RUE grant need not cover both leased and unleased lands. Instead, BOEM may grant a RUE on leased lands (*i.e.,* leased to another party), or unleased lands, or both. The paragraph (a) introductory text would be expanded to include additional activities associated with a RUE, such as using or modifying existing devices. The paragraph (a) introductory text would also be expanded to include the words ''seafloor production equipment'' and ''facilities.'' By expanding the RUE requirement to additional activities and devices, BOEM would ensure that all associated activities that may have an impact on the environment of the OCS are included.

BOEM also proposes to revise paragraph (b) to provide that a RUE grant holder must exercise the grant according to the terms of the grant and the applicable regulations of 30 CFR part 550, as well as the requirements of 30 CFR part 250, subpart Q.

BOEM also proposes to revise paragraph (c) to update the cross-reference to BOEM's lessee qualification requirements, §§ 556.400 through 556.402, and to replace the language in this paragraph referencing ''bonding requirements'' with a cross reference to § 550.166, which BOEM also proposes to revise to add specific criteria for financial assurance demands, as provided below.

Section 550.166 If BOEM grants me a RUE, what financial assurance must I provide?

The proposed rule would revise the section heading by removing the reference to ''a State lease'' and replacing ''surety bond'' with ''financial assurance.'' This reflects the change in the text of paragraph (b) of this section that provides that the financial assurance requirements of this section would apply to both a RUE granted to serve a State lease and one serving an OCS lease. The term ''surety bond'' would also be replaced with ''financial assurance'' throughout the section.

BOEM proposes to revise paragraph (a) to require $500,000 in financial assurance that guarantees compliance with the terms and conditions of any OCS RUEs you hold. Previously, paragraph (a) only required $500,000 in financial assurance for RUEs associated with State leases.

BOEM proposes to add paragraph (a)(1) to allow area-wide lease financial assurance to satisfy the requirements of paragraph (a), provided it is in excess of the $500,000 base RUE financial assurance requirement and is amended to guarantee compliance with all the terms and conditions of the RUE(s) it covers.

BOEM proposes to add paragraph (a)(2) to allow the Regional Director to lower the required financial assurance amount for research and other similar types of RUEs, which reflects BOEM's past experience that the total liability exposure can be well below $500,000 for such RUEs.

BOEM proposes to add paragraph (a)(3) to ensure that the financial assurance requirements of § 556.900(d) through (g) and § 556.902 would apply to the requirements stated in paragraph (a).

BOEM would also add to paragraph (b) in this section to provide that, if BOEM grants a RUE that serves either an OCS lease or a State lease, the Regional Director may require the grant holder to provide supplemental financial assurance to ensure compliance with the obligations under the RUE grant. BOEM would use the same issuer credit rating or proxy credit rating criteria found in proposed § 556.901(d)(1) and (2) to evaluate a RUE grant holder as BOEM proposes to apply to lessees, *i.e.,* the Regional Director may require supplemental financial assurance if the grant holder does not have an issuer credit rating or a proxy credit rating that meets the criteria set forth in proposed § 556.901(d)(1). Like lessees, most RUE holders are oil and gas companies, and BOEM would, therefore, use the same financial criteria to determine the need for additional financial assurance from RUE holders to provide consistency.

BOEM proposes to revise paragraph (b)(1) to update the regulatory citation in existing § 550.166(b)(1) to provide that the supplemental financial assurance must meet the requirements for lease surety bonds or other financial assurance provided in § 556.900(d) through (g) and § 556.902.

The proposed rule would also revise § 550.166(b)(2) to include ''BOEM and BSEE orders'' in the list of costs and liabilities, and clarify that RUE holders should also comply with the decommissioning regulations at 30 CFR part 250, subpart Q.

The proposed rule would also add new paragraph (c) to provide that if a RUE grant holder fails to replace any deficient financial assurance upon demand, or fails to provide

supplemental financial assurance upon demand, BOEM may assess penalties, request BSEE to suspend operations on the RUE, and/or initiate action for cancellation of the RUE grant. Proposed paragraph (c) provides for actions similar to those available to BOEM pursuant to proposed § 556.900(h) if a lessee fails to provide sufficient financial assurance.

Section 550.167 How may I obtain or assign my interest in a RUE?

The proposed rule would add § 550.167 to establish the ability to assign a RUE interest. Previously, RUE interests were not assigned, because assignment of RUE interests was not addressed in the existing regulations. This change is being proposed to allow RUE assignments. This new section would also require a RUE assignee to provide the information outlined in existing § 550.161, which currently must be provided only by applicants for a new RUE. Paragraph (a) of § 550.167 would establish that BOEM must approve all assignments of all or part of a RUE interest. Paragraphs (b)(1) through (4) would establish the circumstances in which BOEM may disapprove an assignment of a RUE, mirroring the circumstances under which BOEM may disapprove the assignment of a lease or sublease pursuant to § 556.704. These circumstances are intended to prevent the assignment of a RUE when, for example, the assignment would result in inadequate financial assurance.

Subpart J—Pipelines and Pipeline Rights-of-Way

Section 550.1011 Financial Assurance Requirements for Pipeline Right-of-Way (ROW) Grant Holders

The proposed rule would revise this section in its entirety. The section heading would be revised to read, ''Financial assurance requirements for pipeline right-of-way (ROW) grant holders,'' to clarify that a pipeline ROW grant holder may meet the requirements of this section by providing bonds or other types of financial assurance, in order to expand the language to include forms of financial assurance in addition to bonds.

Currently, § 550.1011(a) requires that an applicant or a holder of a ROW must provide and maintain a $300,000 bond (in addition to bond coverage required in 30 CFR parts 256 and 556), and potentially additional security, if the Regional Director determines the latter is needed. The proposed rule would revise this paragraph to require that assignees, as well as applicants and holders, are required to provide and maintain the $300,000 financial assurance to make clear that financial assurance requirements would apply to an assignment of a ROW grant. The proposed rule would remove the reference to 30 CFR part 256 currently in paragraph (a)(1) because 30 CFR part 256 does not contain pipeline bonding requirements. The proposed rule would clarify that the requirement to provide area-wide financial assurance for a pipeline ROW grant is separate and distinct from the financial assurance coverage required for leases in 30 CFR part 556 and that required for RUEs in 30 CFR part 550. Existing paragraph (a)(2) would be removed because supplemental financial assurance requirements would be covered by proposed paragraph (d).

BOEM would also remove existing paragraph (b), which defines the three recognized OCS areas, because it is made redundant by the reference to § 556.900(b) in revised paragraph (a). BOEM proposes to replace the removed paragraph (b) with a new paragraph (b) to provide that the requirement under paragraph (a) to furnish and maintain area-wide financial assurance may be satisfied if the operator or a co-grant holder provides area-wide pipeline right-of-way financial assurance in the required amount that guarantees compliance with the regulations and the terms and conditions of the grant, as discussed in Section IV.C of this preamble.

BOEM also proposes to revise paragraph (c) with a provision stating that the requirements for lease financial assurance in § 556.900(d) through (g) and § 556.902 would apply to the area-wide financial assurance required in paragraph (a) of this section. This cross-reference incorporates the financial assurance provisions from 30 CFR part 556 that specify the required content, form, and administrative handling of financial assurance. BOEM would remove existing paragraphs (c) and (d), which would be made redundant by proposed new paragraph (f).

BOEM would add paragraph (d) to provide that the Regional Director may determine that supplemental financial assurance is necessary to ensure compliance with the obligations under a pipeline ROW grant based on an evaluation of the grant holder's ability to carry out present and future obligations on the pipeline ROW. BOEM proposes to use the same issuer credit rating or proxy credit rating criteria to evaluate a pipeline ROW grant holder, or co-grant holder, as BOEM proposes to apply to lessees in § 556.901(d)(1). BOEM, as noted earlier in this preamble, has found that reliance on credit ratings better evaluates financial stability, and is thus applying the same financial criteria in evaluating financial stability of grant holders.

BOEM also proposes to add additional supplemental financial assurance requirements in new paragraph (e)(1) stating that the supplemental financial assurance must meet the general requirements for lease surety bonds or other financial assurance, as provided in § 556.900(d) through (f) and the proposed revisions to paragraph (g) and § 556.902. This cross-reference incorporates the financial assurance provisions from 30 CFR part 556 that specify the required content, form, and administrative handling of financial assurance. New paragraph (e)(2) proposes that any supplemental financial assurance for a pipeline ROW would be required to cover liabilities for regulatory compliance and compliance with BOEM and BSEE orders, decommissioning of all pipelines or other facilities, and clearance from the seafloor of all obstructions created by the pipeline ROW operations, in accordance with the regulations set forth in 30 CFR part 250, subpart Q. See Section IV.C of this preamble for further discussion.

The proposed rule would also add new paragraph (f) to provide that if a pipeline ROW grant holder fails to replace any deficient financial assurance upon demand or fails to provide supplemental financial assurance upon demand, the Regional Director may assess penalties, request BSEE to suspend operations on the pipeline ROW, and/or initiate action for forfeiture of the pipeline ROW grant in accordance with § 250.1013.

Part 556—Leasing of Sulfur or Oil and Gas and Bonding Requirements in the Outer Continental Shelf

The proposed rule would make a technical correction to the authority citation for part 556 by removing the citation to 43 U.S.C. 1801–1802, because neither of these two sections contains authority allowing BOEM to issue or amend regulations.

The proposed rule would also remove the citation to 43 U.S.C. 1331 note, which is where the Gulf of Mexico Energy Security Act of 2006 is set forth. While this statute required BOEM to issue regulations concerning the availability of bonus or royalty credits for exchanging eligible leases, the deadline for applying for such a bonus or royalty credit was October 14, 2010; therefore, lessees may no longer apply for such credits. BOEM no longer needs the authority to issue regulations under

that statute and has removed all regulations on this topic from 30 CFR part 556, except for § 556.1000, which provides that lessees may no longer apply for such credits.

The terms ''bond,'' ''bonding,'' and ''surety bond'' would be replaced throughout this part with the new term ''financial assurance,'' as discussed earlier in this preamble. This change includes changing the Title of Part 556 from ''Leasing of Sulphur or Oil and Gas and Bonding Requirements in the Outer Continental Shelf'' to ''Leasing of Sulfur or Oil and Gas and Financial Assurance Requirements in the Outer Continental Shelf.''

Subpart A—General Provisions

Section 556.105 Acronyms and Definitions

The proposed rule would add a definition of ''Issuer credit rating'' and ''Investment grade credit rating,'' which are identical to the proposed additions in § 550.105.

The proposed rule would also revise the definition of ''Right-of-Use and Easement (RUE)'' to include the words ''to construct, secure to the seafloor, use, modify, or maintain platforms, seafloor production equipment.'' This definition would be the same as the definition of ''Right-of-Use and Easement (RUE)'' proposed for § 550.105.

The proposed rule would also add a definition for ''Financial assurance'' to clarify that various methods can be used to ensure compliance with OCS obligations. This definition would be the same as the definition of ''Financial assurance'' proposed for § 550.105.

The proposed rule would add definitions for the new terms ''Transfer'' and ''Assign'' to clarify that these terms are used interchangeably throughout 30 CFR part 556. This change would also serve to clarify that the related terms ''transferee'' and ''transferor'' are interchangeable with ''assignee'' and ''assignor,'' respectively.

The proposed rule would also revise the definition of the term ''You'' to include, depending on the context of the regulations, a bidder, a lessee (record title owner), a sublessee (operating rights owner), a Federal or State right-of-use and easement grant holder, a pipeline right-of-way grant holder, assignor or transferor, a designated operator or agent of the lessee or grant holder, or an applicant seeking to become one of the above. This change to the definition of ''You,'' in concert with changes proposed in § 550.166, would make explicit that any provisions applicable to either a State or Federal RUE would apply to the other, and that any distinctions between the two with respect to financial assurance are being removed. This change is in concert with changes proposed in § 550.105.

Subpart G—Transferring All or Part of the Record Title Interest in a Lease

Section 556.704 When may BOEM disapprove an assignment or sublease of an interest in my lease?

The proposed rule would revise paragraph (a) to clearly state that all parties involved in the assignment of a record title interest in a lease must be in compliance with all applicable regulations and orders, including financial assurance requirements, or BOEM may disapprove an assignment or sublease, consistent with changes to 30 CFR part 550 proposed in this rulemaking. The proposed rule would replace the word ''would'' in the section title with ''may'' to better reflect this discretion.

Subpart H—Transferring All or Part of the Operating Rights in a Lease

Section 556.802 When may BOEM disapprove the transfer of all or part of my operating rights interest?

The proposed rule would revise the existing section heading to replace ''assignment'' with ''transfer'' consistent with the new definitions proposed for both terms. The proposed rule would revise paragraph (a) to clearly state that for the transferee to receive approval for the transfer of operating rights in a lease, the transferee must be in compliance with all applicable regulations and orders to provide financial assurance requirements before BOEM may approve an assignment, consistent with changes to 30 CFR part 550 proposed in this rulemaking. The proposed rule would replace the word ''would'' in the section title with ''may'' to better reflect this discretion.

Subpart I—Bonding or Other Financial Assurance

Section 556.900 Financial Assurance Requirements for an Oil and Gas or Sulfur Lease

The proposed rule would revise the section heading to read, ''Financial assurance requirements for an oil and gas or sulfur lease'' in order to ensure that the term ''bonding'' has been consistently replaced with ''financial assurance'' and to clarify that a number of forms of financial assurance can be provided, and not just surety bonds, consistent with changes to 30 CFR part 550 proposed in this rulemaking.

BOEM proposes to add paragraph (a)(4) to make clear that any supplemental financial assurance required by the Regional Director must be provided before a new lease will be issued or an assignment of a lease approved.

The proposed rule would also revise the introductory text of paragraph (g) to replace the word ''security'' with ''financial assurance,'' and to add the word ''surety'' before ''bond'' in two places to clarify that in those cases the regulation is referring to a ''surety bond.''

The proposed rule would revise the introductory text of paragraph (h) to replace the words ''bond coverage'' with ''financial assurance'' to clarify that surety bonds are not the only means of meeting the requirement. The proposed rule would also revise paragraph (h)(2) in recognition that BSEE, rather than BOEM, is the agency with authority to suspend production or other operations on a lease.

The proposed rule would add paragraph (i) to ensure consistency with the RUE financial assurance requirements by providing that area-wide lease surety bonds pledged to satisfy the financial assurance requirements for RUEs may be called in for performance of obligations on which the holder of a RUE defaults.

Section 556.901 Base Financial Assurance and Supplemental Financial Assurance

The proposed rule would revise the section heading to read, ''Base financial assurance and supplemental financial assurance,'' because this section covers both base financial assurance and supplemental financial assurance requirements.

Section 556.901(a)

The proposed rule would also revise paragraph (a)(1)(i) introductory text to replace the word ''bond'' with ''lease exploration financial assurance'' to be consistent with the terminology used in existing paragraph (a)(1)(ii), which BOEM does not propose to change.

Section 556.901(b)

The proposed rule would eliminate the parenthetical ''(the lessee)'' from the introductory text as it is made redundant by the proposed revised definition of ''You.'' The proposed rule would also revise paragraph (b)(1)(i) introductory text to replace the word ''bond'' with ''lease development financial assurance'' for consistency with the terminology used in existing paragraph (b)(1)(ii), which BOEM does not propose to change.

Section 556.901(c)

The proposed rule would also revise paragraph (c) to remove the words ''authorized officer'' and replace them with ''Regional Director,'' and remove the words ''lease bond coverage'' and ''a lease surety bond'' and replace them in each instance with ''financial assurance'' to clarify that the Regional Director can review whether BOEM would be adequately secured by a surety bond, or another type of financial assurance, for an amount less than the amount proposed in paragraph (b)(1), but not less than the estimated cost for decommissioning.

Section 556.901(d)

BOEM proposes to combine the provisions of the existing paragraph (d) introductory text and the existing introductory paragraph (d)(1) to provide that the Regional Director may determine that supplemental financial assurance is required to ensure compliance with the obligations under a lease if the lessee does not meet at least one of the criteria provided in proposed paragraphs (d)(1) through (4) below. For further discussion, see Section V of this preamble.

Section 556.901(d)(1)

BOEM proposes to revise paragraph (d)(1) to set forth the criteria BOEM would use to evaluate the ability of a lessee to carry out present and future obligations. Under this paragraph, BOEM would use an issuer credit rating from a NRSRO, as defined by the SEC, greater than or equal to either BBB− from Standard & Poor's (S&P) Ratings Service or Baa3 from Moody's Investor Service, or the equivalent from another NRSRO. If different NRSROs provide different ratings for the same company, BOEM would apply the higher rating, as discussed in section IV.A of this preamble.

Section 556.901(d)(2)

BOEM proposes to revise paragraph (d)(2) stating that BOEM could also use a proxy credit rating calculated by BOEM based on audited financial information from the most recent fiscal year (including an income statement, balance sheet, statement of cash flows, and the auditor's certificate) greater than or equal to either BBB− from S&Ps Ratings Service or Ba3 from Moody's Investor Service, or their equivalent from another NRSRO. The proxy credit ratings that BOEM would calculate on behalf of lessees would be structured in the same scale as the standard ratings (*i.e.,* AAA to D). The audited financial information from the most recent fiscal year that BOEM used to determine the proxy credit rating must include a twelve-month period within the twenty-four months prior to the lessee's receipt of the Regional Director's determination that the lessee must provide supplemental financial assurance. When determining a proxy credit rating, the Regional Director will consider any additional liabilities that may encumber a lessee's ability to carry out future obligations. Under the proposed rule, the lessee would be obligated to provide the Regional Director with information regarding its joint-ownership interests and other liabilities associated with OCS leases, which might not otherwise be accounted for in the audited financial information provided to BOEM.

Section 556.901(d)(3)

BOEM proposes to add new paragraph (d)(3) to address the situation where the lessee does not meet the criteria in proposed paragraphs (d)(1) or (2), but one or more co-lessee(s) does meet those criteria. The Regional Director may require a lessee to provide supplemental financial assurance on a lease-by-lease basis if no co-lessee has an issuer credit rating or proxy credit rating that meets the threshold set forth in paragraphs (d)(1) or (2), as discussed in Section IV.A of this preamble.

Section 556.901(d)(4)

BOEM proposes to add new paragraph (d)(4) to set forth the criterion the Regional Director would use if the lessee does not meet the criteria in proposed paragraphs (d)(1), (2), or (3). In this instance, the Regional Director would assess each lease to determine whether the value of the proved oil and gas reserves on the lease exceed three times the estimated cost of the decommissioning associated with the production of those reserves. Under paragraph (d)(4), the Regional Director's assessment would be based on the evaluation of proved oil and gas reserves following the methodology set forth in SEC Regulation S–X at 17 CFR 210.4–10 and SEC Regulation S–K at 17 CFR 229.1200. BOEM also proposes new paragraphs (d)(4)(i) and (ii), which state that, when implementing this criterion, BOEM will use decommissioning cost estimates, including a BSEE-generated probabilistic estimate at the P70 level, when available, or, if such estimate is not available, BOEM will use the BSEE-generated deterministic estimate.

Section 556.901(e)

BOEM proposes to redesignate existing paragraph (d)(2) as paragraph (e) and revise it to provide that a lessee may satisfy the Regional Director's demand for supplemental financial assurance either by increasing the amount of its existing financial assurance or by providing additional surety bonds or other types of acceptable financial assurance.

Section 556.901(f)

BOEM proposes to redesignate existing paragraph (e) as paragraph (f) and revise to remove the word ''bond'' and replace it with ''supplemental financial assurance,'' a term that includes a surety bond or another type of financial assurance. BOEM also proposes to modify the language of new paragraph (f) to establish that, in determining the amount of supplemental financial assurance, the Regional Director will consider the lessee's potential underpayment of royalty and the cumulative decommissioning obligations as established in the manner described in proposed paragraph (d)(3) of this section, *i.e.,* the use of the appropriate BSEE estimate.

Section 556.901(g)

BOEM proposes to redesignate existing paragraph (f) as new paragraph (g) and revise it to replace the word ''security'' with ''financial assurance'' throughout.

Existing 30 CFR 556.901(f)(2) includes a statement to the effect that, if a company requests a reduction of the amount of the original bond required, the Regional Director may agree to such a reduction provided that he or she finds that ''the evidence you submit is convincing.'' BOEM proposes to replace the current regulatory text with the following statement in new paragraph (g)(2): ''Upon review of your submission, the Regional Director may reduce the amount of financial assurance required,'' as discussed in Section IV of this preamble.

Section 556.901(h)

BOEM proposes to add a new paragraph (h) to describe the limited opportunity lessees will have to provide the required supplemental financial assurance in three phased installments during the first three years after the effective date of this regulation, subject to the conditions of proposed paragraphs (h)(1) and (2). A three-year approach would allow companies to raise the relevant capital through operations over a longer period of time, as discussed in section VII of this preamble. Accordingly, it would reduce bankruptcy risk and ensure a greater level of financial protection for the government and taxpayers.

BOEM proposes to add new paragraphs (h)(1)(i) through (iii) to

establish the timing and amounts of phased supplemental financial assurance that would need to be provided. Payments would be required in three installments of one-third that of the demand, the first of which would be required within the timeframe specified in the demand letter, or within 60 calendar days of receiving the demand letter if no timeframe is specified. The second one-third would be required within 24 months from the date of receipt of the original demand letter, and the final payment would be due within 36 months from the date of the receipt of the original demand letter.

BOEM proposes to add a new paragraph (h)(2) to establish a procedure in case a demand that has been approved for phased compliance is not met within the timeframes established by paragraphs (h)(1)(i) through (iii). If a payment is missed, the Regional Director will notify the party of the failure to meet the timeframe and that it will no longer be eligible to meet the supplemental financial assurance demand by using the phased compliance option set forth in proposed paragraph (h). Moreover, the remaining balance of the demand would become due ten calendar days after the Regional Director's notification is received.

Section 556.902 General Requirements for Bonds or Other Financial Assurance

The proposed rule would revise the section heading to read, ''General requirements for bonds or other financial assurance,'' to recognize that other types of financial assurance, such as a dual-obligee bond or a pledge of Treasury securities, may be provided under 30 CFR part 556.

These revisions propose that the same general requirements for surety bonds provided by lessees, operating rights owners, or operators of leases, also apply to surety bonds provided by RUE grant and pipeline ROW grant holders. The proposed rule would therefore also revise paragraph (a) to include ''grant holder'' and to cover surety bonds provided under 30 CFR part 550. The requirements of this section are those that apply broadly to all companies having to provide financial assurance to BOEM for an OCS oil and gas or sulfur lease. Additional requirements appliable specifically to RUEs and ROWs are described in proposed §§ 550.166 and 550.1011, respectively.

The proposed rule would add ''or grant'' after ''lease'' to clarify the change to include grant holders in paragraph (a)(2). The rulemaking would also add compliance with ''all BOEM and BSEE orders'' as a requirement to ensure that providers of financial assurance are aware that such financial assurance guarantees compliance with BOEM and BSEE orders as well as with the regulations and the terms of a lease, ROW, or RUE. This addition is necessary because a requirement to provide supplemental financial assurance arises from a BOEM order. ''BOEM and BSEE orders'' would mean any order issued by the relevant bureau, such as a BSEE order to decommission, or a BOEM order to provide supplemental bond.

The proposed rule would revise paragraph (a)(3) to include the obligations of all record title owners, operating rights owners, and operators on the lease.

The proposed rule would also revise paragraph (e)(2) to clarify that the use of Treasury securities as financial assurance requires a pledge of Treasury securities, as provided in § 556.900(f).

The proposed rule would add a new paragraph (g) to recognize the option to seek an informal resolution of a surety bond demand pursuant to 30 CFR 590.6, which contains information regarding informal resolutions. This paragraph would further provide that a request for an informal resolution of a dispute concerning the Regional Director's decision to require supplemental financial assurance will not affect the applicant's ability to request a phased payment of its supplemental financial assurance demand under proposed § 556.901(h).

The proposed rule would add a new paragraph (h) to address risks arising in connection with the lessee's and grant holder's ability to appeal a demand for supplemental financial assurance to the Interior Board of Land Appeals (IBLA) pursuant to the regulations in 30 CFR part 590. The proposed rule would add an additional requirement to the IBLA appeals process whereby, if an appellant requests that the IBLA stay the supplemental financial assurance demand, the appellant would be required to post an appeals surety bond equal to the amount of supplemental financial assurance that the appellant seeks to stay before any stay could go into effect. Because IBLA appeals may continue for several years, it is important that BOEM ensure that the government's interests are protected. The appeals surety bond requirement would prevent the government from being left with no security if the appellant filed bankruptcy before the appeal process ended.

Section 556.903 Lapse of Financial Assurance

The proposed rule would replace the word ''bond'' in the section title with ''financial assurance'' for consistency with the terminology change made throughout the rulemaking. The proposed rule would revise paragraph (a) to add after the word ''surety'', ''guarantor, or the financial institution holding or providing your financial assurance'' and to include references to the financial assurance requirements for RUE grants (§ 550.166) and pipeline ROW grants (§ 550.1011). The proposed rule would also revise paragraph (a) by removing the words ''terminates immediately'' and substituting ''must be replaced.'' The proposed rule would replace the word ''promptly'' with a specific timeline of within seven calendar days of learning of a negative event for the financial assurance provider and would also add a 30-calendar day timeframe in which the party must provide other financial assurance from a different financial assurance provider.

BOEM also proposes to revise the first sentence of paragraph (b) by inserting ''or financial institution'' after ''guarantor,'' to make the provision apply to all types of financial assurance providers, including those offering decommissioning accounts. BOEM also proposes to revise the second sentence of paragraph (b) for consistency in terminology by inserting the words ''or other financial assurance'' after the word ''bonds'' and inserting the words ''guarantor, or financial institution'' after the word ''surety'', so that all surety bonds or other financial assurance instruments must require all financial assurance providers to notify the Regional Director within 72 hours of learning of an action filed alleging that the lessee or grant holder, or their financial assurance provider, is insolvent or bankrupt.

Section 556.904 Decommissioning Accounts

The proposed rule would revise the section heading and the term ''abandonment accounts'' throughout the section to read ''decommissioning accounts,'' in accordance with BOEM policy and accepted terminology used in the industry. The words ''lease-specific'' would be removed throughout this section to remove the implication that such an account could only pertain to one lease, thereby clarifying that a decommissioning account could be used for one lease or several leases, a RUE grant, or a pipeline ROW grant, or a combination thereof, as discussed in section V.B of this preamble.

BOEM proposes to revise paragraph (a) to remove the term ''lease-specific'' and replace it with ''decommissioning,'' and to add references to the base and

supplemental financial assurance regulation (proposed § 556.901(d)), as well as the financial assurance regulations for RUE grants (proposed § 550.166(b)) and pipeline ROW grants (proposed § 550.1011(d)), consistent with the changes mentioned in the preceding paragraph. Although the paragraph (a) introductory text would continue to allow a lessee or grant holder to establish a decommissioning account at a federally insured financial institution, this proposed rule would eliminate the existing restriction in paragraph (d) that such deposits not exceed the FDIC/FSLIC insurance limits and the reference to paragraph (a)(3), which is being revised and is no longer relevant to withdrawal of funds from a decommissioning account.

The proposed rule would re-arrange the existing sentence constituting § 556.904(a)(1). The proposed rule would also revise paragraph (a)(2) to remove the words ''as estimated by BOEM'' to clarify that BOEM does not estimate decommissioning costs, but rather uses the estimates of decommissioning costs determined by BSEE. The proposed rule would also revise paragraph (a)(2) to require funding of a decommissioning account ''pursuant to a schedule that the Regional Director prescribes,'' as opposed to ''within the timeframe the Regional Director prescribes'' as existing § 556.904(a)(2) now states.

The proposed rule would revise paragraph (a)(3) to remove the requirement to provide binding instructions to purchase Treasury securities for a decommissioning account under certain circumstances. The proposed rule would replace the existing language with a new provision providing that if you fail to make the initial payment or any scheduled payment into the decommissioning account, you must immediately submit, and subsequently maintain, a surety bond or other financial assurance in an amount equal to the remaining unsecured portion of your estimated decommissioning liability. This change reflects BOEM's current policy to order a surety bond or other financial assurance in the event the payments into the decommissioning account are not timely made.

The proposed rule would revise paragraph (b) by removing ''lease-specific'' and substituting ''decommissioning.''

The proposed rule would also remove existing paragraphs (c) and (d), which concern the use of pledged Treasury securities to fund a decommissioning account, as discussed in section V.B of this preamble. Removing the requirement in existing paragraph (d) that the account holder must purchase Treasury securities when the amount in the account equals the maximum amount insurable by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation will make these accounts more attractive to parties who may desire to use this method of providing supplemental financial assurance. The removal of existing paragraphs (c) and (d) would not preclude the use of Treasury securities to fund a decommissioning account. Existing paragraph (e) would be redesignated as paragraph (c) except that the word ''pledged'' would be removed, and ''other revenue stream'' would be added to the list of financial assurance options.

The proposed rule would add a revised paragraph (d), which would describe the Regional Director's discretion to authorize BOEM to provide funds from a decommissioning account to a liable party that performs the decommissioning.

Section 556.905 Third-Party Guarantees

The proposed rule would revise the section heading to read, ''Third-party guarantees.'' The proposed rule would also revise the section throughout to remove the introductory titles of each paragraph to ensure consistency in the proposed rule's format.

Section 556.905(a)

BOEM proposes to revise paragraph (a) to include a cross-reference to proposed § 550.166(b) (related to RUEs) and proposed § 550.1011(d)) (related to pipeline ROWs) in addition to the existing reference to proposed § 556.901(d) (related to base financial assurance for leases), to clarify that a third-party guarantee may be used as a type of supplemental financial assurance for not only leases, but for RUE grants and pipeline ROW grants as well. This is further discussed in Section V.A of this preamble.

BOEM would also revise paragraph (a)(1) to require that the guarantor, not the guarantee, as provided in the existing regulation, must meet the criteria in proposed § 556.901(d)(1), as the factors in proposed § 556.901(d) more properly apply to an entity, such as a guarantor, than to a document, such as a guarantee. See section V.A of this preamble for further discussion. BOEM would retain existing paragraph (a)(2), but would revise it to include a requirement, which is found in existing paragraph (a)(4), that the guarantor or guaranteed party must submit a third-party guarantee ''containing each of the provisions in proposed paragraph (d) of this section.'' As discussed below, paragraph (d) is being revised to no longer use the term ''indemnity agreement'' and to provide instead that the provisions that BOEM previously required a lessee or grant holder to include in indemnity agreements must be included in a third-party guarantee agreement. This terminology is changed to clarify that the government is not required to incur the expenses of decommissioning before demanding compensation from the guarantor. The proposed rule would also remove existing paragraphs (a)(3) and (a)(4), which would be superseded by other revisions to this section.

Section 556.905(b)

The proposed rule would redesignate existing paragraph (b) as paragraph (c) and revise the introductory text to remove the reference to existing paragraph (c)(3) of this section because the requirements in that paragraph would be superseded in this proposed rule. The proposed rule would replace this reference with a reference to paragraph (a)(1) of this section in paragraph (c) as it is proposed to be revised. The proposed rule would add new paragraph (b) to allow guarantors to limit their guarantees to a fixed dollar amount as agreed to by BOEM. BOEM is proposing this change because the existing regulations do not clearly limit the liability of a guarantor to a fixed monetary amount stated in the guarantee. Therefore, few parties were willing to use third-party guarantees in the past. Because the cessation of production is neither desirable nor easily accomplished by an operator, the proposed rule would also revise existing paragraph (b)(2) to remove the requirement that, when a guarantor becomes unqualified, you must ''cease production until you comply with the surety bond coverage requirements of this subpart.'' Instead, the language in revised redesignated paragraph (c) would be revised to provide that you must, within 72 hours, ''[s]ubmit and subsequently maintain a surety bond or other financial assurance covering those obligations previously secured by the third-party guarantee.''

The proposed rule would remove existing paragraph (c) as the language would be superseded by the new language in § 556.905(a).

Section 556.905(d)

The proposed rule would revise paragraph (d)(1) introductory text to read ''If you fail to comply with the terms of any lease or grant covered by the guarantee, or any applicable

regulation, your guarantor must either:'' to be consistent with the revision of paragraph (a) to allow the use of a third-party guarantee for a RUE grant or a pipeline ROW grant.

The proposed rule would revise paragraph (d)(1)(i) to clarify that the corrective action required is to bring the lease or grant into compliance with its terms, or any applicable regulation, to the extent covered by the guarantee.

The proposed rule would revise paragraph (d)(1)(ii) to clarify that the liability only extends to that covered by the guarantee and that payment does not result in the cancelation of the guarantee, but only a reduction in the remaining value equal to the amount provided.

The proposed rule would remove existing subparagraph (d)(2) to be consistent with the revision to remove existing paragraph (c). As a result, existing paragraph (d)(3) would be redesignated as paragraph (d)(2) and existing paragraph (d)(4) would be redesignated as paragraph (d)(3).

The proposed rule would revise the redesignated paragraphs (d)(2)(ii) and (iii) to remove the words ''your guarantor's'' and replace them with the word ''the'' to clarify that redesignated paragraph (d)(2) would apply to the guarantee itself.

The proposed rule would revise proposed paragraph (d)(3) to replace the term ''a suitable replacement security instrument'' with ''acceptable replacement financial assurance'' for clarity and would include the requirement that appears in existing § 556.905(d)(4) that any replacement financial assurance must be provided before the termination of the period of liability of the third-party guarantee.

Section 556.905(e)

The proposed rule would also revise paragraph (e) to provide that BOEM will cancel a third-party guarantee under the same terms and conditions as those proposed in §§ 556.906(b) and (d)(3).

Section 556.905(f) Through (k)

BOEM also proposes to add new paragraphs (f) through (k) to replace the provisions of existing paragraph (e). The new paragraphs mirror the provisions of existing paragraph (e) while making minor adjustments to accommodate the new format and add clarification. The term ''indemnity agreement'' would be replaced with ''third-party guarantee agreement'' throughout.

Section 556.906 Termination of the Period of Liability and Cancellation of Financial Assurance

The proposed rule would replace the words ''security'' and ''surety bond'' with ''financial assurance'' and ''surety'' with ''financial assurance provider'' for consistency with the changes throughout the proposed rule. The section title would also be revised so that ''a bond'' is replaced with ''financial assurance.''

The proposed rule would revise existing paragraph (b)(1) to remove the word ''terminated'' in two instances and replace it with ''cancelled'' to be consistent with the existing paragraph (b) introductory text, which provides that the Regional Director will cancel your previous financial assurance when you provide a replacement, subject to the conditions provided in existing paragraphs (b)(1) through (3). BOEM would also remove the word ''for'' before ''by the bond'' in paragraph (b)(1) for grammatical reasons.

The proposed rule would revise existing paragraph (b)(2) to also add cross-references to § 550.166, which is the financial assurance regulation for RUE grants, and § 550.1011, which is the financial assurance regulation for pipeline ROW grants, and would revise existing paragraph (b)(3) to also reference supplemental financial assurance regulations for RUE grants (proposed § 550.166(b) and pipeline ROW grants (proposed § 550.1011(d)). BOEM proposes to delete the word ''base'' in front of financial assurance in existing paragraph (b)(2) to propose that the new financial assurance would replace whatever financial assurance that previously existed, whether that financial assurance consisted of a base bond and/or any prior supplemental financial assurance.

The proposed rule would revise the paragraph (d) introductory text to cover financial assurance cancellations and return of pledged financial assurance and, in the table, would remove the middle column entitled, ''The period of liability will end,'' because it is redundant with the provisions in proposed paragraphs (a) through (c).

In existing paragraph (d), in the column in the table entitled ''For the following type of bond,'' BOEM proposes to remove the words ''type of bond'' and replace those words with a colon at the top of the table so that this paragraph would apply to surety bonds or other financial assurance, as applicable. Paragraph (d)(1) would also be revised to include a cross-reference to base financial assurance submitted under proposed § 550.166(a) (for RUE grants) and proposed § 550.1011(a) (for pipeline ROW grants). BOEM would also revise paragraph (d)(2) in the same column to include a reference to supplemental financial assurance submitted under proposed § 550.166(b) and proposed § 550.1011(d).

The proposed rule would revise paragraph (d) to amend the heading of the column entitled, ''Your bond will be cancelled,'' to read, ''Your financial assurance will be reduced or cancelled, or your pledged financial assurance will be returned,'' to clarify that financial assurance may be reduced or cancelled and pledged financial assurance, or a portion thereof, may be returned, and to specify other circumstances under which the Regional Director may cancel supplemental financial assurance or return pledged financial assurance. While the existing criteria identify most instances when cancellation of financial assurance is appropriate, occasionally there are other circumstances where cancellation would be warranted. The proposed rule would allow cancellation when BOEM determines, using the criteria set forth in proposed § 556.901(d), 550.166(b), or 550.1011(d), as applicable, that a lessee or grant holder no longer needs to provide supplemental financial assurance for its lease, RUE grant, or pipeline ROW grant when the operations for which the supplemental financial assurance was provided ceased prior to accrual of any decommissioning obligation; or when cancellation of the financial assurance is appropriate because BOEM determines such financial assurance never should have been required under the regulations.

The proposed rule would add a new paragraph (d)(3) in the table in paragraph (d) to address the cancellation of a third-party guarantee. In the past, parties have expressed concern to BOEM that the regulations, although they expressly allow for the termination of the period of liability, do not clearly allow for the cancellation of the guarantee. This addition would allow BOEM to cancel a third-party guarantee under the same terms and conditions that apply to cancellation of other types of financial assurance, as provided in proposed § 556.906(d)(2).

The proposed rule would revise the introductory text in paragraph (e) to remove the words ''or release'' because the term ''release'' is undefined and not used in practice. Likewise, the proposed rule would remove the words ''or released'' from paragraph (e)(2). No substantive change is intended; rather BOEM seeks to clarify the meaning of the existing provision.

The proposed rule would also revise paragraph (e) to reference RUE grants and pipeline ROW grants to provide that the Regional Director may reinstate the financial assurance on the same grounds as currently provided for reinstatement of lease financial assurance.

Section 556.907 Forfeiture of Bonds or Other Financial Assurance

The proposed rule would replace the words ''security,'' ''surety bond,'' or ''third-party guarantee'' with ''financial assurance'' and ''surety'' with ''financial assurance provider'' for consistency with the changes throughout the proposed rule.

The proposed rule would revise the section heading to read, ''Forfeiture of bonds or other financial assurance'' because the use of ''or'' is sufficient in this instance. The proposed rule would revise paragraph (a)(1) to include surety bonds or other financial assurance for RUE grants and pipeline ROW grants, in addition to leases, in the forfeiture provisions of this section. BOEM also proposes to clarify that the Regional Director may call for forfeiture of all or part of a surety bond or other form of financial assurance, or demand performance from a guarantor, if the lessee or grantee covered by the financial assurance refuses or is unable to comply with any term or condition of a lease, a RUE grant, or a pipeline ROW grant, as well as any regulation. Throughout this section, BOEM proposes to add references to a grant, a grant holder, and grant obligations to implement the revisions in proposed paragraph (a)(1). BOEM proposes to revise (a)(2) to replace ''other form of security'' with ''other form of financial assurance'' for consistent terminology.

BOEM proposes to revise paragraph (b) to include surety bonds ''or other financial assurance'' so that BOEM may pursue forfeiture of a surety bond or other financial assurance. The word ''lessee'' would also be replaced with ''record title holder'' to ensure that co-lessees are included.

BOEM proposes to revise paragraph (c)(1) to include ''financial institution holding or providing your financial assurance'' as one of the parties the Regional Director would notify of a determination to call for forfeiture because a bank or other financial institution may hold funds subject to forfeiture.

The proposed rule would revise paragraph (c)(1)(ii) to acknowledge limitations authorized by § 556.902(a)(3) by more precisely stating that the Regional Director will use an estimate of the cost of the corrective action needed to bring a lease into compliance when determining the amount to be forfeited, subject, in the case of a guarantee, to any limitation authorized by proposed § 556.902(a)(3).

BOEM proposes to replace existing paragraphs (c)(2)(ii) and (iii) with a new paragraph (c)(2)(ii) that would specify that to avoid forfeiture by promising to take corrective action, any financial assurance provider would have to agree to, and demonstrate that it will complete the required corrective action to bring the relevant lease into compliance within the timeframe specified by the Regional Director, even if the cost of such compliance exceeds the limit of the financial assurance. The proposed changes make clear that existing paragraphs (c)(2)(ii) and (iii) apply to all forms of financial assurance, including the caveat that corrective action must be completed even if the cost of compliance exceeds the limit of the financial assurance.

BOEM proposes to revise existing paragraphs (d) and (e)(2) by replacing ''leases'' with ''lease or grant'' to extend the applicability of these provisions to include holders of RUE and ROW grants.

BOEM proposes to revise paragraph (f)(1) to include ''grant'' as well as lease. BOEM also proposes to revise paragraph (f)(2) to clarify that BOEM may recover additional costs from a third-party guarantor only to the extent covered by the guarantee. This would be consistent with the change made at § 556.902(a)(3) to allow the use of limited third-party guarantees.

This rulemaking would also reword paragraph (g) for clarity.

In some circumstances, predecessor lessees that have been notified about the failure of their successor organizations to fulfill their decommissioning obligations will initiate the requisite decommissioning activities. In these cases, predecessor lessees or grantees are likely to incur costs that could be funded from financial assurance posted with BOEM on behalf of the current lessee. Some of this financial assurance may be forfeited by the current lessee or by other successor lessees. BOEM proposes to add a paragraph (h) to make clear that BOEM may provide funding collected from forfeited financial assurance to predecessor lessees or grant holders or to third parties taking corrective actions on the lease or grant.

Part 590—Appeal Procedures

Subpart A—Offshore Minerals Management Appeal Procedures

Section 590.4 How do I file an appeal?

BOEM proposes to add paragraph (c) to specify that, while a demand for supplemental financial assurance may be appealed to the IBLA, a stay can only be granted if an appeal surety bond for an amount equal to the demand is posted. This is intended to mitigate the risk to the government that, after the appeal is decided, a company will be unable to perform its obligations because of its financial deterioration during pendency of the appeal.

Severability

BOEM proposes to include in the final rule that, should any court hold unlawful and/or set aside portions of this rulemaking, the remaining portions are severable and therefore should not be remanded to the agency. The proposed rule contains three main components: (1) Streamlining requirements for supplemental financial assurance; (2) Establishing ''P70'' as the relevant estimate for the amount of any supplemental financial assurance, and (3) Making several, less significant changes to, among other things. right-of-use and easement and right-of-way grants and decommissioning accounts. See preamble sections IV.B through V.C.

These three components operate largely independent of each other: the first component considers whether a lessee is at risk of default based on the lessee's credit rating or the proved reserves on the lease; the second component considers the appropriate requirements in light of that risk; and the third component addresses several longstanding and technical matters that do not bear directly on the first two components. Indeed, these three components are sufficiently distinct that their severability does not depend on the specifics of this proposed rule. For example, if, in the final rule, BOEM sets the appropriate level of supplemental financial assurance at a different P-value, that decision would remain severable from the threshold determination regarding *whether* to collect supplemental financial assurance and from the other separate technical changes proposed by this rule.

XI. Additional Comments Solicited by BOEM

In addition to those comment requests stated above, BOEM also requests comments on the topics below:

- BOEM is considering the inclusion of offshore joint and several decommissioning liabilities (of the co-lessees that would otherwise have exempted the lessee from providing supplemental financial assurance) in the determination of a proxy credit rating when these liabilities are ''disproportionately high'' and may encumber that co-lessee's ability to

carry out future obligations. BOEM is requesting comments on the appropriate criteria to determine what constitutes ''disproportionately high'' offshore liabilities, for example, a ratio of decommissioning liabilities to the net worth of the co-lessee above X times, or other financially significant and reasonable criteria on how these liabilities should best be incorporated into the proxy credit rating that BOEM will derive.

- The use of End-of-Life (Years) in the evaluation of asset value as an alternative to using the decommissioning costs ratio. BOEM requests comments on the use of a minimum number of years of production remaining criterion to qualify for an exemption from supplemental financial assurance. Possibly, End-of-Life criteria could be an alternative to the 3:1 ratio of value of reserves to decommissioning costs.
- The consideration of bond issuance ratings, in addition to issuer credit ratings, in determining the financial risk posed by lessees and grant holders. BOEM also invites comments on determining an appropriate threshold for bond issuance ratings, such as general unsecured debt ratings.
- Should BOEM exclude third-party guarantors from the requirement of § 556.902(a)(3) that guarantees must ''guarantee compliance with all obligations of all lessees, operating rights, owners and operators on the lease'' in addition to allowing a third-party guarantee to be limited in amount?

XII. Procedural Matters

A. Executive Order 12866: Regulatory Planning and Review, as Amended by Executive Order 14094—Modernizing Regulatory Review, and Executive Order 13563: Improving Regulation and Regulatory Review

Executive Order 12866, as amend by Executive Order 14094 provides that the Office of Information and Regulatory Affairs (OIRA) in OMB will review all significant rules. OIRA has reviewed this proposed rule and determined that it is a significant action under Executive Order 12866, as amend by Executive Order 14094 Sec 3 (f)(1). This rulemaking will result in an annual effect on the economy of $200 million or more (adjusted every 3 years by the Administrator of OIRA for changes in gross domestic product); or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or tribal governments or communities.

Executive Order 13563 reaffirms the principles of Executive Order 12866, as amend by Executive Order 14094, while calling for improvements in the Nation's regulatory system to promote predictability and reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. Executive Order 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. BOEM has developed this proposed rule in a manner consistent with these requirements.

BOEM's proposed changes are estimated to increase the private cost to lessees in the form of bonding or other financial assurance premiums. BOEM has drafted an initial regulatory impact analysis (IRIA) detailing the estimated impacts of this proposed rule. The IRIA reflects both monetized and non-monetized impacts; the costs and benefits of the non-monetized impacts are discussed qualitatively in the document. BOEM's IRIA is available in the public docket for this rulemaking.

BOEM expects this proposed rule may increase the total amount of financial assurance, increasing the aggregate private cost to lessees of financial assurance premiums. The table below summarizes BOEM's estimate of the cost in financial assurance premiums paid by lessees over a 20-year time horizon if this proposed rule is finalized less the premiums associated with BOEM's existing current financial assurance portfolio. Additional information on the estimated transfers, costs, and benefits can be found in the IRIA posted in the public docket for this proposed rule.

TOTAL ESTIMATED INCREASE IN BONDING FINANCIAL ASSURANCE PREMIUMS ASSOCIATED WITH BOEM'S PROPOSED AMENDMENTS

[2022–2041, 2021$ millions]

2022–2041	Discounted at 3%	Discounted at 7%
Total Compliance Cost	$4,867	$3,379
Annualized Compliance Cost	327.1	318.9

B. Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires agencies to analyze the economic impact of regulations when a significant economic impact on a substantial number of small entities is likely and to consider regulatory alternatives that will achieve the agency's goals while minimizing the burden on small entities. BOEM has provided an initial regulatory flexibility analysis (IRFA), which assesses the impact of this proposed rule on small entities. The IRFA is available in the public docket for this rulemaking.

As defined by the Small Business Administration (SBA), a small entity is one that is ''independently owned and operated and which is not dominant in its field of operation.'' What characterizes a small business varies from industry to industry. The proposed rule would affect OCS lessees and RUE grant holders and pipeline ROW grant holders on the OCS. The analysis shows that this includes roughly 536 companies with ownership interests in OCS leases and grants. Entities that would operate under this proposed rule are classified primarily under North American Industry Classification System (NAICS) codes 211120 (Crude Petroleum Extraction), 211130 (Natural Gas Extraction), and 486110 (Pipeline Transportation of Crude Oil and Natural Gas). For NAICS classifications 211120 and 211130, the SBA defines a small business as one with fewer than 1,250 employees; for NAICS code 486110, a business with fewer than 1,500 employees.

Based on these criteria, approximately 407 (76 percent) of the businesses operating on the OCS subject to this proposed rule are considered small; the remaining businesses are considered large entities. All of the operating businesses meeting the SBA ''small business'' classification are potentially impacted; therefore, BOEM expects that the proposed rule would affect a substantial number of small entities. Small and large oil and gas companies have different business models. Large

oil and gas companies tend to focus their business efforts on new exploration and development projects. Such projects tend to be large in scale, low in frequency, and focused on deep water operations; as a result, the rate of their oil and gas reserve depletion is low. In contrast, most small oil and gas companies tend to focus on late-stage oil and gas production intended to maximize the residual output from established facilities; as a result, the rate of their oil and gas reserve depletion is high. For this reason, smaller companies tend to operate large numbers of old facilities, which are likely to require decommissioning sooner than newer facilities. Accordingly, the prospective decommissioning costs of small oil companies are likely to be high relative to their net tangible assets, making these companies disproportionately susceptible to any change in decommissioning costs and the associated costs of providing supplemental financial assurance. Because BOEM's financial assurance program is intended to ensure that all current lessees meet their obligations, and thereby avoid the need for the taxpayer to assume these obligations in the event of default, any action taken by BOEM to ensure financial responsibility of lessees would necessarily significantly impact smaller companies.

