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DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 212, 214, 245, and 274a

[CIS No. 2783–24; DHS Docket No. USCIS 2011–0010]

RIN 1615–AA59

Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for ''T'' Nonimmigrant Status; Correction

AGENCY: U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security (DHS).

ACTION: Final rule; correction.

SUMMARY: USCIS is correcting a final rule that published in the **Federal Register** on April 30, 2024. The final rule amended DHS regulations governing the requirements and procedures for victims of a severe form of trafficking in persons seeking T nonimmigrant status. These technical corrections will fix typographical and non-substantive technical errors.

DATES: Effective August 28, 2024.

FOR FURTHER INFORMATION CONTACT: Rená Cutlip-Mason, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, 5900 Capital Gateway Dr., Camp Springs, MD 20746; telephone 240–721–3000 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

On April 30, 2024, the Department of Homeland Security (DHS) published a final rule in the **Federal Register** at 89 FR 34864 (FR Doc. 2024–09022). The final rule amends DHS regulations governing the requirements and procedures for victims of a severe form of trafficking in persons seeking T nonimmigrant status. After review of the published document, DHS identified a few errors in the preamble and regulatory text.

This document, in the section titled ''Correction of Errors and Technical Amendments,'' identifies and corrects several technical and typographical errors in the final rule. The provisions in this document are effective as if they had been included in the final rule that published in the **Federal Register** on April 30, 2024.

Accordingly, the corrections are effective on August 28, 2024 at 12 a.m. Eastern Time. This document does not change how DHS will apply the final rule, *i.e.,* DHS will apply the corrected provisions to applications pending on, or filed on or after, August 28, 2024.

II. Summary and Explanation of Technical Corrections

A. Minimum Contact With Law Enforcement

At 8 CFR 214.208(b), the final rule discusses what constitutes ''minimum contact'' with law enforcement for purposes of meeting the requirement that an applicant comply with any reasonable request for assistance from law enforcement. In one sentence in the preamble, the rule mistakenly refers to a minimum ''conduct'' requirement, rather than ''contact.'' [1] Therefore, on page 34882, second column, DHS removes the word ''conduct'' and replaces it with the word ''contact'' to correctly refer to the requirement that an applicant must have contact with law enforcement.

B. Any Credible Evidence

This document corrects an inadvertently omitted phrase in the regulatory text describing the ''any credible evidence'' provision.[2] The preamble states the rule makes clear that applicants can submit any credible evidence related to all the eligibility requirements for both principal applicants and derivative applicants, citing specifically to 8 CFR 214.204(c) and (l) as examples.[3] The regulation at 8 CFR 214.204(c)(2) reinforces the preamble's discussion of the ''any credible evidence'' provision and is consistent with the regulatory text at 8 CFR 214.204(l), which emphasizes that applicants may submit such evidence to establish any of the eligibility requirements.

At 8 CFR 214.204(c)(2), the final rule states an Application for T Nonimmigrant Status must include any credible evidence supporting any of the eligibility requirements set out in §§ 214.206 through 214.208. The eligibility requirements, however, extend through 8 CFR 214.209 (Extreme Hardship).

DHS inadvertently omitted this reference to extreme hardship as one of the eligibility requirements to be proven by any credible evidence,[4] as indicated by the specific preamble language referenced above, as well as by DHS's clear intent throughout the preamble and regulatory text. Therefore, DHS is correcting the regulatory text at 214.204(c)(2) on page 34933, second column, to provide that an Application for T Nonimmigrant Status must include any credible evidence supporting any of the eligibility requirements set out in §§ 214.206 through 214.209.

C. Bona Fide Determinations (BFD)

DHS noted several technical and typographical errors in the portion of the final rule that creates a modified BFD process that generally applies only to applications that are filed on or after the effective date of the rule, August 28, 2024.[5] Through this process, USCIS may grant deferred action and employment authorization to applicants with bona fide Applications for T Nonimmigrant Status if they merit a favorable exercise of discretion.[6]

Effective Date of Modified Bona Fide Determination Process

In the preamble to the final rule, DHS indicated that this BFD process applies to cases filed ''on or after the effective date'' of the final rule.[7] The regulatory text, however, indicates that DHS will conduct bona fide reviews on applications ''submitted after August 28, 2024.'' [8] The regulatory text inadvertently omitted the text ''on or'' before the word ''after'' to indicate that the BFD process would apply to applications received on August 28, 2024. Therefore, DHS corrects the regulatory text, 8 CFR 214.205(a) (on

[1] 89 FR at 34882.

[2] *See, e.g.,* 8 CFR 214.204(l); 89 FR at 34866, 34868, 34871, 34885.

[3] 89 FR at 34885.

[4] *See* 89 FR at 34933.

[5] *See* 8 CFR 214.205.

[6] *See* 8 CFR 214.205; 89 FR at 34875.

[7] 89 FR at 34875.