BOEM estimated the annualized increase in private costs to lessees and allocated those costs to small and large entities based on their decommissioning liabilities. BOEM's analysis concludes that the proposed regulatory changes could cause small companies to incur $252.6 million (at a 7 percent discount rate) in annualized compliance costs. BOEM recognizes that there will be incremental cost burdens to most affected small entities. BOEM seeks specific comment and feedback from affected small entities on the costs associated with this rulemaking. Additional information about these conclusions can be found in the IRFA for this proposed rule.

ESTIMATED IMPACT IN PRIVATE COST FOR SMALL LESSEES

[2021, $millions]

2021–2041	Discounted at 3%	Discounted at 7%
Total Compliance Cost	$3,820	$2,676
Annualized Compliance Cost	256.8	252.6

The proposed changes are designed to balance the risk of non-performance with the costs and disincentives to production that are associated with the requirement to provide supplemental financial assurance. The IRIA and the IRFA include three regulatory alternatives which were considered and not selected by BOEM. This section walks through the alternatives (which are discussed in more detail in the IRIA) and discusses how these alternatives impact small businesses and why they were not selected.

Regulatory Alternatives

There are three regulatory alternatives to the proposed action analyzed in the IRIA:

1. *No Action Alternative:* Continue the policies of partial implementation of NTL No. 2016–N01.

2. *More Stringent Regulatory Alternative:* Full implementation of NTL No. 2016–N01.

3. *Less Stringent Regulatory Alternative:* Lower Tier 1 [16] cutoff to BB− and include a waiver for lessees with Tier 1 predecessor lessees.

Under the no action alternative, BOEM would continue to partially implement NTL No. 2016–N01, which only requires high-risk, Tier 2 lessees (lessees with a credit rating below BB−) to provide bonds or other financial assurance and only for their sole liability properties.[17] Only Tier 2 lessees that do not have another lessee in the chain of title would be required to provide supplemental financial assurance. This alternative differs from the proposed rule in that the proposed rule would change the Tier 2 demarcation to those lessees with ratings below BBB−. The proposed rule also would require supplemental financial assurance for Tier 2 lessees who do not have a Tier 1 (low risk) co-lessee, grant holder, or co-grant-holder regardless of the presence of any predecessor lessee or grantee, even a Tier 1 predecessor. This alternative is more fully described in the IRIA as the baseline.

Under the more stringent alternative, BOEM would fully implement NTL No. 2016–N01. The NTL included guidance on how BOEM would evaluate the five criteria for determining a company's ability to meet its OCS obligations for self-insurance, which are described in more detail in the IRIA. The result of NTL No. 2016–N01, as written, was that not even the subsidiaries of highly rated companies could provide sufficient financial assurance for the full amount of their OCS liabilities. More information on the more stringent alternative is included in the IRIA.

Under the less stringent alternative, BOEM analyzed an alternative that would maintain the baseline threshold demarcation between Tier 1 and Tier 2 companies at BB−. The less stringent option also would include the baseline's consideration of predecessor lessees but would require that at least one predecessor lessee be a Tier 1 company in order for the current lessee to avoid having to provide supplemental financial assurance. This alternative would require Tier 2 lessees who have Tier 2 predecessor lessees to provide supplemental financial assurance; they would not be required to do so under the baseline. As opposed to the proposed rule, lessees with a BB−, BB, or BB+ rating would not be required to provide supplemental financial assurance under this alternative. Further, under this alternative, any Tier 2 lessee with a Tier 1 lessee in the chain of title would not be required to provide supplemental financial assurance, unlike under the proposed rule. BOEM fully outlines this alternative in the IRIA.

[16] The IRIA alternatives describe lessees as Tier 1 or Tier 2 depending on whether BOEM would require the lessee to provide supplemental financial assurance. Tier 1 lessees are considered low risk and would not be required to provide supplemental financial assurance, while Tier 2 lessees are considered high risk and would be required to do so.

[17] This does not fully reflect the current policy, and therefore is not literally a ''no action'' alternative: BOEM broadened the scope of its financial assurance requirement relative to a partial implementation of NTL No. 2016–N01 last year. See BOEM Expands Financial Assurance Efforts | Bureau of Ocean Energy Management, *https://www.boem.gov/newsroom/notes-stakeholders/boem-expands-financial-assurance-efforts.* However, there have been relatively few companies affected by the new policy to date, and it is too recent for this policy change to have had a discernible impact on financial assurance demands; therefore, the alternative used in the IRIA best estimates the baseline.

Discussion of Regulatory Alternatives

Under the no action alternative, the current level of financial risk would remain the same. However, BOEM reviewed NTL No. 2016–N01 after several recent bankruptcies and determined that changes were necessary to comprehensively identify, prioritize, and manage the health, safety, and environmental risks associated with industry activities on the OCS.

In its IRIA analysis, BOEM estimates that implementation of the more stringent alternative would significantly increase the compliance cost over the baseline and over the proposed rule. BOEM acknowledges that there could be some additional risk reduction by bonding a greater number of liabilities, but, given joint and several liability with multiple co-lessees and predecessor lessees, the relative risk reduction from this alternative would be very small. Although the more stringent option would reduce the risk that the U.S. Government might have to assume performance of the lessee's obligations, the $647 million annualized compliance cost of this alternative could be a significant cost burden on the U.S. offshore oil and gas industry.

The less stringent alternative would differ in two problematic ways from the proposed action. First, the less stringent option would maintain the baseline demarcation between Tier 1 and Tier 2, which is lower than that of the proposed rule. This would not meaningfully help to mitigate default risk to the taxpayer on decommissioning liabilities. Second, the less stringent alternative would not require financial assurance should a Tier 1 predecessor lessee be in the chain of title. Although the less stringent alternative would result in lower bonding costs for industry and small businesses than the proposed rule, consideration of predecessor lessees and grantees encourages moral hazard by incentivizing current lessees to pass risk to predecessors rather than proactively prepare for decommissioning and related obligations. Therefore, BOEM did not select this alternative. See the IRIA for more detailed information about the alternative bonding and risk profiles.

BOEM decided against the less stringent alternative. Instead, BOEM will require supplemental financial assurance from all financially weak lessees that lack either financially strong co-lessees or sufficiently valuable proved oil and gas reserves to attract a buyer if needed. Eschewing reliance on predecessor lessees ensures that financial responsibility for decommissioning rests with current lessees and encourages those lessees to financially prepare for decommissioning costs, rather than pass those expenses to predecessor lessees and possibly the taxpayer. BOEM finds the less stringent alternative would not adequately reduce default risk and would not require all lessees to fully internalize the cost of decommissioning. This alternative is also discussed in more detail below and in the IRIA.

As part of this less stringent alternative, potential adverse impacts to small businesses could be reduced if BOEM kept the Tier 2 threshold at BB− relative to the proposed rule, which increases such threshold to BBB− to match the investment grade standard. BOEM has determined that the use of an investment grade standard for waiving supplemental financial assurance is the most appropriate threshold because this approach minimizes credit default risk to the taxpayer without overburdening offshore companies with the cost of providing financial assurance in low credit risk scenarios.

BOEM finds that the less stringent alternative would slightly increase the likelihood that decommissioning costs would be borne by the taxpayer as lowering the floor of Tier 1 would expand the number of companies not subject to financial assurance to include those with higher 1-year default rates.

Although credit ratings are objective criteria that are intended to accurately reflect the risk of default and the potential that the Federal Government could be forced to undertake performance obligations of OCS lessees, BOEM recognizes that the proportion of small companies adversely affected by the proposed rule would be higher than that of large companies. However, this disproportionate effect on small companies is not attributable to the proposed rule, but results from the need to ensure that decommissioning obligations are fulfilled.

This less stringent alternative also relies on predecessor lessees and grantees when determining if and how much supplemental financial assurance will be required, which BOEM's proposed rule does not. By not allowing reliance on predecessors to excuse supplemental financial assurance, BOEM requires that all lessees take into account the full cost of decommissioning as they will have provided financial assurance that prevents the need to turn to predecessor lessees. Any entity that owned a lease at any point in time is jointly and severally liable for the costs of decommissioning facilities on that lease during their tenure, along with the current and prior owners, until such time as the facility has been permanently decommissioned. Therefore, if the current lessee is unable or unwilling to decommission it at the end of its useful life, BSEE can order the prior lessee to complete the decommissioning obligations for facilities that existed on the lease at the time of ownership. If BOEM were to take into account the financial capacity of predecessor lessees in determining the amount of supplemental financial assurance required of a current owner, the financial burden on small companies would be substantially reduced compared to that resulting from the proposed rule, because a much smaller number of them would be required to post supplemental financial assurance. Given that the required amount of supplemental financial assurance relative to the net assets of such companies is often substantial, and considering that the premiums on the underlying bonds can be significant relative to the net income of such companies, taking into account predecessor lessee strength could substantially reduce the potential adverse impacts of requiring financial assurance from small business.

Though allowing the presence of a predecessor lessee or grantee to change financial assurance requirements would reduce the potential adverse impacts to small businesses, BOEM does not recommend waiving supplemental financial assurance from current lessees based only on the existence of financially viable predecessor lessees. Financial consideration for the decommissioning liability has already been discounted from the asset purchase price paid by the current lessee. As a corollary, a lessee knows that BOEM may demand supplemental financial assurance from it to cover its obligations, including decommissioning obligations for which it shares liability with a predecessor lessee. Armed with this knowledge, all lessees can plan ahead and include the possible need to provide supplemental financial assurance in their business plans. Therefore, there is no need to insulate current lessees from supplemental financial assurance demands by relying on the financial ability of strong predecessor lessees. Along the same lines, allowing current lessees not to provide supplemental financial assurance based on a predecessor lessee's strength may incentivize current lessees to not consider decommissioning costs in their business decisions or to take risks they would not have otherwise taken if they had financial resources at risk in the event

of non-performance. This ''moral hazard'' could distort the market for lease transfers by allowing a buyer and seller to conduct a transaction without calculating in end-of-life decommissioning cash outflows, the buyer relying on end-of-life bankruptcy instead of decommissioning, and may ultimately result in predecessor lessees and grantees having to perform decommissioning for which they had not planned.

While waiving supplemental financial assurance for companies having financially viable predecessor lessees and grantees would mitigate the impact the proposed rule on small businesses, BOEM has determined that this benefit would not be acceptable given that, under these circumstances, lessees may not always fully internalize the cost of their decommissioning obligations into their operations as they can rely on the predecessor lessee if needed and avoid having to pay financial assurance premiums. Additional moral hazard implications of implementing such a retroactive policy are described in more detail in the IRIA. Reliance on predecessor lessees would likely also cause them to require the buyer provide them financial assurance prior to selling their leases to new owners (which would also result in a cost for small businesses). For these reasons, BOEM has determined that any waiver of financial responsibility based on business relationships should be limited to situations where the liable party voluntarily becomes a current co-lessee or co-grantee and therefore, knowingly assumes its liabilities.

C. Small Business Regulatory Enforcement Fairness Act

This proposed rule would revise the financial assurance requirements for OCS lessees and grant holders and would require supplemental financial assurance where the risk is highest. BOEM's proposed changes would: (1) Modify the evaluation process for requiring additional security, (2) Simplify and strengthen the evaluation criteria, and (3) Remove restrictive provisions for third-party guarantees and decommissioning accounts. These proposed changes reflect an interest in relying on current lessees and grant holders to provide required financial assurance, aligning the evaluation criteria with banking and finance industry practices, providing greater flexibility for industry, and protecting taxpayers from exposure to the consequences of noncompliance with DOI regulations and OCS lease obligations, particularly the nonperformance of decommissioning obligations.

This proposed rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act, because implementation of this rulemaking will have an annual effect on the economy of $100 million or more.

For more information on the small business impacts, see the IRFA analysis and the discussion in section XII.B of this preamble. 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 to the Regional Small Business Regulatory Fairness Board. 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 BSEE or BOEM, call 1–888–REG–FAIR (1–888–734–3247).

D. Unfunded Mandates Reform Act (UMRA)

This proposed rule does not impose an unfunded mandate on State, local, or tribal governments of $85 million per year.[18] This proposed rule does not have a significant or unique effect on State, local, or tribal governments. Moreover, the proposed rule would not have disproportionate budgetary effects on these governments.

BOEM has determined that this proposed rule would impose costs on the private sector of more than $182 million in a single year. The IRIA includes information on the costs of the proposed rule and its alternatives. The UMRA (2 U.S.C. 1531 *et seq.*) requires BOEM to perform a cost-benefit assessment and to provide the legal authority for the rulemaking, a description of the macro-economic effects, and a summary of the State, local, or tribal government concerns. These items are described in more detail in the IRIA.

Because all of the anticipated private sector expenditures that may result from the proposed rule are analyzed in the IRIA and IRFA (*i.e.,* expenditures of the offshore oil and gas industry), these documents satisfy the UMRA requirement to estimate any disproportionate budgetary effects of the proposed rule on a particular segment of the private sector. As explained in the IRIA, the rulemaking is anticipated to have annualized net estimated compliance costs of $319 million annually (7 percent discounting) but provides strengthened financial assurance to protect taxpayers from the costs of decommissioning offshore infrastructure. Under the proposed action, BOEM will evaluate the financial strength of OCS lessees and grant holders that could affect their ability to meet OCS obligations. The IRIA outlines both a less stringent and more stringent regulatory alternative. The more stringent option was not selected as the added benefits did not justify the increased compliance burden. BOEM's less stringent option includes a lower credit rating of BB − to be classified as low risk and allows predecessor lessee or grantee strength to be included in the financial assurance evaluation. This alternative was not selected as BB rated companies are considered speculative and below investment grade and relying on predecessor lessees and grantees introduces a moral hazard and does not require each current lessee to internalize its decommissioning obligations.

[18] 2021 values are available here: *https://crsreports.congress.gov/product/pdf/R/R40957.*

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

This proposed rule does not affect a taking of private property or otherwise have takings implications under Executive Order 12630. Therefore, a takings implication assessment is not required.

F. Executive Order 13132: Federalism

Under the criteria in section 1 of Executive Order 13132, this proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. Therefore, a federalism summary impact statement is not required.

G. Executive Order 12988: Civil Justice Reform

This proposed rule complies with the requirements of Executive Order 12988. Specifically, this proposed rule:

(1) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(2) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

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

Executive Order 13175 defines policies that have tribal implications as

regulations, legislative comments or proposed legislation, and other policy statements or actions that will or may have a substantial direct effect on one or more Indian Tribes, or on the relationship between the Federal Government and one or more Indian Tribes.

BOEM strives to strengthen its government-to-government relationships with American Indian and Alaska Native Tribes through a commitment to consultation with those tribes and recognition of their right to self-governance and tribal sovereignty. The DOI's consultation policy for Tribal Nations, as described in Departmental Manual part 512 chapter 4, expands on the above definition from E.O. 13175, and defines a Departmental Action with Tribal Implications as—

''[a]ny regulation, rulemaking, policy, guidance, legislative proposal, plan, programmatic or operational activity, or grant or funding formula change that may have a substantial direct effect on a Tribe in matters including but not limited to: (1) Tribal cultural practices; lands; treaty rights; resources; ancestral lands; sacred sites, including sites that are submerged; and lands Tribes were removed from, or access to traditional areas of cultural or religious importance on Federally managed lands and waters; (2) the ability of a Tribe to govern or provide services to its members; (3) a Tribe's formal relationship with the Department, be it nation-to-nation or beneficiary-to-trustee; or, (4) any action planned by a non-federal entity that involves funding, approval, or other final agency action provided by the Department, unless the Tribe is a party to the action. Substantial direct effects on Tribes may include, but are not limited to, effects as shown in the Consensus-Seeking Model (Figure 1).'' 512 DM 4.3.B. (November 30, 2022). DOI's procedures for consultation with Tribal Nations also provide that:

''Bureaus/Offices must invite Indian Tribes early in the planning process to consult whenever a Departmental plan or action with Tribal Implications arises. Bureaus/Offices should operate under the assumption that all actions with land or resource use or resource impacts may have Tribal implications and should extend consultation invitations accordingly.'' 512 DM 5.4. (November 30, 2022).

Additionally, we are also respectful of our responsibilities for consultation with Alaska Native Claims Settlement Act (ANCSA) Corporations. The DOI's consultation policy defines a Departmental Action with ANCSA Corporation Implications as—

''[a]ny regulation, rulemaking, policy, guidance, legislative proposal, grant funding formula changes, or operational activity that may have a substantial direct effect on an ANCSA Corporation, including but not limited to: (1) any activity that may substantially affect land, water, areas, or resources owned or selected by ANCSA Corporation; (2) any activity that may impact the ability of an ANCSA Corporation to participate in Departmental programs for which it qualifies; (3) any activity that may impact the ability of ANCSA shareholders to access and use ANCSA lands, water areas, or resources; (4) any activity that may impact the ability of Alaska Native people to maintain their traditional way of life and subsistence practices on ANCSA Corporation lands, waters, or adjacent federal lands; or, (5) any activity that may have a direct effect on the ability of an ANCSA Corporation to fulfil the purposes for which it was established under ANCSA.'' 512 DM 6.3.C. (November 30, 2022).

DOI consultation procedures for ANSCA corporations also provides: ''Bureaus and Offices should operate under the assumption that all actions with land or resource use or resource impacts may have ANCSA Corporation implications and should extend consultation invitations accordingly. When ANCSA Corporations indicate that there is substantial and direct effect of the Departmental Action with ANCSA Corporation Implications, the Department must engage in consultation.'' 512 DM 7.4.A. (November 30, 2022).

This rulemaking proposes to modify the criteria for determining whether oil, gas, and/or sulfur lessees, RUE grant holders, and pipeline ROW grant holders may be required to provide bonds or other financial assurance, above the current regulatorily prescribed base bond amounts, to ensure compliance with their OCSLA obligations. It also proposes to remove certain restrictive provisions for third-party guarantees and decommissioning accounts and would add new criteria under which a bond, or third-party guarantee, that was provided as supplemental financial assurance, may be cancelled. Additionally, this proposed rule would clarify bonding requirements for RUEs serving Federal leases.

We have evaluated this proposed rule under the DOI's consultation policy and under the criteria in Executive Order 13175, and have determined that, while this rulemaking will likely not cause any substantial direct effects on environmental or cultural resources, there may be resource or economic impacts to one or more federally recognized Indian tribes or ANCSA Corporations as a result of this proposed rule.

In developing the 2020 Joint Notice of Proposed Rulemaking (85 FR 65924), BOEM determined that the rulemaking would have no substantial direct effects on environmental or cultural resources. However, BOEM determined there was the potential for economic impacts to one Tribal Nation and one ANCSA Corporation. In August 2018, BOEM invited consultation with this Tribal Nation and the ANCSA Corporation. BOEM consulted with the Tribal Nation in September 2018. The ANCSA Corporation did not request to consult. At that time, BOEM discussed the possible impacts from the 2020 proposal, as documented in the memorandum to the docket titled ''2018 Outreach on the Financial Assurance Proposal.''

On March 31, 2023, BOEM sent letters to all Tribes and ANCSA Corporations to ensure they are aware of this preparation for a new proposed rulemaking, to answer any immediate questions they may have, and to invite formal consultation if they would like to consult. To date, only one Tribe has requested consultation, however we will formally consult with any Tribes or ANCSA corporations at any stage in this rulemaking as it advances if consultation is requested.

I. Paperwork Reduction Act (PRA)

This proposed rule references existing information collections (ICs) previously approved by OMB and adds new IC requirements for BOEM regulations that require OMB review and approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Therefore, an information collection request for BOEM is being submitted to OMB for review and approval. The ICs related to this rulemaking concern the requirements under 30 CFR parts 550 and 556. BOEM may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

OMB has reviewed and approved the information collection requirements associated with risk management and financial assurance for OCS lease and grant obligations and assigned the following OMB control numbers:

- 1010–0006 (BOEM), ''Leasing of Sulfur or Oil and Gas in the Outer Continental Shelf (30 CFR parts 550, Subpart J; 556, Subparts A through I, and K; and 560, Subparts B and E) (expires 03/31/2026), and
- 1010–0114 (BOEM), ''30 CFR 550, Subpart A, General, and Subpart K, Oil and Gas Production Requirements (expires 05/31/2026).

This proposed rule would modify collections of information under 30 CFR part 550, subparts A and J, and 30 CFR part 556, subpart I, concerning financial assurance requirements (such as bonding) for leases, pipeline ROW grants, and RUE grants. OMB has reviewed and approved the information collection requirements associated with financial assurance regulations for leases (30 CFR 556.900 through 907), pipeline ROW grants (30 CFR 550.1011), and RUE grants (30 CFR 550.160 and 550.166).

BOEM estimates that the number of information collection burden hours for the proposed rule overall are close to the same as for the existing regulatory framework. If this proposed rule becomes final and effective, the new and changed provisions would increase the overall annual burden hours for OMB Control Number 1010–0006 by 77 hours (totaling 19,131 annual burden hours) and 268 responses (totaling 10,575 responses) as justified below. The changed provisions for OMB Control Number 1010–0114 would add new and revise requirements in 30 CFR part 550, subpart A, but would not impact the overall burden hours for this control number because the burdens for these provisions are counted under OMB Control Number 1010–0006. However, the regulatory descriptions of new and modified requirements would be extensive enough to require an update of the OMB control number.

When needed, BOEM would submit future burden changes (either increases or decreases) of the OMB control numbers with reasoning to OMB for review and approval. Every 3 years, BOEM would also review the burden numbers for changes, seek public comment, and submit any request for changes to OMB for approval.

Title of Collection: 30 CFR part 550, ''Oil and Gas and Sulfur Operations in the Outer Continental Shelf,'' and 30 CFR part 556, ''Leasing of Sulfur or Oil and Gas and Bonding Requirements in the Outer Continental Shelf.''

OMB Control Number: 1010–0006 and 1010–0114.

Form Number: None.

Type of Review: Revision of currently approved collections.

Respondents/Affected Public: Federal OCS oil, gas, and sulfur operators and lessees, and RUE grant and pipeline ROW grant holders.

Total Estimated Number of Annual Responses: 10,575 responses for 1010–0006, and 5,302 responses for 1010–0114.

Total Estimated Number of Annual Burden Hours: 19,131 hours for 1010–0006, and 18,323 hours for 1010–0114.

Respondent's Obligation: Responses to these collections of information are mandatory or are required to obtain or retain a benefit.

Frequency of Collection: The frequency of response varies but is primarily on the occasion or as per the requirement.

Total Estimated Annual Non-hour Burden Cost: No additional non-hour costs.

The following is a brief explanation of how the proposed regulatory changes would affect the various subparts' hour and non-hour cost burdens for OMB Control Number 1010–0114.

Right-of-Use and Easement

BOEM's existing regulations concerning RUE grants for an OCS lessee and a State lessee are found in 30 CFR 550.160 through 550.166. The burdens related to 30 CFR 550.160 and 550.166 are identified in OMB Control Number 1010–0114 but accounted for in OMB Control Number 1010–0006.

Section 550.160 provides that an applicant for a RUE that serves an OCS lease must meet bonding requirements, but the regulation does not prescribe a base surety bond amount. The proposed rule would replace this requirement with a cross-reference to the specific criteria governing financial assurance demands in proposed § 550.166. Therefore, BOEM is proposing to establish a Federal RUE base financial assurance requirement matching the existing base surety bond requirement for State RUEs. The annual burden hour likely would not change since RUEs that serve OCS leases are currently already meeting bonding requirements under BOEM's agreement-specific conditions of approval. The proposed regulations will be more specific and clarify the meaning of ''meeting bonding requirements.''

BOEM is proposing to establish a $500,000 area-wide RUE financial assurance requirement for any RUE-holder that owns one or more RUEs, regardless of whether they serve a State or Federal lease. BOEM is also proposing to allow any lessee that has posted an area-wide lease surety bond to modify that lease surety bond to also cover any RUE(s) held by the same entity.

BOEM is also proposing to revise the RUE regulations to clarify that any RUE grant holder, whether the RUE serves a State or Federal lease, may be required to provide supplemental financial assurance for the RUE if the grant holders do not meet the credit rating or proxy credit rating criteria. The existing regulations authorized demands for supplemental financial assurance but specified no criteria. The annual burden hour would not change based on these clarifications.

The following is the revised burden table and a brief explanation of how the proposed regulatory changes would affect the various subparts' hour and non-hour cost burdens for OMB Control Number 1010–0006:

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Burden Table

[*Italics show expansion of existing requirements*; **bold indicates new requirements**; regular font shows current requirements. Where applicable, updated estimates from the current collection are being used instead of those in the proposed rulemaking.]

30 CFR Part 550 Subpart J	Reporting Requirement*	Hour Burden	Average No. of Annual Responses	Annual Burden Hours
1011(a)	Provide *area-wide financial assurance* (form BOEM-2030) and if required, supplemental financial assurance, and required information.	GOM 0.25	52	13
		Pacific 3.5	3	11
1011(d)	**Demonstrate financial worth/ability to carry out present and future financial obligations, request approval of another form of *financial assurance*, request reduction in amount of supplemental bond required on BOEM-approved forms, *or requested phased financial assurance.* Monitor and submit required information.**	Burden included in 30 CFR 556.901(d).		
	30 CFR 550, Subpart J, TOTAL		**55 Responses**	**24 Hours**

30 CFR Part 556 and NTLs	Reporting Requirement*	Hour Burden	Average No. of Annual Responses	Annual Burden Hours
		Non-Hour Cost Burdens		
	Subpart A			
104(b)	Submit confidentiality agreement.	0.25	500	125
106	Cost recovery/service fees; confirmation receipt.	Cost recovery/service fees and associated documentation are covered under individual reqts. throughout part.		0
107	Submit required documentation electronically through BOEM-approved system; comply with filing specifications, as directed by notice in the *Federal Register* in accordance with § 560.500.	Burden covered in § 560.500.		0
107	File seals, documents, statements, signatures, etc., to establish legal status of all future submissions (paper and/or electronic).	10 min.	400	67
		Subtotal	900	192
	Subpart B			
201-204	Submit nominations, suggestions, comments, and information in response to Request for Information/Comments, draft and/or proposed 5-year leasing program, etc., including information from States/local governments, Federal agencies, industry, and others.	Not considered IC as defined in 5 CFR 1320.3(h)(4).		0
201-204	Submit nominations & specific information requested in draft proposed 5-year leasing program, from States/local governments.	4	69	276
		Subtotal	69	276
	Subpart C			
301; 302	Submit response & specific information requested in Requests for Industry Interest and Calls for Information and Nominations, etc., on areas proposed for leasing; including information from States/local governments.	Not considered IC as defined in 5 CFR 1320.3(h)(4)		0
302(d)	Request summary of interest (non-proprietary information) for Calls for Information/Requests for Interest, etc.	1	5	5
305; 306	States or local governments submit comments, recommendations, other responses on size, timing, or location of proposed lease sale. Request extension; enter agreement.	4	25	100
		Subtotal	30	105
	Subpart D			
400-402; 405	Establish file for qualification; submit evidence/certification for lessee/bidder qualifications. Provide updates; obtain BOEM approval & qualification number.	2	107	214
403(c)	Request hearing on disqualification.	Requirement not considered IC under 5 CFR 1320.3(h)(8).		0
403; 404	Notify BOEM if you or your principals are excluded, disqualified, or convicted of a crime—Federal non-procurement debarment and suspension requirements; request exception; enter transaction.	1.5	50	75

405	Notify BOEM of all mergers, name changes, or change of business.	Requirement not considered IC under 5 CFR 1320.3(h)(1).		0
		Subtotal	157	289
Subpart E				
500; 501	Submit bids, deposits, and required information, including GDIS & maps; in manner specified. Make data available to BOEM.	5	2,000	10,000
500(e); 517	Request reconsideration of bid decision.	Requirement not considered IC under 5 CFR 1320.3(h)(9).		0
501(e)	Apply for reimbursement.	Burden covered in 1010-0048, 30 CFR part 551.		0
511(b); 517	Submit appeal due to restricted joint bidders list; appeal bid decision.	Requirement not considered IC under 5 CFR 1320.3(h)(9).		0
513; 514	File statement and detailed report of production. Make documents available to BOEM.	2	100	200
515	Request exemption from bidding restrictions; submit appropriate information.	Requirement not considered IC under 5 CFR 1320.3(h)(9).		0
516	Notify BOEM of tie bid decision; file agreement on determination of lessee.	3.5	2	7
520; 521; 600(c)	Execute lease (includes submission of evidence of authorized agent/completion and request effective date of lease); submit required data and rental.	1	852	852
520(b)	Provide acceptable bond for payment of a deferred bonus.	0.25	1	1
		Subtotal	2,955	11,060
Subparts F, G, H				
Subpart F, G, H	References to requests of approval for various operations or submit plans or applications. Burden included with other approved collections for BOEM 30 CFR part 550 (Subpart A 1010-0114; Subpart B 1010-0151) and for BSEE 30 CFR part 250 (Subpart A 1014-0022; Subpart D 1014-0018).			0
701(c); 716(b); 801(b); 810(b)	Submit new designation of operator (BOEM-1123).	Burden covered in 1010-0114.		0
700-716	File application and required information for assignment/transfer of record title/lease interest (form BOEM-0150; form is 30 min.) (includes sell, sublease, sever, exchange, transfer); request effective date/confidentiality; provide notifications.	1	1,414	1,414
		$198 fee x 1,414 forms = $279,972		
800-810	File application and required information for assignment/transfer of operating interest (Form BOEM-0151) (includes sale, sublease, segregation exchange, severance, transfer); request effective date; provide notifications.	1	421	421
		$198 fee x 421 forms = $83,358		
715(a); 808(a)	File required instruments creating or transferring working interests, etc., for record purposes.	1	2,369	2,369
		$29 fee x 2,369 filings = $68,701		
715(b); 808(b)	Submit "non-required" documents, for record purposes that respondents want BOEM to file with the lease document. *(Accepted on behalf of lessees as a service; BOEM does not require nor need them.)*	$29 fee x 11,518 filings = $334,022		
		Subtotal	4,204	4,204
			$766,053	
Subpart I				
900(a)-(e); **901**; 902; 903(a); **905**	Submit OCS Mineral Lessee's and Operator's Bond (Form BOEM-2028) *and, if required, provide supplemental financial assurance*; execute bond.	0.33	405	135
900(c), (d), (f), *(g)*; 901(c), *(h)*, **901(d)**, (f); 902; **904**	Demonstrate financial worth/ability to carry out present and future financial obligations, request approval of another form of *financial assurance*, request reduction in amount of supplemental bond required on BOEM-approved forms, *or requested phased financial assurance*. Monitor and submit required information.	3.5	160	560

900(e); 901; 902; 903(a)	Submit OCS Mineral Lessee's and Operator's Supplemental Plugging & Abandonment Bond (Form BOEM-2028A); execute bond.	0.25	141	35
900(f), *(g), (i)*	Submit authority for Regional Director to sell Treasury or alternate type of securities *or financial assurance*.	2	12	24
901	Submit EP, DPP, DOCDs.	IC burden covered in 1010-0151, 30 CFR part 550, subpart B.		0
901*(g)*	Submit oral/written comment on adjusted *financial assurance* amount and information.	Requirement not considered IC under 5 CFR 1320.3(h)(9).		0
902 (g), (h) NEW	**Request informal resolution or file an appeal of supplemental financial assurance demand**.	Requirement not considered IC under 5 CFR 1320.3(h)(9).		0
903 *(a), (b);* 905 (c)	Notify BOEM of any lapse in *financial assurance* coverage/action filed alleging lessee, surety, guarantor or financial institution is insolvent or bankrupt or had its charter or license suspended or revoked.	3	4	12
904	*Establish decommissioning account proportional to estimated decommissioning obligation*.	12	2	24
905	Provide third-party guarantee, agreement, financial and required information, related notices, reports, and annual update; notify BOEM if guarantor becomes unqualified.	19	46	874
905(d); 906	Provide notice of and request approval to terminate period of liability, cancel *financial assurance*; provide required information.	0.5	378	189
907(c)(2)	Provide information to demonstrate lease will be brought into compliance.	16	5	80
		Subtotal	1,157	1,933
Subpart K				
1101	Request relinquishment (form BOEM-0152) of lease; submit required information.	1	247	247
1102	Request additional time to bring lease into compliance.	1	1	1
1102(c)	Comment on cancellation.	Requirement not considered IC under 5 CFR 1320.3(h)(9).		0
		Subtotal	248	248
	30 CFR Part 556 TOTAL		9,720 Responses	18,307 Hours
			$766,053 Non-Hour Cost Burdens	
30 CFR Part 560	**Reporting Requirement***	**Hour Burden**	**Average No. of Annual Responses**	**Annual Burden Hours**
560.224(a)	Request BOEM to reconsider field assignment of a lease.	Requirement not considered IC under 5 CFR 1320.3(h)(9)		0
560.500	Submit required documentation electronically through BOEM-approved system; comply with filing specifications, as directed by notice in the *Federal Register* (*e.g.*, financial assurance info.).	1	800	800
	30 CFR Part 560 TOTAL		**800 Responses**	**800 Hours**
	TOTAL REPORTING FOR COLLECTION		**10,575 Responses**	**19,131 Hours**
			$766,053 Non-Hour Cost Burdens	

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Pipelines and Pipeline Right-of-Way Grants

Proposed § 550.1011(d) relates to BOEM's determination of whether supplemental financial assurance is necessary to ensure compliance with the obligations under a pipeline ROW grant. This determination would be based on whether pipeline ROW grant holders have the ability to carry out present and future obligations. The criteria proposed for the financial determination include an issuer credit rating or a proxy credit rating. The issuer credit rating and the audited financial information on which BOEM determines a proxy credit rating already exist. The burden of determining a proxy credit rating falls on BOEM. The annual burdens placed on the grant holder would be minimal (providing to BOEM information the grant holder already has) and would be included in the burden estimates for 30 CFR 556.901(d).

Proposed § 550.1011(d)(2) provides that BOEM would consider the issuer credit rating or proxy credit rating of a co-grant holder, because they are liable

for accrued decommissioning obligations for facilities and pipelines on their ROW. The burden for determining credit rating falls mostly on BOEM. The annual burdens placed on the grant holder would be minimal (providing to BOEM information the grant holder already has) and would be included in the burden estimates for 30 CFR 556.901(d).

Bond or Other Financial Assurance Requirements for Leases

Proposed § 556.900(a)(4) proposes to add that supplemental financial assurance required by the Regional Director must be provided before a new lease is issued or an assignment of a lease is approved. The burden increase for this requirement would be included in OMB Control Number 1010–0006. Supplemental financial assurance required by this provision would likely not significantly impact the burdens due to low occurrence, but BOEM would account for the change in the burden table.

Base Financial Assurance and Supplemental Financial Assurance

Proposed § 556.901(d) relates to BOEM's determination of whether supplemental financial assurance is necessary to ensure compliance with the obligations under a lease. New proposed § 556.901(d)(1) would base this determination on an issuer credit rating or a proxy credit rating determined by BOEM based on audited financial information.

New § 556.901(d)(2) provides that BOEM would consider the issuer credit rating or proxy credit rating of a co-lessee, and new § 556.901(d)(3) provides that BOEM would consider the net present value of proved oil and gas reserves on the lease. Lessees' submission of information on proved reserves would account for additional annual burden hours. The lessee would not need to submit proved reserve information if supplemental financial assurance is not required based on its issuer credit rating or proxy credit rating, or those of its co-lessees.

The existing OMB-approved hour burden for each respondent to prepare and submit the information for the existing evaluation criteria requirements is 3.5 hours. In this proposed rule, the revision of the evaluation criteria would likely result in requiring less time for the respondents to prepare and submit the information, particularly for issuer credit rating. If companies choose to demonstrate that the net present value of proved oil and gas reserves on the lease exceeds three times the decommissioning cost associated with production of those reserves, then the time necessary for companies to prepare and submit information on the proved oil and gas reserves would likely be greater than 3.5 hours. Therefore, BOEM proposes to retain the average 3.5-hour burden to reflect the decrease in time required to prepare and submit issuer credit ratings and audited financials and the increase in time required for preparing and submitting information on proved reserves. When the final rule becomes effective, the related burden hours for all respondents (lessee, co-lessee, grant holder, and co-grant holder) would be included in OMB Control Number 1010–0006.

The OMB-approved number of respondents who currently submit financial information under the existing provision is 166 respondents. Recently, BOEM has seen the number of leases decrease in the Gulf of Mexico. BOEM estimates the new number of respondents would be between 150 and 160 respondents. For this request, BOEM will use the higher number of 160 respondents (-6 respondents). This number will be reviewed during the next IC renewal process. When the final rule becomes effective, BOEM will include the new number of respondents in OMB Control Number 1010–0006.

The existing OMB-approved annual burden hours for § 556.901 related to demonstrating financial worth/ability to carry out present and future financial obligations is 581 hours (166 respondents $\times$ 3.5 hours). With the changes provided in the proposed rule and described above, BOEM estimates that the annual hour burden would decrease by approximately 21 annual burden hours, and total annual burden hours would be 560 hours (160 respondents $\times$ 3.5 hours). This decrease in annual burden hours would be reflected in OMB Control Number 1010–0006 when the final rule becomes effective.

BOEM proposes to add paragraph (h) to § 556.901 to establish the limited opportunity to provide the required supplemental financial assurance demanded in three installments during the first 3 years after the effective date of this regulation. This provision would establish the timing and proportions of phased supplemental financial assurance that would be required in each installment. The lessee would have the option to submit the supplemental financial assurance once or in installments. If the lessee chooses to provide supplemental financial assurance in installments, the number of submissions of supplemental financial assurance would likely increase, but only for the first 3 years after the effective date of this regulation. OMB has currently approved 45 annual burden hours for supplemental financial assurance submissions (135 submissions which take 20 minutes each to submit). BOEM estimates the burden hours for the proposed installment submissions provision to be 135 annual burden hours (405 submissions $\times$ 20 minutes), which is an increase of 90 hours over existing OMB approval.

General Requirements for Bonds and Other Financial Assurance

The scope of proposed § 556.902(a) would include ''grant holder'' and financial assurance posted under the requirements of 30 CFR part 550. This change would clarify that the same general requirements for financial assurance provided by lessees, operating rights owners, or operators also apply to financial assurance provided by RUE and pipeline ROW grant holders. BOEM proposes to keep the burdens the same as the existing OMB burdens.

Decommissioning Accounts

Proposed revisions to § 556.904 would allow the Regional Director to authorize a RUE grant holder and a pipeline ROW grant holder, as well as a lessee, to establish a decommissioning account as supplemental financial assurance required under § 556.901(d), or 550.166(b) or 550.1011(d). Because this change represents a new opportunity for grant holders, there are no existing burdens related to this provision under the current OMB approval. BOEM is capturing the requirement to establish decommissioning accounts in the burden table. BOEM estimates 24 annual burden hours for grant holders and/or lessees to establish their decommissioning account.

A new provision is proposed under § 556.904(a)(3), which would require immediate submission of a surety bond or other financial assurance in the amount equal to the remaining unsecured portion of the supplemental financial assurance demand if the initial payment or any scheduled payment into the decommissioning account is not timely made. In the context of paperwork-burden, this provision replaces the existing provision that requires submission of binding instructions. The annual burden hours will remain the same but will shift to the proposed requirement and would be reflected in OMB Control Number 1010–0006.

Third-Party Guarantees

Proposed § 556.905(a) relates to the guarantor's ability to carry out present

and future obligations. Proposed § 556.905(a)(2) would require the guarantor to submit a third-party guarantee agreement. Paragraph (d) would provide that the terms which the existing regulation requires for indemnity agreements must be included in a third-party guarantee agreement. This change is to avoid any inference that the government must incur the expenses of decommissioning before being indemnified by the guarantor. It is a change of the name of the agreement and does not change the associated burden.

Proposed § 556.905(c)(2) would eliminate the requirement that a lessee must cease production until supplemental financial assurance coverage requirements are met when a guarantor becomes unqualified. The regulatory provision would be replaced with a requirement to immediately submit and maintain a substitute surety bond or other financial assurance. Both the existing and proposed provisions require the lessee to provide replacement surety bond coverage; however, BOEM's current OMB Control Number 1010–0006 does not quantify the burdens. Therefore, BOEM would add approximately 8 annual burden hours to OMB Control Number 1010–0006 for any lessee whose guarantor became unqualified.

Proposed § 556.905(b) would remove the requirement that a guarantee ensure compliance with all lessees' or grant holders' obligations and the obligations of all operators on the lease or grant. This revision would allow a third-party guarantor to limit the obligations covered by the third-party guarantee. In some situations, this change could result in additional paperwork burden due to additional surety bonds or other financial assurance that must be provided to BOEM to cover obligations previously covered by a third-party guarantee. BOEM estimates the number of additional financial assurance demands resulting from this revision to be low and the annual burdens would be included in the existing burden estimates for OMB Control Number 1010–0006, and revised in future IC requests, if needed.

Proposed § 556.905 would replace the indemnity agreement with a third-party guarantee agreement with comparable provisions. This change would not impact annual burden hours. Proposed § 556.905(e) would provide that a lessee or grant holder and the guarantor under a third-party guarantee may request BOEM to cancel a third-party guarantee. BOEM would cancel a third-party guarantee under the same terms and conditions provided for cancellation of additional surety bonds in proposed § 556.906(d)(2). The current OMB-approved burden under §§ 556.905(d) and 556.906 is 189 annual burden hours. BOEM proposes to keep the burdens the same as the current OMB approved burdens at 189 annual burden hours.

Termination of the Period of Liability and Cancellation of Financial Assurance

Proposed § 556.906(d)(2) would be revised to add additional circumstances when BOEM may cancel supplemental financial assurance. Proposed § 556.906(d)(2) would require a cancellation request from the lessee or grant holder, or the surety, based on assertions that one of the stated circumstances is present. BOEM already receives these types of requests and has approved the requests, where warranted, as a departure from the regulations. These burdens are already counted in the existing OMB burden estimate for OMB Control Number 1010–0006.

If this proposed rule becomes effective and OMB approves the information, BOEM would revise the existing OMB control numbers to reflect the changes. The IC does not include questions of a sensitive nature. BOEM will protect proprietary information according to the Freedom of Information Act (5 U.S.C. 552) and DOI implementing regulations (43 CFR part 2), 30 CFR 556.104, *Information collection and proprietary information,* and 30 CFR 550.197, *Data and information to be made available to the public or for limited inspection.*

The PRA requires agencies to estimate the total annual reporting and recordkeeping non-hour cost burden resulting from the collection of information, and we solicit your comments on this item. For reporting and recordkeeping only, your response should split the cost estimate into two components: (1) total capital and startup cost component; and (2) annual operation, maintenance, and purchase of service component. Your estimates should consider the cost to generate, maintain, and disclose or provide the information. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Generally, your estimates should not include equipment or services purchased: (1) before October 1, 1995; (2) to comply with requirements not associated with the information collection; (3) for reasons other than to provide information or keep records for the Government; or (4) as part of customary and usual business or private practices.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on any aspect of this information collection, including:

(1) Is the proposed information collection necessary or useful for BOEM to properly perform its functions?

(2) Are the estimated annual burden hour increases and decreases resulting from the proposed rule reasonable?

(3) Is the estimated annual non-hour cost burden resulting from this information collection reasonable?

(4) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected?

(5) Is there a way to minimize the information collection burden on those who must respond, such as by using appropriate automated digital, electronic, mechanical, or other forms of information technology?

Send your comments and suggestions on this information collection by the date indicated in the **DATES** section to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or via the *www.reginfo.gov* portal (online). You may view the information collection request(s) at *http://www.reginfo.gov/public/do/PRAMain.* Please provide a copy of your comments to the BOEM Information Collection Clearance Officer (see the **ADDRESSES** section). You may contact Anna Atkinson, BOEM Information Collection Clearance Officer at (703) 787–1025 with any questions. Please reference Risk Management, Financial Assurance and Loss Prevention (OMB Control No. 1010–0006), in your comments.

J. National Environmental Policy Act (NEPA)

A detailed environmental analysis under NEPA is not required because the proposed rule is covered by a categorical exclusion (see 43 CFR 46.205). This proposed rule meets the criteria set forth at 43 CFR 46.210(i) for a Departmental categorical exclusion in that this proposed rule is ''of an administrative, financial, legal, technical, or procedural nature.'' We have also determined that the proposed rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

K. Data Quality Act

In developing this proposed rule, we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554, app. C, sec. 515, 114 Stat. 2763, 2763A–153–154).

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

Under Executive Order 13211, agencies are required to prepare and submit to OMB a Statement of Energy Effects for ''significant energy actions.'' This should include a detailed statement of any adverse effects on energy supply, distribution, or use (including a shortfall in supply, price increases, and increased use of foreign supplies) expected to result from the action and a discussion of reasonable alternatives and their effects.

This action, which is a significant regulatory action under Executive Order 12866,[19] is likely to have a significant effect on the supply, distribution, or use of energy. BOEM has prepared a Statement of Energy Effects for this action. BOEM estimates that stronger supplemental financial assurance requirements will increase compliance costs for non-investment grade companies operating on the OCS by approximately $319 million annually (7 percent discounting). Pursuant to OMB's memorandum M–01–27,[20] BOEM recognizes that this action may ''adversely affect[ ] in a material way the productivity, competition, or prices in the energy sector.'' By increasing industry compliance costs, the regulation could adversely make the U.S. offshore oil and gas sector less attractive than regions with lower operating costs. Additionally, increased costs may depress the value of offshore assets or cause continuing production to become uneconomic sooner, leading to shorter-than-otherwise useful life and potentially a loss of production. For additional discussion on the energy effects and regulatory alternatives, please refer to the IRIA for this proposal.

M. Clarity of This Regulation

BOEM is required by Executive Order 12866, Executive Order 12988, and by the Presidential memorandum of June 1, 1998, to write all rules in plain language. This means that each rule BOEM publishes must:

(1) Be logically organized;

(2) Use the active voice to address readers directly;

(3) Use clear language rather than jargon;

(4) Be divided into short sections and sentences; and

(5) Use lists and tables wherever possible.

If you feel that BOEM has not met these requirements, send comments by one of the methods listed in the **ADDRESSES** section. To better help BOEM revise the proposed rule, your comments should be as specific as possible. For example, you should specify the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, and the sections where you feel lists or tables would be useful.

List of Subjects

30 CFR Part 550

Administrative practice and procedure, Continental shelf, Government contracts, Investigations, Mineral resources, Oil and gas exploration, Oil pollution, Outer continental shelf, Penalties, Pipelines, Public lands—rights-of-way, Reporting and recordkeeping requirements, Rights-of-way, Sulfur.

30 CFR Part 556

Administrative practice and procedure, Continental shelf, Environmental protection, Government contracts, Intergovernmental relations, Mineral resources, Oil and gas exploration, Outer continental shelf, Public lands, Reporting and recordkeeping requirements, Rights-of-way.

30 CFR Part 590

Administrative practice and procedure.

Laura Daniel-Davis,

Principal Deputy Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, the Bureau of Ocean Energy Management (BOEM) proposes to amend 30 CFR chapter V as follows:

PART 550—OIL AND GAS AND SULFUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

■ 1. The authority citation for part 550 continues to read as follows:

Authority: 30 U.S.C. 1751; 31 U.S.C. 9701; 43 U.S.C. 1334

■ 2. Revise the heading to part 550 to read as set forth above.

Subpart A—General

■ 3. Amend § 550.101 by revising the introductory paragraph to read as follows:

§ 550.101 Authority and applicability.

The Secretary of the Interior (Secretary) authorized the Bureau of Ocean Energy Management (BOEM) to regulate oil, gas, and sulfur exploration, development, and production operations on the Outer Continental Shelf (OCS). Under the Secretary's authority, the Director requires that all operations:

* * * * *

■ 4. Amend § 550.102 by revising paragraphs (a) and (b)(16) to read as follows:

§ 550.102 What does this part do?

(a) This part contains the regulations of the BOEM Offshore program that govern oil, gas, and sulfur exploration, development, and production operations on the OCS. When you conduct operations on the OCS, you must submit requests, applications, and notices, or provide supplemental information for BOEM approval.

(b) * * *

TABLE—WHERE TO FIND INFORMATION FOR CONDUCTING OPERATIONS

For information about	Refer to
* * * * *	
(16) Sulfur operations	30 CFR part 250, subpart P.
* * * * *	

■ 5. Amend § 550.105 by:

■ a. Adding the definition ''Assign'' in alphabetical order;

■ b. Revising the definitions ''Criteria air pollutant'' and ''Development geological and geophysical (G&G) activities'';

■ c. Removing the definition ''Easement'';

■ d. Revising the definitions ''Exploration'' and ''Facility'';

■ e. Adding the definition ''Financial assurance'' in alphabetical order;

[19] According to E.O. 31211, ''For purposes of this order: (a) ''Regulation'' and ''rule'' have the same meaning as they do in Executive Order 12866 or any successor order. (b) ''Significant energy action'' means any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1)(i) that is a significant regulatory action under Executive Order 12866 or any successor order,''.

[20] *https://www.whitehouse.gov/wp-content/uploads/2017/11/2001-M-01-27-Guidance-for-Implementing-E.O.-13211.pdf.*

■ d. Revising the definition ''Geological and geophysical (G&G) exploration'';
■ e. Adding the definitions ''Investment grade credit rating'' and ''Issuer credit rating'' in alphabetical order;
■ f. Revising the definitions ''Minerals'', ''Nonattainment area'', ''Pipelines'', and ''Production areas'';
■ g. Removing the definition ''Right-of-use'';
■ h. Adding the definition ''Right-of-Use and Easement (RUE)'' in alphabetical order;
■ i. Removing the definition ''Right-of-way pipelines'';
■ j. Adding the definition ''Right-of-way (ROW) pipelines'';
■ k. Adding the definition ''Transfer'' in alphabetical order;
■ l. Revising the definition ''You'';
■ m. Adding the definition ''Waste of oil, gas, or sulfur'' in alphabetical order; and
■ n. Removing the definition ''Waste of oil, gas, or sulphur.

The revisions and additions read as follows:

§ 550.105 Definitions.

* * * * *

Assign means to convey an ownership interest in an oil, gas, or sulfur lease, ROW grant or RUE grant. For the purposes of this part, ''assign'' is synonymous with ''transfer'' and the two terms are used interchangeably.

* * * * *

Criteria air pollutant means any air pollutant for which the United States Environmental Protection Agency (USEPA) has established a primary or secondary National Ambient Air Quality Standard (NAAQS) pursuant to section 109 of the Clean Air Act.

* * * * *

Development geological and geophysical (G&G) activities means those G&G and related data-gathering activities on your lease or unit that you conduct following discovery of oil, gas, or sulfur in paying quantities to detect or imply the presence of oil, gas, or sulfur in commercial quantities.

* * * * *

Exploration means the commercial search for oil, gas, or sulfur. Activities classified as exploration include but are not limited to:

(1) Geophysical and geological (G&G) surveys using magnetic, gravity, seismic reflection, seismic refraction, gas sniffers, coring, or other systems to detect or imply the presence of oil, gas, or sulfur; and

(2) Any drilling conducted for the purpose of searching for commercial quantities of oil, gas, and sulfur, including the drilling of any additional well needed to delineate any reservoir to enable the lessee to decide whether to proceed with development and production.

Facility, as used in § 550.303, means all installations or devices permanently or temporarily attached to the seabed. They include mobile offshore drilling units (MODUs), even while operating in the ''tender assist'' mode (*i.e.,* with skid-off drilling units) or other vessels engaged in drilling or downhole operations. They are used for exploration, development, and production activities for oil, gas, or sulfur and emit or have the potential to emit any air pollutant from one or more sources. They include all floating production systems (FPSs), including column-stabilized-units (CSUs); floating production, storage and offloading facilities (FPSOs); tension-leg platforms (TLPs); spars, etc. During production, multiple installations or devices are a single facility if the installations or devices are at a single site. Any vessel used to transfer production from an offshore facility is part of the facility while it is physically attached to the facility.

Financial assurance means a surety bond, a pledge of Treasury securities, a decommissioning account, a third-party guarantee, or another form of security acceptable to the BOEM Regional Director, that is used to ensure compliance with obligations under the regulations and under the terms of a lease, a RUE grant, or a pipeline ROW grant.

* * * * *

Geological and geophysical (G&G) explorations means those G&G surveys on your lease or unit that use seismic reflection, seismic refraction, magnetic, gravity, gas sniffers, coring, or other systems to detect or imply the presence of oil, gas, or sulfur in commercial quantities.

* * * * *

Investment grade credit rating means an issuer credit rating of BBB- or higher, or its equivalent, assigned to an issuer of corporate debt by a nationally recognized statistical rating organization (NRSRO) as that term defined by the United States Securities and Exchange Commission (SEC).

Issuer credit rating means a credit rating assigned to an issuer of corporate debt by Standard and Poor's (S&P) Ratings Services (or any of its subsidiaries), by Moody's Investors Service Incorporated (or any of its subsidiaries) or by another NRSRO, as that term is defined by the United States SEC.

* * * * *

Minerals include oil, gas, sulfur, geopressured-geothermal and associated resources, and all other minerals that are authorized by an Act of Congress to be produced.

* * * * *

Nonattainment area means, for any criteria air pollutant, an area which is show by monitored data or which is calculated by air quality modeling (or other methods determined by the Administrator of the USEPA to be reliable) to exceed any primary or secondary NAAQS established by the USEPA.

* * * * *

Pipelines are the piping, risers, and appurtenances installed for transporting oil, gas, sulfur, and produced waters.

* * * * *

Production areas are those areas where flammable petroleum gas, volatile liquids or sulfur are produced, processed (*e.g.,* compressed), stored, transferred (*e.g.,* pumped), or otherwise handled before entering the transportation process.

* * * * *

Right-of-Use and Easement (RUE) means a right to use a portion of the seabed, at an OCS site other than on a lease you own, to construct, secure to the seafloor, use, modify, or maintain platforms, seafloor production equipment, artificial islands, facilities, installations, or other devices to support the exploration, development, or production of oil, gas, or sulfur resources from an OCS lease or a lease on State submerged lands adjacent to or accessible from the OCS.

Right-of-way (ROW) pipelines are those pipelines that are contained within:

(1) The boundaries of a single lease or unit, but are not owned and operated by a lessee or operator of that lease or unit;

(2) The boundaries of contiguous (not cornering) leases that do not have a common lessee or operator;

(3) The boundaries of contiguous (not cornering) leases that have a common lessee or operator but are not owned and operated by that common lessee or operator; or

(4) An unleased block(s).

* * * * *

Transfer means to convey an ownership interest in an oil, gas, or sulfur lease, ROW grant or RUE grant. For the purposes of this part, ''transfer'' is synonymous with ''assign'' and the two terms are used interchangeably.

* * * * *

You, depending on the context of the regulations, means a bidder, a lessee (record title owner), a sublessee

(operating rights owner), a Federal or State RUE grant holder, a pipeline ROW grant holder, an assignor or transferor, a designated operator or agent of the lessee or grant holder, or an applicant seeking to become one of the above.

Waste of oil, gas, or sulfur means:

(1) The physical waste of oil, gas, or sulfur;

(2) The inefficient, excessive, or improper use, or the unnecessary dissipation of reservoir energy;

(3) The locating, spacing, drilling, equipping, operating, or producing of any oil, gas, or sulfur well(s) in a manner that causes or tends to cause a reduction in the quantity of oil, gas, or sulfur ultimately recoverable under prudent and proper operations or that causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas; or

(4) The inefficient storage of oil.

* * * * *

■ 6. Amend § 550.160 by

■ a. Revising the section heading;

■ b. Revising the introductory text; and

■ c. Revising paragraphs (a) introductory text, (b), and (c).

The revisions read as follows:

§ 550.160 When will BOEM grant me a right-of-use and easement (RUE), and what requirements must I meet?

BOEM may grant you a RUE on leased or unleased lands on the OCS, if you meet these requirements:

(a) You must require the RUE to construct, secure to the seafloor, use, modify, or maintain platforms, seafloor production equipment, artificial islands, facilities, installations, or other devices at an OCS site other than an OCS lease you own, that are:

* * * * *

(b) You must exercise the RUE according to the terms of the grant and the regulations of this part, as well as the regulations in 30 CFR part 250, subpart Q.

(c) You must meet the qualification requirements at 30 CFR 556.400 through 556.402 and the financial assurance requirements in § 550.166 and 30 CFR part 556, subpart I.

* * * * *

■ 7. Revise § 550.166 to read as follows:

§ 550.166 If BOEM grants me a RUE, what financial assurance must I provide?

(a) Before BOEM grants you a RUE on the OCS, you must maintain financial assurance of $500,000 that guarantees compliance with the regulations and the terms and conditions of the RUEs you hold.

(1) You are not required to submit and maintain the financial assurance of $500,000 pursuant to this paragraph (a) if you furnish and maintain area-wide lease financial assurance in excess of $500,000 pursuant to 30 CFR 556.901(a), provided that the area-wide lease financial assurance also guarantees compliance with all the terms and conditions of the RUEs you hold.

(2) The Regional Director may reduce the amount required in this paragraph (a) upon a determination that the reduced amount is sufficient to guarantee compliance with the regulations and the terms and conditions of the RUE grant.

(3) The requirements for financial assurance in 30 CFR 556.900(d) through (g) and 30 CFR 556.902 apply to the financial assurance required under this paragraph (a).

(b) If BOEM grants you a RUE that serves either an OCS lease or a State lease, the Regional Director may require supplemental financial assurance, above the amount required by paragraph (a) of this section, to ensure compliance with the obligations under your RUE grant based on an evaluation of your ability to carry out present and future obligations on the RUE using the criteria set forth in 30 CFR 556.901(d)(1) and (2). This supplemental financial assurance must:

(1) Meet the requirements of 30 CFR 556.900(d) through (g) and 30 CFR 556.902; and

(2) Cover costs and liabilities for compliance with regulations, compliance with BOEM and the Bureau of Safety and Environmental Enforcement (BSEE) orders, and well abandonment, platform and structure removal, and site clearance of the seafloor of the RUE, in accordance with the regulations at 30 CFR part 250, subpart Q.

(c) If you fail to replace any deficient financial assurance upon demand or fail to provide supplemental financial assurance upon demand, the Regional Director may:

(1) Assess penalties under subpart N of this part;

(2) Request BSEE to suspend operations on your RUE; and/or

(3) Initiate action for cancellation of your RUE grant.

■ 8. Add § 550.167 under the undesignated center heading ''Right-of-Use and Easement'' to read as follows:

§ 550.167 How may I obtain or assign my interest in a RUE?

(a) To obtain or assign a RUE, you must file an application and provide the information contained in § 550.161 and you must obtain BOEM's approval.

(b) BOEM may disapprove an assignment in the following circumstances:

(1) When the assignee has unsatisfied obligations under the regulations in this chapter or in 30 CFR chapters II or XII, or under any BOEM or BSEE order;

(2) When an assignment is not acceptable as to form or content (*e.g.,* containing incorrect legal description, not executed by a person authorized to bind the corporation, assignee does not meet the requirements of 30 CFR 556.401 through 556.405);

(3) When the assignment does not comply with or would conflict with these regulations, or any other applicable laws or regulations (*e.g.,* Departmental debarment rules);

(4) When the assignee does not meet the applicable financial assurance requirements in § 550.166 and 30 CFR 556.900 through 556.907, or an order issued thereunder, with respect to the interest being assigned.

■ 9. Amend § 550.199 by revising paragraph (b) to read as follows:

§ 550.199 Paperwork Reduction Act statements—information collection.

* * * * *

(b) Respondents are OCS oil, gas, and sulfur lessees and operators. The requirement to respond to the information collections in this part is mandated under the Act (43 U.S.C. 1331 *et seq.*) and the Act's Amendments of 1978 (43 U.S.C. 1801 *et seq.*). Some responses are also required to obtain or retain a benefit or may be voluntary. Proprietary information will be protected under § 550.197, *Data and information to be made available to the public or for limited inspection;* 30 CFR parts 551 and 552; and the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations at 43 CFR part 2.

* * * * *

Subpart J—Pipelines and Pipeline Rights-of-Way

■ 10. Revise § 550.1011 to read as follows:

§ 550.1011 Financial assurance requirements for pipeline right-of-way (ROW) grant holders.

(a) When you apply for, attempt to assign, or are the holder of a pipeline right-of-way (ROW) grant, you must furnish and maintain $300,000 of area-wide financial assurance that guarantees compliance with the regulations and the terms and conditions of all the pipeline ROW grants you hold in an OCS area as defined in 30 CFR 556.900(b). The requirement to furnish and maintain area-wide financial assurance for a pipeline ROW grant is separate and distinct from the requirement to provide financial assurance for a lease or right-of-use and easement (RUE).

(b) The requirement to furnish and maintain area-wide pipeline ROW financial assurance under paragraph (a) of this section may be satisfied if your operator or a co-grant holder provides such financial assurance in the required amount that guarantees compliance with the regulations and the terms and conditions of the grant.

(c) The requirements for lease financial assurance in 30 CFR 556.900(d) through (g) and 30 CFR 556.902 apply to the area-wide financial assurance required in paragraph (a) of this section.

(d) The Regional Director, using the criteria set forth in 30 CFR 556.901(d)(1) and (2), may require supplemental financial assurance (*i.e.,* above the amount required by paragraph (a) of this section) to ensure compliance with the obligations under your pipeline right-of-way grant based on an evaluation of your ability to carry out present and future obligations on the pipeline ROW.

(e) The supplemental financial assurance required under paragraph (d) of this section must:

(1) Meet the requirements of 30 CFR 556.900(d) through (g) and 30 CFR 556.902, and

(2) Cover costs and liabilities for regulatory compliance and compliance with BOEM and BSEE orders, decommissioning of all pipelines or other facilities, and clearance from the seafloor of all obstructions created by your pipeline ROW operations in accordance with the regulations at 30 CFR part 250, subpart Q.

(f) If you fail to replace any deficient financial assurance upon demand or fail to provide supplemental financial assurance upon demand, the Regional Director may:

(1) Assess penalties under subpart N of this part;

(2) Request BSEE to suspend operations on your pipeline ROW; and/or

(3) Initiate action for forfeiture of your pipeline ROW grant in accordance with 30 CFR 250.1013.

PART 556—LEASING OF SULFUR OR OIL AND GAS AND FINANCIAL ASSURANCE REQUIREMENTS IN THE OUTER CONTINENTAL SHELF

■ 11. The authority citation for part 556 is revised to read as follows:

Authority: 31 U.S.C. 9701; 42 U.S.C. 6213; 43 U.S.C. 1334.

■ 12. Revise the heading to part 556 to read as set forth above.

Subpart A—General Provisions

■ 13. Amend § 556.105 by:

■ a. In paragraph (a), removing the acronym ''EPA''; and

■ b. In paragraph (b):

■ i. Adding the definition ''Assign'' in alphabetical order;

■ ii. Revising the definition ''Eastern Planning Area'';

■ iii. Adding the definitions ''Financial assurance'', ''Investment grade credit rating'', and ''Issuer credit rating'' in alphabetical order;

■ iv. Revising the definition ''Right-of-Use and Easement (RUE)'';

■ v. Removing the definition ''Security or securities'';

■ vi. Adding the definition ''Transfer''; and

■ vii. Revising the definition ''You''.

The revisions and additions read as follows:

§ 556.105 Acronyms and definitions.

* * * * *

(b) * * *

Assign means to convey an ownership interest in an oil, gas, or sulfur lease, ROW grant or RUE grant. For the purposes of this part, ''assign'' is synonymous with ''transfer'' and the two terms are used interchangeably.

* * * * *

Eastern Planning Area means that portion of the Gulf of Mexico that lies southerly and westerly of Florida.

* * * * *

Financial assurance means a surety bond, a pledge of Treasury securities, a decommissioning account, a third-party guarantee, or another form of security acceptable to the BOEM Regional Director, that is used to ensure compliance with obligations under the regulations and under the terms of a lease, a RUE grant, or a pipeline ROW grant.

* * * * *

Investment grade credit rating means an issuer credit rating of BBB − or higher, or its equivalent, assigned to an issuer of corporate debt by a nationally recognized statistical rating organization (NRSRO) as that term defined by the United States Securities and Exchange Commission (SEC).

* * * * *

Issuer credit rating means a credit rating assigned to an issuer of corporate debt by Standard and Poor's (S&P) Rating Services (or any of its subsidiaries), by Moody's Investors Service Incorporated (or any of its subsidiaries), or by another NRSRO as that term is defined by the United States SEC.

* * * * *

Right-of-Use and Easement (RUE) means a right to use a portion of the seabed at an OCS site other than on a lease you own, to construct, secure to the seafloor, use, modify, or maintain platforms, seafloor production equipment, artificial islands, facilities, installations, or other devices to support the exploration, development, or production of oil, gas, or sulfur resources from an OCS lease or a lease on State submerged lands adjacent to or accessible from the OCS.

* * * * *

Transfer means to convey an ownership interest in an oil, gas, or sulfur lease, ROW grant or RUE grant. For the purposes of this part, ''transfer'' is synonymous with ''assign'' and the two terms are used interchangeably.

* * * * *

You, depending on the context of the regulations, means a bidder, a lessee (record title owner), a sublessee (operating rights owner), a Federal or State RUE grant holder, a pipeline ROW grant holder, an assignor or transferor, a designated operator or agent of the lessee or grant holder, or an applicant seeking to become one of the above.

Subpart G—Transferring All or Part of the Record Title Interest in a Lease

■ 14. Amend § 556.704 by revising the section heading, and paragraphs (a) introductory text and (a)(1) to read as follows:

§ 556.704 When may BOEM disapprove an assignment or sublease of an interest in my lease?

(a) BOEM may disapprove an assignment or sublease of all or part of your lease interest(s):

(1) When the transferor, transferee, or sublessee is not in compliance with all applicable regulations and orders, including financial assurance requirements;

* * * * *

Subpart H—Transferring All or Part of the Operating Rights in a Lease

■ 15. Amend § 556.802 by revising the section heading, introductory text, and paragraph (a) to read as follows:

§ 556.802 When may BOEM disapprove the transfer of all or part of my operating rights interest?

BOEM may disapprove a transfer of all or part of your operating rights interest:

(a) When the transferee is not in compliance with all applicable regulations and orders, including financial assurance requirements;

* * * * *

Subpart I—Bonding or Other Financial Assurance

■ 16. Amend § 556.900 by:
■ a. Revising the section heading and introductory text;
■ b. Revising paragraph (a)(3), and adding paragraph (a)(4);
■ c. Revising paragraphs (g) introductory text and (h); and
■ d. Adding paragraph (i).

The revisions and additions read as follows:

§ 556.900 Financial assurance requirements for an oil and gas or sulfur lease.

This section establishes financial assurance requirements for the lessee of an OCS oil and gas or sulfur lease.

(a) * * *

(3) Maintain a lease or area-wide bond in the amount required in § 556.901(a) or (b); and

(4) Provide any supplemental financial assurance required by the Regional Director.

* * * * *

(g) You may provide alternative types of financial assurance instead of providing a surety bond if the Regional Director determines that the alternative financial assurance protects the interests of the United States to the same extent as a surety bond.

* * * * *

(h) If you fail to replace deficient financial assurance or to provide supplemental financial assurance upon demand, the Regional Director may:

(1) Assess penalties under part 550, subpart N of this subchapter;

(2) Request BSEE to suspend production and other operations on your lease in accordance with 30 CFR 250.173; and/or

(3) Initiate action to cancel your lease.

(i) In the event you amend your area-wide surety bond covering lease obligations, or obtain a new area-wide lease surety bond, to cover the financial assurance requirements for any RUE(s), your area-wide lease surety bond may be called in whole or in part to cover any or all the obligations on which you default that are associated with your RUE(s) located in the area covered by such area-wide lease surety bond.

■ 17. Amend § 556.901 by:
■ a. Revising the section heading;
■ b. Revising paragraphs (a) introductory text and (a)(1)(i);
■ c. Revising paragraphs (b) introductory text and (b)(1)(i);
■ d. Revising paragraphs (c) through (f); and
■ e. Adding paragraphs (g) and (h).

The revisions and additions read as follows:

§ 556.901 Base financial assurance and supplemental financial assurance.

(a) This paragraph (a) explains what financial assurance you must provide before lease exploration activities commence.

(1) * * *

(i) You must furnish the Regional Director $200,000 in lease exploration financial assurance that guarantees compliance with all the terms and conditions of the lease by the earliest of:

* * * * *

(b) This paragraph (b) explains what financial assurance you must provide before lease development and production activities commence.

(1) * * *

(i) You must furnish the Regional Director $500,000 in lease development financial assurance that guarantees compliance with all the terms and conditions of the lease by the earliest of:

* * * * *

(c) If you can demonstrate to the satisfaction of the Regional Director that you can satisfy your decommissioning and other lease obligations for less than the amount of financial assurance required under paragraphs (a)(1) or (b)(1) of this section, the Regional Director may accept financial assurance in an amount less than the prescribed amount but not less than the amount of the cost for decommissioning.

(d) The Regional Director may determine that supplemental financial assurance (*i.e.,* financial assurance above the amounts prescribed in 30 CFR 550.166(a), 30 CFR 550.1011(a), § 556.900(a) or paragraphs (a) and (b) of this section) is required to ensure compliance with your lease obligations, including decommissioning obligations; the regulations in this chapter; and the regulations in 30 CFR chapters II and XII. The Regional Director may require you to provide supplemental financial assurance if you do not meet at least one of the following criteria:

(1) You have an Investment grade issuer credit rating. If any SEC-recognized NRSRO provides a credit rating that differs from any other SEC-recognized NRSRO credit rating, BOEM will apply the highest rating for the purposes of determining your financial assurance requirements.

(2) You have a proxy credit rating determined by the Regional Director, which must be based on audited financial information for the most recent fiscal year (which must include an income statement, balance sheet, statement of cash flows, and the auditor's certificate).

(i) The audited financial information for your most recent fiscal year must cover a continuous twelve-month period within the twenty-four-month period prior to the lessee's receipt of the Regional Director's determination that you must provide supplemental financial assurance.

(ii) In determining your proxy credit rating, the Regional Director may include the value of the contingent liabilities associated with any lease(s) or grants in which you have an ownership interest. Upon the request of the Regional Director, you must provide the information that the Regional Director determines is necessary to properly evaluate your contingent liabilities, including joint ownership interests and liabilities associated with your OCS leases and grants.

(3) Your co-lessee or co-grant-holder has an issuer credit rating or a proxy credit rating that meets the criteria set forth in paragraph (d)(1) of this section; however, the Regional Director may require you to provide supplemental financial assurance for decommissioning obligations for which such co-lessee or co-grant-holder is not liable.

(4) There are proved oil and gas reserves on the lease, as defined by the SEC Regulation S–X at 17 CFR 210.4–10 and SEC Regulation S–K at 17 CFR 229.1200, the value of which exceeds three times the estimated cost of the decommissioning associated with the production of those reserves, and that value must be based on reserve reports submitted to the Regional Director and reported on a per-lease basis. BOEM will determine the decommissioning costs associated with the production of your reserves on a per-lease basis, and will use the following decommissioning cost estimates:

(i) Where BSEE-generated probabilistic estimates are available, BOEM will use the estimate at the level at which there is a 70 percent probability that the actual cost of decommissioning will be less than the estimate (P70).

(ii) If there is no BSEE probabilistic estimate available, BOEM will use the BSEE-generated deterministic estimate.

(e) You may satisfy the Regional Director's demand for supplemental financial assurance by increasing the amount of your existing financial assurance or providing additional surety bonds or other types of acceptable financial assurance.

(f) The Regional Director will determine the amount of supplemental financial assurance required to guarantee compliance. In making this determination, the Regional Director will consider potential underpayment of royalty and cumulative

decommissioning obligations using the methodology set forth in paragraph (d)(3) of this section.

(g) If your cumulative potential obligations and liabilities either increase or decrease, the Regional Director may adjust the amount of supplemental financial assurance required.

(1) If the Regional Director proposes an adjustment, the Regional Director will:

(i) Notify you and your financial assurance provider of any proposed adjustment to the amount of financial assurance required; and

(ii) Give you an opportunity to submit written or oral comment on the adjustment.

(2) If you request a reduction of the amount of supplemental financial assurance required, or oppose the amount of a proposed adjustment, you must submit evidence to the Regional Director demonstrating that the projected amount of royalties due to the United States Government and the estimated costs of decommissioning are less than the required financial assurance amount. Upon review of your submission, the Regional Director may reduce the amount of financial assurance required.

(h) At any time during the first three years from the effective date of this regulation, you may request that the Regional Director allow you to provide, in three equal installments payable according to the schedule provided under this paragraph (h), the full amount of supplemental financial assurance required.

(1) If the Regional Director allows you to provide the amount required on such a phased basis, you must comply with the following:

(i) You must provide the initial one-third of the total supplemental financial assurance required within the timeframe specified in the demand letter or, if no timeframe is specified, within 60 calendar days of the date of receipt of the demand letter.

(ii) You must provide the second one-third of the required supplemental financial assurance to BOEM within 24 months of the date of receipt of the demand letter.

(iii) You must provide the final one-third of the required supplemental financial assurance to BOEM within 36 months of the date of receipt of the demand letter.

(2) If the Regional Director allows you to meet your supplemental financial assurance requirement in a phased manner, as set forth in this section, and you fail to timely provide the required supplemental financial assurance to BOEM, the Regional Director will notify you of such failure. You will no longer be eligible to meet your supplemental financial assurance requirement in the manner prescribed in this paragraph (h), and the remaining amount due will become due 10-calendar days after such notification is received.

■ 18. Amend § 556.902 by revising the section heading, paragraphs (a) and (e)(2), and adding paragraphs (g) and (h) to read as follows:

§ 556.902 General requirements for bonds or other financial assurance.

(a) Any surety bond or other financial assurance that you, as record title owner, operating rights owner, grant holder, or operator, provide under this part, or under 30 CFR part 550, must:

(1) Be payable upon demand to the Regional Director;

(2) Guarantee compliance with all your obligations under the lease or grant, the regulations under 30 CFR chapters II and XII, and all BOEM and BSEE orders; and

(3) Guarantee compliance with the obligations of all record title owners, operating rights owners, and operators on the lease, and all grant-holders on a grant.

* * * * *

(e) * * *

(2) A pledge of Treasury securities as provided in § 556.900(f).

* * * * *

(g) If you believe that BOEM's supplemental financial assurance demand is unjustified, you may request an informal resolution of your dispute in accordance with the requirements of 30 CFR 590.6. Your request for an informal resolution will not affect your right to request to meet your supplemental financial assurance requirement in a phased manner under § 556.901(h).

(h) You may file an appeal of a supplemental financial assurance demand with the Interior Board of Land Appeals (IBLA) pursuant to the regulations in 30 CFR part 590. However, if you request that the IBLA stay the demand pending a final ruling on your appeal, you must post an appeal surety bond equal to the amount of the demand that you seek to stay before any such stay is effective.

■ 19. Revise § 556.903 to read as follows:

§ 556.903 Lapse of financial assurance.

(a) If your surety, guarantor, or the financial institution holding or providing your financial assurance becomes bankrupt or insolvent, or has its charter or license suspended or revoked, any financial assurance coverage from such surety, guarantor, or financial institution must be replaced. You must notify the Regional Director within 7 calendar days of learning of such event, and, within 30 calendar days of learning of such event, you must provide other financial assurance from a different financial assurance provider in the amount required under §§ 556.900, 556.901, 30 CFR 550.166, or 30 CFR 550.1011.

(b) You must notify the Regional Director within 72 hours of learning of any action filed alleging that you are insolvent or bankrupt or that your surety, guarantor, or financial institution is insolvent or bankrupt or has had its charter or license suspended or revoked. All surety bonds or other financial assurance must require the surety, guarantor, or financial institution to timely provide this required notification both to you and directly to BOEM.

■ 20. Revise § 556.904 to read as follows:

§ 556.904 Decommissioning accounts.

(a) The Regional Director may authorize you to establish a decommissioning account(s) in a federally insured financial institution to satisfy a supplemental financial assurance demand made pursuant to § 556.901(d), 30 CFR 550.166(b) or 30 CFR 550.1011(d). The decommissioning account must be set up in such a manner that funds may not be withdrawn without the written approval of the Regional Director.

(1) Funds in the account must be pledged to meet your decommissioning obligations and payable upon demand to BOEM.

(2) You must fully fund the account, pursuant to a schedule that the Regional Director prescribes, to cover all decommissioning costs estimated by BSEE.

(3) If you fail to make the initial payment or any scheduled payment into the decommissioning account, you must immediately submit, and subsequently maintain, a surety bond or other financial assurance in an amount equal to the remaining unfulfilled portion of the supplemental financial assurance demand.

(b) Any interest paid on funds in a decommissioning account will become part of the principal funds in the account unless the Regional Director authorizes in writing the payment of the interest to the party who deposits the funds.

(c) The Regional Director may require you to create an overriding royalty, production payment obligation, or other revenue stream for the benefit of an account established as financial

assurance for the decommissioning of your lease(s) or RUE or pipeline right-of-way grant(s). The required obligation may be associated with oil and gas or sulfur production from a lease other than a lease or grant secured through the decommissioning account.

(d) BOEM may provide funds from the decommissioning account to the liable party that performs the decommissioning to cover the costs thereof.

■ 21. Revise § 556.905 to read as follows:

§ 556.905 Third-party guarantees.

(a) The Regional Director may accept a third-party guarantee to satisfy a supplemental financial assurance demand made pursuant to § 556.901(d), 30 CFR 550.166(b), or 30 CFR 550.1011(d), if:

(1) The guarantor meets the credit rating or proxy credit rating criterion set forth in § 556.901(d)(1); and

(2) The guarantor or guaranteed party submits a third-party guarantee agreement containing each of the provisions in paragraph (d) of this section.

(b) A third-party guarantor may limit its cumulative obligations to a fixed dollar amount as agreed to by BOEM at the time the third-party guarantee is provided.

(c) If, during the life of your third-party guarantee, your guarantor no longer meets the criterion referred to in paragraph (a)(1) of this section, you must, within 72 hours of so learning:

(1) Notify the Regional Director; and

(2) Submit, and subsequently maintain a surety bond or other financial assurance covering those obligations previously secured by the third-party guarantee.

(d) Your third-party guarantee must contain each of the following provisions:

(1) If you fail to comply with the terms of any lease or grant covered by the guarantee, or any applicable regulation, your guarantor must either:

(i) Take corrective action to bring the lease or grant into compliance with its terms or any applicable regulation, to the extent covered by the guarantee; or

(ii) Be liable under the third-party guarantee agreement to provide, within seven calendar days, sufficient funds for the Regional Director to complete such corrective action to the extent covered by the guarantee. Such payment does not result in the cancellation of the guarantee, and instead reduces the remaining value of the guarantee in an amount equal to the payment.

(2) If your guarantor wishes to terminate the period of liability under its guarantee, it must:

(i) Notify you and the Regional Director at least 90-calendar days before the proposed termination date;

(ii) Obtain the Regional Director's approval for the termination of the period of liability for all or a specified portion of the guarantee; and

(iii) Remain liable for all liabilities that accrued prior to the termination and responsible for all work and workmanship performed during the period of liability.

(3) Before the termination of the period of liability of the third-party guarantee, you must provide acceptable replacement financial assurance.

(e) If you or your guarantor request BOEM to cancel your third-party guarantee, BOEM will cancel the guarantee under the same terms and conditions provided for cancellation of supplemental financial assurance and return of pledged financial assurance in § 556.906, paragraphs (b) and/or (d)(3).

(f) The guarantor or guaranteed party must submit a third-party guarantee agreement that meets the following criteria:

(1) The third-party guarantee agreement must be executed by your guarantor and all persons and parties bound by the agreement.

(2) The third-party guarantee agreement must bind, jointly and severally, each person and party executing the agreement.

(3) When your guarantor is a corporate entity, two corporate officers who are authorized to bind the corporation must sign the third-party guarantee agreement.

(g) Your corporate guarantor and any other corporate entities bound by the third-party guarantee agreement must provide the Regional Director copies of:

(1) The authorization of the signatory corporate officials to bind their respective corporations;

(2) An affidavit certifying that the agreement is valid under all applicable laws; and

(3) Each corporation's corporate authorization to execute the third-party guarantee agreement.

(h) If your third-party guarantor or another party bound by the third-party guarantee agreement is a partnership, joint venture, or syndicate, the third-party guarantee agreement must:

(1) Bind each partner or party who has a beneficial interest in your guarantor; and

(2) Provide that each member of the partnership, joint venture, or syndicate is jointly and severally liable for those obligations secured by the guarantee.

(i) When forfeiture is called for under § 556.907, the third-party guarantee agreement must provide that your guarantor will either:

(1) Take corrective action to bring your lease or grant into compliance with its terms, and the regulations, to the extent covered by the guarantee; or

(2) Provide sufficient funds within seven calendar days to permit the Regional Director to complete such corrective action to the extent covered by the guarantee.

(j) The third-party guarantee agreement must contain a confession of judgment. It must provide that, if the Regional Director determines that you are in default of the lease or grant covered by the guarantee or not in compliance with any regulation applicable to such lease or grant, the guarantor:

(1) Will not challenge the determination; and

(2) Will remedy the default to the extent covered by the guarantee.

(k) Each third-party guarantee agreement is deemed to contain all terms and conditions contained in paragraphs (d), (f), and (j) of this section, even if the guarantor has omitted these terms from the third-party guarantee agreement.

■ 22. Revise § 556.906 to read as follows:

§ 556.906 Termination of the period of liability and cancellation of financial assurance.

This section defines the terms and conditions under which BOEM will terminate the period of liability of financial assurance. Terminating the period of liability ends the period during which obligations continue to accrue, but does not relieve the financial assurance provider of the responsibility for obligations that accrued during the period of liability. Canceling a financial assurance instrument relieves the financial assurance provider of all liability. The liabilities that accrue during a period of liability include obligations that started to accrue prior to the beginning of the period of liability and had not been met, and obligations that begin accruing during the period of liability.

(a) When you or your financial assurance provider request termination:

(1) The Regional Director will terminate the period of liability under your financial assurance within 90 calendar days after BOEM receives the request; and

(2) If you intend to continue operations, or have not met all decommissioning obligations, you must provide replacement financial assurance of an equivalent amount.

(b) If you provide replacement financial assurance, the Regional Director will cancel your previous

financial assurance and the previous financial assurance provider will not retain any liability, provided that:

(1) The amount of the new financial assurance is equal to or greater than that of the financial assurance that was cancelled, or you provide an alternative form of financial assurance, and the Regional Director determines that the alternative form of financial assurance provides a level of security equal to or greater than that provided by the financial assurance that was cancelled;

(2) For financial assurance submitted under § 556.900(a), § 556.901(a) or (b), 30 CFR 550.166(a), or 30 CFR 550.1011(a) the new financial assurance provider agrees to assume all outstanding obligations that accrued during the period of liability that was terminated; and

(3) For supplemental financial assurance submitted under § 556.901(d), 30 CFR 550.166(b), or 30 CFR 550.1011(d), the issuer of such financial assurance agrees to assume that portion of the outstanding obligations that accrued during the period of liability that was terminated and that the Regional Director determines may exceed the coverage of the base financial assurance. The Regional Director will notify the provider of the new financial assurance of the amount required.

(c) This paragraph (c) applies if the period of liability is terminated, but the financial assurance is not replaced with an equivalent amount. The financial assurance provider will continue to be responsible for accrued obligations:

(1) Until the obligations are satisfied; and

(2) For additional periods of time in accordance with paragraph (d) of this section.

(d) BOEM will cancel the financial assurance for your lease or grant, and the Regional Director will return any pledged financial assurance, as shown in the following:

TABLE 1 TO PARAGRAPH (d)

For the following:	Your financial assurance will be reduced or cancelled, or your pledged financial assurance will be returned:
(1) Financial assurance submitted under § 556.900(a), § 556.901(a) or (b), 30 CFR 550.166(a), or 30 CFR 550.1011(a).	7 years after the lease or grant expires or is terminated, 6 years after the Regional Director determines that you have completed all covered obligations, or at the conclusion of any appeals or litigation related to your covered obligations, whichever is the latest. The Regional Director will reduce the amount of your financial assurance or return a portion of your pledged financial assurance if the Regional Director determines that you need less than the full amount of the financial assurance or pledged financial assurance to cover any potential obligations.
(2) Financial assurance submitted under § 556.901(d), 30 CFR 550.166(a), or 30 CFR 550.1011(d).	(i) When the lease or grant expires or is terminated and the Regional Director determines you have met your covered obligations, unless the Regional Director: (A) Determines that the future potential liability resulting from any undetected problem is greater than the amount of the financial assurance submitted under § 556.900(a), § 556.901(a) or (b), 30 CFR 550.166(a), or 30 CFR 550.1011(a); and (B) Notifies the provider of financial assurance submitted under § 556.901(d), 30 CFR 550.166(b), or 30 CFR 550.1011(d) that the Regional Director will wait 7 years before canceling all or a part of such financial assurance (or longer period as necessary to complete any appeals or judicial litigation related to your secured obligations). (ii) At any time when: (A) BOEM has determined, using the criteria set forth in § 556.901(d)(1) of this part, as applicable, that you no longer need to provide the supplemental financial assurance for your lease, RUE grant, or pipeline ROW grant. (B) The operations for which the supplemental financial assurance was provided ceased prior to accrual of any decommissioning obligation; or, (C) Cancellation of the financial assurance is appropriate because, under the regulations, BOEM determines such financial assurance never should have been required.
(3) Third-party Guarantee under § 556.901(d), 30 CFR 550.166(b), or 30 CFR 550.1011(d).	When the Regional Director determines you have met your obligations secured by the guarantee (or longer period as necessary to complete any appeals or judicial litigation related to your obligations secured by the guarantee).

(e) For all financial assurance, the Regional Director may reinstate your financial assurance as if no cancellation had occurred if:

(1) A person makes a payment under the lease, RUE grant, or pipeline ROW grant, and the payment is rescinded or must be returned by the recipient because the person making the payment is insolvent, bankrupt, subject to reorganization, or placed in receivership; or,

(2) The responsible party represents to BOEM that it has discharged its obligations under the lease, RUE grant, or pipeline ROW grant and the representation was materially false when the financial assurance was cancelled.

■ 23. Revise § 556.907 to read as follows:

§ 556.907 Forfeiture of bonds or other financial assurance.

This section explains how a bond or other financial assurance may be forfeited.

(a) The Regional Director will call for forfeiture of all or part of the bond, or other form of financial assurance, including a guarantee you provide under this part, if:

(1) You, or any party with the obligation to comply refuse to comply with any term or condition of your lease, RUE grant, pipeline ROW grant, or any applicable regulation, or the Regional Director determines that you are unable to so comply; or

(2) You default on one of the conditions under which the Regional Director accepts your bond, third-party guarantee, and/or other form of financial assurance.

(b) The Regional Director may pursue forfeiture of your surety bond or other financial assurance without first making demands for performance against any other record title owner, operating rights owner, grant holder, or other person

authorized to perform lease or grant obligations.

(c) The Regional Director will:

(1) Notify you, your surety, guarantor, or the financial institution holding or providing your financial assurance, of a determination to call for forfeiture of your financial assurance, whether it takes the form of a surety bond, guarantee, funds, or other type of financial assurance.

(i) This notice will be in writing and will provide the reason for the forfeiture and the amount to be forfeited.

(ii) The Regional Director will determine the amount to be forfeited based upon an estimate of the total cost of corrective action to bring your lease or grant into compliance, subject in the case of a guarantee to any limitation in the guarantee authorized by § 556.902(a)(3).

(2) Advise you and your financial assurance provider that forfeiture may be avoided if, within five business days:

(i) You agree to and demonstrate that you will bring your lease or grant into compliance within the timeframe the Regional Director prescribes; or

(ii) The provider of your financial assurance agrees to and demonstrates that it will complete the corrective action to bring your lease or grant into compliance within the timeframe the Regional Director prescribes, even if the cost of compliance exceeds the amount of that financial assurance.

(d) If the Regional Director finds you are in default, the Regional Director may cause the forfeiture of any financial assurance provided to ensure your compliance with the terms and conditions of your lease or grant and the regulations in this chapter and 30 CFR chapters II and XII.

(e) If the Regional Director determines that your financial assurance is forfeited, the Regional Director will:

(1) Collect the forfeited amount; and

(2) Use the funds collected to bring your lease or grant into compliance and to correct any default.

(f) If the amount the Regional Director collects under your financial assurance is insufficient to pay the full cost of corrective actions, the Regional Director may:

(1) Take or direct action to obtain full compliance with your lease or grant and the regulations in this chapter; and

(2) Recover from you, any co-lessee, operating rights owner, grant holder or, to the extent covered by the guarantee, any third-party guarantor responsible under this subpart, all costs in excess of the amount the Regional Director collects under your forfeited financial assurance.

(g) If the amount that the Regional Director collects under your forfeited financial assurance exceeds the cost of taking the corrective action required to bring your lease or grant into compliance with its terms and the regulations in this chapter and 30 CFR chapters II and XII, the Regional Director will return the excess funds to the party from whom they were collected.

(h) The Regional Director may pay the funds from the forfeited financial assurance to a co- or predecessor lessee or third party who is taking the corrective action required to obtain partial or full compliance with the regulations and the terms of your lease or grant.

Subchapter C—Appeals

PART 590—APPEAL PROCEDURES

■ 24. The authority citation for part 590 continues to read as follows:

Authority: 5 U.S.C. 301 *et seq.;* 31 U.S.C. 9701; 43 U.S.C. 1334.

Subpart A—Offshore Minerals Management Appeal Procedures

■ 25. Amend § 590.4 by adding paragraph (c) to read as follows:

§ 590.4 How do I file an appeal?

* * * * *

(c) You may file an appeal of a BOEM supplemental financial assurance demand with the IBLA. However, if you request that the IBLA stay the demand pending a final ruling on your appeal, you must post an appeal surety bond equal to the amount of the demand that you seek to stay before any such stay is effective.

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Part III

Federal Trade Commission

16 CFR Parts 801 and 803
Premerger Notification; Reporting and Waiting Period Requirements; Proposed Rule

FEDERAL TRADE COMMISSION

16 CFR Parts 801 and 803

RIN 3084–AB46

Premerger Notification; Reporting and Waiting Period Requirements

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Pursuant to Section 7A(d) of the Clayton Act, the Federal Trade Commission (''FTC'' or ''Commission'') is proposing amendments to the premerger notification rules (''the Rules'') that implement the Hart-Scott-Rodino Antitrust Improvements Act (''the Act'' or ''HSR'') and to the Premerger Notification and Report Form (the ''Form'') and Instructions (''Instructions''). These proposed changes would result in a redesign of the premerger notification process through both a reorganization of the information currently required and the addition of new information and document requirements. In addition, these changes would implement the Merger Filing Fee Modernization Act of 2022. The proposed amendments would involve changes to both the Rules and the Instructions, and the Commission proposes explanatory and ministerial changes to the Rules as well as necessary amendments to the Instructions to effect the proposed changes.

DATES: Comments must be received on or before August 28, 2023.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Invitation to Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''16 CFR Parts 801–803—Hart-Scott-Rodino Coverage, Exemption, and Transmittal Rules, Project No. P239300'' on your comment. File your comment online at *https://www.regulations.gov/* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610, (Annex H), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Robert Jones, Assistant Director, Premerger Notification Office, Bureau of Competition, Federal Trade Commission, 400 7th Street SW, Room CC–5301, Washington, DC 20024, or by telephone at (202) 326–3100.

SUPPLEMENTARY INFORMATION:

Overview

The Act and Rules currently require the parties to certain mergers and acquisitions to submit premerger notification filings (''HSR Filings'') to the Commission and to the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice (''the Assistant Attorney General'') (collectively, ''the Agencies''), and to wait a short period of time before consummating such transactions. The reporting and waiting period requirements are intended to enable the Agencies to determine whether a proposed merger or acquisition may violate the antitrust laws, including Section 7 of the Clayton Act, 15 U.S.C. 18, if consummated and, when appropriate, to seek an injunction in federal court in order to enjoin anticompetitive acquisitions prior to consummation.

Section 7A(d)(1) of the Clayton Act, 15 U.S.C. 18a(d)(1), directs the Commission, with the concurrence of the Assistant Attorney General, in accordance with the Administrative Procedure Act, 5 U.S.C. 553, to require that premerger notification be in such form and contain such information and documentary material as may be necessary and appropriate to determine whether the proposed transaction may, if consummated, violate the antitrust laws. In addition, Section 7A(d)(2) of the Clayton Act, 15 U.S.C. 18a(d)(2), grants the Commission, with the concurrence of the Assistant Attorney General, in accordance with 5 U.S.C. 553, the authority to define the terms used in the Act, exempt classes of transactions that are not likely to violate the antitrust laws, and prescribe such other rules as may be necessary and appropriate to carry out the purposes of Section 7A.

In this notice of proposed rulemaking (''NPRM''), the Commission proposes amending the Rules (Part 801 and Part 803 and its appendices), the Form, and the Instructions to reorganize the information currently required with an HSR Filing and to require additional information critical to the Agencies' initial review. These changes would improve the efficiency and effectiveness of that initial review by providing the information the Agencies need to identify during the initial 30-day waiting period any transaction that may pose competition concerns and potentially narrow the scope of any investigation or reduce the need to conduct a more in-depth investigation of the proposed transaction. These amendments also incorporate the changes to implement the collection of information mandated by the Merger Filing Fee Modernization Act of 2022 (''2022 Amendments'') contained within the Consolidated Appropriations Act, 2023 (Pub. L. 117–328, 136 Stat. 4459) to Section 7(a) of the Clayton Act, 15 U.S.C. 18a. Finally, the Commission proposes explanatory and ministerial changes to the Rules as well as necessary amendments to the Instructions to effect the proposed changes.

Background

The premerger notification program is designed to provide the Commission and the Assistant Attorney General with the information and documentary material necessary and appropriate for an initial evaluation of the potential anticompetitive impact of transactions. The HSR premerger notification program is an essential tool for effective and efficient merger enforcement because it enables the Agencies to investigate acquisitions that may substantially lessen competition or tend to create a monopoly in violation of Section 7 of the Clayton Act and to challenge them before they are consummated and the businesses of the two companies are ''scrambled'' or integrated such that effective post-merger relief is much more difficult. Congress intended that premerger review would ''strengthen the enforcement of Section 7 by giving the government antitrust agencies a fair and reasonable opportunity to detect and investigate large mergers of questionable legality before they are consummated.'' [1] Premerger notification and review, including a mandatory waiting period during which they cannot consummate the transaction, gives the Agencies the procedural tools necessary to seek to prevent mergers in court before they cause harm or the operations of the firms become so integrated that the premerger state of competition cannot be restored.

The HSR Act and Rules specify that transactions subject to the HSR Act cannot be consummated until 30 days for most transactions (cash tender offers and certain types of bankruptcies observe a 15-day waiting period) [2] after the parties submit an HSR Filing to the Agencies. These statutory deadlines for conducting an initial review are extraordinarily short, and the Agencies must work quickly to determine whether to take steps to prevent the consummation of potentially anticompetitive transactions. During the initial waiting period, the FTC's

[1] H.R. Rep. No. 94–1373 at 5 (1976).

[2] 15 U.S.C. 18a(b)(1)(B); 11 U.S.C. 363(b)(2).

Premerger Notification Office (''PNO'') staff must review each HSR Filing to ensure it complies with the HSR Rules. Staff at both Agencies initially review the information and documents for substantive antitrust concerns, identify and assess the relevant facts, conduct a preliminary antitrust analysis, form preliminary recommendations regarding the investigation's direction, and communicate those recommendations within each Agency. As staff formulate recommendations, they must also initiate clearance from the other agency for those transactions that merit collection of additional information to avoid any duplication of effort and ensure that only one agency investigates the transaction. Senior leadership at the investigating agency must review staff's recommendations and determine whether to issue a Request for Additional Information (''Second Request''),[3] which starts the second phase of the agency's merger investigation. If there are other jurisdictions investigating, Agency staff coordinate with relevant state Attorneys General or international counterparts. All of this must happen during the initial waiting period, which is typically 30 days.

Given the large number of HSR Filings submitted each year, the Agencies must use their resources efficiently and effectively to focus primarily on transactions that may harm competition. Information submitted as part of the HSR premerger notification process is a key starting point, and the information contained in the HSR Filing should be sufficient to allow the Agencies to conduct a thorough but quick evaluation of whether the proposed transaction is one that requires more in-depth investigation through the issuance of Second Requests.

However, after a comprehensive review of the premerger notification process and based on the Agencies' experience conducting in-depth investigations of challenged mergers, the Commission believes that the information currently reported in an HSR Filing is insufficient. In fact, the challenges of premerger review have expanded considerably over time as result of several factors. First, there has been tremendous growth in sectors of the economy that rely on technology and digital platforms to conduct business and, given the dynamic nature of these markets and the importance of acquisition strategies to success and market growth, mergers and acquisitions in these sectors present a unique challenge for the Agencies.[4] In these sectors, some transactions involve firms whose premerger relationship is not clearly horizontal or vertical; rather, merger activity in these sectors increasingly involves firms in related business lines where the Agencies must closely examine the potential for direct competition in the future.