[8] 8 CFR 214.205(a).

page 34934, second column) to indicate that if an Application for T Nonimmigrant Status is submitted on or after August 28, 2024, USCIS will conduct an initial review to determine if the application is bona fide.[9]

Bona Fide Determination Employment Authorizations Documents (EAD)

This document corrects an erroneously omitted reference in the section describing the automatic conversion for previously filed applications for employment authorization to applications for the newly created BFD EAD classification.[10] DHS identified those previously filed applications as being under the categories (a)(16) or (25); however, there is no (a)(25) category. DHS inadvertently failed to include the ''(c)'' prior to ''(25)'' to signify the EAD category for T derivatives. Therefore, on page 34875, second column, DHS adds the text ''(c)'' in front of ''(25)'' to include the appropriate EAD category, thus indicating that DHS will automatically convert previously filed applications for employment authorization filed under 8 CFR 274a.12(a)(16) and (c)(25) to applications for the newly created BFD EAD classification.

Bona Fide Determinations for Applicants in Removal Proceedings

The final rule inadvertently omitted a reference to the Application for T Nonimmigrant Status in the section describing bona fide determinations for applicants in removal proceedings, which applies to individuals with Applications for T Nonimmigrant Status or Applications for Derivative T Nonimmigrant Status.[11] However, the next sentence indicates that in such cases, ICE may exercise prosecutorial discretion while USCIS adjudicates an Application for Derivative T Nonimmigrant Status, and does not mention an Application for T Nonimmigrant Status.[12] This omission was inadvertent, as the prior sentence clearly indicates the section should apply to both principal and derivative applications for T nonimmigrant status. Therefore, DHS is correcting the regulatory text at 8 CFR 214.205(f), on page 34935, first column, to indicate that ICE may exercise prosecutorial discretion while USCIS adjudicates an Application for T Nonimmigrant Status *or* an Application for Derivative T Nonimmigrant Status. This correction is consistent with the remainder of the section and DHS's intent.[13]

D. Age-Out Provisions

This document corrects an erroneously omitted change to regulatory text for consistency and clarity. The final rule contained new 8 CFR 214.211(e)(3), on page 34939, first column, which stated that the age-out protections apply to a derivative child applicant who is under age 21 at the time the principal filed the Application for T Nonimmigrant Status, but turns 21 during the pendency of the principal's Application for T Nonimmigrant Status. This change conformed the regulatory provisions with INA section 214(o)(4), 8 U.S.C. 1184(o)(4), which only applies the age-out protections if the child turns 21 after the principal's Application for T Nonimmigrant Status is filed, but while it is pending.[14] However, the final rule erroneously did not change 8 CFR 214.211(e)(2)(i), the age-out protection relating to principal applicants under the age of 21, to be consistent with identical age-out protection language at INA section 214(o)(5), 8 U.S.C. 1184(o)(5), which similarly preserves the eligibility of parents and siblings under the age of 18 as derivative applicants only if the principal applicant turns 21 after the Application for T Nonimmigrant Status is filed, but while it is pending.[15] Therefore, DHS is correcting the regulatory text at 8 CFR 214.211(e)(2)(i), on page 34938, third column, to clarify that the age-out protection only applies if the principal applicant turns 21 after the principal's Application for T Nonimmigrant Status is filed, but while it is pending.

III. Administrative Procedure Act

Section 553(b) of the Administrative Procedure Act (APA) generally requires agencies to publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect. 5 U.S.C. 553(b). In addition, section 553(d) of the APA requires agencies to delay the effective date of final rules by a minimum of 30 days after the date of their publication in the **Federal Register**. 5 U.S.C. 553(d). Both of these requirements can be waived if an agency finds, for good cause, that the notice and comment process and/or delayed effective date is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice. 5 U.S.C. 553(b)(B), (d)(3).

DHS believes there is good cause for publishing this document without prior notice and opportunity for public comment and with an effective date of less than 30 days because such procedures are unnecessary. This document corrects technical and typographic errors in the preamble and regulatory text and does not make substantive changes to the policies in the final rule. This document merely conforms erroneous portions of the final rule to the agency's clearly expressed contemporaneous intent. Therefore, DHS believes that it has good cause to waive the notice and comment and effective date requirements of section 553 of the APA.

IV. Correction of Errors and Technical Amendments

Accordingly, the publication final rule at 89 FR 34864 (FR Doc. 2024–09022) is corrected as follows:

A. Correction of Errors in the Preamble

1. On page 34875, in the second column, lines 35–36, the language ''8 CFR 274a.12(a)(16) and (25)'' is corrected to read ''8 CFR 274a.12(a)(16) and (c)(25).''

2. On page 34882, in the second column, line 36, remove the word ''conduct'' and add in its place the word ''contact.''

3. On page 34886, in the first column, lines 50–52, remove the sentence ''DHS has also amended new 8 CFR 214.211(e)(3) to state that the age-out protections apply to a child who may turn 21 during the pendency of the principal's application for T nonimmigrant status'' and add in its place the sentence ''DHS has also amended new 8 CFR 214.211(e)(2) and (3) to state that the age-out protections apply to a child (principal or derivative) who may turn 21 during the pendency of the principal's application for T nonimmigrant status.''