In addition, the very nature of HSR-reportable transactions has become more complex over time. Transaction structures have evolved to include not only the Ultimate Parent Entity (UPE) and its acquiring entity,[5] but also other entities within the acquiring person. For instance, there can be numerous entities between the UPE and acquiring entity, and other investors can have a stake in any one of these entities. As a result, these investors could have a direct role in effectuating the transaction. Individuals or entities other than the those directly involved in the transaction may be able to exert influence over the transaction as well. The existence of subsidies or loans, among other means, may subject the buyer to additional pressures from individuals or entities not directly a party to the reportable transaction. Indeed, the use of board observers has become a more frequent way for outside players to gain direct access to company strategy. Each of these factors can affect a transaction's impact on the competitive landscape.

Consistent with this concern, the Commission's NPRM also proposes changes to implement the collection of information about certain subsidies, as mandated by the 2022 Amendments. Congress determined that foreign subsidies can distort the competitive process or otherwise change the incentives of the firm in ways that undermine competition following an acquisition and are particularly problematic when provided by entities or countries that are strategic or economic threats to the United States.[6] The proposed changes require filing parties to provide information about subsidies received from foreign entities of concern, as discussed in more detail below.

Another factor that has an impact on the complexity of premerger review is that consistent with the law and binding judicial precedent, the Agencies have stepped up efforts to review transactions for *all* their potential competitive impacts. The Agencies are responding to evidence that the U.S. economy is becoming increasingly concentrated overall.[7] This concentration may reflect decreased competition, which can result in higher prices for consumers, decreased innovation, reduction in output, and lower wages for workers. For example, economists have estimated that workers' share of national income has fallen sharply since 2000, such that the workers' share of income today is now 6 to 8 percentage points below the 1980 level.[8] These findings reveal that despite the Agencies' efforts to prevent market consolidation through merger enforcement, many markets suffer from a lack of robust competition and mergers continue to cause harm.[9] As President Biden noted in his Executive Order on Promoting Competition, industry consolidation and weakened competition ''deny Americans the benefits of an open economy,'' with ''workers, farmers, small businesses, and consumers paying the price.'' [10]

[3] 15 U.S.C. 18a(e).

[4] *See, e.g.,* Fed. Trade Comm'n, Non-HSR Reported Acquisitions by Select Technology Platforms 23–24 (2021).

[5] 16 CFR 801.1(a).

[6] Title II of the Merger Filing Fee Modernization Act of 2022, Public Law 117–329, Div. GG, sec. 201(a)(1) at 3826, 136 Stat. 4459. Congress pointed to remarks of former Commissioner Noah Phillips that ''one area where antitrust needs to reckon with the strategic interests of other nations is when we scrutinize mergers or conduct involving state-owned entities . . . companies that are controlled, by varying degrees, by the state . . . [and] often are a government tool for implementing industrial policies or to protect national security.'' *Id.* at sec. 201(a)(5).

[7] *See, e.g.,* Council of Econ. Advisers Issue Brief, Benefits of Competition and Indicators of Market Power at 4 (Apr. 2016), *https://obamawhitehouse.archives.gov/sites/default/files/page/files/20160414_cea_competition_issue_brief.pdf* (noting change in revenue share earned by the 50 largest firms in each sector); David Autor et al., *The Fall of the Labor Share and the Rise of Superstar Firms,* 135 Q.J. Econ. 645 (2020) (finding that the top 4 firms in the top sectors of the economy became steadily and significantly more concentrated); Thomas Philippon, *Causes, Consequences, and Policy Responses to Market Concentration,* in *Aspen Economic Strategy Group, Maintaining the Strength of American Capitalism* (2019) (reviewing literature on concentration in the U.S. economy).

[8] *See, e.g.,* Gene M. Grossman and Ezra Oberfield, *The Elusive Explanation for the Declining Labor Share,* 14:1 Ann. Rev. Econ. 93–124 (2022).

[9] *See, e.g.,* Keith Brand, Chris Garmon, Ted Rosenbaum, *In the Shadow of Antitrust Enforcement: Price Effects of Hospital Mergers from 2009–2016,* (forthcoming in J.L. Econ.); Zack Cooper et al., *The Price Ain't Right? Hospital Prices and Health Spending on the Privately Insured,* 134 Q.J. Econ. 51 (2019); Gautam Gowrisankaran, Aviv Nevo, and Robert Town, *Mergers When Prices are Negotiated: Evidence from the Hospital Industry,* 105 Am. Econ. Rev. 172 (2015); Orley Ashenfelter, Daniel Hosken, and Matthew C. Weinberg, *Did Robert Bork Understate the Competitive Impact of Mergers? Evidence from Consummated Mergers,* 57 J.L. & Econ. S67 (2014).

[10] Exec. Order No. 14,036, 86 FR 36,987 (July 14, 2021). *See also* The White House, Fact Sheet: Executive Order on Promoting Competition in the American Economy (July 9, 2021), *https://www.whitehouse.gov/briefing-room/statements-releases/2021/07/09/fact-sheet-executive-order-onpromoting-competition-in-the-american-*

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Each year, many of the transactions that are investigated by the Agencies are also investigated by another jurisdiction under their laws and procedures and this adds to the complexity of premerger review. Moreover, the Agencies' experience gained while cooperating with international competition agencies that are conducting their own merger investigation reveals that better information can help address the increased complexity of premerger review and improve its efficiency. As compared to the Form, most international jurisdictions have merger filing forms that ask filers to provide significantly more information that their staff considers relevant to the competition analysis, including details about the transaction's structure and rationale, horizontal overlaps, vertical and other relationships, and more detailed sales data. Importantly, many other jurisdictions rely on narrative responses from the parties that contain basic information about business lines or company operations, and several require the parties to self-report overlaps.

For all these reasons, the Commission believes that the information currently collected by the Form is insufficient for the Agencies to conduct an effective and efficient initial evaluation of a transaction's likely competitive impact on all of those who might be affected, including consumers, small businesses, and workers. In the Agencies' experience, the current Form does not provide their staff with complete information, including information about the transaction; the filers' business operations and those of any related entities; the premerger relationship between the acquiring person and the acquired entity; individuals or entities that may have influence over the operation of the relevant business lines; the full range of potential competitive implications of the transaction, including effects on workers; and prior acquisitions.

To supplement the shortcomings of HSR Filings, Agency staff must often rely on voluntary cooperation from third parties—customers and competitors of the merging parties—during the initial waiting period to learn basic information about the parties' business dealings and the markets in which they compete. In addition, staff needs to conduct independent research using publicly available information to supplement the modest amount of material submitted with the HSR Filing. Neither of these is reliable as a substitute for information provided by the parties themselves and certified as a complete response. Moreover, the additional effort required to discover basic business information about the parties to the transaction and their premerger relationship is inefficient and can result in both too few in-depth investigations when the information collected does not uncover a significant premerger competitive relationship as well as in-depth investigations that are either too broad or too narrow due to the insufficient detail about those relationships that is currently provided in HSR Filings. The information collected by the parties for their own premerger assessment of the transaction is paramount for the Agencies' antitrust assessment and should be collected and submitted with the initial filing.[11] The Commission therefore proposes additional questions and document requests to provide the Agencies with the information necessary to facilitate their initial review, as discussed further in this NPRM.

At the same time, it has become clear to the Commission that certain required information currently submitted in the Form to aid the Agencies' review is not as helpful as originally intended. For instance, as a general screening tool, reporting revenue by specific dollar amounts for specific industry codes, as defined by the North America Industry Classification System (''NAICS''), does not materially assist the Agencies in their initial review. Reporting revenue ranges for the NAICS codes, would sufficiently convey which lines of business of the filing person generate the most revenue. In addition, the requirement to report manufacturing revenues at a granular level has become less helpful to the Agencies during their initial review as a result of changes made by the United States Census Bureau (''Census'') to one of its revenue classification systems. Finally, the Commission believes that the identification of minority investors in target entities, other than those that will ''roll over'' their investments post-consummation, is of limited use. The Commission therefore proposes deleting these requirements, as discussed in further detail below.

The Commission anticipates that the proposed reorganization and collection of additional information in HSR Filings would greatly enhance the Agencies' ability to complete the review of a reportable transaction in a short period of time, and that they are necessary and appropriate in order for the Agencies to vigorously enforce the nation's antitrust laws. The changes would improve the efficiency and effectiveness of the Agencies' initial review process and reduce the need to rely on the voluntary submission of additional information by the parties and third-party industry sources during the initial waiting period.

Finally, the Commission notes that since the implementation of the Act and Rules in the late 1970s, there has never been a large-scale reorganization of the information required in an HSR Filing. As a result, the Commission is proposing a comprehensive redesign of the premerger notification process through both a reorganization of the information currently required and the addition of new information requirements. As the Agencies are currently working to complete an electronic filing (''e-filing'') platform, the exact structure of the redesign is unclear at this time. The Commission believes that the development and roll-out of an e-filing platform will mark a significant improvement in the submission and processing of HSR Filings, with benefits for both filers and the Agencies. Thus, in this NPRM, the Commission is providing an overview of the proposed reorganization of the information currently required and the proposed new information requirements. The exact form of the redesign and how filers will submit this information will be more clearly laid out in any Final Rule after the Commission reviews all comments to this NPRM.

Proposed Changes to the Rules

I. Proposed Changes to Part 801

A. Section 801.1: Proposed Definitions of ''Foreign Entity or Government of Concern'' and ''Subsidy''

On December 29, 2022, the President signed into law the Consolidated Appropriations Act, 2023, which included amendments to the HSR Act in t2022 Amendments. Public Law 117–328, 136 Stat. 4459. Congress found that foreign subsidies, particularly those from ''countries or entities that constitute a strategic or economic threat

economy/ (noting that ''Economists find that as competition declines, productivity growth slows, business investment and innovation decline, and income, wealth, and racial inequality widen.'').

[11] ''The House conferees contemplate that, in most cases, the Government will be requesting the very data that is already available to the merging parties, and has already been assembled and analyzed by them. If the merging parties are prepared to rely on it, all of it should be available to the Government.'' 122 Cong. Rec. H30877 (Sept. 16, 1976) (remarks of Rep. Rodino).

to United States interests,'' [12] ''can distort the competitive process by enabling the subsidized firm to submit a bid higher than other firms in the market, or otherwise change the incentives of the firm in ways that undermine competition'' [13] post-merger. The 2022 Amendments require the Commission, with concurrence of the Assistant Attorney General, and in consultation with Chairperson of the Committee on Foreign Investment in the United States, the Secretary of Commerce, the Chair of the United States International Trade Commission, the United States Trade Representative, and heads of other appropriate agencies (''Relevant Agencies''), to promulgate a rule to require persons making an HSR Filing to disclose subsidies received from countries or entities that are strategic or economic threats to the United States. Congress identified those threats as ''foreign entities of concern'' as defined in section 40207 of the Infrastructure and Jobs Act, 42 U.S.C. 18741(a), and required the Commission to collect information about subsidies from these entities as part of HSR Filings.

After conducting its own internal diligence to draft a rule and in consultation with the Relevant Agencies on this topic, the Commission proposes amending § 801.1 to add proposed paragraphs (r)(1) and (2), which define ''foreign entity or government of concern'' and ''subsidy,'' respectively.

1. Section 801.1(r)(1) Foreign Entity or Government of Concern

In the 2022 Amendments, Congress found that foreign subsidies are particularly problematic when granted by countries or entities that constitute a strategic or economic threat to U.S. interests. To identify such subsidies, the Commission proposes new rule § 801.1(r)(1). This proposed rule defines, in proposed subsection (i), subsidies that would have to be disclosed, per Congress' mandate, if received from a ''foreign entity of concern'' as the term is defined in section 40207 of the Infrastructure Investment and Jobs Act (''IIJ Act''), 42 U.S.C. 18741(a). The Commission therefore proposes adopting this definition in § 801.1(r)(1)(i).

The Commission recognizes, however, that the definition of a ''foreign entity of concern'' in the IIJ Act does not explicitly include foreign governments or government agencies. To the extent that HSR filers have received any subsidy directly from the government of a country designated by 42 U.S.C. 18741(a)(5)(C), the Commission believes that including these subsidies would be consistent with Congress' mandate to capture information regarding subsidies when granted by entities posing a strategic and economic threat to the United States. Indeed, the Agencies' understanding of the subsidies' competitive significance would be incomplete without including subsidies granted by foreign governments or government agencies of foreign countries that are covered nations under 42 U.S.C. 18741(a)(5)(C). Therefore, the Commission proposes requiring persons making an HSR Filing to report subsidies received from governments (and their agencies) of foreign countries that are covered nations under 42 U.S.C. 18741(a)(5)(C) in proposed § 801.1(r)(1)(ii).

Finally, the Commission proposes that proposed §§ 801.1(r)(1)(i) and (ii) retain the references to the respective sections of the IIJ Act rather than incorporating the current text of these sections to assure that the proposed rule remains consistent with any subsequent amendments to these sections within the IIJ Act.

2. Section 801.1(r)(2) Subsidy

The 2022 Amendments found that ''[f]oreign subsidies, which can take the form of direct subsidies, grants, loans (including below-market loans), loan guarantees, tax concessions, preferential government procurement policies, or government ownership or control, can distort the competitive process.'' [14] Thus, the 2022 Amendments require the Commission to collect information about such subsidies to enable the Agencies to determine whether the transaction, if consummated, would violate the antitrust laws. But the statute does not define the term ''subsidy'' and its specific definition has, in fact, been heavily debated and negotiated in both U.S. legislation and international treaties in other contexts. The Commission is mindful of the relevant caselaw and expertise of other U.S. agencies that have developed over decades and, after consultation with the Relevant Agencies on this topic, the Commission proposes the adoption of the definition of subsidies in Title VII of the Tariff Act of 1930 (''Tariff Act''), 19 U.S.C. 1677(5)(B).

The Tariff Act definition of ''subsidy'' is consistent with the definition in the World Trade Organization's Agreement on Subsidies and Countervailing Measures (''SCM''), to which the United States is a party.[15] The Commission believes that because this definition is found both in U.S. law and in the SCM, both U.S. and foreign filing parties, or the law firms that represent them, should be familiar with and able to apply. The Commission also believes this definition is consistent with the Congressional mandate in the 2022 Amendments.

The Commission thus proposes adopting this definition in § 801.1(r)(2) and that the proposed rule retain the reference to the Tariff Act definition rather than incorporating the current text of that section to assure that the proposed rule remains consistent with any subsequent amendments to the Tariff Act.

The incorporation of this proposed change into the Instructions is discussed below at III.E.1.

II. Proposed Changes to Part 803

A. Sections 803.2, 803.5, and 803.10: Adoption of Electronic Filing

The Commission proposes amending §§ 803.2(e) and (f); 803.5(a)(1), (3), and (b); and 803.10(c)(1)(i) and (ii) to eliminate references to paper and DVD filings to physical offices. In March 2020, the COVID–19 pandemic and resulting closures of federal office buildings prevented the Commission and Assistant Attorney General from physically accepting HSR Filings, as had been the practice since the original adoption of the Rules in 1978. As a result, on March 17, 2020, the Agencies began accepting filings electronically.[16] Given the success of that system, the Commission proposes amending the Rules as noted above to adopt electronic filing and eliminate references to paper and DVD filings. This change benefits both the Agencies and filing parties by reducing reliance on the delivery and acceptance of paper filings or DVDs.

B. Section 803.2: Requiring Separate Forms for Acquiring and Acquired Persons

The Commission proposes amending § 803.2(a) and deleting § 803.2(b)(1)(v) so that filing persons that are both the acquiring and acquired person are required to make separate filings. Currently, the Rules, Instructions, and Form permit filers that are both an acquiring and an acquired person in a transaction to file only one Form. This

[12] Title II of the Merger Filing Fee Modernization Act of 2022, Public Law 117–329, Div. GG, sec. 201(a)(2) at 3826, 136 Stat. 4459.

[13] *Id.* at sec. 201(a)(1).

[14] *Id.*

[15] 19 U.S.C. 3511(d)(12).

[16] Press Release, Fed. Trade Comm'n, Premerger Notification Office Implements Temporary e-Filing System (March 13, 2020), *https://www.ftc.gov/news-events/news/press-releases/2020/03/premerger-notification-office-implements-temporary-e-filing-system.*

scenario arises most commonly when a seller will receive voting securities of the buyer as consideration for the sale of the target. In such transactions, both the acquisition of the target by the buyer and the acquisition of the buyer's voting securities by the seller may be reportable. Thus, the buyer and seller can each be an acquiring and an acquired person.

Although the Rules permit filers to use one Form for the two transactions in these cases, § 803.2(b)(1)(v) requires that separate responses be provided for Items 5 through 8, one set of responses as the acquiring person and one set as the acquired person. In the Commission's experience, filers that opt to combine the information on a single Form often do not include everything that is required, and these filings are, in fact, very confusing for the Agencies to review. In contrast, when filers choose to submit two separate Forms for such transactions, these filings provide all the required information and in a much clearer format. The Commission thus proposes amending § 803.2(a) and deleting § 803.2(b)(1)(v) to require acquiring persons and acquired persons to submit separate HSR Filings, one as the acquiring person and one as an acquired person, in instances where filers qualify as both. This proposed approach would make the Agencies' initial review much easier by more clearly separating information related to the acquiring person from the acquired person. No new information would be required, and technology allows parties to save copies of filings to reduce the need to input repetitive information.

C. Section 803.5(b): Requiring Draft Agreements or Term Sheets

The Commission proposes amending § 803.5(b) to require filers who have not executed a definitive transaction agreement before making an HSR Filing to submit a draft agreement or term sheet that describes with sufficient detail the scope of the entire transaction that will be consummated after observing the waiting period required by the Act. Section 803.5(b) currently allows filers in any non-§ 801.30 acquisition to file on the basis of ''a contract, agreement in principle or letter of intent to merge or acquire [that] has been executed'' and an affidavit attesting to that execution as well as the good faith intention to complete the transaction. In permitting parties to file before the signing of a definitive agreement, the Commission has relied on the assumption that the filings would ''contain sufficiently definitive information about the transaction to permit accurate analysis.'' [17] In the Commission's experience, however, filings submitted on the basis of bare preliminary agreements, such as an indication of interest, non-binding letter of intent, or agreement in principle (''Preliminary Agreements''), typically do not meet this standard.

Often, Preliminary Agreements reflect only very early discussions between the parties, and since there is currently no obligation to file a draft or final agreement once the HSR Filing is submitted, the Agencies must spend time during the initial waiting period simply trying to discover the scope and timing of the transaction. Moreover, given the preliminary nature of such a filing, the parties have often not yet undertaken a robust analysis of the transaction and therefore have drafted few, if any, documents responsive to Items 4(c) or 4(d) of the current Form. Permitting parties to submit an HSR Filing prior to a complete substantive analysis of the transaction, and at times even before the parties have done diligence on rationales or justifications for the transaction, puts the Agencies at a distinct disadvantage during the initial waiting period in determining what the transaction is and whether it may violate the antitrust laws if consummated.

Additionally, HSR Filings made during the early phases of negotiations may be too uncertain to merit review. The original Statement of Basis and Purpose from 1978 (''1978 SBP'') provides clear guidance that ''[b]ecause of the time and resource constraints upon the agency staffs,'' the Agencies should not expend resources to review transactions so lacking in specifics that they could be considered merely ''hypothetical.'' [18] Yet allowing for the submission of a filing on the basis of a Preliminary Agreement often triggers the use of limited resources for hypothetical transactions, first to discover the full range of potential viable transactions, and then to assess the competitive impact of those potential iterations.

The Commission therefore proposes amending § 803.5(b) to eliminate the ability to submit an HSR Filing on any Preliminary Agreement without providing a term sheet or draft agreement that reflects sufficient detail about the proposed transaction to allow the Agencies to understand the scope of the transaction and to confirm that the transaction is more than hypothetical. The Commission also proposes a corresponding change to the Instructions, as noted at III.C.6. Because detailed term sheets or draft agreements are often prepared in the ordinary course of deal negotiations, the Commission does not expect this change would impose a significant burden on filing parties. However, the Commission recognizes that eliminating the parties' ability to make filings prior to the negotiation of such documents may change the timing of filing and would likely result in more robust filings that would take additional time to prepare. On balance, the Commission believes that this proposed change is consistent with the original intent of the Rules to prevent expending scarce Agency resources on hypothetical transactions and would allow the Agencies to focus on transactions definitive enough to permit accurate analysis.

D. Section 803.8: Translation of Documents

The Commission proposes amending § 803.8 to require submission of English-language translations for all foreign-language documents submitted with the initial HSR Filing. Section 803.8(a) currently provides that parties need not translate foreign-language materials submitted with the initial filing, and that English-language outlines, summaries, extracts, or verbatim translations need only be provided if they already exist. Section 803.8(b), in contrast, has required since 1983 that all foreign-language documents responsive to a Second Request be provided with English translations.[19]

In the Commission's experience since the early 1980s when Rule 803.8 was first adopted, it is no longer enough to require translations of only those foreign-language documents submitted in response to Second Requests because today's HSR Filings quite frequently contain foreign-language materials. These materials typically include key documents, such as the transaction agreements submitted in response to current Item 3(b) of the Form, the relevant financials submitted in response to current Item 4(b), and the documents submitted in response to current Items 4(c) and 4(d) of the Form. Parties often submit foreign-language materials in their HSR Filings with no translation at all or with only rough English-language outlines, summaries, or extracts, which may not accurately and fully convey the contents of the foreign-language document. As a result, the Agencies must either obtain their

[17] 43 FR 33450, 33511 (July 31, 1978).

[18] *Id.* at 33510–511.

[19] The Commission proposed mandatory translation in 1981, 46 FR 38710 (July 29, 1981), and issued a final rule in 1983, 48 FR 34427 (July 29, 1983).

own translations of these documents or miss out on potentially critical information, leaving the Agencies at a disadvantage during their initial review. Given the wide variety of foreign languages the Agencies typically see, it would be very costly for the Agencies to retain translation services for each filing that may contain some foreign-language material. Further, obtaining translations adds significant delay within the already time-constrained initial waiting period and would not allow for filing parties to review the translations for errors. These translations may be especially important for those transactions that report foreign subsidies.

To address this issue, the Commission proposes combining §§ 803.8(a) and 803.8(b). Proposed § 803.8 would therefore be one paragraph requiring that verbatim English translations be provided with all foreign-language materials submitted as part of an HSR Filing or in response to a Second Request. For either an initial HSR Filing or in response to a Second Request, both the original document and the English translation would need to be submitted. Proposed § 803.8 would not require any particular method of translation but would specify that, whatever translation method the parties choose, all verbatim translations must be understandable, accurate, and complete. This proposed change would also be reflected in the Instructions, as specified below in III.A.4.

Although the Commission noted in its 1983 final rulemaking that requiring translations created a burden for filing parties,[20] the Commission now believes that translation tools available to the parties have become more abundant and that these tools provide many options for translation that should significantly reduce the burden of providing translations. Translations of foreign-language documents would greatly benefit the Agencies in allowing staff to know the content of responsive documents submitted in a foreign language. The Commission invites comment on whether there are categories of documents identified in this NPRM that would present a significant burden to translate and what other alternatives might achieve the Commission's goal of being able to understand and assess foreign-language documents while creating less burden for filing parties.

[20] 48 FR 34427, 34440 (July 29, 1983).

E. Section 803.10: Commencement of Waiting Periods

The Commission proposes amending § 803.10(c)(1)(i) to clarify when filings made electronically are to be credited as received by the Agencies. Specifically, the Commission proposes amending this rule to clarify that compliant filings will be credited as received on the date filed if: (i) the electronic submission is complete by 5:00 p.m. Eastern Time; and (ii) such date is not a Saturday, Sunday, legal public holiday (as defined in 5 U.S.C. 6103(a)), or the observed date of such legal public holidays.

These clarifications are consistent with current and historical practices. Of course, historically, the Rules did not need to specify this information, since the receipt of physical filings (either on paper or DVD) required the offices of the Assistant Attorney General and Commission to be open. But because electronic filing platforms can allow submission of filings even when Agency staff is not available to receive the filings, the proposed amendments make clear that filings are only credited as received during regular business hours on regular business days. These proposed changes would provide clarity and thus benefit both filing parties and the Agencies.

F. Section 803.12: Information To Be Updated With Refiling

The Commission proposes amending § 803.12(c) to specify which responses to the items in the proposed Instructions would need to be updated if the acquiring person chooses to withdraw its HSR Filing and refile it (an ''Updated HSR Filing''). The procedure for voluntary withdrawal and refiling permits the acquiring person to restart the initial waiting period, so long as no material changes have been made to the transaction, to provide the Agencies an additional 15 or 30 days (depending on the transaction type) to review the transaction without issuing a Second Request. If the Updated HSR Filing is received within two business days of withdrawal, no new fee is required, but filers currently must provide a new affidavit and certification and update current Item 4 of the Form to provide the Agencies with more recent information that is likely relevant to the continued review.

The Commission proposes eliminating the requirement to provide updated financials, currently required by Item 4(a) and (b), in the Updated HSR Filing. The Commission's experience has shown that, given that the withdraw and refile procedure is completed within approximately one month of the original filing, the financial documents required by Item 4(a) and (b) are rarely changed and therefore updating them is not essential in this phase of its investigation.

The Commission proposes requiring updated Transaction-Related Documents with the Updated HSR Filing, which, as discussed below in III.D.1.a., would comprise the current Item 4(c) and (d) documents subject to proposed modifications of the custodians and clarifications. Documents responsive to current Item 4(c) and (d) typically reflect the most relevant thinking of key individuals with knowledge of the transaction within the acquiring person and are required as part of an Updated HSR Filing. Therefore, the Commission believes these documents are essential to the Agencies' initial antitrust assessment of the transaction.

The Commission also proposes adding two new requirements for the Updated HSR Filing: updated transaction agreements and updated information about subsidies from Foreign Entities of Concern. Though the voluntary withdrawal and refiling process is only available if the transaction is materially the same, the Commission believes that the Agencies would benefit from having a complete understanding of all aspects of the status of and rationale for the transaction, including any changes that have occurred since the day the HSR Filing was submitted. Therefore, the Commission proposes requiring that the Updated HSR Filing include the latest version of the transaction agreements, including the most recent drafts, if a final version has not been executed. The Commission believes this proposed requirement would not impose a substantial burden, since this would be a limited set of documents that should be readily available to the acquiring person.

The Commission also proposes requiring that the Updated HSR Filing include updated information regarding Subsidies from Foreign Entities or Governments of Concern, which is discussed below at III.E.1. The Commission believes that most updated HSR Filings would reflect no new information related to subsidies given the short period of time since the original HSR Filing. However, if new information about subsidies from foreign entities of concern were to become available, the Commission believes that it would be consistent with Congressional intent for the Agencies to have access to this information.

Proposed Changes to the Instructions

III. Part 803 Appendix A and Appendix B

As mentioned above, the Agencies are developing an e-filing platform through which filers would submit information required by the HSR Rules via an online portal. As a result, this NPRM does not contain a new draft Form. Instead, this NPRM presents the information requirements as Instructions for collecting and submitting documents and information required by the HSR Rules. The proposed Instructions reorganize the information to reflect the planned layout of the e-filing platform in development, which would be described in any final rule. Prior to the implementation of the e-filing platform, the proposed Instructions contemplate filers would submit the proposed requests for information and narratives via uploads in a standard format such as PDF and Excel.

The proposed changes to the information that filing parties would be required to provide are detailed below. The Commission recognizes that, in total, these proposed changes would be significant and impose additional burden on some filing parties. Some proposed changes ask for additional information or documents that the Commission believes are in the possession of the filing persons in a form that could be readily uploaded into the e-filing platform. Other proposed changes would require filing parties to compile or generate the requested information specifically for the HSR Filing, such as items requesting narrative responses, which would involve additional effort. As explained below, the Commission has determined that the additional burden associated with these proposed changes is justified because the requested documentary material and information is necessary and appropriate for effective and efficient review of HSR Filings to determine within the initial waiting period whether the transaction may, if consummated, violate the antitrust laws.[21]

Based on the Agencies' experience conducting merger investigations, and as discussed above, the Commission believes that the limited information currently available to the Agencies in the HSR Filing is no longer sufficient to conduct an effective initial screening of the transaction for all types of competitive harm that may result from the transaction. The proposed set of reorganized revenue information, additional documents, and narrative responses would create a much more complete, accurate, and robust basis on which to screen the transaction for the various potential competitive effects, including those that arise from non-horizontal transactions or combinations involving competing employers. These proposals would also provide a more reliable and robust set of information to determine when the transaction does not warrant an in-depth investigation, which often requires a substantial investment of time and resources for both the investigating agency and the merging parties. Based on the Agencies' experience in reviewing and challenging illegal mergers, the proposals target the information that is most relevant and readily available to filing persons and would require it to be presented in a coherent and organized way that will facilitate quick antitrust review by the Agencies during the initial waiting period. But the Commission welcomes comments on the burden associated with and the appropriate balance of having to provide information in the form of revenues, documents, and narratives as part of the proposed changes in this NPRM and invites alternative proposals that meet the objectives described below.

At their core, the proposed changes are motivated by the fundamental purpose of the HSR Act, which is to allow the Agencies, within a short period of time to review the information submitted with the Filing and identify potentially problematic transactions prior to consummation, and, where appropriate, initiate an in-depth review by issuing Second Requests. The fact that the Agencies must conduct their evaluation in an initial waiting period of 15 or 30 days, depending on the transaction type, means that the Agencies must have enough information to consider a wide range of potential effects on competition on an expedited basis. Based on the cumulative learning of the Commission and Assistant Attorney General over the course of decades of investigations, the Commission proposes requiring new information and narratives to address particular areas where the Agencies have found specific deficiencies in the type of information currently required by the Form. In addition, this NPRM would implement changes required by the 2022 Amendments, which are consistent with the need for sufficient information to screen for all types of competitive concerns.

Despite the added burden for filing persons, on balance, the Commission believes that the benefit to the Agencies' merger review would be significant and would help address information asymmetries between Agency staff and the filing persons in the initial waiting period. The Agencies expend substantial resources during the initial waiting period to discover and confirm basic business information about the filing persons, information that is well-known to them but not to Agency staff and is not available from any other source. These information asymmetries have become more acute as deals and companies have become more complex. In the Commission's experience, the inefficiency created by information asymmetries can overwhelm the initial review process, especially when the volume of HSR reportable transactions is high.[22] The proposed changes would also benefit filing persons where information contained in an HSR Filing would demonstrate to the Agencies that the transaction at issue does not need further investigation. Indeed, both the Agencies and filing persons have an interest in ensuring that HSR Filings are robust enough for the Agencies to quickly identify transactions that do not require further investigation during the initial waiting period. It is the Commission's aim to be cognizant of all such interests in proposing the substantial changes contained in this NPRM.

For ease of reference, the Commission includes the following materials regarding the proposed changes in this NPRM:

- An outline of the reorganization contemplated in the proposed Instructions,
- A chart that identifies proposed new locations of the current Items of the Form including whether substantive changes are proposed, and
- A chart of proposed new categories of required information.

These materials appear immediately below.

Proposed Instructions Outline

- General Instructions and Information
- Ultimate Parent Entity Information
  - UPE Details
  - Organization Structure
- Transaction Information
  - Parties
  - Filing Fee
  - Transaction Details

[21] 15 U.S.C. 18a(d).

[22] The Agencies experienced a surge in HSR reportable transactions during 2021 and 2022. For instance, FY 2021 HSR reportable transactions were double those of FY 2020 (1,637 versus 3,520), and in FY 2022, reportable HSR transactions remained high, at over 3,200. The pace and volume of HSR filings (generally two filings per transaction) during that time (in addition to on-going merger investigations) required the Agencies to adjust their HSR review process, including suspending the granting of requests for early termination of the waiting period.

- Transaction Description
- Joint Ventures
- Agreements and Timeline

• Competition and Overlaps
- Business Documents
- Competition Analysis
- NAICS Codes
- Controlled-Entity Overlaps
- Minority-Held Entity Overlaps
- Prior Acquisitions

• Additional Information
- Subsidies from Foreign Entities or Governments of Concern
- Defense or Intelligence Contracts
- Identification of Communications and Messaging Systems
- Other Jurisdictions

• Certification

• Affidavits

CROSS REFERENCE BETWEEN CURRENT FORM AND PROPOSED INSTRUCTIONS

Current form item	New location	Substantive changes?
Fee Information	Transaction Information/Filing Fee	No.
Corrective Filing	Transaction Information/Transaction Details	No.
Cash Tender Offer	Transaction Information/Transaction Details	No.
Bankruptcy	Transaction Information/Transaction Details	No.
Foreign Jurisdictions	Additional Information/Other Jurisdictions	Yes.
Early Termination	Transaction Information/Transaction Description	No.
Item 1(a)	Ultimate Parent Entity Information/UPE Details	No.
Item 1(b)	Ultimate Parent Entity Information/UPE Details	No.
Item 1(c)	Ultimate Parent Entity Information/UPE Details	No.
Item 1(d)	Ultimate Parent Entity Information/UPE Details	No.
Item 1(e)	Ultimate Parent Entity Information/UPE Details	No.
Item 1(f)	Ultimate Parent Entity Information/Organization Structure	Yes.
Item 1(g)	Ultimate Parent Entity Information/UPE Details	No.
Item 1(h)	Ultimate Parent Entity Information/UPE Details	Yes.
Item 2(a)	Transaction Information/Parties	No.
Item 2(b)	Transaction Information/Transaction Details	No.
Item 2(c)	Transaction Information/Transaction Details	No.
Item 2(d)	Transaction Information/Transaction Details	No.
Item 3(a) (Entities)	Transaction Information/Parties	No.
Item 3(a) (Description)	Transaction Information/Transaction Description	Yes.
Item 3(b)	Transaction Information/Agreements and Timeline	Yes.
Item 4(a)	Ultimate Parent Entity Information/UPE Details	No.
Item 4(b)	UPE Information/UPE Details	No.
Item 4(c)	Competition and Overlaps/Business Documents	Yes.
Item 4(d)	Competition and Overlaps/Business Documents	Yes.
Item 5(a)	Competition and Overlaps/NAICS Codes	Yes.
Item 5(b)	Transaction Information/Joint Ventures	Yes.
Item 6(a)	Ultimate Parent Entity Information/Organization Structure	Yes.
Item 6(b)	Ultimate Parent Entity Information/Organization Structure	Yes.
Item 6(c)(i)	Competition and Overlaps/Minority-Held Entity Overlaps	Yes.
Item 6(c)(ii)	Competition and Overlaps/Minority-Held Entity Overlaps	Yes.
Item 7(a)–(d)	Competition and Overlaps/Controlled-Entity Overlaps	Yes.
Item 8(a)	Competition and Overlaps/Prior Acquisitions	Yes.

PROPOSED NEW REQUIREMENTS AND CATEGORIES OF INFORMATION

Proposed new sections	Location
New Definitions	General Instructions and Information.
Document Log	General Instructions and Information.
Translations	General Instructions and Information.
Organization of Controlled Entities	Ultimate Parent Entity Information/Organization Structure.
Identification of d/b/a or f/k/a names	Passim.
Identification of Additional Minority Interest Holders	Ultimate Parent Entity Information/Organization Structure.
Narrative Describing Ownership Structure of the Acquiring and Acquired Entities	Ultimate Parent Entity Information/Organization Structure.
Organizational Chart for Funds and Master Limited Partnerships	Ultimate Parent Entity Information/Organization Structure.
Identification of Other Types of Interest Holders that May Exert Influence	Ultimate Parent Entity Information/Organization Structure.
Identification of Officers and Directors	Ultimate Parent Entity Information/Organization Structure.
Description of Acquiring Person	Ultimate Parent Entity Information/Transaction Details.
Narrative Describing Transaction Rationale	Ultimate Parent Entity Information/Transaction Details.
Diagram of the Transaction	Ultimate Parent Entity Information/Transaction Details.
Identification of Related Transactions	Ultimate Parent Entity Information/Transaction Details.
Expansion of Transaction Agreements to be Produced	Ultimate Parent Entity Information/Agreements and Timeline.
Production of other Agreements between the Acquiring and Acquired Persons	Ultimate Parent Entity Information/Agreements and Timeline.
Provision of a Transaction Timeline	Ultimate Parent Entity Information/Agreements and Timeline.
Production of Certain Documents of the Supervisory Deal Team Lead(s)	Competition and Overlaps/Business Documents.
Production of Certain Strategic Plans	Competition and Overlaps/Business Documents.
Production of Certain Drafts	Competition and Overlaps/Business Documents.
Organizational Chart of Authors and Certain Recipients of Documents	Competition and Overlaps/Business Documents.
Narrative Describing Horizontal Overlaps	Competition and Overlaps/Competition Analysis.
Narrative Describing Supply Relationships	Competition and Overlaps/Competition Analysis.
Narrative Describing Labor Markets	Competition and Overlaps/Competition Analysis.

PROPOSED NEW REQUIREMENTS AND CATEGORIES OF INFORMATION—Continued

Proposed new sections	Location
Identification of Minority Held Entities with Revenue Overlaps	Competition and Overlaps/Minority-Held Entity Overlaps.
Provision of Geolocation for Certain Locations of Operations	Competition and Overlaps/Controlled-Entity Overlaps.
Identification of Additional Prior Acquisitions	Competition and Overlaps/Prior Acquisitions.
Disclosure of Subsidies from Foreign Entities or Governments of Concern	Additional Information.
Identification of Certain Defense or Intelligence Contracts	Additional Information.
Identification of Communications and Messaging Systems	Additional Information.
Mandatory Disclosure of Foreign Filings	Additional Information.
Voluntary Waivers for International Competition Authorities	Additional Information.
Voluntary Waivers for State Attorneys General	Additional Information.
Statement of Penalties for False Statements	Certification.
Prevention of Destruction of Documents	Certification.

The following discussion of the proposed changes in this NPRM tracks the Proposed Instructions Outline above, explaining which information requirements are materially the same as those currently included in the Form and Instructions, which the Commission proposes changing, and which are proposed new categories of required information.

Throughout the proposed Instructions, references to paper and DVDs have been eliminated, as discussed in II.A. above.

A. General Instructions and Information

The Commission proposes creating a General Instructions and Information section within the proposed Instructions that would largely parallel the General section of the current Instructions but would be significantly reorganized. Within the proposed General Instructions and Information section, the Commission proposes substantive changes to the following sections: Filing Person, Definitions, Responses, and Translations, as detailed below.

1. Definitions and Explanation of Terms

The Commission proposes creating two new definitions and deleting an existing definition within the proposed Instructions.

a. Economic Research Service's (ERS's) Commuting Zones (CZ)

The Commission proposes adding a definition for Economic Research Service's Commuting Zones. As discussed below at III.D.2.c., the Commission proposes new questions that would require the submission of information about the filing person's employees to aid the Agencies' evaluation of the potential impact of proposed transactions on labor markets. These proposed questions would require data to be submitted using the Department of Agriculture's Economic Research Service Commuting Zones for the year 2000. These codes are available at *https://www.ers.usda.gov/data-products/commuting-zones-and-labor-market-areas/.*

b. North American Product Classification System (NAPCS) Data

The Commission proposes eliminating the reporting of 10-digit North American Product Classification System (''NAPCS'') based codes, as discussed in more detail below at III.D.3. Thus, the Commission proposes deleting the NAPCS definition from the proposed Instructions.

c. Standard Occupational Classification

The Commission proposes adding a definition for Standard Occupational Classification. As discussed below at III.D.2.c., the Commission proposes new questions that would require the submission of information about the filing person's employees to aid the Agencies' evaluation of the impact of proposed transactions on competition for workers in labor markets. The proposed definition of Standard Occupational Classification (''SOC'') would require filers to submit data by the first six digits of the relevant code, as published by the United States Bureau of Labor Statistics, available at *https://www.bls.gov/soc/2018/#classification.*

2. Filing

As discussed above at II.B., the Commission proposes amending § 803.2 and deleting § 803.2(b)(1)(v) to require filing persons to submit separate forms when filing as an acquiring and acquired person. The proposed Instructions would also reflect this proposed change.

3. Responses

The Commission proposes replacing the current Responses section with a new Responses section that would provide details on how to provide the information responsive to the proposed new questions. This would include eliminating instructions that are specific to filings made on paper or DVD, see above at II.A. The proposed revised Responses section would also describe the information that filing persons would need to provide in a log of responsive documents and narrative responses to be submitted with an HSR Filing. This information would generally be the same as the information currently required for documents submitted in response to Items 4(c) and 4(d) of the current Form, with two proposed expansions.

First, the Commission proposes requiring the filing person to identify the request(s) to which the document would be responsive. Though the proposed Instructions do not include item numbers at this time, indented and bolded headings in the proposed Instructions should each be considered a separate request. The Commission routinely requires this type of referencing for document submissions pursuant to compulsory process, including in response to a Second Request, and it is extraordinarily helpful in quickly identifying materials responsive to a specific request. This proposed requirement would allow the Agencies to understand the content of filings more quickly by providing a cross-reference between information and documents, facilitating a more efficient review.

Second, the Commission proposes modifying the requirements for identification of authors of documents prepared by third parties. For documents prepared by third parties at the request of a filing person, such as market studies, quality of earnings analyses, confidential information memoranda, management presentations, or board presentations, the Commission proposes that, in addition to providing the name of the third party that prepared the document, the filing person would be required to provide the name, title, and company of the individual within the filing person who supervised the preparation of the document or for whom the document

was prepared. Understanding who, within the filing person, was responsible for overseeing or receiving the work of outside consultants would materially assist the Agencies in identifying key decision-makers for the transaction. In the case of documents that were not commissioned by the filing person, such as subscription market reports, unsolicited banker's books, or documents received from the other filing person, the Commission proposes that the filing person would only be required to list the document title and name of the third party that prepared the document.

These proposed changes would allow the Agencies to quickly assess which documents were key to the decision to pursue the transaction and who within the filing person coordinated the assessment that resulted in that decision.

4. Translations

As noted above at II.D., the Commission proposes amending § 803.8 to require the filing person to submit English translations of all foreign-language documents. The proposed Instructions would also reflect this change.

B. Ultimate Parent Entity Information

The Commission proposes the creation of an Ultimate Parent Entity (UPE) Information section within the proposed Instructions. Currently, information about the structure of the acquiring and acquiring persons is required in various sections of the Form: Item 1 contains basic contact information; Item 2 identifies the ultimate parent entities; Item 3 identifies the acquiring and acquired entities; and Item 6 identifies certain controlled and minority-held entities, as well as certain minority holders of the filing person. The Commission proposes the reorganization, clarification, and expansion of these items to require additional information about the acquiring person and acquired entity(s) in order for the Agencies to receive a more complete picture of the scope of the operations of each, and to identify points of contact for questions about the HSR Filing or potential Second Requests, as well as key interest holders. These proposed changes, discussed below, would fall within the following proposed categories: UPE Details and Organization Structure.

1. UPE Details

The proposed UPE Details section within the proposed Instructions would contain most of the information currently required in Item 1 of the Form. The Commission proposes adding a new Size of Person Stipulation item that would allow the filing person to stipulate that the size of person test is met, when applicable, making it easier for staff to determine that the size of person test is met and streamlining the review process as a result.

The Commission also proposes clarifying which financials are required from acquiring persons who are natural persons. As a result of feedback from filers over the years, the Commission is aware that this item causes confusion. The proposed language in the Instructions would make it clear that natural persons who are acquiring persons must include the annual reports and/or annual audit reports of (1) the acquiring entity(s) and any entity controlled by the natural person whose dollar revenues contribute to a NAICS overlap, and (2) the highest-level entity(s) the natural person controls. It is the intent of the Commission that the Instructions require this information from natural persons, and the proposed change would make that intent clear.

Finally, the Commission proposes requiring all filing persons to identify the person to whom Second Requests should be addressed. Current Item 1(g) requires the identification of two individuals to contact regarding the HSR Filing, and current Item 1(h) requires the identification of an individual located within the United States for the limited purpose of receiving a notice of a Second Request. But the Instructions currently limit application of Item 1(h) to filings made by foreign persons, so for U.S. filers, Second Requests are sent to the person identified in Item 1(g). The Commission now understands that U.S. filing persons sometimes have separate points of contact to answer questions regarding the HSR Filing as compared to questions regarding the receipt of Second Requests. Therefore, the Commission proposes requiring all filing persons to separately provide contacts for questions related to the HSR Filing and Second Requests.

These proposed changes would provide clarity for filing persons, and the Agencies would benefit from receiving more precise information about the UPE.

2. Organization Structure

The proposed Organization Structure section within the proposed Instructions would expand the required information about how the UPE is organized and the identity of other individuals and entities that may have influence over business decisions or access to confidential business information. The proposal would require the identification of entities within the acquiring person or acquired entity, minority shareholders, and other non-controlling entities, and create new requirements to identify certain other interest holders that may exert influence, as well as officers, directors, and board observers.

a. Entities Within the Acquiring Person and Acquired Entity

The proposed Entities Within the Acquiring Person and Acquired Entity section would contain information currently required by Items 1(f) and 6(a) of the Form. Item 1(f) requires the identification of the acquiring entity(s) or acquired entity(s) (as appropriate). Item 6(a) requires the acquiring person to list all entities it controls with total assets of $10 million or more (though foreign entities with no sales into the United States may be omitted). The acquired person currently has the same obligation, but the scope is limited to the acquired entity(s); the acquired person is not required to provide information about entities that are not part of the transaction. The Commission proposes requiring additional information about the reported entities within the filing persons.

First, the Commission proposes requiring filing persons to organize the list of controlled entities by operating company or business. As filing persons have become more complex, an alphabetically or geographically organized list of the controlled entities, which is currently permitted by Item 6(a) of the Form, often does not provide the Agencies with a sufficient overview of the scope of the businesses that the acquiring person and acquired entity(s) control. Some filers currently organize the list of entities held by the acquiring person or acquired entity by operating company, and in the Commission's experience, this is a much more useful way to present the information. Understanding which companies are part of an operating group or portfolio company would allow staff to identify the actual market participants from among all legal entities. The Commission thus proposes requiring that lists of controlled entities be submitted in this manner to aid the Agencies' review during the initial waiting period.

Second, for each such operating company or business, the Commission proposes that filers identify the name(s) by which the company or business does business, as well as any name(s) by which it formerly did business within the three years prior to filing. While it remains important for the Agencies to receive legal entity names, these names

are often unrelated to the names used in the marketplace and may be unfamiliar to industry participants. Being able to connect the legal names to the ''doing business as'' and ''formerly known as'' names would greatly assist the Agencies in understanding the scope of the operations of the acquiring person and acquired entity and allow the identification of other public information about the entity during the initial waiting period.

b. Minority Shareholders and Other Non-Controlling Entities

The proposed Minority Shareholders and Other Non-Controlling Entities section would contain information currently required by Item 6(b) of the Form, which requires identification of holders of 5% or more, but less than 50%, of the acquiring UPE and acquiring entity by the acquiring person, and of the acquired entity(s) by the acquired person. In order to provide the Agencies with a more complete understanding of the individuals or entities that have significant investments in the filing persons, the Commission proposes amending the current Item 6(b) requirements and expanding them to require the identification of additional minority interest holders.[23]

The identification of certain minority holders of the filing persons has been required since the first iteration of the Form in 1978, though the level of detail that has been required has changed over time.[24] Prior to 2011, Item 6(b) only required the identification of holders of minority interests in voting securities. In 2011, Item 6(b) was amended to require the identification of holders of 5% or more but less than 50% of unincorporated entities.[25] The Commission, however, made an exception for limited partnerships and only required the identification of the general partner. At that time, the Commission understood that limited partners had no control over the operations of the fund or portfolio companies and therefore did not see them as essential to the Agencies' initial review.[26] Since that time, the Commission has come to understand that the Agencies would benefit from more complete information about all minority holders of the filing parties, including the identification of limited partners. As a result, the Commission proposes collecting information about minority holders of all entities within the acquiring person that are related to the transaction and requiring the identification of certain limited partners.

The current limitation on providing minority holder information for only the acquiring ultimate parent entity and acquiring entity often prevents the identification of key interest holders. For example, co-investors often do not invest at the UPE or acquiring entity level but may hold a 5% or greater interest in an entity that is in between the UPE and the acquiring entity in the ownership structure. In particular, when funds make acquisitions, it can be the case that more than one fund may be substantively involved in the acquisition, using a variety of corporate or unincorporated entity types. The identification of not only the controlling person but also significant minority investors can be an important component of the Agencies' evaluation of the potential competitive effects of the transaction during the initial waiting period,[27] and obtaining a broader picture of relevant minority investments, where they exist, would aid the Agencies in their assessment of the nature of competitive decision-making within the relevant entity.

In the case of limited partnerships, Item 6(b) currently does not require the identification of limited partners, even if they hold 5% or more. At the time this item was adopted, the Commission understood that limited partners had no control over the operations of the fund or portfolio companies and therefore did not see them as essential to the Agencies' initial review.[28] However, after more than a decade, the Commission now believes that it is inappropriate to make generalizations regarding the role of investors in limited partnership structures. Identification of limited partners can provide valuable information about co-investors and lead to the identification of potentially problematic overlapping investments resulting from the transaction that could violate Section 7.[29] Thus, it is important that the Agencies know the identities of limited partners to understand the transaction in its entirety and to uncover investment relationships that may have competitive significance.

Accordingly, for the acquiring person, the Commission proposes the reporting of certain minority holders of (1) the acquiring entity, (2) any entity directly or indirectly controlled by the acquiring entity, (3) any entity that directly or indirectly controls the acquiring entity, and (4) any entity within the acquiring person that has been or will be created in contemplation of, or for the purposes of, effectuating the transaction. For entities affiliated with a master limited partnership, fund, or investment group, the ''doing business as'' or ''street name'' of that group would also be required.

Under these proposals, minority holders that would have to be reported would include all entities or individuals, including limited partners, that hold 5% or more of the voting securities or non-corporate interests of one of the identified entities. To be clear, the Commission proposes requiring limited partnerships to identify all holders of 5% or more, but less than 50%, to harmonize the requirement for limited partnerships with the requirements for limited liability companies and corporations. The requirement to identify the general partner of a limited partnerships would remain the same.

The Commission acknowledges that these proposed requirements may require significant additional information from investment entities, such as funds and master limited partnerships, for which organizational structures are often more complex. But the Commission believes that the disparate treatment of LLCs as compared to limited partnerships is no longer appropriate. Further, the complexity of these organizational structures makes it all the more important that the filing person provide this information with the HSR Filing. The complex structure of investment entities is not adequately captured by the current Form, and there is often no other source for Agencies to learn of these relationships. Though the introduction of the definition of ''associate'' in 2011[30] provides the Agencies with some valuable information with which to identify competitively significant relationships that exist through related holdings, it does not provide enough detail about all of the potential players involved in the structure of the acquiring person. As a result, the Commission believes that the

[23] The acquisition of a minority position may be reportable under the Act, and failure to make an HSR Filing and observe the waiting period may result in significant civil penalties. 15 U.S.C. 18a(g).

[24] *See* 43 FR 33450 (July 31, 1978); 52 FR 7066 (Mar. 6, 1987); 76 FR 42471 (July 19, 2011).

[25] 76 FR 42471 (July 19, 2011).

[26] Proposed Rules, 75 FR 57110, 57118 (Sept. 17, 2010), adopted in 2011, 76 FR 42471 (July 19, 2011).

[27] 43 FR 33450, 33531 (July 31, 1978).

[28] Proposed Rules, 75 FR 57110, 57118 (Sept. 17, 2010), adopted in 2011, 76 FR 42471 (July 19, 2011).

[29] *See, e.g.,* In re Red Ventures Holdco and Bankrate, FTC Dkt. C–4627 (Nov. 3, 2017) (enforcement action involving overlapping limited partnership holdings); *United States* v. *Dairy Farmers of Am.,* 426 F. 3d 850 (6th Cir. 2005) (DFA stakes in competitors Flav-O-Rich and Southern Belle violated Section 7).

[30] 76 FR 42471 (July 19, 2011).

proposed identification of all minority investors of 5% or more in entities related to the transaction would allow the Agencies to more quickly identify potential competitive issues related to these holdings during the initial waiting period.

To reduce the additional burden associated with these proposed changes, the Commission proposes limiting the information about minority holders collected from the acquired person. Currently, the acquired person must list certain minority interest holders of the acquired entity(s), but this requirement does not distinguish between minority holders that will be cashed out as a result of the transaction, and those that will continue investment after the transaction. On balance, the Commission believes that identifying only the minority holders that would continue to have an interest in the acquired entity(s), directly or indirectly, would provide the most relevant information to the Agencies during the initial waiting period. Therefore, the Commission proposes that the acquired person only be required to identify minority holders of the acquired entity(s) that will continue to hold interest in the acquired entity(s) or will acquire interests in any entity within the acquiring person as a result of the transaction. The Commission recognizes that in certain transactions to which § 801.30 applies, the acquired person might not have this information. In such cases, it would be permissible for the acquired person to indicate that the information is unknown.

c. Other Types of Interest Holders That May Exert Influence

The proposed Other Types of Interest Holders that May Exert Influence section would require the identification of entities or individuals that may have material influence on the management or operations of the acquiring person beyond those with the minority interests discussed above. Because these other interest holders retain the ability to influence decision-making by the acquiring person after the transaction, it is important for the Agencies to know about these relationships during the initial waiting period.

The Commission has long recognized the potential influence of minority holders and the possibility that they may seek to change competitive decisions of the target firm.[31] In the 1978 SBP, the Commission explained that competitors, customers, or suppliers holding a significant interest in one of the parties can raise antitrust concerns.[32] As originally conceived, minority holdings reported in Item 6 were designed to alert the Agencies to situations in which the potential antitrust impact of the transaction does not result solely or directly from the transaction itself, but may arise from direct or indirect shareholder relationships between the parties to the transaction.[33]

As entity structures have evolved and become more complex, the Commission now believes that relationships beyond those created by holding voting securities or non-corporate interests can give rise to similar and significant competitive concerns. For instance, some credit arrangements permit the creditor to exercise rights and influence similar to those of equity holders. Additionally, some equity interests that do not provide rights to vote for the board of directors can, nevertheless, provide rights to vote on or influence business practices of the company, including investments in future product or service lines. Further, contractual arrangements allowing individuals or entities to nominate directors or board observers have proliferated. In addition, some entities outsource the management of operations to third parties that do not beneficially own interests in the company. Each of these relationships can be relevant to understanding the transaction and its potential competitive effects. Without information about these relationships, the Agencies cannot easily identify those transactions where these relationships exist and may affect the competitive dynamics before and after the transaction.

As a result, the Commission proposes that the acquiring person identify certain individuals (other than employees of the acquiring person) or entities that, in relation to the acquiring entity or any entity it directly or indirectly controls or is controlled by, (i) provide credit; (ii) hold non-voting securities, options, or warrants; (iii) are board members or board observers, or have nomination rights for board members or board observers; or (iv) have agreements to manage entities related to the transaction. Credit relationships would be limited to creditors that have, or would have, in conjunction with or result of the transaction, provided credit totaling 10% or more of the value of the entity in question. Holders of non-voting securities, warrants, or options would be limited to those the value of which equals or exceeds 10% of the entity or could be converted to 10% or more of the voting securities or non-corporate interests of the company.

The Commission recognizes that the compilation of this information would add to the burden of preparing an HSR Filing for an acquiring person with a complicated investment structure, but it is important that the HSR Filing contain this information because individuals or entities that fall into any of the four categories described above can have a material influence on the operations or strategy of the acquiring person. As with minority investors, these relationships can affect the competition analysis of the transaction, and the proposed identification of these individuals or entities would allow the Agencies to know the identity of those in a position to influence post-merger competition decisions.

d. Officers, Directors, and Board Observers

The proposed Officers, Directors, and Board Observers section would require the identification of the officers, directors, or board observers (or in the case of unincorporated entities, individuals exercising similar functions) of all entities within the acquiring person and acquired entity, as well as the identification of other entities for which these individuals currently serve, or within the two years prior to filing had served, as an officer, director, or board observer (or in the case of unincorporated entities, roles exercising similar functions). This information would allow the Agencies to know of existing, prior, or potential interlocking directorates and to assess the competitive implications of such relationships under both Sections 7 and 8 of the Clayton Act.[34]

Section 8 of the Clayton Act generally prohibits a person from serving as an officer or director of competing corporations, subject to certain categorical and de minimis exceptions. This section of the Clayton Act aims to prevent information sharing and coordination between competitors through a per se ban that prohibits the same individual from serving as an

[31] *See United States* v. *E.I. du Pont de Nemours & Co.,* 353 U.S. 568 (1957) (du Pont's 23% stake in General Motors violated Section 7 by giving it an advantage over other suppliers and thereby resulting in a substantial lessening of competition). In considering the proper remedy, the Supreme Court found that divestiture of only voting rights was insufficient due to the on-going ''special relationship'' could still result in competitive harm. *United States* v. *E.I. du Pont de Nemours & Co.,* 366 U.S. 316, 332 (1961).

[32] 43 FR 33450, 33531–32 (July 31, 1978).

[33] *Id.* at 33531.

[34] Although Section 8 does not technically apply to unincorporated entities, information sharing and coordination can still raise concerns under Section 1 of the Sherman Act.

officer or director of two competing firms.[35]

In the Agencies' experience, many acquiring persons have board members who also serve on the boards of other companies. As a result, the Agencies often investigate existing board relationships as well as potential interlocks that would result from the transaction as part of its initial review. Section 8 bars interlocks that arise through rights to appoint board members to a competitor[36] or officers or directors serving on the boards of competing companies. Investment entities that acquire board seats across a diverse portfolio of companies may be particularly likely to encounter Section 8 compliance issues via a merger or acquisition.[37]

Currently, filers are not required to disclose the identity of the members of their boards of directors, and this makes it difficult for the Agencies to complete their assessment of potential Section 8 issues during the initial waiting period. Having information about potential interlocking directorates in the HSR Filing would allow the Agencies to take steps to prevent the sharing of board-level confidential information much more quickly. This information is also relevant to the competition analysis of the transaction, as well as concerns about potential gun-jumping, which may violate the Act or Section 1 of the Sherman Act.[38] This is particularly important given that post-merger enforcement of Section 8's *per se* ban can be ineffective after the individual has been privy to the confidential business information of two competitors: Section 8 provides a one-year grace period to remedy an illegal interlock that arises after the individual is elected or chosen to be an officer or director.[39] Moreover, Section 8 does not provide for civil penalties or other monetary relief, only injunctions barring the individual from serving on the two boards.

Information about board observers can also be relevant to the Agencies' analysis of the proposed transaction. Board observers are not subject to the Section 8 ban on interlocking directorates, and yet may have access to the same materials that are shared with officers and directors. In December 2020, the Commission issued an advance notice of proposed rulemaking (''ANPRM'') that, among other things, sought to gather information about sources of influence on corporate decision-making outside the scope of voting securities.[40] The Commission noted the possibility that there are ways to gain influence over a company other than through the acquisition of voting rights, for instance through board observers, and pointed to the increasing use of board observers as part of the governance structure. Because the acquisition of rights to be a board observer is not a reportable event under the HSR Act, the Commission sought information about whether having rights as a board observer provides opportunities to influence an issuer's business decisions.[41]

The Commission received two comments in response to the ANPRM that discuss the role of board observers, and each comment indicated that individuals serving as board observers typically receive the same information as the board of directors, although there may be ways to exclude them from reviewing privileged or competitively sensitive information.[42] In the Commission's experience, board observers have become more prevalent and could be privy to the same information as members of the board. For that reason, information about who these individuals are and whether they also serve as officers, directors, or board observers with other companies is important for understanding other sources of influence on the company's competitive decision-making and whether such individuals could share information between competitors. The Commission believes that having this information available during the initial waiting period would permit the Agencies to take steps to minimize the sharing of information prior to consummation.

The Commission thus proposes that filing persons provide information about the officers, directors, and board observers (or in the case of unincorporated entities, individuals exercising similar functions) of the acquired entity(s) and entities within acquiring person(s), as applicable, for the prior two years, and for each individual, identify any other companies for which those individuals would serve or have served during the prior two years as officers, directors, or board observers. The Commission also proposes requiring the same information for the prospective officers, directors, or board observers of the acquired and acquiring entities after the transaction, as well as for any officers, directors, or board observers of new entities created as a result of the transaction (and, in each case, for unincorporated entities, individuals serving those functions). If it would be impossible to identify the specific officers, directors, and board observers, filers should describe who would have the authority to choose them. Information received through these proposals would help the Agencies identify individuals with the ability to participate in or influence competitively relevant decision-making related to the filing persons or with access to confidential business information, allowing the Agencies to engage in more effective enforcement of the antitrust laws. The Commission believes that this information should be known to or readily accessible by the filing parties, and in some cases already

[35] Like Section 7, Section 8 was designed to ''nip in the bud incipient violations of the antitrust laws by removing the opportunity or temptation to such violations through interlocking directorates.'' *United States* v. *Sears, Roebuck & Co.,* 111 F. Supp. 614, 616 (S.D.N.Y. 1953).

[36] *See, e.g.,* Complaint, *United States* v. *CommScope Inc.,* 1:07–cv–2200 (D.D.C.) (Dec. 6, 2007) *https://www.justice.gov/atr/case-document/complaint-69* (alleging violations of Sections 7 and 8 where buyer also acquired rights to appoint members to the board of its competitor). See also Press Release, U.S. Dep't of Just., Tullett Prebon and ICAP Restructure Transaction after Justice Department Expresses Concerns about Interlocking Directorates, (Jul. 14, 2016). The Department of Justice has announced its intent to reinvigorate Section 8 enforcement, after seven directors resigned from corporate board positions. See Press Release, U.S. Dep't of Just., Justice Department's Ongoing Section 8 Enforcement Prevents More Potentially Illegal Interlocking Directorates (Mar. 9, 2023), *https://www.justice.gov/opa/pr/justice-department-s-ongoing-section-8-enforcement-prevents-more-potentially-illegal.*

[37] The Agencies also consider whether the acquiring person would be expanding into the business of the other company that shared a board member such that the two companies would have competing sales in excess of the de minimis amounts permitted by Section 8.

[38] Any sharing of competitive information between or among competitors, including during the pendency of merger review, that results in competitive harm may be a violation of Section 1 of the Sherman Act, or Section 5 of the FTC Act. Complaint, *United States* v. *Gemstar,* cv 1:03–00198 (D.D.C. 2003), *https://www.justice.gov/atr/case-document/complaint-108;* Complaint, In re Insilco Corp., No. C–3783 (F.T.C. 1998), *https://www.ftc.gov/sites/default/files/documents/cases/1998/01/insilcocmp.pdf.*

[39] 15 U.S.C. 19(b).

[40] 85 FR 77042 (Dec. 1, 2020).

[41] ''At the very least, board observers gain insight into an issuer's strategic decision-making, which is not only useful to the investor sponsoring the board observer, but may also be useful to competitors in the market, especially when those board observers also serve as officers or directors of a competitor. Companies likely benefit from interacting with board observers because company management can obtain additional investor insight without having to alter the composition or voting balance on the board.'' *Id.* at 77050.

[42] *See* Am. Bar. Ass'n, Comment on Hart-Scott-Rodino Coverage, Exemption, and Transmittal Rules ANPRM, 10–11 (Feb. 1, 2021), *https://www.regulations.gov/comment/FTC-2020-0086-0015;* Comput. & Commc'n Indus. Ass'n, Comment on Hart-Scott-Rodino Coverage, Exemption, and Transmittal Rules ANPRM, 11 (Jan. 26, 2021), *https://www.regulations.gov/comment/FTC-2020-0086-0002.*

collected as part of an incorporated entity's antitrust compliance program.

C. Transaction Information

The Commission proposes the creation of a Transaction Information section within the proposed Instructions. Currently, information about the transaction is required in several sections of the Form: the initial portion of the current Form requires information about the filing fee and whether early termination of the waiting period is requested; Item 2(a) requires identification of the ultimate parent entities of the acquiring and acquired persons; Item 2(b) identifies the type of transaction; Item 2(c) identifies the § 801.1(h) threshold that will be crossed; Item 2(d) seeks information about the percentage and value of the voting securities, non-corporate interests, and/or assets to be required; Item 3(a) asks for identification of the acquiring and acquired persons and entities, as well as a description of the transaction; Item 3(b) requires the listing and attaching of the most recent transaction agreement, or letter of intent; and Item 5(b) requires information about joint ventures and formations. The Commission proposes the reorganization, clarification, and expansion of these items to require information that will aid the Agencies in understanding the totality of the transaction during the initial waiting period. These proposed changes, discussed below, would require information about the transaction to be reported in the following proposed categories: Parties, Filing Fee, Transaction Details, and Transaction Description.

1. Parties

The proposed Parties section within the proposed Instructions would require the identification of the acquiring and acquired persons and the acquiring and acquired entities. This information is currently collected in Item 3(a) of the Form, and the Commission is not proposing any material changes to this requirement.

2. Filing Fee

The proposed Filing Fee section within the proposed Instructions would require identification of the total filing fee required for the transaction and information about the payment, including identification of the paying entity and the Electronic Wire Transfer confirmation number.[43] This information is currently collected in the Fee Information section of the Form, and the Commission is not proposing any material changes to this requirement.

3. Transaction Details

The proposed Transaction Details section within the proposed Instructions would require the same information currently required by Items 2(b)–2(d) of the Form that detail whether the transaction involves the acquisition of voting securities, non-corporate interests or assets, and the approximate value of each, as well as whether a notification threshold is crossed. The Commission is not proposing any material changes to these requirements.

4. Transaction Description

The Commission proposes creating a Transaction Description section within the proposed Instructions to reorganize information currently required in the Transaction Description portion of Item 3(a) of the Form, and to expand the required information, as described below.

a. Business of the Acquiring Person

The Commission proposes requiring the acquiring person to describe its business operations. Currently, Item 3(a) of the Form requires filing persons to briefly describe the transaction, including whether assets, voting securities, or non-corporate interests (or some combination) are to be acquired. Filers must also describe the business operation being acquired or what the assets being acquired comprise.[44] Although this information helps the Agencies understand what is proposed to be acquired, it does not provide any insight into the full range of business operations or other entities involved in the transaction on the part of the acquiring person. In the Commission's experience, understanding the scope of the acquiring person's business operations is critically important to determining whether the transaction poses any potential competition concern. Although this information is well known to the acquiring person, it is often not easily or quickly collected and confirmed from public sources during the initial waiting period.

As a result, the Commission proposes requiring the acquiring person to briefly describe the business operations of all entities within the acquiring person to provide a clear overview of all aspects of the acquiring person's pre-transaction business to facilitate the Agencies' antitrust review during the initial waiting period. Many businesses have pre-prepared descriptions of their operations for use in press releases, marketing materials, and investor materials. Unlike the requirement to describe the entities or assets to be acquired, which would apply to both the acquiring and acquired person, the requirement to describe business operations would be limited to the acquiring person.

b. Business of the Acquired Entity

As noted above, Item 3(a) of the Form requires filing parties to briefly describe the transaction, including whether assets, voting securities, or non-corporate interests (or some combination) are to be acquired. Filing persons must also describe the business operation being acquired or what the assets being acquired comprise. The Commission is not proposing any material changes to this requirement.

c. Non-Reportable UPE(s)

Item 2(a) of the Form currently requires the identification of any UPE that is not required to file, and the Commission is not proposing any material changes to this requirement.

d. Transaction Description

Item 3(a) of the Form currently requires a brief description of the transaction. The Commission is not proposing any material changes to this requirement.

e. Transaction Rationale

The Commission proposes adding a new requirement that filing persons provide a narrative that would identify and explain each strategic rationale for the transaction. As helpful as the documents responsive to current Items 4(c) and 4(d) of the Form can be, they do not always convey each filing person's cumulative views on the rationale(s) for the transaction. Indeed, such documents (when they are submitted and when they discuss rationales) often contain differing, and at times conflicting or mutually exclusive, statements regarding the transaction depending on when they were prepared or by whom. For example, different members of the deal team might have different perspectives on the potential motivations for the transaction at different times, and the submitted documents do not resolve the filing person's ultimate thinking regarding the topic. Since documents responsive to Items 4(c) and 4(d) do not consistently provide an overview of the rationale(s) for the transaction, it would be of immense value for the Agencies to have during the initial waiting period a

[43] If electronic wire transfers are not available to the filing party, the Instructions would continue to provide instructions for paying by check.

[44] 81 FR 60257 (Sept. 1, 2016).

statement that discusses each the strategic rationale(s) from the perspective of each filing person.

The Commission thus proposes that the acquiring and acquired person be required to submit a narrative describing all strategic rationales for the transaction, including, for example, those related to competition for current or known planned products or services that would or could compete with a current or known planned product or service of the other reporting person, expansion into new markets, hiring the sellers' employees (so-called acqui-hires), obtaining certain intellectual property, or integrating certain assets into new or existing products, services or offerings. The Commission also proposes that the filing person identify which documents submitted with the HSR Filing support the rationale(s) described in the narrative. This proposed requirement would help ensure that the provided narrative is grounded in the filers' ordinary-course documents and not mere advocacy designed to portray a favorable view of the transaction. Moreover, any cited documents that support the narrative would also provide additional context for the Agencies as they assess the parties' stated rationale(s) in relation to any potential competitive consequences of the transaction. Understanding the business reason(s) for pursuing the transaction can materially affect the course and direction of the Agencies' antitrust review during the initial waiting period.

f. Transaction Diagram

The Commission proposes a new requirement that the filing persons provide a diagram of the deal structure along with a corresponding chart that would explain the relevant entities and individuals involved in the transaction. The brief narrative currently required in Item 3(a) of the Form does not require filers to explain all the relevant entities or identify steps involved in the transaction and their sequence. As a result, the Agencies frequently request a more detailed account of these steps during the initial waiting period, but these submissions are voluntary, not uniform in their detail, and often lack important aspects of the transaction that may bear on the competitive analysis and the determination of whether the transaction warrants in-depth review. In the Commission's experience, particularly in the case of complex or multi-step transactions, diagrams are generally more helpful than simple narratives in conveying the relationships of the relevant entities and the deal structure.

The Commission's proposal that filing persons submit a diagram of the deal structure along with a corresponding chart explaining the entities involved in the transaction would further assist the Agencies' conceptualization of the transaction and save considerable time in obtaining basic information about the entities involved and how the transaction would affect the operations of those entities. Such diagrams are often prepared by companies in the ordinary course of business for other purposes, such as for transaction diligence requirements.

g. Related Transactions

While Item 3(a) of the current Form asks parties to indicate whether there are additional filings related to the transaction, filers sometimes overlook this requirement. The proposed Instructions would clarify that filing persons must identify related transactions. The proposed Instructions would also provide a list of common circumstances in which multiple filings are required to guide filing parties in their responses. These proposed changes would provide clarity for both filing persons and the Agencies.

h. Early Termination

The proposed Early Termination section would ask whether the filing party requests early termination of the waiting period. This question is currently asked on page one of the Form, and the Commission is not proposing any material changes to this requirement.

5. Joint Ventures

The proposed Joint Ventures section within the proposed Instructions would require information about transactions structured as a joint venture or formation pursuant to §§ 801.40 or 801.50. This information is currently collected in Item 5(b) of the Form and requires information about the contributions each person will make to the entity, what consideration will be received, the business in which the new entity will engage, and an allocation of revenue to industry codes. As discussed in section III.A.1.b. above and III.D.3. below, the Commission is proposing eliminating the use of 10-digit NAPCS codes. Therefore, the Commission proposes also eliminating the requirement to identify the NAPCS codes in which the joint venture will derive revenue. The Commission is not proposing any other material changes to this requirement.

6. Agreements and Timeline

The proposed Agreements and Timeline section within the proposed Instructions would require filing persons to provide a term sheet or draft agreement that reflects sufficient detail about the proposed transaction to demonstrate the transaction is more than hypothetical, if a definitive agreement has not been executed, as described above in the proposed amendments to § 803.5(b) at II.C. In addition, the Commission proposes additional changes regarding which agreements must be submitted. These proposed changes, discussed below, include a requirement to submit the entirety of all agreements related to the transaction and a new requirement to submit other agreements between the filing persons that are not related to the transaction, as well as a timetable for the transaction.

a. Transaction-Specific Agreements

The Commission proposes requiring that all transaction-specific agreements be submitted with HSR Filings. Currently, Item 3(b) of the Form requires the submission of all documents that constitute the agreement(s) among the acquiring person(s) and the person(s) whose assets, voting securities, or non-corporate interests are to be acquired, as well as agreements not to compete and other agreements between the parties. The production of schedules to agreements is not currently required, unless the schedules contain agreements.[45] In the Commission's experience, the structure of transactions has become increasingly complex, often comprising not only multiple agreements between the filing persons but agreements with third parties. Understanding the entirety of the transaction, including but not limited to non-competition and non-solicitation agreements and other agreements negotiated with key employees, suppliers, or customers in conjunction with the transaction, is crucial to determining the totality of the transaction and assessing during the initial waiting period the transaction's potential competitive impact. Moreover, schedules increasingly include descriptions of key terms and provisions.

The Commission thus proposes requiring filing persons to produce all agreements, inclusive of schedules, exhibits, and the like, that relate to the transaction, regardless of whether both parties to the transaction are signatories. It is the Commission's understanding

[45] 16 CFR 803 Appendix Notification and Report Form Instructions at page V.

that these documents are collected and are typically included in materials necessary for closing. Having a complete set of transaction-related agreements would provide the Agencies with a more complete understanding of the transaction under review.

b. Other Agreements Between the Parties

The Commission also proposes requiring filing persons to submit all agreements between any entity within the acquiring person and any entity within the acquired person in effect at the time of filing or within the year prior to the date of filing. Understanding the scope of any existing contractual relationships between the filers would materially assist the Agencies' review by revealing any business interactions or relationships that exist prior to the transaction and that may be affecting premerger competition. These might include licensing agreements, supply agreements, non-competition or non-solicitation agreements, purchase agreements, distribution agreements, or franchise agreements, among others. Understanding the full extent of the filing parties' existing contractual relationships would allow the Agencies to identify those relationships that contribute to the premerger competitive dynamics, which is material to assessing how the transaction may affect post-merger competition.

c. Timeline

The Commission also proposes that filing persons provide a narrative timeline of key dates and conditions for closing. Just as it is critical for the Agencies to understand the totality of the transaction during the initial waiting period, it is also critical to understand the timing of key milestones and the conditions to closing, which are often complex and not easily understood from the transaction documents themselves. The Agencies often cannot confirm basic deadlines for the transaction from the transaction documents and in those cases, the Agencies expend a great deal of time and effort to confirm with filers key dates, including the timing of pre-closing conditions, during the initial waiting period. Understanding deal timing is critical to each Agency's decisions regarding how to manage its merger workload on a priority basis, focusing available resources on those deals whose closing dates are imminent. This basic information about the timing of the transaction is not adequately captured in the current Form, and, to the extent the filing person knows at the time of the HSR Filing and can readily provide it, this information would help the Agencies understand key deal milestones and better manage the timing and focus of the investigation during the initial waiting period.

D. Competition and Overlaps

The Commission proposes creating a Competition and Overlaps section within the proposed Instructions. This section would collect, in one place, information that reveals any existing business relationships between the filing persons that requires the Agencies to take a closer look to determine whether the transaction warrants an in-depth investigation, which is the primary purpose of premerger notification and review. Information collected in this section would include information and documents currently collected in several parts of the Form: in Items 4(c) and 4(d), which require the production of certain documents created in conjunction with the evaluation of the transaction; Item 5(a), which requires the allocation of revenue from U.S. operations to industry and product codes; Item 6(c), which identifies certain minority-held entities of the filer; Item 7, which provides information about industries in which the acquiring person and acquired entity both participate; and Item 8, which requires the identification of certain prior acquisitions made by the acquiring person. The Commission proposes expanding and reorganizing the information and requiring additional documents that would bear directly on the premerger competitive relationship between the filing persons. The proposed Competition and Overlaps section would provide a new source of relevant information related to horizontal overlaps, as well as new information about supply relationships and employees, which would enable to Agencies to quickly identify and assess the potential impact of the transaction across many dimensions of competition. These proposed changes, discussed below, would be organized in the following proposed categories: Business Documents, Competition Analysis, NAICS Codes, Controlled-Entity Overlaps, Minority-Held Entity Overlaps, and Prior Acquisitions.

1. Business Documents

The proposed Business Documents section within the proposed Instructions would require the submission of documents currently required by Items 4(c) and 4(d) of the Form and additional categories of documents. The Commission's proposal for requiring additional documents is informed by a comparison of documents submitted by filing persons with the HSR Filing and those submitted during the Agencies' in-depth investigations that are not required by the current Form but would have been highly probative to the initial antitrust assessment of the transaction during the initial waiting period. The specific types of proposed business documents are discussed below.

a. Transaction-Related Documents

The proposed Transaction-Related Documents section would comprise the same types of documents currently required by Item 4(c) of the Form, which the Commission proposes to expand to include documents prepared by or for the supervisory deal team leads, and Item 4(d), which the Commission proposes to clarify without material changes. The Commission also proposes requiring the submission of certain previous draft versions of these documents.

i. Documents Prepared by or for Officers, Directors, or Supervisory Deal Team Lead(s)

In the proposed Documents Prepared by or for Officers, Directors, or the Supervisory Deal Team Lead section, the Commission proposes expanding the scope of requested documents evaluating the transaction by adding a requirement to submit such documents prepared by or for the supervisory deal team lead(s). Currently, Item 4(c) requires filing persons to provide all studies, surveys, reports, plans, and analyses prepared by or for officers or directors to evaluate the acquisition with respect to market shares, competition, competitors, markets, potential for sales growth, or expansion into products or geographic markets. These transaction-specific assessments of competition, past and future, provide the Agencies with invaluable insights into each party's view of how the transaction could change the competitive landscape and, most importantly, narrow the inquiry to particular markets and companies that each party believes to be its competitors. Since the beginning of the premerger notification program, 4(c) documents have been a key screening tool for the Agencies to identify those transactions that require more than a cursory review during the initial waiting period. The proposed section would retain the same definition of transaction-related documents to be submitted but add the supervisory deal team lead(s) to the list of individuals to whom this item would apply.

In some companies, an officer may lead the day-to-day activities of the deal team and would be considered the supervisory deal team lead, resulting in

no change to the documents currently required as part of Item 4(c) of the Form. But someone other than an officer or director often functionally leads the deal team. In the Commission's experience, in those cases, responses to current Item 4(c) often do not contain documents with sufficient information about the filing person's analysis of the competitive implications of the transaction to enable the Agencies to identify potentially problematic transactions. In fact, based on documents submitted in response to Second Requests, it is the Agencies' experience that individuals other than officers and directors are often the authors or recipients of documents that are otherwise responsive to Item 4(c) of the Form but are not required to be submitted with the HSR Filing because they were not prepared by or for an officer or director. These documents, typically in the possession of the supervisory deal team lead(s), often include information that would have been crucial to the Agencies' analysis of the transaction during the initial waiting period.

The Commission thus proposes that in addition to requiring documents prepared by or for officer and directors, filing persons must also submit these transaction-related documents prepared by or for supervisory deal team lead(s). Identification of any supervisory deal team lead would not be based upon title alone. The Commission proposes that the filing person determine the individual or individuals who functionally lead or coordinate the day-to-day process for the transaction at issue. A supervisory deal team lead need not have ultimate decision-making authority but would have responsibility for preparing or supervising the assessment of the transaction and be involved in communicating with the individuals, such as officers or directors, that have the authority to authorize the transaction. Any such individual(s) might be the leader(s) of an investment committee, tasked with heading the analysis of mergers and acquisitions, or otherwise given supervisory capacity over the flow of information and documents related to transaction.

The Commission believes this proposal strikes a balance between the interests of the Agencies and those of filing persons in requesting additional documents responsive to Item 4(c) of the Form. Requiring filing persons to include materials prepared by and for supervisory deal team lead(s) would allow the Agencies to receive additional key materials relevant to the analysis of the transaction without requiring information from all deal team members, in light of the opportunity to obtain additional documents through the issuance of Second Requests.

ii. Confidential Information Memoranda

The proposed Confidential Information Memoranda section would collect the information currently required by Item 4(d)(i) of the Form. The Commission is not proposing any material changes to this requirement.

iii. Studies, Surveys, Analyses, and Reports

The proposed Studies, Surveys, Analyses, and Reports section would collect the information currently required by Item 4(d)(ii) of the Form. The Commission is not proposing any material changes to this requirement.

iv. Synergies and Efficiencies

The proposed Synergies and Efficiencies section would collect the information currently required by Item 4(d)(iii) of the Form, and the Commission proposes to clarify that forward-looking analyses are responsive. Currently, Item 4(d)(iii) asks for all studies, surveys, analyses, and reports evaluating or analyzing synergies, and/or efficiencies prepared by or for any officer(s) or director(s) (or, in the case of unincorporated entities, individuals exercising similar functions) for the purpose of evaluating or analyzing the acquisition. The Commission proposes to specifically include a reference to models and financial projections to make clear that filers should submit forward-looking assessments of synergies or efficiencies. This information is especially important for screening the competitive impact of products or services not yet generating revenue but projected to do so. As before, financial models without stated assumptions would not need to be provided. For many transactions, especially those involving markets in which competition occurs via on-going innovative efforts, these forward-looking assessments will materially benefit the Agencies' identification of transactions that warrant in-depth review.

v. Drafts

Along with expanding the required Transaction-Related Documents as described above, the Commission also proposes requiring the submission of drafts responsive to these requests. It has been a long-standing position of the Commission's PNO that the submission of draft versions of documents responsive to Item 4(c) or 4(d) is not required unless there is no final version, in which case the most recent draft has been required, or unless a draft was sent to the board of directors. Under this guidance, if a draft version of a document is sent to the Board, it ceases to be a ''draft'' and must be submitted, even if a final version is also submitted. As a result, the Commission has not typically received many draft documents as part of HSR filings.

The Agencies routinely ask for and receive draft documents in response to Second Requests and, in the Agencies' experience, these drafts often reveal additional information about the transaction that would have been important to the Agencies' review during the initial waiting period, such as references to specific product markets or competitors that were removed in subsequent versions. In addition, these drafts can contain highly relevant, probative, or candid statements about the competitive impact not reflected in the final version of the document. In some cases, it appears that the draft documents have been edited to remove candid assessments of factors relevant to competition prior to circulation to officers or directors. In others, the dates of the documents suggest that otherwise responsive drafts were not finalized or shared with officers or directors until after making an HSR Filing.

The Commission therefore proposes clarifying in the Instructions that drafts of responsive transaction-related documents must be submitted if that document was provided to an officer, director, or supervisory deal team lead(s). This proposed change would ensure that the Agencies have access to documents that reflect pre-transaction assessments of business realities, as opposed to ''sanitized'' versions, to aid in their analysis during the initial waiting period. The addition of the supervisory deal team leader(s) to this requirement should capture draft materials important to managing the transaction but avoid the burden of having to submit prior versions that were not reviewed by senior managers or decision-makers. As stated elsewhere in this NPRM, the Commission aims to strike a balance between the Agencies' need to obtain material information about the transaction and the burden on filing parties, so the scope of this request is limited so as not to require filing parties to search numerous company personnel beyond officers, directors, and supervisory deal team lead(s).

The Commission recognizes that requiring draft transaction-related documents creates an additional burden for filing parties to collect and submit more documents to the Commission with their HSR filings and that, to some

degree, previous versions of submitted documents may contain repetitive information. Moreover, HSR filings that contain large document submissions could overwhelm the Agencies and undermine the goal of effective and efficient screening for transactions that require an in-depth investigation. For this reason, the Commission seeks comment on a potential alternate approach in which filing parties collect draft Transaction-Related Documents as part of preparing HSR filings but do not submit these documents until and unless agency staff reviewing the transaction requests the draft documents during the initial waiting period. In the event that agency staff requests the draft documents, the filing person would be required to submit them within 48 hours in order to retain the initial waiting period. The Commission invites comment on whether this alternative approach would reduce the burden for the parties and the Agencies compared with submitting all versions with the HSR Filing as described above, whether there are logistical issues with providing the collected draft documents within 48 hours, and the estimated volume of drafts collected.

b. Periodic Plans and Reports

The proposed Periodic Plans and Reports section would require filing persons to submit certain high-level strategic business documents that were not created in contemplation of the transaction but still contain information relevant to the antitrust analysis. As a result of decades of experience, the Agencies are aware that, as part of diligence for a potential transaction, companies often collect a targeted set of ordinary course documents that do not need to be submitted as part of an HSR Filing. Such documents typically include strategic plans and documents that are useful to those negotiating or evaluating the transaction because they discuss general market dynamics, competitors, or other potential mergers and acquisitions. The Commission understands that these documents are collected to provide key transaction decision-makers with the company's internal assessment of commercial realities of the premerger marketplace.

The Commission therefore proposes requiring certain plans and reports created in the ordinary course of business and not prepared solely for the purpose of evaluating the proposed transaction to be submitted as part of the HSR Filing. Periodic plans and reports created in the ordinary course of a company's business often contain detailed assessments of core business segments, markets, competitors, other acquisition targets, and projections about future competitive dynamics—insights that have direct bearing on the Agencies' antitrust assessment of the transaction in the initial waiting period. The Commission proposes requiring the submission of semi-annual and quarterly plans and reports that discuss market shares, competition, competitors, or markets of any product or service that is provided by both the acquiring person and acquired entity, if those documents were shared with a chief executive of an entity involved in the transaction, or with certain individuals who report directly to a chief executive. The Commission also proposes requiring the submission of all plans and reports submitted to the board of directors (or, in the case of unincorporated entities, individuals exercising those functions) that discuss market shares, competition, competitors, or markets of any product or service that is provided by both the acquiring person and acquired entity.

These proposed new document requirements would be limited in certain specific ways to minimize the overall number of documents submitted with the HSR Filing. First, the new Periodic Plans and Reports section would not require documents that analyze ''the potential for sales growth or expansion into product or geographic markets'' as is required by current Item 4(c). Additionally documents responsive to this item would be limited to those prepared or modified within one year of the date of the HSR Filing. The Commission believes that the submission of a limited set of ordinary course business documents that were not prepared specifically to evaluate the transaction but discuss premerger and future competitive dynamics and strategies broadly would provide valuable insight and context for the transaction-related documents submitted with the HSR Filing. These ordinary course business documents are routinely submitted during in-depth investigations in response to Second Requests and routinely contain unique information about the state of premerger competition, which if available during the initial review period would help the Agencies determine if an in-depth review is warranted and if so, its proper scope.

The Commission is aware that this new requirement has the potential to result in the submission of a large number of documents for complex or large transactions. The Commission is also aware of the potential impact on the filing persons and on the Agencies of large document submissions. The Commission seeks to balance these interests and invites comment on how or whether narrowing the set of custodians for periodic reports and plans, or any other proposed limits, would still generate information about the premerger state of competition that is not specific to the transaction while reducing any burden on filers and the Agencies.

Finally, the Commission notes that filing persons should not exchange additional information with respect to planned products or services to provide a response to this proposed requirement but should respond instead on the basis of regular diligence and the knowledge or belief of the filing person. The Commission recognizes that an acquired person would have limited information about the acquiring person's operations, including products under development, and the Commission does not intend these proposed changes to encourage additional information sharing of this type of information.

c. Organizational Chart of Authors

As the final part of its proposed Business Documents section, the Commission proposes requiring filing persons to identify the authors of all responsive documents submitted with the HSR Filing and to provide additional information about each individual. Given the short period of time for review during the initial waiting period, it is crucial for the Agencies to have a clear understanding of how authors of key documents fit into the organization or entities of each filing person to determine the importance and perspective of the responsive documents submitted with the HSR Filing and to identify key employees within the organizations. Thus, the Commission proposes requiring an organizational chart(s) that would reflect the position(s) within the filing person's organization held by identified authors, and for privileged documents, the recipients of each document submitted with the HSR Filing. The Commission also proposes requiring the filer to identify the individuals searched for responsive documents. It would be sufficient to indicate by notation on the organization chart(s) which individuals were searched.

Providing a chart will help contextualize reporting relationships, as well as the relative seniority, of the authors and recipients and allow the Agencies to more quickly assess which documents contain high-level assessments from key employees. The benefit of being able to identify important decision-makers within the filing person and having context for key documents would allow the Agencies to

quickly assess the probative value of the documents

2. Competition Analysis

The Commission proposes creating a new Competition Analysis section within the proposed Instructions. This proposed section would create new requirements for filing persons to provide narratives that would, among other things, describe their basic business lines and provide product or service information for all related entities; identify current and potential future horizontal overlaps and supply relationships between the filing persons; and provide information about their employees and what services these employees provide. These proposed narrative requests would provide the Agencies with crucial information about current and future competitive relationships between the filing parties, including whether they compete to hire employees, which is information that is not required by the current Form.

a. Horizontal Overlap Narrative

The Commission proposes creating a new Horizontal Overlap Narrative section that would require each filing person to provide an overview of its principal categories of products and services (current and planned) as well as information on whether it currently competes with the other filing person. Such information is core to the Agencies' substantive antitrust analysis during the initial waiting period and is not readily accessible from sources other than the filers themselves. In drafting the Horizontal Overlap Narrative, each filing person would describe its current and planned principal categories of products and services in the way that those business lines are referred to in the company's day-to-day operations so that the Agencies could more readily understand the information in the context of current market realities. If any of the submitted documents support the information contained in the narrative, the filing person would also identify such documents.

The products or services offered by the filing persons that currently or potentially compete with each other are often referred to by antitrust professionals as ''horizontal overlaps.'' The identification and assessment of such horizontal overlaps is an essential starting point for the Agencies' substantive review of any transaction to determine whether it has the potential to violate the antitrust laws. As discussed elsewhere, NAICS code reporting can result in underreporting of horizontal overlaps, and not every HSR Filing contains 4(c) documents that could potentially reveal overlaps not identified by NAICS code reporting. In such cases, the HSR Filing does not contain basic screening information that the Agencies need to determine whether the transaction merits closer scrutiny during the initial waiting period. Premerger notification is intended to allow the Agencies to scrutinize any transaction that eliminates competition between existing or potential competitors, and it is important for every HSR Filing to identify any existing or potential horizontal overlap created by the transaction.

As a result, the Commission proposes that within the Horizontal Overlap Narrative, each filing person would be required to list each current or known planned product or service that competes with (or could compete with) a current or known planned product of the other filer. For each such overlapping product or service, the filing person would provide sales, customer information (including contacts), a description of any licensing arrangements, and any non-compete or non-solicitation agreements applicable to employees or business units related to the product or service.

The proposed requirement for this information about each filing person's market presence in overlapping products or services would enable the Agencies to quickly identify and assess the significance of the filers' respective businesses both in relative and absolute terms. Proposed customer information would enable the Agencies to understand the customer base of the overlapping businesses and to promptly conduct, at the beginning of the initial waiting period, further industry research with customers likely to be affected by the transaction or those who are particularly knowledgeable about the parties' business operations, relevant industry dynamics, and other market participants. Contacting customers to confirm basic market dynamics is a key step in the antitrust analysis conducted by Agency staff during the initial waiting period, and the parties are frequently asked to provide this information on a voluntary basis once one Agency has granted clearance to the other to conduct an initial investigation of the transaction. However, since this information is not compulsory, the Agencies do not always receive it in a timely fashion during the initial waiting period, hampering the ability of the Agencies to use that period to effectively screen for transactions that merit the issuance of Second Requests.

The proposed requirement to describe any licensing, non-compete, or non-solicitation agreements involving the overlapping products or services would enable the Agencies to assess specific categories of existing contracts that are likely to affect how the transaction will impact competition for those products or services. These existing relationships bear on premerger market conditions and may reflect that the filers already view themselves as competitors (in the case of non-compete or non-solicitation agreements) or as key trading partners (in the case of licensing agreements).

The Commission acknowledges the burden drafting the proposed Horizontal Overlap Narrative could create for some filers, especially for transactions involving close competitors with multiple overlapping product or service lines. But identifying those transactions that present broad and complex competition issues is a critical first step for the Agencies. Once identified, the Agencies must then properly manage their review, first determining which markets could be impacted by the transaction and then deciding which of those necessitate in-depth review. On balance, this proposed requirement would significantly improve the information available to the Agencies to identify any existing or potential horizontal overlap to assess the competitive implications of a transaction during the initial waiting period. The Commission notes that in the Agencies' experience, companies who are horizontal competitors prior to the transaction frequently assess the antitrust risk associated with the transaction prior to making an HSR Filing, and therefore the information required by this proposal may already be available, in whole or part, to include with the HSR Filing. Although the Agencies have not previously required this type of narrative to be submitted as part of the Form, other jurisdictions have required such narratives for many years.

b. Supply Relationships Narrative

The Commission proposes creating a Supply Relationships Narrative section that would require each filing person to provide information about existing or potential vertical, or supply, relationships between the filing persons. A prior version of the Form required similar information about vertical vendor-vendee relationships, but the requirement was eliminated in 2001 because the type of information collected did not prove useful enough to the Agencies as a screen for potential non-horizontal relationships to justify

the burden of providing it at that time.[46] Based on the Agencies' experience investigating vertical mergers in the intervening decades, the Commission believes that the current proposal would provide sufficiently robust information to allow the Agencies to identify vertical and other non-horizontal issues, including those presented by diagonal mergers. Non-horizontal relationships can be hard to detect in certain sectors where supply chains are not well defined, for instance in the provision of services rather than physical products. The Agencies have an interest in knowing whether a transaction in which the filing persons operate in related markets would result in any change in market structure or incentives that might affect post-merger competition. Early identification of potential non-horizontal competitive issues is critical to determining whether further investigation is needed, as structural changes in these relationships require additional fact development to determine the nature and scope of potential non-horizontal competitive concerns, which can often be complex and unique. These issues are difficult to discern from the information currently required by the Form, and filing parties are in a unique position to identify existing or future non-horizontal business relationships between them.

The Commission thus proposes to collect, in a narrative response, information for related sales and purchases between the filing persons or with other companies that use the filing person's products, services, or assets to compete with the other filing person. Filing persons would report sales to the other filing person and to any other business that, to the best of the filing person's knowledge, uses its product, service, or asset as an input for a product or service that competes or is intended to compete with the other filing person's products or services. Filing persons would also provide information (including contact information and a description of the supply agreement) for other customers that use the product, service, or asset to compete with other filing person. Filing persons would provide similar information for purchases made from the other filing person and from any other business that, to the best of the filing person's knowledge, competes with the other filing party to provide a substantially similar product, service, or asset. This information would allow the Agencies to identify whether the transaction would create opportunities for post-merger foreclosure of rivals arising from vertical or diagonal relationships.

The Commission acknowledges that this will increase the burden on filers whose transaction involves existing supply relationships or who supply or purchase from companies that compete with the other filing party. But the Commission believes that requiring filing parties to provide a narrative that reveals existing and potential supply relationships between the acquiring person and acquired entity is important for the Agencies because it would allow them to quickly identify those transactions that raise concerns about non-horizontal competitive effects.

c. Labor Markets Information

The Commission proposes creating a new Labor Markets section that would require each filing person to provide certain information about its workers in order to screen for potential labor market effects arising from the transaction. The Agencies have increasingly recognized the importance of evaluating the effect of mergers and acquisitions on labor markets and have stepped up efforts to identify and investigate potential labor market effects arising from reportable transactions. Transactions have been challenged on the basis that consummation would result in labor market harms,[47] and consent agreements have included provisions that stop the use of certain non-compete clauses that limit the ability of potential market entrants to hire key employees.[48]

In transactions that involve two firms that purchase labor from the same labor market(s), the Agencies consider whether the transaction may substantially lessen competition for buyers of labor services. Every firm competes for labor in at least one labor market and, more commonly, in multiple labor markets. Companies that compete in the same product market may also compete in the same labor market. Employers, however, may compete in the same labor market even when they do not compete in the same product or input market.

Yet the Form does not collect any information about employees that would allow the Agencies to conduct an initial screening for potential labor market effects, which has materially hampered their ability to protect employees from the harmful effects of mergers. To identify whether the filing persons compete to employ the same types of workers in a particular geographic area, the Commission proposes requiring certain information concerning each filing person's workers before the transaction and any plans that would affect workers post-consummation. This proposed section would identify potential labor market overlaps and allow the Agencies to engage with the filers on potential labor market issues during the initial waiting period.

i. Largest Employee Classifications

The Commission proposes creating a Largest Employee Classifications section that would serve as a screening tool based on the SOC system, developed by the Bureau of Labor Statistics, which classifies workers into occupational categories. Labor markets have two dimensions: the type or features of work performed, and the location of the work. Because describing every relevant feature of each job would be burdensome for parties, the Commission proposes requiring filing persons to classify their workers into occupational categories based on the SOC system, a widely used system for reporting worker statistics. While SOC categories do not always provide exact comparisons, SOC codes would nevertheless provide the Agencies with an objective classification standard which can be used as an initial screen for potential labor market overlaps. The use of these codes as a screening tool is not intended to endorse their use for any other purpose, such as defining a relevant labor market. To implement this proposed screening

[46] The Form originally required information about any vendor-vendee relationship between the reporting parties regarding manufactured product during the most recent year; this information was intended to help the Agencies identify supply relationships that could give rise to concerns about foreclosure or other competitive consequences of vertical integration. The Commission eliminated this requirement in 2001 because it was not effective in identifying vertical issues, not because vertical acquisitions present no potential competitive risks. 66 FR 8680, 8686–87 (Feb. 1, 2001). Since 2001, the Form has not collected specific information related to vertical relationships.

[47] Press Release, U.S. Dep't of Just., Justice Department Sues to Block Penguin Random House's Acquisition of Rival Publisher Simon & Schuster, (Nov. 2, 2021), *https://www.justice.gov/opa/pr/justice-department-sues-block-penguin-random-house-s-acquisition-rival-publisher-simon. See also* Concurring Statement of Commissioner Slaughter and Chair Khan regarding *FTC and State of Rhode Island* v. *Lifespan Corporation and Care New England,* at 1–2 (Feb. 17, 2022), *https://www.ftc.gov/system/files/ftc_gov/pdf/public_statement_of_commr_slaughter_chair_khan_re_lifespan-cne_redacted.pdf* (recommending including a count in the complaint that the proposed merger would have violated Section 7 of the Clayton Act in a relevant labor market).

[48] Press Release, Fed. Trade Comm'n, FTC Imposes Strict Limits on DaVita, Inc.'s Future Mergers Following Proposed Acquisition of Utah Dialysis Clinics (Oct. 25, 2021), *https://www.ftc.gov/news-events/news/press-releases/2021/10/ftc-imposes-strict-limits-davita-incs-future-mergers-following-proposed-acquisition-utah-dialysis.*

tool, the Commission proposes requiring filers to list their five largest categories of workers by the relevant 6-digit SOC classification and to provide the total number of employees for each 6-digit code identified.

ii. Geographic Market Information for Each Overlapping Employee Classification

The Commission proposes creating a Geographic Market Information for Each Overlapping Employee Classification section that would serve as a screen for the geographic component of labor markets based on the United States Department of Agriculture's ERS system. The ERS commuting zones were designed to delineate local economies based on where people live and work.[49] Filers would be required to identify the top five largest 6-digit SOC codes in which both parties employ workers. This should provide enough information for the Agencies to use SOC classifications as an initial proxy for labor issues while balancing the burden on filers by limiting the request to their five largest categories of workers. Also, for each of the five largest SOC codes in which both parties employ workers, this section would require filing persons to list the overlapping ERS-defined commuting zone(s) from which the employees commute and the total number of employees within each commuting zone. This proposed requirement would be limited to overlapping geographies, expressed as commuting zones, to capture sufficient information to identify potential labor market concerns without requiring filing parties to provide a complete list of all commuting zones in which they have workers.

This information would represent a material improvement in the data available to the Agencies during the initial waiting period. By relying on existing metrics that are familiar to U.S. companies and by limiting the request to the top five SOC classifications, the Commission's intent is to minimize the burden on filers. Nonetheless, the Commission seeks comment on whether this information would be difficult or costly to collect, and any alternative means by which the Commission could screen HSR Filings for potential labor market overlaps, for example by collecting information on the number and types of workers employed at each of the filing person's facilities.

iii. Worker and Workplace Safety Information

The Commission proposes creating a Worker and Workplace Safety Information section that would require filing persons to identify any penalties or findings that were issued against the acquiring person or acquired entity by the U.S. Department of Labor's Wage and Hour Division, the National Labor Relations Board, or the Occupational Safety and Health Administration during the five-year period before the filing. If a firm has a history of labor law violations, it may be indicative of a concentrated labor market where workers do not have the ability to easily find another job. The proposed five-year period limitation would capture the most relevant information for analysis during the initial waiting period while lessening the burden on filers to search through older files. This information is not always publicly available but is known to the filers and is relevant to identifying potential labor market effects.

3. NAICS Codes

The Commission proposes creating a NAICS section within the proposed Instructions. This section proposes changes to certain information currently required by Item 5(a) of the Form, which now asks filing persons to submit information regarding dollar revenues and lines of commerce with respect to operations conducted within the United States during the most recently completed fiscal year. This includes products manufactured in the United States, regardless of where they are sold, products manufactured outside the United States but sold into the United States or through a U.S. entity, and products or services derived from U.S. operations, whether sold to a U.S. or foreign customer.

The current version of Item 5 of the Form requires the reporting of revenue by industry and product codes developed by Census to track economic activity in the United States. Over the years, the Commission has revised Item 5 as it sought to balance the need to receive filing persons' revenue information with the burden on filers to provide that revenue information.[50] As part of the redesign of the premerger notification process contemplated in this NPRM, the Agencies reviewed the totality of revenue information currently required in Item 5(a) to determine which information is especially valuable, which is due for an update, and which is not sufficiently reliable or needed to conduct a robust initial assessment of reported transactions. As a result, the Commission now believes that it can further revise revenue reporting requirements to make reported revenue information more informative for the Agencies and less burdensome for filing parties. The Commission thus proposes a substantively different approach to revenue information through six proposed changes. The Commission also proposes a ministerial change to adopt the 2022 version of the NAICS codes, which are the most recent released by Census. Through these proposed changes, the Commission would expand and clarify the industry and product codes that filing persons would have to report, as well as limit the requirements on how revenue must be reported.

First, the Commission proposes eliminating the requirement that filing persons provide the precise amount of revenue attributed to each NAICS code. The Commission intends for the proposed change to streamline revenue reporting for filers and result in figures that would be just as useful to the Agencies for identifying important business lines of each person. It is the Commission's understanding that many businesses do not maintain detailed revenue information by NAICS code in the ordinary course of business and generating this information can require great effort. In fact, even obtaining estimates of revenue to the nearest $100,000, as is currently required, can still be burdensome for filers. The Commission therefore proposes that filing persons would only need to estimate revenue at five levels: pre-revenue (for certain products and services, as described below); less than $10 million; between $10 million and $100 million; between $100 million and $1 billion; and more than $1 billion. The Commission anticipates these ranges would provide the Agencies with an important overview of the magnitude of revenue generated by particular products and services, an important factor in the analysis of transactions during the initial waiting period, while at the same time reducing the burden of reporting revenues for filers. The Commission welcomes comments on

[49] *See* U.S. Dep't of Agric., ERS Commuting Zones and Labor Market Areas, *https://www.ers.usda.gov/data-products/commuting-zones-and-labor-market-areas/*.

[50] *See* 43 FR 33450, 33520 (July 31, 1978) (revenue reporting based upon Standard Industrial Classification codes of the U.S. Bureau of the Census); 66 FR 35541 (July 6, 2001) (amending the Form and Instructions to report revenue by North American Industry Classification System codes of the U.S. Bureau of the Census); 76 FR 42471 (July 19, 2011) (elimination of the requirement to report ''base year'' data); 84 FR 30595 (June 27, 2019) (amending the Form and Instructions to report manufacturing revenue by North American Product Classification System-based codes of the U.S. Bureau of the Census).

the proposed ranges, as well as other potential ways to capture the relative magnitude of the business of the acquiring person or acquired entity attributable to each NAICS code.

Second, the Commission proposes that NAICS codes be reported on a descriptive basis, encompassing all U.S. operations. Revenue reporting in Item 5(a) currently relies on the filing persons' ordinary course financial records. In the Commission's experience, reliance on these financial records often results in under-reporting or reporting in codes that may not actually be descriptive of the products or services provided. To address this issue, the Commission proposes requiring individuals familiar with the business operations of each operating company (or subdivision) to review the available NAICS codes to select the codes that would best describe the full line of products and services related to U.S. operations, regardless of whether the company tracks revenue by such codes in the ordinary course of business or relies on them for other reporting requirements. The Commission intends for this change to shift the collection of NAICS codes from how a company records revenue to align more closely with the full range of products and services offered. Because the Commission proposes to eliminate the requirement to specifically quantify the amount of revenue attributable to the codes, as described above, the Commission does not anticipate that this change will substantially increase the burden of collecting the information. Further, codes related to non-manufacturing activities estimated to have generated less than $1 million in the last fiscal year would not need to be listed, unless they overlap with a code reported by the other filing person.

Additionally, the Commission recognizes that some NAICS codes are imprecise, which can result in two filing persons engaged in similar businesses using different NAICS codes. Therefore, the Commission proposes that if more than one code might be appropriate, the filing persons would be required to list all the codes that describe the products or services offered and use end notes as needed to clarify selections and any potential overlap where the same revenues are reported in more than one NAICS code. This would assist the Agencies in understanding the businesses of the filing persons during the initial waiting period and address some of the shortcomings of NAICS code reporting.

Third, the Commission proposes changing how NAICS codes should be organized. Currently, filing persons must aggregate revenue across all entities within the acquiring person or acquired entity. But often the acquiring person or acquired entity comprises multiple operating companies or units, which may be engaged in multiple lines of business. For example, large companies can contain multiple operating units or subsidiaries that do business under separate brands and offer diverse products or services. Similarly, funds that file as acquiring persons may control many different operating companies. The Commission thus proposes to require acquiring persons and acquired entities with more than one operating company or unit to identify which entity(s) derives revenue in each code. This proposed requirement would facilitate efficient review and quickly identify the operating company(s) that may or may not be relevant to the antitrust analysis. From this information, the Agencies could quickly identify which entity within the filing person has competing or related business activities with the other filing party.

Fourth, the Commission proposes requiring the reporting of certain NAICS codes for certain pipeline or pre-revenue products. Currently, filers are not required to provide information about products or services that did not derive revenue in the last fiscal year. Yet these pre-revenue or early revenue activities are often core to the transaction rationale and essential to understanding the potential competitive impact of the transaction during the initial waiting period. This information is known to the filing person and is not available from other sources, as it is typically highly sensitive. As a result, the Commission proposes adding a requirement for acquiring and acquired persons to report NAICS codes for certain pipeline or pre-revenue products. The acquiring person would be required to identify any NAICS codes for products and services under development if those codes would overlap with the codes for current or known pipeline products or services of the acquired entity(s). The acquired person would identify the NAICS codes that would apply to the products or services of the acquired entity(s) that are under development or pre-revenue and anticipated to have annual revenue totaling more than $1 million within the following two years. The Commission believes the benefit to the Agencies would be substantial and anticipates that the burden associated with the collection of these codes would be minimal, as identification of these products and services would likely be completed during ordinary diligence. The Commission understands that the acquired person may have limited knowledge about the planned or under-development products of the acquiring person and does not intend the filing persons to divulge this information for the purpose of making an HSR Filing.

Fifth, the proposed NAICS code section would clarify that the acquired person must report the NAICS codes relevant to the acquired entity(s) at the time of closing. While most filers currently report in this manner, others have asserted that when an acquired entity is merely a shell at the time of the HSR Filing due to anticipated pre-consummation reorganization, no NAICS codes are required. This is not the intent of the revenue reporting requirements in the current Form, and the Commission proposes clarifying this issue by requiring NAICS reporting that reflects the operations of the acquired entity(s) upon consummation. This would provide clarity and make NAICS code reporting more reliable for both filing persons and the Agencies.

Finally, the Commission proposes eliminating the requirement for filing persons engaged in manufacturing to provide revenue by NAPCS-based codes. The requirement to allocate revenue to product codes dates from the promulgation of the Rules in 1978 and has been updated to reflect various product code formats implemented by Census over the years. The most recent Census industry code format is the 6-digit NAICS format.[51] Initially, Census also created 10-digit NAICS-based codes to provide more detail about the products within the 6-digit NAICS industry codes, and these were adopted by the Commission for use in HSR Filings in 2001.[52] In 2018, Census discontinued the use and updating of 10-digit NAICS-based codes in favor of 10-digit NAPCS-based codes. As a result, in 2019, the Commission amended the Form and Instructions to require use of the NAPCS-based codes for manufactured products.[53]

However, these new NAPCS-based codes have been less useful for the Agencies' analysis than the discontinued 10-digit NAICS-based codes and have created significant confusion for both filers and the Agencies. The NAICS-based system provided 6, 8, and 10-digit codes, with the description of the products becoming more precise as the number of

[51] NAICS Codes were first published in 1997 and first used in the HSR Form in 2001. *See* 66 FR 23561 (May 9, 2001).

[52] 66 FR 35541 (July 6, 2001).

[53] 84 FR 30595 (June 27, 2019).

digits in the code increased. But the 10-digit NAPCS-based codes created by Census correspond to a combination of former 8-digit and 10-digit NAICS-based manufactured product codes. As a result, some parties inadvertently report revenue using a NAPCS code that corresponds to an 8-digit NAICS code. When this happens, the Agencies lack the more granular and descriptive nature of the NAPCS-based codes that correlate to the former 10-digit NAICS-based code that would allow the Agencies to more accurately identify mergers of companies that produce similar types of products. Additionally, when one filing party uses a NAPCS-based code that corresponds to an 8-digit NAICS-based code and the other filing person uses a NAPCS-based code that corresponds to a 10-digit NAICS-based code, the filing may not properly capture codes in which both parties report revenues. This could result in filings that should report revenue overlap code(s) but do not, limiting the Agencies' ability to rely on the codes to conduct an initial screen for competitive overlaps.

Because the proposed Horizontal Overlap section of the proposed Instructions would require the identification of overlapping products or services, as discussed in III.D.2., the Commission believes that additional identification of products by NAPCS code would no longer be necessary. The elimination of NAPCS-based revenue reporting would lessen the burden on filers to collect and report these figures, which have become less useful to the Agencies as a tool for identifying horizontal overlaps.

4. Controlled-Entity Overlaps

The Commission proposes creating a Controlled-Entity Overlaps section within the proposed Instructions. This section would continue to require the submission of information currently required by Item 7 of the Form, such as the identification of certain entities within the filing person that derive revenue in the same NAICS codes as the other filing person and geographic information regarding the operations and sales of such entities, but the Commission proposes certain changes to what information would be collected and reported. As explained below, specific information related to entities controlled by the filing person is critical to the Agencies' initial antitrust review as it serves as the primary tool for identifying horizonal overlaps between the parties to the transaction and their controlled entities, especially for transactions involving a UPE with complex corporate structures and multiple entities under its control. Compared to the current HSR Form, this proposed section would: (i) add a requirement to provide the name(s) by which entities have done business within the last three years, (ii) require the filing person to identify the overlapping entity within its own person, rather than the other filing person, (iii) update the NAICS codes that require geographic reporting at the street address level, (iv) require the identification of locations of franchisees for certain NAICS codes, and (v) add a requirement to provide geolocation data.

a. NAICS Overlaps of Controlled Entities

The Commission proposes that the new Controlled-Entity Overlaps section include the information currently required by Item 7(a), which requires the identification of the overlapping NAICS codes for the acquiring person (or an associate) and acquired entity, and Item 7(b), which requires the identification of the entities that derived revenue in overlapping NAICS codes within the UPE of the other filing person and, for the acquiring person, its associates. The Commission understands that filing persons often do not identify for the other filing person the entities that report in overlapping NAICS codes. Therefore, the Commission believes that it would be less of a burden for each filing person to only report entities within its own person that derive revenue in the overlapping NAICS codes. The Commission thus proposes requiring the acquiring person to identify the entity(s) within its own person that has operations in the same NAICS code as the acquired entity(s), and for the acquired person to identify the entity(s) within the acquired entity(s) that has operations in the same NAICS codes as the acquiring person. This proposed change would refine NAICS code reporting to provide the Agencies with a reliable source for identifying whether any entity within each filing person generates revenues in the same or related codes. As this information, unlike the current information required by Item 7(b), is known to the filing parties, the Commission anticipates that the burden of responding to this request will be diminished.

The Commission proposes two additional changes to the current requirements of Item 7(b). First, the Commission proposes requiring the identification of ''doing business as'' or ''formerly known as'' names used within the last three years by entities with U.S. operations in overlapping NAICS codes. This information would allow the Agencies to more efficiently collect information about the overlapping entities in publicly available resources during the initial waiting period by connecting each entity with any name by which it is known to other market participants. This information is known to filers and limited to a three-year look back period.

In addition, the Commission proposes that filing persons be required to identify the entity(s) that have U.S. operations in the overlapping NAICS code(s). For acquiring persons, this would include entities controlled by associates that have U.S. operations in a NAICS code in which the acquired entity(s) report. Currently some filers voluntarily match the overlapping NAICS codes to the entities within the acquiring person (or its associates) or acquired entity. In the Commission's experience, this information aids the Agencies in quickly identifying the entities within the filing person that may be relevant to the competitive analysis during the initial waiting period.

b. Geographic Market Information

The Commission proposes creating a Geographic Market Information section to collect the information currently required by Items 7(c) and 7(d) of the Form, which require, for each overlapping NAICS code, the identification of geographic markets where the entities controlled by the acquiring person (and its associates) and the acquired entity(s) do business. The Commission proposes to modify these requirements by updating the NAICS industries in which street-level reporting is required, requiring geolocation information for these addresses, and requiring the reporting of franchisees' locations.

The Commission periodically reviews which NAICS codes require more granular street, city, and state address information and which NAICS codes need only be reported at the state level.[54] Recognizing the burden that providing the street-level address for each location of an entity can require, the Commission differentiates between (1) NAICS industry codes that either do not tend to involve small local or regional markets or involve local markets but nonetheless can adequately be reviewed if the parties specify only the state in which revenue is derived, and (2) those which do tend to involve local markets for which knowing the areas served by each filing person is important to identify locations where

[54] *See, e.g.,* 75 FR 57110 (Sept. 17, 2010), adopted by 76 FR 42471 (July 19, 2011).

both parties compete for sales (*i.e.,* geographic overlaps). As part of this proposed rulemaking, the Agencies have reviewed the list of NAICS industries for which such street-level information is required and have adjusted the list of sectors which, based on their experience, require more granular geographic information than state-level information. The Commission thus proposes updating the list of NAICS codes for which locations need only be identified at the state level and NAICS codes for which street-level information would be required.

The Commission proposes removing the Nondepository Credit Intermediation NAICS codes (codes beginning with 5222) from the list of codes for which street-level information is required. In the Agencies' experience, these industries tend not to be locally focused. Therefore, for these codes, the Commission proposes requiring filing persons to list only the states within which they conduct operations, rather than street address as is now required. This proposal should reduce the burden on those filing persons who report sales in these NAICS codes.

The Commission proposes that filers be required to provide street-level reporting for the following additional codes (codes with asterisks indicate that all NAICS codes that begin with the preceding numbers are included).

113*** Forestry and Logging
2211** Electric Power Generation, Transmission and Distribution
2212** Natural Gas Distribution
3115** Dairy Product Manufacturing
311611 Animal (except Poultry) Slaughtering
311613 Rendering and Meat Byproduct Processing
311615 Poultry Processing
31181* Bread and Bakery Product Manufacturing
321*** Wood Product Manufacturing
32221* Paperboard Container Manufacturing
324*** Petroleum and Coal Products Manufacturing
325110 Petrochemical Manufacturing
325130 Synthetic Dye and Pigment Manufacturing
325180 Other Basic Inorganic Chemical Manufacturing
325193 Ethyl Alcohol Manufacturing
325194 Cyclic Crude, Intermediate, and Gum and Wood Chemical Manufacturing
325199 All Other Basic Organic Chemical Manufacturing
325211 Plastics Material and Resin Manufacturing
3271** Clay Product and Refractory Manufacturing
3272** Glass and Glass Product Manufacturing
327310 Cement Manufacturing
327390 Other Concrete Product Manufacturing
42331* Lumber, Plywood, Millwork, and Wood Panel Merchant Wholesalers
42333* Roofing, Siding, and Insulation Material Merchant Wholesalers
42344* Other Commercial Equipment Merchant Wholesalers
42345* Medical, Dental, and Hospital Equipment and Supplies Merchant Wholesalers
42346* Ophthalmic Goods Merchant Wholesalers
42349* Other Professional Equipment and Supplies Merchant Wholesalers
4239** Miscellaneous Durable Goods Merchant Wholesalers
4241** Paper and Paper Product Merchant Wholesalers
4242** Drugs and Druggists' Sundries Merchant Wholesalers
42441* General Line Grocery Merchant Wholesalers
42442* Packaged Frozen Food Merchant Wholesalers
42451* Grain and Field Bean Merchant Wholesalers
42452* Livestock Merchant Wholesalers
4247** Petroleum and Petroleum Products Merchant Wholesalers
4248** Beer, Wine, and Distilled Alcoholic Beverage Merchant Wholesalers
42491* Farm Supplies Merchant Wholesalers
42495* Paint, Varnish, and Supplies Merchant Wholesalers
44911* Furniture Retailers
493*** Warehousing and Storage
54138* Testing Laboratories and Services
54194* Veterinary Services
562*** Waste Management and Remediation Services
7132** Gambling Industries
71394* Fitness and Recreational Sports Centers

These are codes that represent industries in which the Agencies often determine that competition occurs on a local or regional basis. For those codes that represent regional competition, the Commission believes that there would be few individual addresses that would need to be provided, and therefore the burden would not be significantly higher than reporting the overlaps at the state level. The Commission acknowledges that for those industries where competition occurs on a very localized level, for example where customers travel to the company's location to purchase goods or services, providing street-level revenue information can be challenging. However, because businesses often face different competitors in each of these markets, the Agencies have learned that businesses often track sales at the local level in the ordinary course of business for these sectors. Knowing where within a state the filer's facilities are located is an important screening tool for the Agencies to quickly identify existing and potential geographic overlaps, and that benefit justifies requiring street-level reporting for these NAICS codes. Providing the Agencies with information to screen for geographic overlaps during the initial waiting period also benefits filing persons by reducing need to issue Second Requests to determine if there are such overlaps.

The Commission recognizes that providing the street address of tens, hundreds, or, in certain cases, thousands of locations can impose a burden on filers. Therefore, the Agencies have reviewed the NAICS codes closely to identify only those codes for which the Agencies would most benefit from street-level information. For these transactions that require more than a cursory review, attempts to collect this information from the parties during the initial waiting period slows down the review and delays the decision on whether an in-depth investigation of the transaction is needed. Further, the Commission believes that such information should be available in an accessible manner for most businesses that have a large number of facilities. Nonetheless, the Commission welcomes comments that identify, with rationales, NAICS codes that should either be added to or deleted from the list of codes for which state-level information is required.

The Commission also proposes requiring filers to report latitude and longitude information for street addresses so that the Agencies can easily and quickly use that information to populate mapping software and create maps to better identify possible geographic overlaps between the acquiring person and the acquired entity. Street addresses alone can be inadequate or inaccurate for isolating the exact location of facilities. Converting street addresses to coordinates is difficult due to abbreviations such as BLVD or ST, and street addresses often lack important information, such as South or North, or contain errors, such as mislabeling a Street address for an Avenue. Latitude and longitude information is unique, which reduces the likelihood of errors. Any errors in generating maps displaying the locations of the relevant facilities may affect screening for local markets, resulting in over- or under-identification of geographic overlaps. Since filing persons are familiar with the location of their own establishments, the Commission believes that they would be in best position to validate the accuracy of the locations through more precise latitude and longitude reporting.

The Commission also proposes requiring filers to list locations where franchisees of the acquiring or acquired person (as appropriate) generate revenue

in overlapping NAICS codes that require street-level reporting. Currently, there is no information submitted with the Form that allows the Agencies to begin this analysis for companies that do business through franchisees. Yet all company locations at issue in the transaction that generate revenues, both directly and indirectly through franchisees, must be accounted for when the Agencies analyze the existence and extent of competition between the filing persons. These proposed changes would provide the Agencies with all company locations to begin assessing geographic overlaps during the initial waiting period. Because franchisors must approve the location of franchisee operations and get regular sales reports from those operations, the Commission believes filers with these relationships will have this information about their franchisees.

5. Minority-Held Entity Overlaps

The Commission proposes creating a Minority-Held Entity Overlaps section within the proposed Instructions that would amend certain information that is currently required by Item 6(c) of the Form. Item 6(c) currently requires filing persons to list all of the entities in which the acquiring person and associates of the acquiring person, or the acquired entity (as appropriate), holds a minority interest of 5% or more. As originally proposed by the Commission in 2010, this item was intended to focus on only those minority-held investments that provide products or services that report in the same NAICS code as the other filing person, but in the final version of the rule, in order to limit burden, the Commission permitted filers to list all minority-held companies rather than limiting the list to those that created a NAICS code overlap.[55] However, in the Agencies' experience with information collected in Item 6(c), permitting parties to list all minority-held companies instead of only those that are in the same line of business or NAICS code has hindered the Agencies' ability to determine which entities may be relevant to the competitive analysis of the transaction during the initial waiting period. Unlike the filing persons, which have likely done diligence on the companies in which they invest, the Agencies have no basis to determine from the entire list of minority-held companies which ones have competitively significant relationships with the other filing person as this information is not available from any other source.

The Commission thus proposes eliminating the option to list all the minority-held entities of the acquiring person and its associates or acquired entity (as appropriate) and proposes once again to require identification of those that, to the filing person's knowledge or belief, would derive revenue in the same NAICS codes or have operations in the same industry as the other filing person. The Commission also proposes requiring filers to provide the names by which the listed entities do business. As noted above, the d/b/a or f/k/a names of the businesses are especially helpful to the Agencies in conducting additional research about the entities using public or third-party sources. These proposed changes would significantly assist the Agencies in determining which minority-held entities may be relevant to the competitive analysis of the transaction during the initial waiting period. In the Agencies' experience, there has been an increase in the number and type of companies in which the acquiring person and acquired entity have minority investments, and where they exist, understanding the business lines of these related companies can be important for determining any significant premerger competitive relationship between the filing persons that may be affected by the transaction. This is especially true where the important competitive relationship is not at the UPE level but arises from within the corporate structure or holdings of the filing persons. While the Commission recognizes that investors have more limited information regarding entities in which only a minority interest is held, the proposed Instructions would continue to permit filing persons to rely on their knowledge or belief. The Commission believes that filers have done some level of diligence to determine the business lines prior to investing in these entities, and should have some basis to identify overlaps.

6. Prior Acquisitions

The Commission proposes creating a Prior Acquisitions section within the proposed Instructions that would include the information currently required by Item 8 of the Form, as well as additional information. At present, Item 8 requires the acquiring person to identify all NAICS codes in which the acquiring person derived $1 million or more in revenue and the acquired entity(s) or assets also derived $1 million or more. For such codes, the acquiring person is required to report acquisitions made within the five years prior to filing that (i) resulted in control of entities that had net sales or total assets of greater than $10 million in the year prior to acquisition, or (ii) was an acquisition of assets valued at or above the statutory size-of-transaction threshold. The Commission proposes expanding the scope of prior acquisitions that would be identified and making the requirement applicable to the acquired entity as well.

Information about prior acquisitions has always been important for the Agencies, allowing them to identify strategies to gain market share through acquisitions rather than internal expansion or more vigorous competition. Filers have been required to provide information about prior acquisitions from the beginning of the premerger notification program.[56] This information can be especially important in sectors where acquisitions are typically not HSR-reportable but nonetheless can cause competitive harm and alter the market dynamics for the reported transaction.[57] The Agencies have taken steps to address concerns about acquisition strategies that premerger review does not routinely capture. For instance, when the Commission identifies a company that has violated Section 7 and is engaging in a strategy of rolling up competitors, if it is likely that future acquisitions may not require an HSR Filing, the Commission may order the firm to provide prior notice or obtain prior approval for any future non-reportable acquisition.[58]

As the minimum threshold for making an HSR Filing has been adjusted over time (in accord with changes in gross national product)[59] from $50 million to its current $111 million, many acquisitions do not require premerger

[55] 75 FR 57110 (Sept. 17, 2010), adopted by 76 FR 42471 (July 19, 2011).

[56] 43 FR 33450, 33534 (July 31, 1978).

[57] *See* Press Release, Fed. Trade Comm'n, FTC Takes Second Action Against JAB Consumer Partners to Protect Pet Owners from Private Equity Firm's Rollup of Veterinary Services Clinics (June 29, 2022), *https://www.ftc.gov/news-events/news/press-releases/2022/06/ftc-takes-second-action-against-jab-consumer-partners-protect-pet-owners-private-equity-firms-rollup-of-veterinary-services-clinics.*

[58] *See* Press Release, Fed. Trade Comm'n, FTC Imposes Strict Limits on DaVita Inc.'s Future Mergers Following Proposed Acquisition of Utah Dialysis Clinics (Oct. 25, 2021), *https://www.ftc.gov/news-events/news/press-releases/2021/10/ftc-imposes-strict-limits-davita-incs-future-mergers-following-proposed-acquisition-utah-dialysis;* Press Release, Fed. Trade Comm'n, FTC Orders the Divestiture of Hundreds of Retail Stores Following 7-Eleven, Inc.'s Anticompetitive $21 Billion Acquisition of the Speedway Retail Fuel Chain (June 25, 2021), *https://www.ftc.gov/news-events/news/press-releases/2021/06/ftc-orders-divestiture-hundreds-retail-stores-following-7-eleven-incs-anticompetitive-21-billion.*

[59] Section 7A(a)(2) of the Act requires the FTC to revise thresholds annually based on the change in gross national product, in accordance with 15 U.S.C. 19(a)(5).

notification, especially in certain sectors.[60] A recent Commission study revealed that five of the largest technology companies in the United States completed 819 acquisitions that were not reported to the Agencies over a ten-year period from 2010–2019.[61] The Commission has thus identified a need to know more during the initial waiting period about prior acquisitions that may raise concerns about the filings parties' acquisition or roll-up strategies.[62]

Acquisitions of small companies can cause harm, including in sectors where competition occurs on a local level. When the Agencies determine that a firm is violating Section 7 through a pattern of serial acquisitions that fuels consolidation by eliminating local competitors, they can seek to prevent future violations but this is often insufficient to prevent widespread harm.[63] A pattern of serial acquisitions may also affect competition among innovative firms by consolidating innovation efforts into the hands of market leaders or other firms attempting to control the pace or direction of innovation.[64] A history of acquisitions in the same or related business lines may be especially important information where market boundaries are fluid and firms engage in a significant number of nonreportable transactions. This is potentially true of both the acquiring person and the acquired entity. The Agencies endeavor to identify such strategies [65] but need more robust tools for identifying firms that are engaging in a strategy of consolidation through transactions that may violate Section 7.

Thus, the Commission proposes several changes to expand the requirements for information related to prior acquisitions beyond what is currently required by Item 8. First, the Commission proposes requiring both the acquiring person and the acquired entity to provide information about prior acquisitions. The purpose of collecting information on all prior acquisitions by both filers is to assist the Agencies in identifying a potential pattern of acquisitions in a particular industry that has contributed to a trend toward concentration or vertical integration that affects the competitive dynamics for the parties to the transaction, as well as the commercial realities of post-merger competition.[66]

Second, the Commission proposes extending the time frame to report on prior acquisitions from five to ten years because the current five-year requirement for prior acquisitions is often insufficient to meaningfully identify patterns of serial acquisitions or a trend toward concentration or vertical integration. In 1987, the Agencies changed the reporting time period from ten years to five years.[67] At the time, it was thought five years reporting of past acquisitions would be sufficient to put the Agencies on notice of possible trends towards consolidation in the affected industries.[68] But based on decades of experience since then, along with changes to the economy and the varied acquisition strategies of filing parties, the Commission believes ten years would once again provide for a better framework to allow the Agencies to engage in a more detailed consideration of how numerous past acquisitions, including those in related sectors, affect the competitive landscape of the current transaction under review.

Third, the Commission proposes eliminating the threshold for listing prior acquisitions, which currently limits reporting to only acquisitions of entities with annual net sales or total assets greater than $10 million in the year prior to the acquisition. Limiting the reporting requirement to acquisitions of entities with annual net sales or total assets over $10 million may not capture acquisitions of new entrants or other nascent competitors that, despite not yet having widespread commercial success, nonetheless are poised to affect competition among existing firms or disrupt market dynamics. In fact, the Commission's technology acquisition study revealed that between 39.3% and 47.9% of transactions were for target entities that were less than five years old at the time of their acquisition.[69] Given the relative nascency of these acquired companies, the Commission believes that excluding prior acquisitions of firms that have not yet had the chance to gain commercial traction to achieve $10 million in net sales or assets does not provide a comprehensive picture of each filer's acquisition strategy. Learning more about the existence and patterns of these additional past acquisitions by both the acquiring person and the acquired entity, including acquisitions of companies that had not yet generated revenue, would help the Agencies better identify during the initial waiting period transactions that may, on their own or as part of a pattern of serial acquisitions, violate the antitrust laws.

Fourth, the Commission proposes treating asset transactions involving the prior acquisition of substantially all of the assets of a business in the same manner as prior acquisitions of voting securities or non-corporate interests. Currently, Item 8 provides separate thresholds for acquisitions of control of entities and acquisitions of assets. This distinction, however, does not recognize that some asset transactions functionally reflect the acquisition of substantially all of the assets of an entity as opposed to the acquisition of a distinct asset such as a manufacturing plant or an exclusive license. Thus, the current rule treats acquisitions of an entity or business differently depending on the form of the agreement. The proposed Instructions would continue to require that the acquisition of a distinct asset be reported only if the then-in-place size-of-transaction threshold was exceeded, but they would also require that a prior acquisition involving substantially all of the assets be reported in the same manner as prior acquisitions involving

[60] *See e.g.,* Thomas Wollmann, *How to Get Away With Merger: Stealth Consolidation and its Real Effects on US Healthcare* (Nat'l Bureau of Econ. Rsch., Working Paper 27274, 2021); Thomas Wollmann, Stealth Consolidation: Evidence from an Amendment to the Hart-Scott-Rodino Act, 1 Am, Econ, Rev,: Insights 77, (2019).

[61] Fed. Trade Comm'n, Non-HSR Reported Acquisitions by Select Technology Platforms 10–11 (2021).

[62] *See, e.g.,* Gerry Hansell, Decker Walker, and Jens Kengelbach, ''Lessons from Successful Serial Acquirers: Unlocking Acquisitive Growth,'' Boston Consulting Group (Oct. 1, 2014), *https://www.bcg.com/publications/2014/mergers-acquisitions-unlocking-acquisitive-growth;* Thomas Wollmann, Stealth Consolidation: Evidence from an Amendment to the Hart-Scott-Rodino Act, 1 Am, Econ, Rev,: Insights 77, (2019).

[63] Paul J. Eliason et al., *How Acquisitions Affect Firm Behavior and Performance: Evidence from the Dialysis Industry,* 135 Q. J. ECON. 221, 235 (2020). *See* Press Release, Fed. Trade Comm'n, FTC Imposes Strict Limits on DaVita Inc's Future Mergers Follow Proposed Acquisition of Utah Dialysis Clinics (Oct. 25, 2021), *https://www.ftc.gov/news-events/news/press-releases/2021/10/ftc-imposes-strict-limits-davita-incs-future-mergers-following-proposed-acquisition-utah-dialysis. See also* Martin Gaynor, Kate Ho, and Robert J Town, *The industrial organization of health-care markets,* J. of Econ. Literature, 53(2):235–284 (2015); Cory Capps, David Dranove, and Christopher Ody, ''Physician Practice Consolidation Driven By Small Acquisitions, So Antitrust Agencies Have Few Tools To Intervene,'' Health Affairs (Sept. 1, 2017), *https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2017.0054.*

[64] Colleen Cunningham, Florian Ederer, and Song Ma, *Killer Acquisitions,* 129 J. of Pol. Econ., 649–702 (2021), *https://ssrn.com/abstract=3241707.*

[65] *See e.g.,* Note by the United States, *Start-ups, killer acquisitions and merger control,* OECD DAF/COMP/WD (2020)23 (June 11, 2020), *https://www.ftc.gov/system/files/attachments/us-submissions-oecd-2010-present-other-international-competition-fora/oecd-killer_acquisiitions_us_submission.pdf.*

[66] 43 FR 33534 (July 31, 1978).

[67] 50 FR 38742, 38768 (Sept. 24, 1985).

[68] *Id.*

[69] Fed. Trade Comm'n, Non-HSR Reported Acquisitions by Select Technology Platforms 26 (2021). Note this percentage range could also be different (*i.e.,* lower or higher) as target entities in 13.4% of the transactions did not have founding dates located in the three databases.

voting securities or non-corporate interests.

While the Commission expects that the expanded reporting requirements of past acquisitions would create additional burden for filing parties, the proposed Instructions would continue to limit the reporting to only acquisitions in industries for which the filers have reported horizontal overlaps, as identified by overlapping NAICS codes or in the filer's Horizontal Overlaps Narrative. This limitation still provides the Agencies with sufficient information to identify transactions that may further a trend toward concentration or patterns of acquisitions that may, alone or in combination, substantially lessen competition. Moreover, given the difficulties in determining the value of small or nascent companies, the Commission believes it would be less burdensome for filers to report all acquisitions rather than expend additional time in assessing their value in terms of net sales or assets. The Commission invites comment on ways to limit the burden and exclude de minimis acquisitions of no competitive significance while still capturing acquisitions of entities worth less than $10 million and allowing the Agencies to conduct a robust screening for acquisition strategies that further consolidation trends.

E. Additional Information

1. Subsidies From Foreign Entities or Governments of Concern

As discussed in I.A. above, the 2022 Amendments direct the Commission, with the concurrence of the Assistant Attorney General, and in consultation with the Relevant Agencies, to require persons making an HSR Filing to disclose information about foreign subsidies from countries or entities that threaten U.S. strategic or economic interests. Along with the proposed definitions discussed above, the Commission proposes changes to the Instructions to implement this mandate from Congress.

The Commission proposes creating a Subsidies from Foreign Entities or Governments of Concern section within the proposed Instructions. This proposed section would include three questions. The first proposed question would track the requirements and stated purpose of the 2022 Amendments by requiring the acquiring and acquired person (as appropriate) to identify and describe certain subsidies, as defined by proposed § 801.1(r)(2), received or that are anticipated to be received by any entity within its person from a foreign entity or government of concern, as defined by proposed § 801.1(r)(1). Given the complexity of subsidies, the Commission proposes stating that the question should be answered upon the knowledge or belief of the filing person. This would relieve the filing person of the obligation to conduct a complex legal analysis. The filing person, however, must conduct good faith diligence.

In proposing this question, the Commission believes it is also consistent with Congressional intent to create reasonable limits to the required information on subsidies to benefit both the Agencies and filing parties. The Commission's proposed two-year limitation would identify the subsidies most likely to affect the Agencies' competitive analysis of a proposed transaction because those subsidies are most likely to affect current or future conduct of the parties. The Commission believes that this practical qualifier, coupled with the use of an existing definition of ''subsidy,'' as discussed in I.A.2. above, would provide the Agencies with the most pertinent information for the analysis of proposed transactions, while reasonably limiting the information required from filing parties. The Commission seeks comment on the temporal limitation for subsidies, as well as whether a de minimis value should be set, and if so, what administrable levels might be appropriate.

The Commission believes that requiring information on countervailing duties [70] would be extremely useful in providing a complete picture of the potential impact of subsidies per Congress's mandate and screening for subsidies that bear on whether the transaction may violate the antitrust laws. Thus, the Commission's second proposed question would require the acquiring or acquired person (as appropriate) to identify any of its products produced in a country that is a covered nation under 42 U.S.C. 18741(a)(5)(C) that are subject to countervailing duties in any jurisdiction. The Commission would also ask the filing party to list the countervailing duty imposed and the jurisdiction that imposed the duty. Such information about the countervailing duties and relevant products would help the Agencies determine in their initial analysis of a transaction whether subsidies from foreign entities or governments of concern might affect some aspect of competition in the future. The Commission believes that information about countervailing duties imposed by the United States should be readily available to filers because the Department of Commerce issues fact sheets that contain an overview of final subsidy findings and are available on its ''recent case announcements'' web page (*https://www.trade.gov/case-announcements-archives* (case announcements for the prior year)) and on the International Trade Commission's website (*https://legacy.trade.gov/enforcement/operations/scope/index.asp* (older determinations)), and that information about countervailing duties imposed by other jurisdictions should be readily available to filing persons from similar sources as well.

The Commission's third proposed question would require the acquiring or acquired person (as appropriate) to identify, to its knowledge or belief, any of its products produced in whole or in part in a country that is a covered nation under 42 U.S.C. 18741(a)(5)(C) that are the subject of an investigation by any jurisdiction for potential countervailing duties. The Commission would also ask the filing person to list the jurisdiction conducting the investigation. Such information would help the Agencies identify products that may be subject to active subsidies and assist the Agencies in their assessment of the subsidies' impact on competition. It is the Commission's understanding, however, that the investigating agencies do not always inform all producers or market participants of an investigation; thus, the Commission proposes limiting the scope of this third question to the filing person's knowledge or belief. The Commission believes that limiting this reporting requirement to the knowledge or belief of the filing person would provide filers with enough flexibility to respond to the question and certify the HSR Filing without having to confirm with various relevant agencies that no such investigation exists.

The Congressional mandate to collect information about foreign subsidies is consistent with the Agencies' desire to better understand whether there are significant ties to individuals or entities that may affect the Agencies' assessment of the potential competitive risks associated with the transaction. For instance, a foreign government or entity

[70] Countervailing duties are duties intended to offset the price effect of significant foreign government subsidies on a product or good. In the United States, the International Trade Administration of the Department of Commerce investigates whether imported products are subject to significant foreign government subsidies. The amount of the subsidies that the foreign producer receives from its government is the basis for the rate by which the subsidy is offset, or ''countervailed,'' through higher import duties enforced by U.S. Customs and Border Protection. *See, e.g.,* Int'l Trade Admin., *https://www.trade.gov/us-antidumping-and-countervailing-duties.*

could have a financial relationship that gives it the ability to sway the filing person to make different choices in the marketplace than it would without the subsidy. As discussed in III.B., Agencies would benefit from more complete information about individuals and entities, including governments, that have the ability to control or influence competitive decision making. The Commission believes that, taken together, information about minority holdings, individuals with influence, officers, directors, and board observers, as well as information about foreign subsidies may reveal significant constraints on the competitiveness of the affected company that should be taken into account during the Agencies' initial review.

2. Defense or Intelligence Contracts

The Commission proposes creating a Defense or Intelligence Contracts section within the proposed Instructions that would require filing persons to report certain contracts with defense or intelligence agencies. The Agencies regularly review filings from companies that supply the Department of Defense (''DoD'') or the intelligence community (''IC'') with products or services. During the initial waiting period, it is important for the Agency to quickly contact DoD and IC staff to collect key insights and information to prevent mergers that may have an anticompetitive impact on taxpayers through purchases made through DoD and IC programs. Yet without information about specific DoD or IC contracts or knowledge of which unit handles that contract, the Agencies often face difficulty and delay in identifying appropriate relevant personnel or stakeholders with knowledge of the contracts, programs, or products or services at issue. Such delays hinder the identification and evaluation of competition issues that would impact DoD or IC programs or budget during the initial waiting period.

The Commission thus proposes adding a requirement that both the acquiring and acquired person identify whether they have existing or pending defense or intelligence procurement contracts, as defined by 10 U.S.C. 101(a)(6) and 50 U.S.C. 3033(4), valued at $10 million or more, and provide identifying information about the award and relevant DoD or IC personnel. For filings from companies that supply DoD or the IC with products or services, this information would greatly enhance the Agencies' ability to identify and contact appropriate stakeholders within DoD or IC to seek their input as customers that might be impacted by the proposed transaction. This information is well known to the companies that do business with these government entities.

3. Identification of Communications and Messaging Systems

In conjunction with the proposed requirement that filing persons certify they have taken steps to prevent destruction of relevant information, as discussed in III.F. below, the Commission also proposes that filers identify and list all communications systems or messaging applications on any device used by the acquiring or acquired person (as appropriate) that could be used to store or transmit information or documents related to its business operations. Companies have increasingly been relying on new forms of communication—beyond email and other traditional document formats—to engage in business discussions and make key operational decisions. These systems can encompass internal chat technologies (such as so-called ephemeral messaging) or document management systems, including where content exchanged between the individuals is automatically deleted.

In the Agencies' experience, these communications systems contain highly relevant information on the transaction itself, as well as on topics that are critical for the Agencies' assessment of the transaction such as competition, competitors, markets, customers, and industry characteristics. Company employees' more frequent use of these communications systems and messaging applications, particularly in lieu of other traditional forms of communication such as email, has meant that these systems and applications have become an important part of Agencies' investigations. Moreover, to the extent that these communications systems are being used to evade document retention and preservation requirements that exist for more traditional forms of communication, the Commission believes it is important for the parties to understand that their preservation and retention obligations apply to these systems as well. As yet, many parties do not appear to fully understand and/or comply with document preservation obligations for these new modalities. For these reasons, the Agencies would greatly benefit from having a complete and transparent picture of the filer's applicable communication systems at the filing stage. The Commission further believes that this information is readily available to the filing person and that identifying these systems in use by the company with the HSR Filing would impose minimal burden.

4. Other Jurisdictions

The Commission proposes creating a new Other Jurisdictions section within the proposed Instructions. This section proposes to amend the requirements concerning antitrust filings outside of the United States and add a voluntary waivers section to allow for the sharing of HSR information with other enforcers.

a. Transactions Subject to International Antitrust Notification

The Commission proposes creating a Transactions Subject to International Antitrust Notification section that would require the identification of other jurisdictions that may be conducting a competition review. Currently, page one of the Form asks filing persons to voluntarily identify other jurisdictions where the transaction will trigger premerger notification under the laws of that jurisdiction. The Commission first proposed collecting information about filing in other jurisdictions in 1994, when it proposed a mandatory requirement.[71] In 1999, the Commission noted that it was still considering the proposals included in its 1994 proposed rulemaking.[72] The Commission then proposed a voluntary requirement in 2001[73] and the final rule was adopted in 2003.[74] The Commission now proposes making the disclosure of international filing obligations a mandatory requirement.

Since 2001, and certainly since 1994, merger enforcement by other competition authorities has become more robust as more jurisdictions have adopted competition laws that impose mandatory or voluntary premerger notification requirements. At the same time, a larger percentage of HSR-reportable transactions now involve companies with international reach. As a result, more transactions are likely to be subject to review in multiple jurisdictions around the world. Even though the number of transactions subject to premerger notifications in multiple jurisdictions has increased over the years, most filers do not voluntarily disclose on the Form that their transactions will be subject to non-U.S. notification requirements.

For many years, the Agencies have cooperated with numerous competition authorities on cases of common concern to help identify issues of common interest, gain a better understanding of relevant facts, and achieve, where possible, consistent or, at a minimum,

[71] 59 FR 30545, 30547 (June 14, 1994).

[72] 64 FR 1203 (Jan. 8, 1999).

[73] 66 FR 8680, 8684 (Feb. 1, 2001).

[74] 68 FR 2425, 2429 (Jan. 17, 2003).

non-conflicting outcomes. In order to fully benefit from inter-agency consultations, the Agencies need to know which foreign jurisdictions may also be evaluating the proposed transaction as early as possible. The delay associated with confirming whether there will be reviews or investigations by other competition authorities undermines effective cooperation during the initial waiting period, when sharing expertise and knowledge with other competition enforcers would be especially helpful in identifying which transactions need more in-depth review. Moreover, review by other jurisdictions can often affect the timing, pace, or ability to close the transaction, especially for jurisdictions that also require suspension of the transaction until the competition review is completed.

The Commission thus proposes a mandatory requirement to identify the jurisdictions where each filing person has already filed or is preparing notifications to be filed as well as a list of the jurisdictions where it has a good faith belief it will file. The Commission believes that upon execution of a definitive agreement, filers often know the jurisdictions where competition filings will be made. However, to account for the possibility that, at the time of the HSR Filing, parties may not have yet identified all the other jurisdictions where they will file, the proposed rule provides flexibility by stating that parties should respond based on their ''good faith belief.''

b. Voluntary Waivers for International Competition Authorities and State Attorneys General

The Commission proposes the creation of a voluntary waivers check box within an Other Jurisdictions section to allow filing persons to indicate that they agree to waive the confidentiality provisions of the Act, 15 U.S.C. 18a(h), for any jurisdiction identified by the filing person. As discussed above, transactions are often reviewed by non-U.S. competition authorities, or by one or more State Attorneys General. But the Act's confidentiality provision contains limits on disclosing material collected as part of the Agencies' HSR review of the transaction. As a result, merging parties and third parties waive statutory confidentiality protections so that the investigating Agency can share certain limited information with foreign or state competition authority counterparts, enabling the Agency to make more informed, consistent decisions, and investigate the transaction more effectively, often expediting review.[75]

The Commission proposes amending the Instructions to allow filing persons to waive the confidentiality provision contained in the Act, 15 U.S.C. 18a(h), for any non-U.S. competition authorities or State Attorneys General they identify. Allowing filers to waive the confidentiality protections in the HSR Filing would provide an efficient mechanism for filers to consent to limited waivers of confidentiality at the outset to facilitate early cooperation among competition enforcers. The proposed voluntary waiver would allow the Agencies to disclose the existence of an HSR Filing and the information contained in the HSR filing, but only for those ex-U.S. competition authorities or State Attorneys General selected by the filing person. The Commission also proposes modifying the language that would inform filers about potential disclosures based on the waivers to track the language of the Act more closely. The waivers would be optional for the parties, but the Commission expects that some filers will benefit from providing these limited waivers of confidentiality.

F. Certification

The Commission proposes amending the language of the certification that filing persons must submit with HSR Filings to require affirmation that the filing person has taken the necessary steps to prevent the destruction of documents and information related to the transaction. When parties submit premerger notification filings, this triggers a Congressionally mandated initial phase investigation regarding the potential competitive effects of the proposed transaction. When making an HSR Filing, filers should be aware that the Agencies may, prior to the expiration of the initial waiting period, issue Second Requests to further investigate the proposed transaction.[76] If issued, a Second Request requires the recipient to produce documents and information relevant to the transaction. If, as part of a filing person's ordinary course business operations, relevant information is deleted or destroyed during the initial waiting period, this could lead to a loss of information that may be critical to the investigating Agency and undermine its ability to conduct a full in-depth investigation pursuant to the Act to determine if the transaction is likely to violate Section 7 or any other antitrust law and to seek to prevent its consummation. Therefore, the Commission proposes adding to the certification an acknowledgement that the Agencies may require the submission of additional information or documents in response to a Second Request and a confirmation that the officer, director, or other individual described in § 803.6, as appropriate, has taken the necessary steps to prevent the destruction of documents and information related to the proposed transaction before the expiration of any waiting period. Such steps could include, for example, the suspension of auto-delete policies in place at any entity within the filing person.

The Commission also proposes the addition of language in the Instructions that would serve to remind filers that there are criminal penalties under other federal statutes that prohibit various deceptive practices aimed at frustrating or impeding the legitimate functions of government departments or agencies. In recent years, the Agencies have observed an increasing number of instances where, in the course of an investigation or later litigation challenging the transaction, the filing parties disclaim or modify statements or information submitted as part of the Form, notwithstanding numerous federal laws that prescribe criminal penalties for submitting false information to the government, including as part of an HSR Filing. While the Commission's proposed language does not intend to change any existing obligation to comply with other laws, it would provide notice to filers that the Commission takes those obligations seriously and may refer filers who do not comply with those obligations for potential criminal proceedings. The Commission does not expect this proposed reminder, which does not require any additional information or obligation, to result in additional burden for filing persons.

G. Affidavit

As discussed in the proposed changes to § 803.5(b) above at II.C., the Commission proposes requiring filings for transactions without definitive agreements to include a term sheet or draft agreement that describes with specificity the scope of the transaction that would be consummated. As a result, the Commission proposes that

[75] The Agencies have developed a model waiver of confidentiality for use in civil matters involving non-U.S. competition agencies that has been in use for 10 years. Similarly, the Agencies have developed a protocol for coordination in merger investigations with State Attorneys General. *See* Fed. Trade Comm'n, *https://www.ftc.gov/policy/international/international-competition/international-waivers-confidentiality-ftc-antitrust-investigations* and *https://www.ftc.gov/advice-guidance/competition-guidance/protocol-coordination-merger-investigations.*

[76] 15 U.S.C. 18a(e); 16 CFR 803.20.

parties making such filings attest in their affidavit that a term sheet or draft agreement that describes with specificity the scope of the transaction that will be consummated has been submitted with the executed letter of intent or agreement in principle.

Severability

Section 803.90 provides that, if any provision of the Rules (including the Form) or the application of any such provision to any person or circumstances is held invalid, the other provisions of the Rules and their application to other persons or circumstances shall be unaffected. This severability (or separability) provision would apply to any modifications of the HSR Filing requirements that the Commission adopts as final after issuing this NPRM and considering the public comments received. If a regulatory provision is severable, and one part of the provision is invalidated by a court, the court may allow the other parts of the provision to remain in effect.[77] When analyzing whether a provision is severable, courts consider both (a) the agency's intent and (b) whether severing the invalid parts of the provision would impair the function of the remaining parts.[78] The Commission is not proposing any changes to the separability provision in § 803.90 but is confirming its intent that, if a court were to invalidate any of the HSR requirements, including any modifications that the Commission finalizes at the end of the rulemaking proceeding, the other requirements would remain in effect.

Communications by Outside Parties to Commissioners and Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding, from any outside party to any Commissioner or Commissioner's advisor, will be placed on the public record. *See* 16 CFR 1.26(b)(5).

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (''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. The term ''collection of information'' means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). The current rule contains various provisions that constitute information collection requirements as defined by 5 CFR 1320.3(c), the definitional provision within OMB regulations implementing the PRA. 44 U.S.C. chapter 35. The existing information collection requirements in the HSR Rules and Form have been reviewed and approved by OMB (OMB Control No. 3084–0005). The current clearance expires on February 28, 2026. Because the rule amendments proposed in this NPRM would change existing reporting requirements, the Commission will submit this notice of proposed rulemaking and the associated Supporting Statement to OMB for review under the PRA.

Increased Time Collecting Data for and Preparing an HSR Filing

The proposed amendments are primarily changes to the information reported on the Notification and Report Form and do not affect the reportability of a transaction. Thus, the same number of filings projected for fiscal year 2023 in the most recent Supporting Statement submitted to OMB and also appearing in the associated **Federal Register** publication [79] will be used for these burden hour calculations.

Some of the proposed changes are intended to reduce the burden of filing. The Commission anticipates that the proposals to report NAICS codes in ranges rather than by specific dollar amount would reduce the burden on almost all filers. Additionally, the proposed change to eliminate the requirement for filers that derive revenue from manufacturing operations to report NAPCS code revenues is also anticipated to reduce the burden for those filers. Finally, the Commission also proposes to limit the reporting of minority investors of the acquired entity.

Some of the proposed changes offer clarifications to the current rules and are unlikely to change the burden on filers. These include the proposed changes to eliminate references to paper and DVD filings (§§ 803.2, 803.5, and 803.10) and to specifically discuss the commencement of the waiting period (§ 803.10).

Certain proposed changes would require the acquiring person to collect and report information that the Commission believes is held in the acquiring person's ordinary course of business records. These include proposed requirements for the acquiring person to describe its own business(es); report minority investors in additional entities related to the transaction; disclose relationships with individuals or entities that provide credit, hold non-voting securities, have the right to appoint board observers, or have management agreements with entities related to the transaction; and to identify members of boards of directors. Once collected, the Commission anticipates that the burden associated with some of these proposals will lessen for subsequent filings by the same acquiring person, as the information would only need to be updated.

Many of the proposed changes would increase the burden on all filers. These include new document collection requirements to produce transaction-related documents from supervisory deal team members; business documents that relate to competition topics but were not produced specifically for the transaction; drafts of responsive documents; other agreements between the acquiring and acquired persons, and to log the request to which documents are responsive. Additionally, the proposed requirements to provide narratives regarding transaction rationale, diagrams of the transaction, and organizational charts for custodians of documents would be applicable to all filers.

Some of the proposed changes would significantly increase the burden on only certain filers. These include those filers whose businesses have existing horizontal, non-horizontal, or labor market overlaps or relationships, with the largest burden falling on filers whose transaction involves many such relationships; transactions that involve a large number of foreign language documents; filing persons or transactions that have a complex structure; transactions that are filed on letters of intent or agreements in principle; and filing persons that receive subsidies from foreign entities of concern.

PNO staff canvassed current Agency staff who had previously prepared HSR filings while in private practice to estimate the projected change in burden due to the proposed amendments to the Instructions. All have considerable experience with the HSR rules and with preparing HSR Filings for the types of transactions that are most likely to be affected by the proposed changes.

These experts were asked to estimate the incremental increase in time to prepare HSR Filings, for both the company and its outside counsel, taking into account that transactions range in complexity—from relatively simple transactions with no overlaps and few

[77] *See, e.g., Davis Cnty. Solid Waste Mgmt.* v. *EPA,* 108 F.3d 1454, 1459 (D.C. Cir. 1997).

[78] *Id.* at 1460.

[79] 88 FR 3413, 3414 (Jan. 19, 2023).

documents (such as ones only involving executive compensation or other stock purchases by an individual), to moderately complex transactions (such as a fund buying or selling a portfolio company with limited overlaps) to very complex (for example, a strategic acquisition by a large company that sells many overlapping products in competition with the seller). The ranges from canvassed officials estimated that the proposed changes would result in approximately 12 to 222 additional hours per filing, depending on the complexity of the filing at issue. In the past five years, approximately 45% of filings had reported overlaps. To estimate an average number of additional hours, the Commission conservatively assumes that 45% of the filings may require an additional 222 hours to prepare and 55% may require an additional 12 hours to prepare. Thus, the Commission estimates an average of 107 additional hours (rounded to the nearest hour) will be allocated to non-index filings.[80] Added to the current estimate 37 hours,[81] the total estimated hours would be 144 per filing.

Net Effect

The proposed Rule and Notification and Report Form changes only affect non-index filings[82] which, for FY 2023, the FTC projects will total 7,096. As described above, the Commission estimates that he amendments to the HSR Rules and Notification and Report Form would increase the time required to prepare responses for non-index filings, with an estimated net increase of 107 hours per filing. Thus, the total estimated additional hours burden is 759,272 (7,096 non-indexed filing × 107 hours/each).

Applying the revised estimated hours, 759,272, to the previous assumed hourly wage of $460 for executive and attorney compensation, yields approximately $350,000,000 in labor costs. The amendments are expected to impose either minimal or no additional capital or other non-labor costs, as businesses subject to the HSR Rules generally have or obtain necessary equipment for other business purposes. Staff believes that the above requirements necessitate ongoing, regular training so that covered entities stay current and have a clear understanding of federal mandates, but that this would be a small portion of and subsumed within the ordinary training that employees receive apart from that associated with the information collected under the HSR Rules and the corresponding Instructions.

Request for Comments

The Commission invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of these information collections on respondents.

Comments on the proposed reporting requirements subject to PRA review by OMB should additionally be submitted 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. The *reginfo.gov* web link is a United States Government website produced by OMB and the General Services Administration (GSA). Under PRA requirements, OMB's Office of Information and Regulatory Affairs (OIRA) reviews Federal information collections.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires that the agency conduct an initial and final regulatory analysis of the anticipated economic impact of the proposed amendments on small entities, except where the Commission certifies that the regulatory action will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605. Because of the size of the transactions necessary to invoke an HSR Filing, the premerger notification rules rarely, if ever, affect small entities.[83] The 2000 amendments to the Act exempted all transactions valued at $50 million or less, with subsequent automatic adjustments to take account of changes in Gross National Product resulting in a current threshold of $111 million. Further, none of the proposed amendments expands the coverage of the premerger notification rules in a way that would affect small entities. Accordingly, the Commission certifies that these proposed amendments will not have a significant economic impact on a substantial number of small entities. This document serves as the required notice of this certification to the Small Business Administration.

Invitation To Comment

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before August 28, 2023. Write ''16 CFR parts 801–803—Hart-Scott-Rodino Coverage, Exemption, and Transmittal Rules, Project No. P239300'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the *https://www.regulations.gov/* website.

Because of the agency's security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comment online through *https://www.regulations.gov/.* To ensure the Commission considers your online comment, please follow the instructions on the web-based form.

If you file your comment on paper, write ''16 CFR parts 801–803—Hart-Scott-Rodino Coverage, Exemption, and Transmittal Rules, Project No. P239300'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610, (Annex H), Washington, DC 20580. If possible, please submit your paper comment to the Commission by overnight service.

Because your comment will be placed on the publicly accessible website, *https://www.regulations.gov/,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not contain sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also responsible for making sure your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or

[80] Clayton Act section 7A(c)(6) and (c)(8) exempt from the requirements of the premerger notification program certain transactions that are subject to the approval of other agencies, but only if copies of the information submitted to these other agencies are also submitted to the FTC and the Assistant Attorney General. Thus, parties must submit copies of these ''index'' filings, but completing the task requires significantly less time than non-exempt transactions that require ''non-index'' filings. The proposed changes would not require any additional information from indexed filings.

[81] 88 FR 3413, 3414 (Jan. 19, 2023).

[82] Id.

[83] *See* 13 CFR part 121 (regulations defining small business size).

any commercial or financial information which . . . is privileged or confidential,''—as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including, in particular, competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c). The written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(b). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at *https://www.regulations.gov/*—as legally required by FTC Rule 4.9(b), 16 CFR 4.9(b)—we cannot redact or remove your comment, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), 16 CFR 4.9(c), and the General Counsel grants that request.

Visit the Commission's website, *www.ftc.gov,* to read this publication and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before August 28, 2023. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, *see https://www.ftc.gov/site-information/privacy-policy*.

List of Subjects in 16 CFR Parts 801 and 803

Antitrust.

For the reasons stated in the preamble, the Federal Trade Commission proposes amending 16 CFR parts 801 and 803 as set forth below:

PART 801—COVERAGE RULES

■ 1. The authority citation for part 801 continues to read as follows:

Authority: 15 U.S.C. 18a(d).

■ 2. Amend § 801.1 by adding paragraph (r) to read as follows:

§ 801.1 Definitions

* * * * *

(r)(1) *Foreign entity or government of concern.* The term *foreign entity or government of concern* means: (i) An entity that is a foreign entity of concern as that term is defined in section 40207 of the Infrastructure Investment and Jobs Act (42 U.S.C. 18741(a)(5)); or

(ii) A government, or an agency thereof, of a foreign country that is a covered nation as that term is defined in section 40207 of the Infrastructure Investment and Jobs Act (42 U.S.C. 18741(a)(5)(C)).

(2) *Subsidy.* The term *subsidy* has the meaning given the term in Part IV of Title VII of the Tariff Act of 1930 (19 U.S.C. 1677(5)(B)).

PART 803—TRANSMITTAL RULES

■ 3. The authority citation for part 803 continues to read as follows:

Authority: 15 U.S.C. 18a(d).

■ 4. Amend § 803.2 by:
■ a. Redesignating paragraph (a) as (a)(1) and adding paragraph (a)(2);
■ b. Removing paragraph (b)(1)(v); and
■ c. Revising paragraphs (e) and (f). The revisions and additions read as follows:

§ 803.2 Instructions applicable to Notification and Report Form.

(a)(1) The notification required by the act shall be filed by the preacquisition ultimate parent entity, or by any entity included within the person authorized by such preacquisition ultimate parent entity to file notification on its behalf. In the case of a natural person required by the act to file notification, such notification may be filed by his or her legal representative: *Provided however,* That notwithstanding §§ 801.1(c)(2) and 801.2 *of this chapter,* only one notification shall be filed by or on behalf of a natural person, spouse and minor children with respect to an acquisition as a result of which more than one such natural person will hold voting securities of the same issuer.

Example:

Jane Doe, her husband, and minor child collectively hold more than 50 percent of the shares of family corporation F. Therefore, Jane Doe (or her husband or minor child) is the ''ultimate parent entity'' of a ''person'' composed to herself (or her husband or minor child) and F; see paragraphs (a)(3), (b) and (c)(2) of § 801.1 *of this chapter.* If corporation F is to acquire corporation X, under this paragraph only one notification is to be filed by Jane Doe, her husband, and minor child collectively.

(2) Persons that are both acquiring and acquired persons should submit separate forms, one as the acquiring person and one as the acquired person, following the appropriate instructions for each.

* * * * *

(e) For documents required by item 4(b) of the Notification and Report Form, a person filing the notification may, instead of submitting a document, provide a cite to an operative internet address directly linking to the document, if the linked document is complete and payment is not required to access the document. If an internet address becomes inoperative during the waiting period, or the document is otherwise rendered inaccessible or incomplete, upon notification by the Commission or Assistant Attorney General, the parties must make the document available to the agencies by either referencing an operative internet address where the complete document may be accessed or by providing electronic copies to the agencies as provided in § 803.10(c)(1) by 5 p.m. on the next regular business day. Failure to make the document available, by the internet or by providing electronic copies, by 5 p.m. on the next regular business day, will result in notice of a deficient filing pursuant to § 803.10(c)(2).

(f) Filings must comply with all format requirements set forth at the Premerger Notification Office pages at *https://www.ftc.gov.* The use of any format not specified as acceptable, or any other failure to comply with the applicable format requirements, shall render the entire filing deficient within the meaning of § 803.10(c)(2).

■ 5. Amend § 803.5 by revising paragraphs (a)(1), (3) and (b) to read as follows:

§ 803.5 Affidavits required.

(a)(1) *Section 801.30 acquisitions.* For acquisitions to which § 801.30 of this chapter applies, the notification required by the act from each acquiring person shall contain an affidavit attesting that the issuer or unincorporated entity whose voting securities or non-corporate interests are to be acquired has received written notice delivered to an officer (or a person exercising similar functions in the case of an entity without officers) by email, certified or registered mail, wire, or hand delivery, at its principal executive offices, of:

* * * * *

(3) The affidavit required by this paragraph must have attached to it a copy of the written notice received by the acquired person pursuant to paragraph (a)(1) of this section.

(b) *Non-section 801.30 acquisitions.* For acquisitions to which § 801.30 of

this chapter does not apply, the notification required by the act shall contain an affidavit attesting that a contract, agreement in principle, or letter of intent to merge or acquire has been executed, and further attesting to the good faith intention of the person filing notification to complete the transaction. If a definitive agreement is not provided, the affidavit must attest that a term sheet or draft agreement that describes with specificity the scope of the transaction that will be consummated has been submitted with the executed letter of intent or agreement in principle.

■ 6. Revise § 803.8 to read as follows:

§ 803.8 Foreign language documents.

Documentary materials or information in a foreign language required to be submitted at the time of filing a Notification and Report Form and in response to a request for additional information or documentary material must be submitted with verbatim English language translations. All verbatim translations must be understandable, accurate, and complete.

■ 7. Amend § 803.10 by revising paragraphs (c)(1)(i) and (ii) to read as follows:

§ 803.10 Running of time.

* * * * *

(c)(1)(i) The date of receipt shall be the date of electronic submission if such date is not a Saturday, Sunday, a legal public holiday (as defined in 5 U.S.C. 6103(a)), or a legal public holiday's observed date, and the submission is completed by 5:00 p.m. eastern time. In the event electronic submission is unavailable, the FTC and DOJ may designate procedures for the submission of the filing. Notification of the alternate delivery procedures will normally be made through a press release and, if possible, on the *https://www.ftc.gov* website.

(ii) Delivery effected after 5 p.m. eastern time on a business day, or at any time on any day other than a business day, shall be deemed effected on the next following business day. If submission of all required filings is not effected on the same date, the date of receipt shall be the latest of the dates on which submission is effected.

* * * * *

■ 8. Amend § 803.12 by revising paragraph (c)(1)(iii) to read as follows:

§ 803.12 Withdraw and refile notification.

* * * * *

(c) * * *

(1) * * * (iii) The resubmitted notification is recertified, and the submission, as it relates to Transaction-specific Agreements (including the latest drafts, if definitive agreements have not been signed), Transaction-Related Documents (including Documents Prepared by or for Officers, Directors or Supervisory Deal Team Leads; Confidential Information Memorandum; Studies, Surveys, Analyses, and Reports; Synergies and Efficiencies) and Subsidies from Foreign Entities of Concern in the Instructions, is updated to the date of the resubmission;

* * * * *

■ 9. Revise Appendices A and B to part 803 to read as follows:

[INSERT GENERAL INSTRUCTIONS AND INFORMATION]

Antitrust Improvements Act Notification for Certain Mergers and Acquisitions

General Instructions And Information

These instructions specify the information that must be submitted pursuant to § 803.1(a) of the premerger notification rules, 16 CFR parts 801–803 (''the Rules''). Submitted materials must be provided to the Federal Trade Commission (''FTC'') and to the Antitrust Division of the Department of Justice (''DOJ'') (together, ''the Agencies'').

Information

The central office for information and assistance concerning the Rules is: Premerger Notification Office Federal Trade Commission, Room #5301, 400 7th Street SW, Washington, DC 20024, Phone: (202) 326–3100, Email: *HSRhelp@ftc.gov* for rules questions, *Premerger@ftc.gov* for filing information.

Copies of these Instructions, the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (''the Act''), the Rules, **Federal Register** publications issuing the Rules and Rule amendments (''Statements of Basis and Purpose''), as well as information to assist in submitting the required information are available at the FTC's Premerger Notification Office (''PNO'') *website.*

Definitions and Explanation of Terms

Unless otherwise indicated, the definitions provided in the Rules apply to these Instructions.

Dollar Values

All financial information should be expressed in millions of dollars rounded to the nearest hundred thousand.

Economic Research Service's Commuting Zones

When submitting information by the Economic Research Service's (''ERS's'') Commuting Zones (''CZ''), refer to the U.S. Department of Agriculture's Economic Research Service Commuting Zones for the year 2000, available at *https://www.ers.usda.gov/data-products/commuting-zones-and-labor-market-areas/.*

Fee Information

The filing fee is based on the aggregate total value of assets, voting securities, and controlling non-corporate interests to be held as a result of the acquisition. Filing fee tiers are adjusted annually pursuant to 15 U.S.C. 18a(a)(note) based on the change in gross national product, in accordance with 15 U.S.C. 19(a)(5). For each fiscal year commencing after September 30, 2023, filing fees will increase by the percentage increase, if any, in the consumer price index (''CPI'') over the CPI for the fiscal year ending September 30, 2022, pursuant to 15 U.S.C. 18a(a)(note). For current thresholds and fee information, see the *PNO website.*

North American Industry Classification System (NAICS) Data

When reporting information by 6-digit NAICS code, refer to the North American Industry Classification System—United States, 2022, published by the Executive Office of the President, Office of Management and Budget, available at *https://www.census.gov/naics/.* This website also provides guidance in choosing the proper code(s).

Person Filing and Filing Person

The terms ''person filing'' or ''filing person'' mean the ultimate parent entity (''UPE''). See § 801.1(a)(3). The terms are used herein interchangeably.

Standard Occupational Classification

When reporting information by 6-digit Standard Occupational Classification (''SOC'') code, refer to the 2018 SOC System, available at *https://www.bls.gov/soc/2018/#classification.*

Thresholds

Notification thresholds are adjusted annually based on the change in gross national product, in accordance with 15 U.S.C. 19(a)(5). See § 801.1(h). The current threshold values can be found at *Current Filing Thresholds.*

Year

All references to ''year'' refer to calendar year. If data are not available on a calendar year basis, supply the requested data for the fiscal year reporting period that most nearly corresponds to the calendar year specified. References to ''most recent year'' mean the most recent calendar or fiscal year for which the requested information is available.

Filing

If the UPE is both an acquiring and acquired person, separate filings must be submitted, one as the acquiring person and one as the acquired person, following the appropriate instructions for each. See § 803.2(a)(2).

Filings should be submitted electronically consistent with the instructions on the PNO website. If the electronic submission platform is unavailable, the Agencies may announce sites for delivery through the media and, if possible, at the PNO website.

Responses

Items that require the submission of documents or narrative responses should be produced in (1) searchable PDF format from which text can be copied or (2) Excel formats.

All documents should be logged in an Excel File. The log should list all responsive

documents, regardless of whether the document is redacted or withheld for privilege. For each document, indicate:

1. The document number;
2. Request(s) to which the document is responsive;
3. Title;
4. Date;
5. Authors and job titles; and
6. Whether the document is privileged.

Indented and bolded headings in these Instructions should each be considered a separate request.

If a group of people prepared the document, list all the authors and their titles, identifying the principal authors. Alternatively, it is acceptable to indicate that the document was prepared under the supervision of the lead author and to provide the name and title of that author. If the filing person engaged a third party to prepare a document, provide the name of the third party, and the name, title, and company name for the individual within the filing person who supervised the creation of the document, or for whom the document was prepared. For materials received from a third party that was not engaged by the filing person, only the name of the third party is required.

If parties submit documents in addition to what is required, such documents should be identified as ''Voluntary''. See § 803.1(b).

Submit only one copy of identical responsive documents.

For each narrative response, indicate the document number for each document that supports the narrative and the request to which the narrative is responsive.

Privilege

For privileged documents, the filing person must also provide the following in the Responses log:

1. The privilege type (redacted or withheld);
2. The privilege claim;
3. Addressee(s) and all recipients, with company name and title, of the original and any copies;
4. Subject matter;
5. Document's present location; and
6. Who has control over it.

If a privileged document was circulated to a group, such as the board or an investment committee, the name of the group is sufficient, but the filing person should be prepared to disclose the names and titles/positions of the individual group members, if requested.

If the claim of privilege is based on advice from inside and/or outside counsel, the name of the inside and/or outside counsel providing the advice (and the law firm, if applicable) must be provided. If several lawyers participated in providing advice, identifying lead counsel is sufficient. In identifying who controls a document, the name of the law firm is sufficient.

Translations

Materials or information in a foreign language must be translated into English, with the English translation attached to the foreign language version. See § 803.8.

Non-Compliance

If unable to answer any item fully, provide such information as is available and a statement of reasons for non-compliance as required by § 803.3. If exact answers to any item cannot be given, enter best estimates and indicate the source or basis of such estimates. Add an endnote with the notation ''est.'' to any item where data are estimated.

Limited Response

Information need not be supplied regarding assets, voting securities, or non-corporate interests currently being acquired when their acquisition is exempt under the Act or Rules. See § 803.2(c).

Ultimate Parent Entity Information

UPE Details

Name

Provide the name, headquarters address, and website (if one exists) of the person filing notification. The name of the person filing is the name of the UPE. See § 801.1(a)(3).

Entity Type

Specify whether the UPE is a corporation, unincorporated entity, natural person, or other entity type (specify). See § 801.1.

Acquiring or Acquired Person

Indicate whether the filing is being made as an acquiring or acquired person.

Filing Made on Behalf of the UPE

If the filing is being made on behalf of the UPE by another entity within the same person that is authorized by the UPE to file the notification on its behalf pursuant to § 803.2(a), or filed pursuant to § 803.4 on behalf of a foreign person, provide the name and mailing address of the entity filing the notification on behalf of the UPE.

Contact Information

Provide the name and title, firm name, address, telephone number, and email address of two individuals (primary and secondary) to contact regarding the filing. See § 803.20(b)(2)(ii).

Second Request Contact Information

Provide the name, firm name, address, telephone number, and email address of an individual located in the United States designated for the limited purpose of receiving notice of the issuance of a request for additional information or documentary material. See § 803.20(b)(2).

Annual Reports and Financial Information

Central Index Key

Provide the names of all entities within the person filing the notification, including the UPE, that file annual reports (Form 10–K or Form 20–F) with the United States Securities and Exchange Commission, and provide the Central Index Key (CIK) number for each entity.

Annual Reports and Audit Reports

Provide the most recent annual reports and/or annual audit reports (or, if audited is unavailable, unaudited) of the person filing notification.

The acquiring person should also provide the most recent reports of the acquiring entity(s) and any entity controlled by the acquiring person whose revenues contribute to a NAICS overlap or any overlap identified in the Horizontal Overlap Narrative.

The acquired person should also provide the most recent reports of the acquired entity(s).

Natural person UPEs should not provide personal balance sheets or tax returns. Natural person UPEs should instead provide the most recent reports for the highest-level entity(s) they control.

The person filing notification may incorporate a document responsive to this item by reference to an internet address directly linking to the document. See § 803.2(e).

Size of Person

If applicable, indicate whether the UPE stipulates that it meets the size of person test. See 15 U.S.C. 18a(a).

Organization Structure

If the acquisition includes only assets that do not comprise substantially all the assets of an operating unit, the acquired person should not complete the questions in this section. Otherwise, the acquired person must complete these questions for the portion of the transaction related to the voting securities, non-corporate interests, and assets that comprise substantially all the assets of an operating unit.

Entities Within the Acquiring Person and Acquired Entity

List the name, city, state/country, and zip code of all U.S. entities, and all foreign entities that have sales in or into the United States, that are included within the acquiring person, or acquired entity (as appropriate). Entities with total assets of less than $10 million may be omitted. Alternatively, the acquiring person or acquired entity (as appropriate) may report all entities within it. Also list all names under which the entities do business or have done business within the past 3 years (*e.g.,* d/b/a or f/k/a names).

The list of entities should be organized by operating company or operating business/unit (''top-level entity''), if applicable.

Minority Shareholders and Other Non-Controlling Entities

Acquiring Person

Provide a narrative response describing the ownership structure of the acquiring entity.

For transactions where a fund or master limited partnership is the UPE, also provide an organizational chart sufficient to identify and show the relationship of all entities that are affiliates or associates. See § 801.1(d).

Additionally, list the name, headquarters mailing address, and approximate percentage of holdings for any individual or entity that currently holds, or will hold as a result of the transaction, 5% or more but less than 50% of the voting securities or non-corporate interests of (1) the acquiring entity, (2) any entity directly or indirectly controlled by the acquiring entity, (3) any entity that directly or indirectly controls the acquiring entity, and (4) any entity within the acquiring person that has been or will be created in contemplation of, or for the purposes of, effectuating the transaction. Entities related

to master limited partnerships, funds, investment groups, or similar entities that do business under a common name should also have the d/b/a or ''street name'' of such group listed.

For limited partnerships, the general partner(s), regardless of percentage held, should also be listed.

If the identity of minority investors or percentage to be held is not finalized at time of filing, provide good faith estimates and explain.

Acquired Person

Provide a narrative response, describing the ownership structure of the acquired entity(s).

Additionally, list the name, headquarters mailing address, and approximate percentage held for any holders of 5% or more but less than 50% of (1) the acquired entity(s), and (2) any entity within the acquired entity(s), but only if such holder will continue to hold an interest (whether voting securities or non-corporate interests) in such entity(s), or will acquire an interest in any entity within the acquiring person as a result of the transaction.

For limited partnerships, the general partner(s), regardless of percentage held, should also be listed.

Other Types of Interest Holders That May Exert Influence

For the Acquiring Person Only: Identify every entity and individual (other than those employed by the acquiring person or an entity it controls) that, upon consummation or as a result of agreements related to consummation:

1. Provides, has provided (and still is a creditor), or will provide credit to the acquiring entity, an entity the acquiring entity directly or indirectly controls, or an entity that directly or indirectly controls the acquiring entity. Do not list individuals or entities if the amount of credit they have provided or will provide is less than 10% of the value of that entity;

2. Holds non-voting securities (including options or warrants) of the acquiring entity, an entity the acquiring entity directly or indirectly controls, or an entity that directly or indirectly controls the acquiring entity, where such non-voting securities are valued at more than 10% of that entity;

3. Is a board member or board observer or has the right to nominate or appoint a board member or board observer of the acquiring entity, an entity the acquiring entity directly or indirectly controls, or an entity that directly or indirectly controls the acquiring entity; or

4. Has an agreement to manage the acquiring entity, an entity the acquiring entity directly or indirectly controls, or an entity that directly or indirectly controls the acquiring entity.

For every individual or entity identified, provide the name, contact information, the percent of voting securities or non-corporate interests owned (if any), and a description of the relevant relationship(s) above.

Officers, Directors, and Board Observers

For each entity within the acquiring person or acquired entity (as applicable), list by entity all current officers, directors, and board observers (or in the case of unincorporated entities, individuals exercising similar functions), as well as those who have served in the position within the past 2 years.

Additionally, list all individuals who will or are likely to serve as an officer, director, or board observer of an entity within the acquiring person as a result of or as contemplated by the transaction. Organize the response by entity and include entities that are not yet created but are expected to be created as a result of or as contemplated by the transaction. If the identities of the prospective officers, directors, and board observers are unknown, briefly describe who will have the authority to select them.

For each officer, director and board observer identified, list all other entities for which the individual serves, or has served within the last two years, as an officer, director, or board observer.

Transaction Information

Parties

List the name and mailing address of each acquiring and acquired person, and acquiring and acquired entity, whether or not required to file a notification. Do not list entities controlled by an acquired entity.

Acquiring UPE

Provide the name, headquarters address, and website (if one exists) of the acquiring person.

Acquiring Entity

If an entity other than the acquiring UPE is making the acquisition, provide the name, mailing address, and website of that entity.

Acquired UPE

Provide the name, headquarters address, and website (if one exists) of the acquired person.

Acquired Entity

If the assets, voting securities, or non-corporate interests of an entity other than the acquired UPE are being acquired, provide the name, mailing address, and website of that entity.

Filing Fee

Total Expected Filing Fee

Indicate the value of the total required fee for the transaction.

Parties Paying the Fee

Indicate which filing party(s) is paying the filing fee and, if applicable, whether the portion of the fee being paid by the filer is being paid by multiple entities associated with the filer. For each entity paying a portion of the fee, provide the name of payer, the amount paid, the payment method, and the Electronic Wire Transfer (EWT) confirmation number or check number.

Note on Paying by EWT: In order for the FTC to track payment, the payer must provide information required by the Fedwire Instructions to the financial institution initiating the EWT. A template of the Fedwire Instructions is available at the PNO website on the *Filing Fee Information page.*

Note on Paying by Check: The FTC strongly discourages check payments. However, if an EWT cannot be arranged, the FTC will accept a check, sent to Financial Operations. Cashiers' or certified checks are preferred. Make the check payable to the Federal Trade Commission and deliver to: Federal Trade Commission, Financial Operations Division, 600 Pennsylvania Ave., Drop H–790, Washington, DC 20580.

Please note that the waiting period may be delayed until the fee has been confirmed.

Transaction Details

801.30 Transaction:

Indicate whether the transaction is subject to § 801.30.

Transaction Type

Indicate whether the transaction is a(n):

- Acquisition of voting securities;
- Acquisition of non-corporate interests;
- Acquisition of assets;
- Merger (see § 801.2);
- Consolidation (see § 801.2);
- Formation of a joint venture, other corporation, or unincorporated entity (see §§ 801.40 and 801.50);
- Bankruptcy that is subject to Section 363(b) of the Bankruptcy Code (11 U.S.C. 363);
- Cash Tender Offer;
- Acquisition subject to § 801.31;
- Secondary acquisition subject to § 801.4;
- Acquisition subject to § 801.2(e); and/or
- Acquisition consummated in violation of the HSR Act.

Acquisition Details

Provide the requested information for the value and percentage of assets, voting securities, and non-corporate interests to be acquired. If a combination of assets, voting securities, and/or non-corporate interests are being acquired and allocation is not possible, note such information in an endnote.

For determining percentage of voting securities, evaluate total voting power per § 801.12.

For determining percentage of non-corporate interests, evaluate the economic interests per § 801.1(b)(1)(ii).

- State the value of voting securities already held by the acquiring person. See § 801.10.
- State the percentage of voting securities already held by the acquiring person. See § 801.12.
- State the total value of voting securities to be held by the acquiring person as a result of the acquisition. See § 801.10.
- State the total percentage of voting securities to be held by the acquiring person as a result of the acquisition. See § 801.12.
- State the value of non-corporate interests already held by the acquiring person. See § 801.10.
- State the percentage of non-corporate interests already held by the acquiring person. See § 801.1(b)(1)(ii).
- State the total value of non-corporate interests to be held by the acquiring person as a result of the acquisition. See § 801.10.
- State the total percentage of non-corporate interests to be held by the acquiring person as a result of the acquisition. See §§ 801.10 and 801.1(b)(1)(ii).
- State the value of assets to be held by the acquiring person as a result of the acquisition. See § 801.10.

• State the aggregate total value of assets, voting securities, and non-corporate interests of the acquired person to be held by the acquiring person as a result of the acquisition. See §§ 801.10, 801.12, 801.13 and 801.14.

Notification Threshold

This item should only be completed by the acquiring person when voting securities are being acquired. If more than voting securities are being acquired, respond to this item only regarding voting securities. Indicate the highest applicable threshold for which notification is being filed. See § 801.1(h).

• $50 million (as adjusted);
• $100 million (as adjusted);
• $500 million (as adjusted);
• 25% (if the value of voting securities to be held is greater than $1 billion, as adjusted);
• 50%;
• N/A.

Note that the 50% notification threshold is the highest threshold and should be used for any acquisition of 50% or more of the voting securities of an issuer, regardless of the value of the voting securities. For instance, an acquisition of 100% of the voting securities of an issuer valued in excess of $500 million (as adjusted) would cross the 50% notification threshold, not the $500 million (as adjusted) threshold.

Transaction Description

Business of the Acquiring Person

Acquiring Person Only: Describe the business operation(s) of all entities within the acquiring person.

Business of the Acquired Entity

Describe the business operation(s) being acquired. If assets, describe the assets and whether they comprise a business operation.

Non-Reportable UPE(s)

Provide the names of any non-reportable UPE(s).

Transaction Description

Briefly describe the transaction, indicating whether assets, voting securities, or non-corporate interests (or some combination) are to be acquired. Indicate what consideration will be received by each party and the scheduled consummation date of the transaction. Also identify any special circumstances that apply to the filing, such as whether part of the transaction is exempt under one of the exemptions found in Part 802.

If any attached transaction documents use code names to refer to the parties, provide an index identifying the codes.

Transaction Rationale

Identify and explain each strategic rationale for the transaction discussed or contemplated by the filing person, or any of its officers, directors, or employees. If the acquiring entity is different from the UPE, submit an explanation for each entity. Identify each document produced in the filing that confirms or discusses the stated rationale(s).

Transaction Diagram

Submit a diagram of the transaction and provide a chart explaining the relationship between all entities and/or natural persons involved in the transaction.

Related Transactions

Indicate whether the transaction that is the subject of this filing has related filings because the transaction:

• Is a principal transaction that triggers one or more shareholder backside transactions;
• Is a shareholder backside transaction;
• Has more than one acquiring UPE;
• Has more than one acquired UPE;
• Has more than one reportable step;
• Is a joint venture;
• Is a consolidation;
• Is an exchange of assets; or
• Has other circumstance that requires more than one filing.

Provide additional details regarding the related transaction(s), such as party names and transaction numbers.

Early Termination

Indicate whether the filing person requests early termination. Notification of each grant of early termination will be published in the **Federal Register**, as required by 15 U.S.C. 18a(b)(2), and on the PNO website. Note that if either party in any transaction requests early termination, it may be granted and published.

Joint Ventures

See §§ 801.40 and 801.50.

Contributions

List the contributions that each person forming the joint venture corporation or unincorporated entity has agreed to make, specifying when each contribution is to be made and the value of the contribution as agreed by the contributors.

Consideration

Describe fully the consideration that each person forming the joint venture corporation or unincorporated entity will receive in exchange for its contribution(s).

Business Description

Describe generally the business in which the joint venture corporation or unincorporated entity will engage, including its principal types of products or activities, and the geographic areas in which it will do business.

NAICS Codes

Identify each 6-digit NAICS industry code in which the joint venture corporation or unincorporated entity will derive dollar revenues.

Agreements and Timeline

Transaction-Specific Agreements

Furnish copies of all documents that constitute the agreement(s) related to the transaction, including, but not limited to, exhibits, schedules, side letters, agreements not to compete or solicit, and other agreements negotiated in conjunction with the transaction.

Documents that constitute the agreement(s) (*e.g.,* Agreement and Plan of Merger, Letter of Intent, Purchase and Sale Agreement, Asset Purchase Agreement, Stock/Securities Purchase Agreement) must be executed, while supporting agreements, such as employment agreements and agreements not to compete may be provided in draft form if that is the most recent version. If there is no definitive executed agreement, provide a copy of the most recent draft agreement or term sheet that provides sufficient detail about the scope of the entire transaction that the parties intend to consummate. See § 803.5.

Note that transactions subject to § 801.30 and bankruptcies under 11 U.S.C. 363(b) do not require an executed agreement. For bankruptcies, provide the order from the bankruptcy court.

Other Agreements Between the Parties

Provide all other agreements between the acquiring and acquired person, including but not limited to, non-compete or non-solicitation agreements, supply agreements, or licensing agreements including current agreements and those that expired, have terminated, or were canceled within one year of the filing.

Timeline

Provide a detailed timetable for the transaction, including when the signatories intend to consummate the transaction, or implement all closing conditions, integration, affiliation, or other purchase agreements, and any other important deadlines for closing or terminating the merger agreement. Identify all provisions in the agreement that govern the extension of these deadlines and explain the conditions for extending deadlines and how long they may be extended. Also, if applicable, provide a description of any fee or other consideration paid or to be paid at key dates of the transaction or upon closing, including but not limited to termination fees, break fees, ticking fees, and any other arrangement intended to serve in lieu of a break fee.

Competition and Overlaps

Business Documents

Transaction-Related Documents

Documents Prepared by or for Officers, Directors, or Supervisory Deal Team Lead(s)

Provide all studies, surveys, analyses, and reports prepared by or for any officer(s), director(s), or supervisory deal team lead(s) for the purpose of evaluating or analyzing the acquisition with respect to market shares, competition, competitors, markets, potential for sales growth, or expansion into product or geographic markets. For unincorporated entities, provide such documents prepared by or for individuals exercising similar functions as officers and directors, as well as the supervisory deal team lead(s).

Confidential Information Memoranda

Provide all confidential information memoranda prepared by or for any officer(s) or director(s) (or, in the case of unincorporated entities, individuals exercising similar functions) of the UPE of the acquiring or acquired person or of the acquiring or acquired entity(s) that specifically relate to the sale of the acquired entity(s) or assets. If no such confidential information memorandum exists, submit any document(s) given to any officer(s) or

director(s) of the buyer meant to serve the function of a confidential information memorandum. This does not include ordinary course documents and/or financial data shared in the course of due diligence, except to the extent that such materials served the purpose of a confidential information memorandum when no such confidential information memorandum exists.

Documents responsive to this item are limited to those produced within one year before the date of filing.

Studies, Surveys, Analyses, and Reports

Provide all studies, surveys, analyses and reports prepared by investment bankers, consultants, or other third party advisors (''third party advisors'') for any officer(s) or director(s) (or, in the case of unincorporated entities, individuals exercising similar functions) of the UPE of the acquiring or acquired person or of the acquiring or acquired entity(s) for the purpose of evaluating or analyzing market shares, competition, competitors, markets, potential for sales growth or expansion into product or geographic markets that specifically relate to the sale of the acquired entity(s) or assets. This item requires only materials developed by third party advisors during an engagement or for the purpose of seeking an engagement.

Documents responsive to this item are limited to those produced within one year before the date of filing.

Synergies and Efficiencies

Provide all studies, surveys, analyses, models, and reports evaluating or analyzing synergies, financial projections, and/or efficiencies prepared by or for any officer(s) or director(s) (or, in the case of unincorporated entities, individuals exercising similar functions) for the purpose of evaluating or analyzing the acquisition. Financial models without stated assumptions need not be provided.

Drafts

For each responsive Transaction-Related Document, provide drafts of the document that were sent to an officer, director, or supervisory deal team lead(s).

Periodic Plans and Reports

Provide all semi-annual or quarterly plans and reports that were provided to the Chief Executive Officer (CEO) of the acquiring or acquired entity (as appropriate) and any entity that it controls or is controlled by and individuals who report directly to each such CEO (but excluding individuals responsible solely for environmental, tax, human resources, pensions, benefits, ERISA, or OSHA issues) that analyze market shares, competition, competitors, or markets pertaining to any product or service also produced, sold, or known to be under development by the other party (acquiring person or acquired entity as appropriate). Documents responsive to this item are limited to those prepared or modified within one year of the date of filing.

Provide all plans and reports (including semi-annual or quarterly) that were provided to the Board of Directors of the acquiring or acquired entity (as appropriate) and any entity that it controls or is controlled by that analyze market shares, competition, competitors, or markets pertaining to any product or service also produced, sold, or known to be under development by the other party (acquiring person or acquired entity as appropriate). Documents responsive to this item are limited to those prepared or modified within one year of the date of filing.

Organizational Chart of Authors and Recipients

Provide an organizational chart(s) that identifies the position(s) held by authors, and for privileged documents, recipients, of all business documents submitted. Filing persons should indicate on the organizational chart(s) the individuals whose files were searched for documents responsive to these Instructions.

Competition Analysis

Horizontal Overlap Narrative

Describe each of the principal categories of products and services (as defined in the day-to-day operations) of the acquiring person or acquired entity (as applicable).

In addition, list and describe each of the current or known planned products or services of the acquiring person or acquired entity (as appropriate) that competes with (or could compete with) a current or known planned product or service of the other party (acquiring person or acquired entity as appropriate). Current or known planned products or services include those that the acquiring person or acquired entity researches, develops, manufactures, produces, sells, offers, provides, supplies, or distributes. For each such product or service listed, provide:

1. The sales (in units and dollars) for each of the past two fiscal years. For those products or services not generating revenue or whose performance is not measured by revenue in the ordinary course of business, provide projected revenue, estimates of the volume of products to be sold, time spent using the service, or any other metric by which the acquiring person or acquired entity (as appropriate) measures performance (*e.g.,* daily users, new signups).

2. A description of all categories of customers of the acquiring person or acquired entity (as appropriate) that purchase or use the product or service (*e.g.,* retailer, distributor, broker, government, military, educational, national account, local account, commercial, residential, or institutional), and an estimate of how much of the product or service each customer category purchased or used monthly for the last fiscal year. If no customers have yet used the product or service, provide the date that development of the product or service began; a description of the current stage in development, including any testing and regulatory approvals and any planned improvements or modifications; the date that development (including testing and regulatory approvals) was or will be completed; and the date that the product or service is expected to be sold or otherwise commercially launched.

3. Contact information (including individual's name, title, phone, and email) for the acquiring person's or acquired entity's (as appropriate) top 10 customers in the last fiscal year (as measured in both units and dollars), and the top 10 customers for each customer category identified.

4. A description of any licensing arrangements.

5. A description, including duration, of any non-compete or non-solicitation agreement applicable to employees or business units related to the product or service.

Supply Relationships Narrative

Related Sales: List and describe each product, service, or asset (including data) that the acquiring person or acquired entity (as applicable) has sold, licensed, or otherwise supplied in the last two fiscal years (1) to the other party (acquiring person or acquired entity as appropriate), or (2) to any other business that, to the filing person's knowledge or belief, uses its product, service, or asset to compete with the other party's products or services, or as an input for a product or service that competes or is intended to compete with the other party's products or services.

For each product, service, or asset listed, provide:

1. The sales (in units and dollars and any other appropriate measure) for each of the past two fiscal years, separately to (1) the other party (acquiring person or acquired entity as appropriate) and (2) any other business that, to the filing person's knowledge or belief, uses its product, service, or asset to compete with the other party's products or services, or as an input for a product or service that competes or is intended to compete with the other party's products or services.

2. The top 10 customers (as measured in both units and dollars) of the acquiring person or acquired entity (as appropriate) that use the acquiring person's or acquired entity's (as appropriate) product, service, or asset to compete with the other party's (acquiring person or acquired entity as appropriate) products or services, or as an input for a product or service that competes or is intended to compete with the other party's products or services. For each such customer, provide contact information (including title, phone, and email) and a description of the acquiring person's or acquired entity's (as appropriate) supply or licensing agreement (or other comparable terms of supply).

Related Purchases: List and describe each product, service, or asset (including data) that the acquiring person or acquired entity (as appropriate) incorporates as an input into any product or service and that the acquiring person or acquired entity (as appropriate) has purchased, licensed, or otherwise obtained in the last two years (1) from the other party (acquiring person or acquired entity as appropriate) or (2) from any other business that, to the filing person's knowledge or belief, competes with the other party to provide a substantially similar product, service, or asset.

For each product, service, or asset listed, provide:

1. The purchased amount (in units and dollars and any other appropriate measure) for each of the last two fiscal years, separately for (1) the other party and (2) any other business that, to the filing person's

knowledge or belief, competes with the other party to provide a substantially similar product, service, or asset.

2. The top 10 suppliers (as measured in both units and dollars) for the associated input product, service, or asset, with contact information (including title, phone, and email) and a description of the acquiring person's or acquired entity's (as appropriate) purchase or licensing agreement (or other comparable terms of purchase).

Labor Markets Information

This section requests information about the largest categories of workers employed by the acquiring person or acquired entity (as appropriate) and the geographic area(s) where these employees work.

Largest Employee Classifications

Provide the aggregate number of employees of the acquiring person or acquired entity (as appropriate) for each of the five largest occupational categories (as categorized by the first six digits of the relevant SOC classifications).

Geographic Market Information for Each Overlapping Employee Classification

Indicate the five largest 6-digit SOC codes in which both parties (the acquiring person and the acquired entity) employ workers. For each overlapping 6-digit SOC code, list each ERS commuting zone in which both parties employ workers with the 6-digit classification and provide the aggregate number of classified employees in each ERS commuting zone.

Worker and Workplace Safety Information

Identify any penalties or findings issued against the filing person by the U.S. Department of Labor's Wage and Hour Division (WHD), the National Labor Relations Board (NLRB), or the Occupational Safety and Health Administration (OSHA) in the last five years and/or any pending WHD, NLRB, or OSHA matters.

For each identified penalty or finding, provide (1) the decision or issuance date, (2) the case number, (3) the JD number (for NLRB only), and (4) a description of the penalty and/or finding.

NAICS Codes

This item requests information regarding the industry categories of the acquiring person or acquired entity(s) or assets (as appropriate) of products and services that derived revenue in the last fiscal year, as well as for products or services in development that would create overlaps with the other party (acquiring person or acquired entity as appropriate).

NAICS Codes Describing U.S. Operations With Estimates of Revenue

Acquiring Person

Identify all 6-digit NAICS industry codes that describe the U.S. operations of the acquiring person, inclusive of all entities included within the acquiring person at the time the filing is made.

Responses must be organized by NAICS code in ascending order. For each code, provide the name of the operating entity(s) that derive(s) revenue in that code and the estimated revenue range: less than $10 million; $10 million or more but less than $100 million; $100 million or more but less than $1 billion; or $1 billion or more. Identify each 6-digit NAICS code in which both the acquiring person and acquired entity(s) or assets derive revenue.

For products and services that derived revenue in the most recent fiscal year in a non-manufacturing NAICS code, if the revenue is estimated at less than one million dollars, that code may be omitted so long as the code does not overlap with a code in which the acquired entity(s) or assets derived revenue from U.S. operations.

Acquiring persons should also list all NAICS codes for products or services under development by the acquiring person that would overlap with the products or services of the acquired entity(s) or assets, inclusive of products or services that are known to be under development by the acquired entity(s) or assets. NAICS codes that reflect only these pipeline products or services should be identified as ''pre-revenue.''

If more than one NAICS code describes the same operations of the acquiring person, list each code, and provide an estimate of revenue, as described above. End notes may be used to clarify the selection of codes or potential overlaps.

Acquired Person

Identify all 6-digit NAICS industry codes that describe the U.S. operations of the acquired entity(s) or assets, inclusive of all entities and assets anticipated to be included within the acquired entity(s) or assets at the time the transaction will be consummated.

Responses must be organized by NAICS code in ascending order. For each code, provide the name of the operating entity(s) that derive(s) revenue in that code and the estimated revenue range: less than $10 million; $10 million or more but less than $100 million; $100 million or more, but less than $1 billion; or $1 billion or more. Identify each 6-digit NAICS code in which both the acquiring person and acquired entity(s) or assets derive revenue.

For products and services that derived revenue in the most recent fiscal year in a non-manufacturing NAICS code, if the revenue is estimated at less than one million dollars, that code may be omitted so long as the code does not overlap with a code in which the acquiring person derived revenue from U.S. operations.

Acquired persons should also list all NAICS codes for products or services under development by the acquired entity(s) or assets and expected to have annual revenue greater than $1 million within two years. NAICS codes that reflect only these pipeline products or services should be identified as ''pre-revenue.''

If more than one NAICS code describes the same operations of the acquired entity(s) or assets, list each code, and provide an estimate of revenue, as described above. End notes may be used to clarify the selection of codes or potential overlaps.

No Revenue

If there is no revenue to report, explain why.

Controlled-Entity Overlaps

If, to the knowledge or belief of the person filing notification, the acquiring person, or any associate (see § 801.1(d)(2)) of the acquiring person, derived any amount of dollar revenues in the most recent year from operations:

1. In industries within any 6-digit NAICS industry code in which any acquired entity also derived any amount of dollar revenues in the most recent year; or

2. In which a joint venture corporation or unincorporated entity will derive dollar revenues;

then for each such 6-digit NAICS industry code follow the instructions below for this section.

Note that if the acquired entity is a joint venture, the only overlaps that should be reported are those between the assets to be held by the joint venture and any assets of the acquiring person or its associates not contributed to the joint venture.

If the acquiring person reports an associate overlap only, the acquired person does not need to respond to this section.

NAICS Overlaps of Controlled Entities

Acquiring Person

List the name of each entity within the acquiring person or associate of the acquiring person, that has U.S, operations in the same code as an acquired entity or assets. For each such entity, list the name(s) by which the entity does or has within the last 3 years done business, whether the listed entity is controlled by the filing person or an associate of the filing person, the overlapping NAICS code(s), NAICS description(s), and provide the appropriate Geographic Market Information, based upon the NAICS code. Organize responses by NAICS code.

Acquired Person

List the name of each entity within the acquired entity that has U.S. operations in the same code as the acquiring person. For each such entity, list the name(s) by which the entity does or has within the last 3 years done business, the overlapping NAICS code(s), NAICS description(s), and provide the appropriate Geographic Market Information, based upon the NAICS code. Organize responses by NAICS code.

Geographic Market Information

For each identified overlapping NAICS code, provide geographic information, as described below. Use the 2-digit postal codes for states and territories and provide the total number of states and territories at the end of the response.

Except in the case of those NAICS industries in the sectors, subsectors, and codes that require street-address level reporting, the person filing notification may respond with the word ''national'' if business is conducted in all 50 states.

State-Level Reporting

Manufacturing Industries

For each 6-digit NAICS code within the industry sector, subsector, or code listed below, list the states in which, to the knowledge or belief of the person filing the notification, the products in that 6-digit

NAICS industry code produced by the person filing notification are sold without a significant change in their form (whether they are sold by the person filing notification or by others to whom such products have been sold or resold).

31**** through 33**** Manufacturing, *except:*
- 3115** Dairy Product Manufacturing
- 311611 Animal (except Poultry) Slaughtering
- 311613 Rendering and Meat Byproduct Processing
- 311615 Poultry Processing
- 31181* Bread and Bakery Product Manufacturing
- 321*** Wood Product Manufacturing
- 32221* Paperboard Container Manufacturing
- 324*** Petroleum and Coal Products Manufacturing
- 3251** Basic Chemical Manufacturing
- 325521 Plastics Materials and Resin Manufacturing
- 3271** Clay Product and Refractory Manufacturing
- 3272** Glass and Glass Product Manufacturing
- 3273** Cement and Concrete Product Manufacturing

Wholesale Trade

For each 6-digit NAICS code within the industry sector, subsector, or code listed below, list the states or, if desired, portions thereof in which the customers of the person filing notification are located.

42**** Wholesale Trade, *except:*
- 42331* Lumber, Plywood, Millwork, and Wood Panel Merchant Wholesalers
- 42333* Roofing, Siding, and Insulation Material Merchant Wholesalers
- 42344* Other Commercial Equipment Merchant Wholesalers
- 42345* Medical, Dental, and Hospital Equipment and Supplies Merchant Wholesalers
- 42346* Ophthalmic Goods Merchant Wholesalers
- 42349* Other Professional Equipment and Supplies Merchant Wholesalers
- 4239** Miscellaneous Durable Goods Merchant Wholesalers
- 4241** Paper and Paper Product Merchant Wholesalers
- 4242** Drug and Druggists' Sundries Merchant Wholesalers
- 42441* General Line Grocery Merchant Wholesalers
- 42442* Packaged Frozen Food Merchant Wholesalers
- 42451* Grain and Field Bean Merchant Wholesalers
- 42452* Livestock Merchant Wholesalers
- 4247** Petroleum and Petroleum Products Merchant Wholesalers
- 4248** Beer, Wine, and Distilled Alcoholic Beverage Merchant Wholesalers
- 42491* Farm Supplies Merchant Wholesalers
- 42495* Paint, Varnish, and Supplies Merchant Wholesalers

Insurance Carriers

For the 6-digit NAICS code within the industry subsector listed below, list the state(s) in which the person filing notification is licensed to write insurance.

5241** Insurance Carriers

Other NAICS Sectors

For each 6-digit NAICS code within the industry sector, subsector, or code listed below, list the states or, if desired, portions thereof in which the person filing notification conducts such operations.

11**** Agriculture, Forestry, Fishing, and Hunting, *except:*
- 113*** Forestry and Logging

21**** Mining, Quarrying, and Oil and Gas Extraction, *except:*
- 2123** Nonmetallic Mineral Mining and Quarrying

2213** Water, Sewage, and Other Systems
23**** Construction
44912* Home Furnishing Retailers
4492** Electronics and Appliance Retailers
48**** and 49**** Transportation and Warehousing, *except:*
- 493*** Warehousing and Storage

51**** Information, *except:*
- 512*** Motion Picture and Sound Recording Industries

5222** Nondepository Credit Intermediation
523*** Securities, Commodity Contracts, and Other Financial Investments and Related Activities
5242** Agencies, Brokerages, and Other Insurance Related Activities
525*** Funds, Trusts, and Other Financial Vehicles
531*** Real Estate
533*** Lessors of Nonfinancial Intangible Assets (Except Copyrighted Works)
54**** Professional, Scientific and Technical Services, *except:*
- 54138* Testing Laboratories and Services
- 54194* Veterinary Services

55**** Management of Companies and Enterprises
561*** Administrative and Support Services
61**** Educational Services
71**** Arts, Entertainment, and Recreation, *except:*
- 7132** Gambling Industries
- 71394* Fitness and Recreational Sports Centers

7212** RV (Recreational Vehicle) Parks and Recreational Camps
7213** Rooming and Boarding Houses, Dormitories, and Workers' Camps
8114** Personal and Household Goods Repair and Maintenance
813*** Religious, Grantmaking, Civic, Professional, and Similar Organizations
814*** Private Households

Street-Level Reporting

For each 6-digit NAICS code within the industry sector, subsector, or code listed below, provide the street address, arranged by state, county and city or town, and latitude and longitude (each in degrees up to at least five decimal places) of each establishment from which dollar revenues were derived (either directly or by a franchisee) in the most recent year by the person filing notification.

113*** Forestry and Logging
2123** Nonmetallic Mineral Mining and Quarrying
22**** Utilities, *except:*
- 2213** Water, Sewage and Other Systems

3115** Dairy Product Manufacturing
311611 Animal (except Poultry) Slaughtering
311613 Rendering and Meat Byproduct Processing
311615 Poultry Processing
31181* Bread and Bakery Product Manufacturing
321*** Wood Product Manufacturing
32221* Paperboard Container Manufacturing
324*** Petroleum and Coal Products Manufacturing
3251** Basic Chemical Manufacturing
325521 Plastics Materials and Resin Manufacturing
3271** Clay Product and Refractory Manufacturing
3272** Glass and Glass Product Manufacturing
3273** Cement and Concrete Product Manufacturing
42331* Lumber, Plywood, Millwork, and Wood Panel Merchant Wholesalers
42333* Roofing, Siding, and Insulation Material Merchant Wholesalers
42344* Other Commercial Equipment Merchant Wholesalers
42345* Medical, Dental, and Hospital Equipment and Supplies Merchant Wholesalers
42346* Ophthalmic Goods Merchant Wholesalers
42349* Other Professional Equipment and Supplies Merchant Wholesalers
4239** Miscellaneous Durable Goods Merchant Wholesalers
4241** Paper and Paper Product Merchant Wholesalers
4242** Drug and Druggists' Sundries Merchant Wholesalers
42441* General Line Grocery Merchant Wholesalers
42442* Packaged Frozen Food Merchant Wholesalers
42451* Grain and Field Bean Merchant Wholesalers
42452* Livestock Merchant Wholesalers
4247** Petroleum and Petroleum Products Merchant Wholesalers
4248** Beer, Wine, and Distilled Alcoholic Beverage Merchant Wholesalers
42491* Farm Supplies Merchant Wholesalers
42495* Paint, Varnish, and Supplies Merchant Wholesalers
44**** and 45**** Retail Trade, *except:*
- 44912* Home Furnishings Retailers
- 4492** Electronics and Appliance Retailers

493*** Warehousing and Storage
512*** Motion Picture and Sound Recording Industries
521*** Monetary Authorities—Central Bank
5221** Depository Credit Intermediation
5223** Activities Related to Credit Intermediation
532*** Rental and Leasing Services
54138* Testing Laboratories and Services
54194* Veterinary Services
562*** Waste Management and Remediation Services
62**** Health Care and Social Assistance

7132** Gambling Industries
71394* Fitness and Recreational Sports Centers
72**** Accommodation and Food Services, *except:*
7212** RV (Recreational Vehicle) Parks and Recreational Camps
7213** Rooming and Boarding Houses, Dormitories, and Workers' Camps
811*** Repair and Maintenance, except
8114** Personal and Household Goods Repair and Maintenance
812*** Personal and Laundry Services

Minority-Held Entity Overlaps

This section requires the disclosure of holdings of 5% or more but less than 50% of certain entities that derive dollar revenues in any 6-digit NAICS code reported by the other person filing notification. Holdings in those entities that have total assets of less than $10 million may be omitted.

If NAICS codes are unavailable, holdings in entities that have operations in the same industry, based on the knowledge or belief of the filing person, should be listed. Holdings in those entities that have total assets of less than $10 million may be omitted.

Minority Holdings of Acquiring Person and Its Associates

If the acquiring person holds 5% or more but less than 50% of the voting securities of any issuer or non-corporate interests of any unincorporated entity that derived dollar revenues in the most recent year from operations in industries within any 6-digit NAICS code(s) reported by the acquired entity(s) or assets, provide such 6-digit NAICS code(s), the entity within the acquiring person that holds the minority interests, the name and d/b/a names (if known) of the minority held-entity, and percentage of voting securities or non-corporate interests held.

Additionally, based on the knowledge or belief of the acquiring person, for each associate (see § 801.1(d)(2)) of the acquiring person holding:

1. 5% or more but less than 50% of the voting securities or non-corporate interests of an acquired entity; and/or

2. 5% or more but less than 50% of the voting securities of any issuer or non-corporate interests of any unincorporated entity that derived dollar revenues in the most recent year from operations in industries within any 6-digit NAICS industry code in which the acquired entity(s) or assets also derived dollar revenues in the most recent year,

list the associate, the name and d/b/a names (if known) of the minority-held entity, and percentage of voting securities or non-corporate interests held.

Responses should be organized alphabetically by the name of the entity in which minority interests are held.

The acquiring person may rely on its regularly prepared financials that list its investments, and those of its associates that list their investments, provided the financials are no more than three months old.

Minority Holdings of the Acquired Entity

If an acquired entity holds 5% or more but less than 50% of the voting securities of any issuer or non-corporate interests of any unincorporated entity that derived dollar revenues in the most recent year from operations in industries within any 6-digit NAICS industry code(s) reported by the acquiring person, provide such 6-digit NAICS code(s), the entity within the acquired entity that holds the minority interests, the name and d/b/a names (if known) of the minority-held entity, and percentage of voting securities or non-corporate interests held.

Responses should be organized alphabetically by the name of the entity in which minority interests are held.

Prior Acquisitions

This item should be completed for the acquiring person and the acquired entity, and pertains only to prior acquisitions of U.S. entities or assets and foreign entities or assets with sales in or into the U.S. that (i) derived revenue in an identified 6-digit NAICS industry code overlap *or* (ii) provided or produced a competitive overlap product or service as described in the Horizontal Overlap Narrative.

Identify all such acquisitions of entities or assets made within the ten years prior to filing in which (i) 50% or more of the voting securities of an issuer, (ii) 50% or more of non-corporate interests of an unincorporated entity, or (iii) all or substantially all the assets of an operating unit were acquired. Additionally, identify all such acquisitions of assets that did not constitute all or substantially all of an operating unit but were valued at or above the statutory size-of-transaction test at the time of their acquisition.

For each such acquisition, supply:

1. the 6-digit NAICS code(s) (by number and description) identified above in which the acquired entity derived dollar revenues, or the competitive overlap product(s) or service(s) provided;

2. the name of the entity from which the voting securities, non-corporate interests, or assets were acquired;

3. the headquarters address of that entity prior to the acquisition;

4. whether voting securities, non-corporate interests, or assets were acquired;

5. the consummation date of the acquisition; and

6. whether all or substantially all of the acquired voting securities, non-corporate interests, or assets are still held at the time of filing.

Additional Information

Subsidies From Foreign Entities or Governments of Concern

To the knowledge or belief of the filing person, within the two years prior to filing, has the acquiring or acquired person (as appropriate) received any subsidy (or a commitment to provide a subsidy in the future) from any foreign entity or government of concern (see § 801.1(r))? If yes, list each entity or government from which such subsidy was received and provide a brief description of the subsidy.

For products the acquiring or acquired person (as appropriate) produced in whole or in part in a country that is a covered nation under 42 U.S.C. 18741(a)(5)(C), is any product subject to countervailing duties imposed by any jurisdiction? If yes, list each product, the countervailing duty imposed, and the jurisdiction that imposed the duty.

To the knowledge or belief of the filing person, for products the acquiring or acquired person (as appropriate) produced in whole or in part in a country that is a covered nation under 42 U.S.C. 18741(a)(5)(C), is any product the subject of a current investigation for countervailing duties in any jurisdiction? If yes, list each product and the jurisdiction conducting the investigation.

Defense or Intelligence Contracts

Identify pending or active procurement contracts with the U.S. Department of Defense or any member of the U.S. intelligence community, as defined by 10 U.S.C. 101(a)(6) or 50 U.S.C. 3033(4) valued at $10 million or more. The acquiring person should limit its response to the acquiring entity and any entity within the acquiring person that directly or indirectly controls the acquiring entity. The acquired person should limit its response to the acquired entity(s) and/or assets. Include (1) the name of the entity within the filing person (2) the contracting office, as defined by 48 CFR 2.101(b); (3) the Contracting Office ID; (5) the Award ID; (5) and the NAICS code(s), if any, listed in the System for Award Management database.

Identification of Communications and Messaging Systems

List all communications systems or messaging applications on any device used by the acquiring or acquired person (as appropriate) that could be used to store or transmit information or documents related to its business operations.

Other Jurisdictions

Transactions Subject to International Antitrust Notification

If, to the knowledge or belief of the filing person at the time of filing, a non-U.S. antitrust or competition authority has been or will be notified of the transaction, list the name of each such authority. Identify, to the knowledge or belief of the filing person at the time of filing, any jurisdiction where (1) a merger notification has been filed, (2) a merger notification is being prepared for filing, or (3) the parties have a good faith belief that a merger notification will be made, along with the dates of the filing or planned filing.

HSR Confidentiality Waiver for International Competition Authorities (VOLUNTARY)

Indicate whether the filing person agrees to waive the disclosure exemption contained in the Hart-Scott-Rodino Act, 15 U.S.C. 18a(h) to permit the DOJ and FTC to disclose to non-U.S. competition authority/authorities listed by the filing person below (1) the fact that a notification was filed, (2) the waiting period associated with the notification, and (3) information and documents filed with the notification. This waiver will not cover materials provided in response to a request for additional information issued pursuant to 15 U.S.C. 18a(e) and does not preclude the filing person from providing a full waiver as provided for under *FTC and DOJ practice as*

reflected in the Model Waiver. The filing person should list the jurisdictions to which the waiver applies. This item is voluntary.

HSR Confidentiality Waiver for State Attorneys General (VOLUNTARY)

Indicate whether the filing person agrees to waive the disclosure exemption contained in the Hart-Scott-Rodino Act, 15 U.S.C. 18a(h) to permit the DOJ and FTC to disclose to State Attorneys General listed by the filing person below (1) the fact that a notification was filed, (2) the waiting period associated with the notification, and (3) information and documents filed with the notification. This waiver will not cover materials provided in response to a request for additional information issued pursuant to 15 U.S.C. 18a(e) and does not preclude the filing person from providing a full waiver as provided for under *FTC and DOJ practice as reflected in the Model Waiver.* The filing person should list the jurisdictions to which the waiver applies. This item is voluntary.

Certification

See § 803.6 for requirements.

The certification must be notarized or use the language found in 28 U.S.C. 1746 relating to unsworn declarations under penalty of perjury.

Penalties for False Statements

Federal law provides criminal penalties, including up to twenty years imprisonment, for any person who knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence an ongoing or anticipated federal investigation (see, *e.g.,* Section 1519 of Title 18, United States Code.). It is also a criminal offense to knowingly make a false statement in a federal investigation, obstruct a federal investigation, or conspire to obstruct justice or obstruct or impede the lawful functioning of the government (see, *e.g.,* Sections 371, 1001, and 1505 of Title 18, United States Code).

Certification

This NOTIFICATION AND REPORT FORM, together with any and all appendices and attachments thereto, was prepared and assembled under my supervision in accordance with instructions issued by the Commission. Subject to the recognition that, where so indicated, reasonable estimates have been made because books and records do not provide the required data, the information is, to the best of my knowledge, true, correct, and complete in accordance with the statute and rules.

I acknowledge that the Commission or the Assistant Attorney General of the Antitrust Division of the Department of Justice may, prior to the expiration of the initial waiting period pursuant to 15 U.S.C. 18a, require the submission of additional information or documentary material relevant to the proposed transaction. I have taken the necessary steps to prevent the destruction of documents and information related to the proposed transaction before the expiration of any waiting period.

Affidavits

Affidavit(s) required by § 803.5 must be notarized or use the language found in 28 U.S.C. 1746 relating to unsworn declarations under penalty of perjury. If an entity is filing on behalf of the acquiring or acquired person, the affidavit must still attest to the good faith of the UPE.

In non-§ 801.30 transactions, the affidavit(s) (submitted by both persons filing) must attest that a definitive agreement to merge or acquire has been executed, or if a definitive agreement has not been executed, that a term sheet or draft agreement that describes with specificity the scope of the transaction that will be consummated has been submitted. The affidavit(s) must further attest to the good faith intention of the person filing notification to complete the transaction. (See § 803.5(b)).

In § 801.30 transactions, the affidavit (submitted only by the acquiring person) must attest:

1. That the issuer whose voting securities or the unincorporated entity whose non-corporate interests are to be acquired has received notice, as described below, from the acquiring person;

2. In the case of a tender offer, that the intention to make the tender offer has been publicly announced; and

3. The good faith intention of the person filing notification to complete the transaction.

Acquiring persons in § 801.30 transactions are also required to submit a copy of the notice received by the acquired person pursuant to § 803.5(a)(3) along with the filing. This notice must include:

1. The identity of the acquiring person and the fact that the acquiring person intends to acquire voting securities of the issuer or non-corporate interests of the unincorporated entity;

2. The specific notification threshold that the acquiring person intends to meet or exceed in an acquisition of voting securities;

3. The fact that the acquisition may be subject to the Act, and that the acquiring person will file notification under the Act;

4. The anticipated date of receipt of such notification by the Agencies; and

5. The fact that the person within which the issuer or unincorporated entity is included may be required to file notification under the Act. (See § 803.5(a)).

Privacy Act Statement

Section 18a(a) of Title 15 of the U.S. Code authorizes the collection of this information. Our authority to collect Social Security numbers is 31 U.S.C. 7701. The primary use of information submitted on this Form is to determine whether the reported merger or acquisition may violate the antitrust laws. Taxpayer information is collected, used, and may be shared with other agencies and contractors for payment processing, debt collection and reporting purposes. Furnishing the information on the Form is voluntary. Consummation of an acquisition required to be reported by the statute cited above without having provided this information may, however, render a person liable to civil penalties up to the amount listed in 16 CFR 1.98(a) per day.

We also may be unable to process the Form unless you provide all of the requested information.

Disclosure Notice

Public reporting burden for this report is estimated to vary from 20 to 382 hours per response, with an average of 144 hours per response, including time for reviewing instructions, searching existing data sources, gathering, and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this report, including suggestions for reducing this burden to:

Premerger Notification Office, Federal Trade Commission, Room #5301, 400 7th Street SW, Washington, DC 20024

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503

Under the Paperwork Reduction Act, as amended, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The operative OMB control number, 3084–0005, appears within the Notification and Report Form and these Instructions.

By the direction of the Commission.

April J. Tabor,

Secretary.

[FR Doc. 2023–13511 Filed 6–28–23; 8:45 am]

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Part IV

Department of Education

Privacy Act of 1974; System of Records; Notice

DEPARTMENT OF EDUCATION

[Docket ID ED–2023–FSA–0113]

Privacy Act of 1974; System of Records

AGENCY: Federal Student Aid, U.S. Department of Education.

ACTION: Notice of a new 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 new system of records titled ''FUTURE Act System (FAS)'' (18–11–23). The Fostering Undergraduate Talent by Unlocking Resources for Education (FUTURE Act) amended the Internal Revenue Code (IRC) to authorize the U.S. Department of the Treasury, Internal Revenue Service (IRS), to disclose to the Department certain Federal tax information (FTI) of an individual, upon approval being provided by the individual to the Department, for the purpose of determining eligibility for, or repayment obligations under, Income-Driven Repayment (IDR) plans under title IV of the Higher Education Act of 1965, as amended (HEA), with respect to loans under part D of title IV of the HEA, and determining eligibility for, and amount of Federal student financial aid under, a program authorized under subpart 1 of part A, part C, or part D of title IV of the HEA. The Department and the IRS have entered into a computer matching agreement (CMA) pursuant to which the IRS will disclose FTI to the Department, to maintain and secure the FTI obtained in this system.

DATES: Submit your comments on this new system of records notice on or before July 31, 2023.

This new system of records notice will become applicable upon publication in the **Federal Register** on June 29, 2023, unless it needs to be changed as a result of public comment, except for the routine uses. The routine uses, listed in the section titled ''ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES,'' will become effective on July 31, 2023, unless they need to be changed as a result of public comment. The Department will publish any significant changes to the new system of records notice or routine uses 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 all 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 aid, please contact the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Pardu Ponnapalli, Technology Directorate, Federal Student Aid, U.S. Department of Education, Union Center Plaza, 830 First Street NE, Washington, DC 20202–5454. Telephone: 202–377–4006. Email: *Pardu.Ponnapalli@ed.gov*.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), you may call the Federal Relay Service, toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Introduction

The FAS provides a confined platform consisting of three specific FSA information technology systems (namely, the FTI Module, FTI Datamart, and FTI Student Aid internet Gateway (SAIG), described in greater detail below), within which the Department uses and maintains FTI that the Department receives from the IRS in accordance with the IRC, including sections 6103(l)(13)(A), (C), and(D) therein.

The FAS allows the Department to: (1) enhance the Free Application for Federal Student Aid (FAFSA®)experience by enabling the Department to obtain FTI from the IRS for each applicant, parent, or spouse who provides approval for the purposes set forth in section 6103(l)(13)(C) of the IRC; (2) improve program integrity for Income Driven Repayment (IDR) plans by enabling the Department to obtain FTI faster, and in a secure manner, from the IRS for individuals who provide approval for the purposes set forth in section 6103(l)(13)(A) and (C) of the IRC; and (3) provide an improved experience to applicable aid applicants and aid recipients, along with their spouses and parents, through the establishment of a matching program between the IRS and the Department.

To the extent that the Department determines it to be required by law or essential to the conduct of its matching program with the IRS, the Department may also use the FTI that the IRS discloses to the Department for the foregoing purposes for the following additional purposes permitted by section 6103(l)(13)(D)(i) of the IRC: (a) reducing the net cost of improper payments: (i) under IDR plans, and (ii) relating to awards of Federal student financial aid under a program authorized under subpart 1 of part A, part C, or part D of title IV of the HEA; (b) the Department's OIG's oversight activities as authorized by chapter 4 of title 5 of the United States Code, except for the purpose of conducting criminal investigations or prosecutions; and (c) conducting analyses and forecasts for estimating costs related to: (i) IDR plans, and (ii) awards of Federal student financial aid under a program authorized under subpart 1 of part A, part C, or part D of title IV of the HEA. This will improve the Department's administration of programs authorized under title IV of the HEA by enhancing the FAFSA verification experience and eliminating multi-year certification for IDR plan applicants and aid recipients, which simplifies both online application experiences and prevents many aid recipients from defaulting on their Federal student loans.

The three FSA information technology systems comprising the FAS are as follows:

(i) FTI Module—The FTI Module is a centralized and secured platform that interfaces with the IRS to collect and maintain FTI via a matching program. It also serves as a database that contains

FTI where authorized Department users can view FTI and perform all FTI-related business functions. The FTI Module also houses the non-FTI information (*e.g.,* last name, SSN/TIN, unique identifier, consent/affirmative approval information, date, and time stamp) needed to engage in the applicable matching program. In particular, the Department uses the FTI Module to perform calculations required for the Department to determine eligibility for, and amount of, Federal student financial aid under subpart 1 of part A, part C, or part D of title IV of the HEA, and eligibility for, and repayment obligations under, IDR plans with respect to loans under part D of title IV of the HEA, as permitted under sections 6103(l)(13)(A) and (C) of the IRC. More specifically, the Department uses the FTI Module to calculate the Student Aid Index (SAI), verify financial information, conduct eligibility determination checks, and calculate the IDR plan monthly payment amount. Further, the. The FTI Module produces outputs to FSA systems outside of the FTI Module's boundary that address those systems' required business needs, as permitted by applicable law and in a manner that complies with IRS Publication 1075, ''Tax Information Security Guidelines for Federal, State, and Local Agencies.'' For example, the SAI calculation that is derived from FTI within the FTI Module boundary is transmitted to the FAFSA Processing System (FPS) covered by the Department's system of records notice entitled ''Aid Awareness and Application Processing'' (18–11–21). In addition, to determine eligibility requirements for loan repayment plans, the FTI Module calculates a monthly loan payment amount derived from FTI which is then transmitted to the Common Origination and Disbursement (COD) System covered by the Department's system of records notice entitled ''Common Origination and Disbursement (COD)System'' (18–11–02);

(ii) FTI Datamart—The FTI Datamart is a secure data warehouse that contains FTI maintained by the Department and utilizes analytics frameworks to support data analytics, budget service, and auditing analysis. A set of analytical tools included in the FTI Datamart provides users the ability to analyze data based on the users' needs and to the extent such analysis is authorized by sections 6103(l)(13)(D)(i)(I) through (III) of the IRC; and

(iii) FTI SAIG—The FTI SAIG is used for title IV, HEA data transmissions that contain FTI, as permitted by section 6103(l)(13)(D)(iii) of the IRC and provided the Department has obtained the written consent of the taxpayer, to certain institutions of higher education (IHE),IHEs) State higher education agencies, and certain scholarship organizations solely for use in the application, award, and administration of financial aid awarded by the Federal government, by an IHE that participates in a program under subpart 1 of part A, part C, or part D of title IV of the HEA, by a State higher education agency, or by a scholarship organization designated by the Secretary of Education prior to December 19, 2019, under section 483(a)(3)(E) of the HEA.

Additionally, the FTI SAIG allows users the ability to send and receive files while maintaining complete compliance with applicable law and the requirements of IRS Publication 1075 regarding the transfer and storage of FTI.

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 U.S. Department of Education (Department or ED) publishes a notice of a new system of records to read as follows:

SYSTEM NAME AND NUMBER:

FUTURE Act System (FAS) (18–11–23).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Amazon Web Services (AWS) GovCloud West-1, 875 Howard Street, San Francisco, CA 94103–3009. (AWS GovCloud hosts the infrastructure that supports the FAS.) Federal Student Aid (FSA), U.S. Department of Education, Union Center Plaza, 830 First Street NE, Washington, DC 20202–5454.

SYSTEM MANAGER(S):

FUTURE Act System Manager, Technology Directorate, Federal Student Aid (FSA), U.S. Department of Education, Union Center Plaza, 830 First Street NE, Washington, DC 20202–5454.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title IV of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1070 *et seq.*); section 141(f) of the HEA (20 U.S.C. 1018(f)), and 6103(1)(13) and p(4) of the IRC and IRS Publication 1075 Tax Security Guidelines for Federal, State, and Local Agencies. The collection of Social Security numbers (SSNs) and Taxpayer Identification numbers (TINs) of individuals (including parents of dependent applicants and spouse(s) of independent applicants), who apply for or receive Federal student financial assistance under programs authorized by title IV of the HEA is also authorized by 31 U.S.C. 7701 and Executive Order 9397, 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 related to aid applicants and recipients under title IV of the HEA:

(1) To provide an aid applicant's or aid recipient's financial aid history to aid applicants or aid recipients, IHEs, Tribes, and Federal, State higher education agencies, or local agencies, and third-party servicers;

(2) To assess the administration of title IV, HEA program funds;

(3) To identify, recoup, and prevent improper payments in title IV, HEA programs;

(4) To help Federal, State, Tribal and local government agencies exercise their supervisory and administration powers (including, but not limited to licensure, examination, discipline, regulation, or oversight of IHEs, Department contractors, guaranty agencies, lenders and loan holders, and third-party servicers);

(5) To respond to aid applicant or aid recipient complaints submitted

regarding the practices or processes of the Department and/or the Department's contractor;

(6) To update information and correct errors contained in Department records regarding the aid applicant's or aid recipient's title IV, HEA program funds;

(7) To support the investigation of possible fraud and abuse and detect and prevent fraud and abuse in title IV, HEA program funds;

(8) To determine an applicant's eligibility for the award of aid under title IV of the HEA, State postsecondary education assistance, and aid by eligible IHEs or other entities that have been designated by the Secretary, as currently permitted by Section 483(a)(3)(E) of the HEA (20 U.S.C. 1090(a)(3)(E)), and to administer those awards.

Pursuant to sections 6103(l)(13)(A) and (C) of the Internal Revenue Code (IRC) the Department will use the Federal tax information (FTI) disclosed to the Department by the U.S. Department of the Treasury, Internal Revenue Service (IRS), that the Department maintains in this system for the purpose of determining eligibility for, or repayment obligations under, Income-Driven Repayment (IDR) plans under title IV of the HEA, with respect to loans under part D of title IV of the HEA; and determining eligibility for, and amount of Federal student financial aid under, a program authorized under subpart 1 of part A, part C, or part D of title IV of the HEA.

To the extent that the Department determines it to be required by law or essential to the conduct of its matching program with the IRS, the Department may also use the FTI that the Department maintains in this system for the foregoing purposes for the following additional purposes permitted by section 6103(l)(13)(D)(i) of the IRC:

(1) reducing the net cost of improper payments:

(a) under IDR plans, and

(b) relating to awards of Federal student financial aid under a program authorized under subpart 1 of part A, part C, or part D of title IV of the HEA;

(2) the Department's Office of Inspector General's (OIG's) oversight activities as authorized by chapter 4 of title 5 of the United States Code, except for the purpose of conducting criminal investigations or prosecutions; and (3) conducting analyses and forecasts for estimating costs related to:

(a) IDR plans, and

(b) awards of Federal student financial aid under subpart 1 of part A, part C, or part D of title IV of the HEA.

The Department also uses the FTI that the Department maintains in this system to produce a Student Aid Report (SAR)/FAFSA Submission Summary (FSS), Institutional Student Information Record (ISIR) and, as permitted by section 6103(l)(13)(D)(iii) of the IRC and provided the Department has obtained the applicable individual's written consent, to distribute the ISIR to authorized institutions of higher education (IHEs), State higher education agencies, and certain scholarship organizations solely for the use in the application, award, and administration of financial aid awarded by the Federal Government, by an IHE that participates in a program under subpart 1 of part A, part C, or part D of title IV of the HEA, by a State higher education agency, or by a scholarship organization designated by the Secretary of Education prior to December 19, 2019, under section 483(a)(3)(E) of the HEA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system of records maintains records on aid applicants, aid recipients, and participants (*i.e.,* parent(s) of dependent applicants and spouse(s) of independent applicants) who apply for repayment of their obligations under IDR plans under title IV of the HEA with respect to loans under part D of title IV of the HEA, or who apply for Federal student financial aid under a program authorized under subpart 1 of part A, part C, or part D of title IV of the HEA.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records maintains information provided by aid applicants for and aid recipients, or participants (as defined above) of, title IV, HEA program assistance on the Free Application for Federal Student Aid (FAFSA®) including, but not limited to, the applicant's last name, date of birth, SSN and/or TIN, unique identifier, consent/affirmative approval information, and the date/time stamp of the consent/affirmative approval provided for the purposes set forth in section 6103(l)(13)(C) of the IRC, clauses (iii), (iv), (v), and (vi) of section 6103(l)(13)(D) of the IRC, and under section 494(a) of the HEA (20 U.S.C. 1098h(a)). This system also maintains similar information provided about participants (as defined above) on the FAFSA. For an aid applicant or aid recipient who is married, this system of records also maintains spousal income and asset information. For an aid applicant or aid recipient who is a dependent student, this system of record maintains their income and asset information as well as the income and asset information of their parent(s).

In addition, this system maintains data related to FTI transmission processing, such as when FTI batch data was transmitted and received by the FTI SAIG.

This system also maintains the following data on IDR applicants and their spouses, if applicable, to calculate and produce the output calculation of the monthly repayment amount for IDR-related plans: the applicant's last name, date of birth, SSN and/or TIN, and unique identifier, and the consent/affirmative approval including date/time stamp provided for the purposes set forth in section 6103(l)(13)(A) of the IRC, clauses (iii), (iv), (v), and (vi) of section 6103(l)(13)(D) of the IRC, and under section 494(a) of the HEA (20 U.S.C. 1098h(a)).

Further, this system maintains the following FTI to determine eligibility for, and amount of, Federal student financial aid under a program authorized under subpart 1 of part A, part C, or part D of title IV of the HEA: SSA/TIN; tax year; last name; filing status code; adjusted gross income (AGI) amount; total number of tax exemptions; total number of dependents; income earned from work (sum of wages, farm income, Schedule C income); total amount of income tax paid; total allowable education tax credits; sum of untaxed IRA contributions and other payments to qualified plans; tax-exempt interest received; sum of untaxed pensions and annuities; net profit/loss from Schedule C; and indicator of filing for Schedules A, B, D, E, F, and H. This FTI will be used to generate a Student Aid Index (SAI), which will also be maintained in this system.

This system maintains the following FTI to determine eligibility for, or repayment of obligations under, IDR plans under title IV of the HEA with respect to loans under part D of title IV of the HEA: SSN/TIN, tax year; last name; filing status code; AGI amount; total number of exemptions; and total number of dependents. This FTI will be used to calculate monthly payment amounts, which will also be maintained in this system.

Note: With the consent/affirmative approval of the applicants, an ISIR will be provided to the IHEs identified on the applicant's FAFSA indicating the applicant's SAI, application results, whether there is discrepant or insufficient data, or FPS assumptions that affect FAFSA processing. The SAI will be used by IHEs to determine the student's eligibility for Federal and institutional program assistance, by State higher education agencies to determine the student's eligibility for State aid, and, if provided by the aid applicant or aid recipient, the Bureau of Indian Affairs (BIA) for tribal assistance.

RECORD SOURCE CATEGORIES:

Information maintained in this system is obtained from aid applicants or aid recipients, the parent(s) of dependent aid applicants or aid recipients (for FAFSA purposes only), and the spouse(s) of independent aid applicants or aid recipients for title IV, HEA program assistance; the authorized employees or representatives of IHEs, institutional third-party servicers, and State higher education agencies; and other persons or entities from which information is disclosed following a disclosure of records under the routine uses set forth below.

This system maintains information added during FTI processing and receives information from other Department information technology systems or their successor systems, such as the National Student Loan Data System (NSLDS) (covered by the Department's system of records notice entitled ''National Student Loan Data System (NSLDS)'' (18–11–06)); Common Origination and Disbursement (COD) System (covered by the Department's system of records notice entitled ''Common Origination and Disbursement (COD) System'' (18–11–02); Enterprise Data Management and Analytics Platform Services (EDMAPS) (covered by the Department's system of records notice entitled ''Enterprise Data Management and Analytics Platform Services'' (18–11–22)); Person Authentication Service (PAS) (covered by the Department's system of records notice entitled ''Person Authentication Service (PAS)'' (18–11–12)); Postsecondary Education Participants System (PEPS) (covered by the Department's system of records notice entitled ''Postsecondary Education Participants System (PEPS)'' (18–11–09)); and all information technology systems covered by the Department's system of records entitled ''Aid Awareness and Application Processing'' (18–11–21).

Information maintained in this system is also obtained through a matching program with the IRS.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The Department may disclose information maintained 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. These disclosures may be made on a case-by-case basis or pursuant to a computer matching agreement that meets the requirements of the Privacy Act of 1974, as amended (Privacy Act) (5 U.S.C. 552a). However, any FTI maintained in a record in this system of records may only be disclosed without the consent of the individual under the routine uses listed in this system of records notice if the disclosure is compatible with the purposes for which the record was collected and if the disclosure is permissible under section 6103(l)(13) of the IRC. Section 483(a)(3)(E) of the HEA, which will be in effect until June 30, 2024, also restricts the use of the information collected by the electronic FAFSA to the application, award, and administration of aid awarded under title IV of the HEA or of aid awarded by States, eligible IHEs, or such entities as the Secretary of Education may designate. Thus, until July 1, 2024, any such FAFSA information may only be disclosed under the routine uses listed in this system of records notice if the disclosure is compatible with the purposes for which the record was collected and if the disclosure is for the application, award, and administration of aid awarded under title IV of the HEA or of aid awarded by States, eligible IHEs, or such entities as the Secretary of Education may designate.

Program Disclosures. The Department may disclose records from this system of records for the following program purposes:

(a) To provide an aid applicant's or aid recipient's financial aid history, the Department may disclose records to IHEs, Tribes, and Federal, State higher education agencies, or local agencies, and third-party servicers;

(b) To facilitate receiving application and recertification information, calculating IDR plans monthly payment amounts, and calculating SAI, the Department may disclose records to IHEs, and Federal, State higher education agencies, or local agencies, Tribes, and third-party servicers;

(c) To assist the Department in assessing the administration of title IV, HEA program funds, the Department may disclose records to IHEs, third-party servicers, and Federal and State agencies;

(d) To support the Department in identifying, preventing, and recouping, improper payments in title IV, HEA programs, the Department may disclose records to IHEs, third-party servicers, Tribes, and Federal, State, or local agencies, State higher education agencies, and fiscal/financial agent designated by the U.S. Department of Treasury include employees, agents, or contractors of such agent;

(e) To help Federal, State, Tribal, and local governmental agencies 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;

(f) To support the investigation of possible fraud and abuse and to detect and prevent fraud and abuse in title IV, HEA program funds, the Department may disclose records to IHEs, third-party servicers, Tribal, and Federal, State, or local agencies; and

(g) To determine an aid applicant's eligibility for the award of aid under title IV of the HEA, and to assist with the awarding and administration of aid, State postsecondary education assistance, and aid by eligible IHEs or other entities designated by the Secretary of Education and to administer those awards, the Department may disclose records to State agencies, eligible IHEs, third-party servicers, Tribal, Federal, State, or local agencies, and other entities that award aid to students that have been designated by the Secretary of Education.

(2) *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 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.

(3) *Litigation and Alternative Dispute Resolution (ADR) Disclosure.*

(a) *Introduction.* In the event that one of the parties listed in sub-paragraphs (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 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 their official capacity;

(iii) Any Department employee in their individual capacity where the U.S. Department of Justice (DOJ) agrees to or has been requested to provide or arrange for representation of the employee;

(iv) Any Department employee in their individual capacity where the Department has agreed to represent the employee; and

(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 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) and Privacy Act Advice Disclosure.* The Department may disclose records to the DOJ or to the Office of Management and Budget (OMB) if the Department determines that disclosure would help in determining whether 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, Tribal, 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 and Professional Organizations.* The Department may disclose a record to a Federal, State, Tribal, local, or other public authority or professional organization, 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 an employee grievance, complaint, or disciplinary action involving a present or former employee of the Department, the Department may disclose a record from this system of records 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.

(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. chapter 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) *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 authorized and qualified to carry out specific research related to 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 the OMB and Congressional Budget Office (CBO) for Federal Credit Reform Act (FCRA) Support.* The Department may disclose records to OMB and CBO as necessary to fulfill FCRA 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 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 the following information to a consumer reporting agency regarding a valid, overdue claim of the Department: (1) the name, address, TIN, 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 at 15 U.S.C. 1681a(f) and 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Electronic applicant records, which may include optically imaged documents, are stored on Direct Access Storage Device (DASD) disks in a virtual disk library, in the computer facilities controlled by the Federal Student Aid Data Center.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records in this system pertaining to a title IV, HEA loan aid applicant or aid recipient are indexed and retrieved by a single information element or a combination of the following information elements: SSN/TIN, name, date of birth, and/or the academic year in which the aid applicant applied for title IV, HEA program assistance.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records that constitute FTI that are maintained in this system are primarily retained and disposed of in accordance with the following records schedules:

(a) The Department will maintain FTI that the Department receives from the IRS pursuant to section 6103(l)(13)(A) of the IRC 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 title IV of the HEA, in accordance with ED Records Schedule 072, ''FSA Application, Origination, and Disbursement Records'' (DAA–0441–2013–0002)(ED 072); ED Records Schedule 075, ''FSA Loan Servicing, Consolidation, and Collections Records'' (DAA–N1–441–09–016) (ED 075); and ED Records Schedule 051, ''FSA National Student Loan Data System(NSLDS)'' (DAA–0441–2017–0004) (ED 051). The Department has proposed amendments to ED 072, ED 051, and ED 075 for NARA's consideration and will not destroy records covered by these records schedules until such amendments are in effect, as applicable;

(b) The Department will maintain FTI that the Department receives from the IRS pursuant to sections 6103(l)(13)(A) and/or (C) of the IRC that the Department uses for the purpose of reducing the net cost of improper payments under such IDR plans and relating to such awards, and pursuant to section 6103(l)(13)(C) of the IRC for the purpose of determining eligibility for, and amount of, Federal student financial aid under the programs authorized under subpart 1 of part A, part C, or part D of title IV of the HEA in accordance with ED Records Schedule 052, ''Ombudsman Case Files'' (N1–441–09–21) (ED 052). The Department has proposed amendments to ED 052 for NARA's consideration and will not destroy records covered by this records schedules until such amendments are in effect, as applicable;

(c) The Department will maintain FTI that the Department receives from the IRS pursuant to sections 6103(l)(13)(A) and/or (C) of the IRC that the Department uses for the purpose of oversight by the Department's OIG as authorized by chapter 4 of title 5 of the United States Code, except for the purpose of conducting criminal investigations or prosecutions, in accordance with OIG ''Office of Inspector General Simplified Records Schedule'' (DAA–0441–2021–0001); and

(d) The Department will maintain FTI that the Department receives from the IRS pursuant to IRC sections 6103(l)(13)(A) and/or (C) of the IRC that the Department uses for the purpose of conducting analyses and forecasts for estimating costs related to IDR plans and/or awards of Federal student financial aid under the Pell Grant, FWS or Direct Loan, programs authorized under subpart 1 of part A, part C, or part D of title IV of the HEA in accordance with ED Records Schedule 057, ''Office of the Secretary, Deputy Secretary and Under Secretary,'' (DAA–441–97–1) (ED 057), item 16a; and General Records Schedule 1.3, ''Budgeting Records,'' items 040 and 041. The Department proposed amendments to ED 057 for NARA's consideration and will not destroy records covered by this records schedule until such amendments are in effect, as applicable.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

All users of the system will have a unique user ID with a password. All physical access to the data housed at system locations is controlled and monitored by security personnel who check each individual entering the building for their employee or visitor badge. The computer system employed by the Department offers a high degree of resistance to tampering and circumvention with firewalls, encryption, and password protection. 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 interactions by users of the system are recorded.

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.

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. The Department will maintain all FTI obtained from the matching program in accordance with section6103(p)(4) of the IRC and comply with the safeguards requirements set forth in IRS Publication 1075, Tax Information Security Guidelines for Federal, State, and Local Agencies, which is the IRS published guidance for security guidelines and other safeguards

for protecting FTI pursuant to section6103(p)(4) of the IRC and 26 CFR 301.6103(p)(4)–1.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, FAFSA applicants and contributors are encouraged to contact their IHE financial aid administrators to access their record most efficiently. IDR applicants, and those recertifying their IDR benefits, may access their non-FTI information by contacting their Federal student loan servicer. Either set of individuals may gain access to their complete records from this system, including FTI, by contacting the system manager at the address listed above. You must provide necessary particulars such as your name, SSN/TIN, date of birth, and any other identifying information requested by the Department while processing the request to distinguish between individuals with the same name. Alternatively, to gain access to a record in the system, you can make a Privacy Act request through the Department's FOIA Service Center at *https://www2.ed.gov/policy/gen/leg/foia/request_privacy.html* by completing the applicable request forms.

Requests by an individual for access to a record must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest or change the content of a record about you in the system of records, provide the System Manager with your name, date of birth, SSN/TIN, and any other identifying information requested by the Department, while processing the request, to distinguish between individuals with the same name. Identify the specific items to be changed and provide a justification for the change.

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 about you in the system of records, contact the system manager at the address listed above. You must provide necessary particulars such as your name, SSN/TIN, date of birth, and any other identifying information requested by the Department while processing the request to distinguish between individuals with the same name. Alternatively, you can make a Privacy Act request through the Department's FOIA Service Center at *https://www2.ed.gov/policy/gen/leg/foia/request_privacy.html* by completing the applicable request forms.

Requests for notification about whether the system of records contains information about an individual must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

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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.

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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