B. Correction of Errors in the Regulatory Text

■ 4. On page 34933, in the second column, in instruction 7 in Subpart C, at § 214.204, correct paragraph (c)(2) to read as follows:

[9] *See* 89 FR at 34934, second column.

[10] *See* 89 FR at 34875.

[11] *See* 214.204(f); 89 FR at 34935, first column.

[12] *Id.*

[13] *See* 8 CFR 214.205(f).

[14] ''An unmarried alien who seeks to accompany, or follow to join, a parent granted status under section 1101(a)(15)(T)(i) of this title, and who was under 21 years of age on the date on which such parent applied for such status, shall continue to be classified as a child for purposes of section 1101(a)(15)(T)(ii) of this title, *if the alien attains 21 years of age after such parent's application was filed but while it was pending.*'' INA section 214(o)(4); 8 U.S.C 1184(o)(4) (emphasis added).

[15] ''An alien described in clause (i) of section 1101(a)(15)(T) of this title shall continue to be treated as an alien described in clause (ii)(I) of such section *if the alien attains 21 years of age after the alien's application for status under such clause (i) is filed but while it is pending.*'' INA section 214(o)(5); 8 U.S.C 1184(o)(5) (emphasis added).

§ 214.204 [Corrected]

* * * * *

(c) * * *

(2) Any credible evidence that supports any of the eligibility requirements set out in §§ 214.206 through 214.209.

■ 5. On page 34934, in the second column, in instruction 7 in Subpart C, at § 214.205, correct paragraph (a) to read as follows:

§ 214.205 [Corrected]

(a) *Bona fide determinations for principal applicants for T nonimmigrant status.* If an Application for T Nonimmigrant Status is submitted on or after August 28, 2024, USCIS will conduct an initial review to determine if the application is bona fide.

* * * * *

■ 6. On page 34935, in the first column, in instruction 7 in Subpart C, at § 214.205, correct paragraph (f) to read as follows:

§ 214.205 [Corrected]

* * * * *

(f) *Bona fide determinations for applicants in removal proceedings.* This section applies to applicants whose Applications for T Nonimmigrant Status or Applications for Derivative T Nonimmigrant Status have been deemed bona fide and who are in removal proceedings under section 240 of the Act, or in exclusion or deportation proceedings under former sections 236 or 242 of the Act (as in effect prior to April 1, 1997). In such cases, ICE may exercise prosecutorial discretion, as appropriate, while USCIS adjudicates an Application for T Nonimmigrant Status or an Application for Derivative T Nonimmigrant Status.

* * * * *

■ 7. On page 34938, in the third column, in instruction 7 in Subpart C, at § 214.211, correct paragraph (e)(2)(i) to read as follows:

§ 214.211 [Corrected]

* * * * *

(e) * * *

(2) *Age-out protection for eligible family members of a principal applicant under 21 years of age.* (i) If the T–1 principal applicant was under 21 years of age when they applied for T–1 nonimmigrant status but reached 21 years of age while the principal application was still pending, USCIS will continue to consider a parent or unmarried sibling as an eligible family member.

* * * * *

Christina E. McDonald,

Associate General Counsel for Regulatory Affairs, Department of Homeland Security.

[FR Doc. 2024–18735 Filed 8–22–24; 8:45 am]

BILLING CODE 9111–97–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 37

[NRC–2023–0030]

Interim Enforcement Policy for Dispositioning Violations With Respect to Large Components or Robust Structures Containing Category 1 or Category 2 Quantities of Radioactive Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an Interim Enforcement Policy that allows staff to exercise enforcement discretion for certain violations of regulations involving robust structures containing category 1 or category 2 quantities of radioactive material, or to large components containing category 1 or 2 quantities of radioactive material, provided the licensee meets certain conditions.

DATES: The policy statement is effective on August 23, 2024.

ADDRESSES: Please refer to Docket ID NRC–2023–0030 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2023–0030. Address questions about NRC dockets to Helen Chang; telephone: 301–415–3228; email: *Helen.Chang@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
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FOR FURTHER INFORMATION CONTACT: David Furst, Office of Enforcement; U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–287–9087; email: *David.Furst@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On June 15, 2010 (75 FR 33901), the NRC issued the proposed rule ''Physical Protection of Byproduct Material,'' for an initial public comment period. The agency subsequently published an extension notice on October 8, 2010 (75 FR 62330), which extended the public comment period until January 18, 2011.

Several commenters expressed concern about extending applicability for the proposed rule beyond byproduct material licensees to power reactor licensees. Specifically, the commenters stated that extending the requirements to large components or radioactive storage facilities located at power reactor plant sites appeared unwarranted. Accordingly, they recommended limiting the applicability of the rule to exclude large components and radioactive storage facilities and developing an appropriate threshold to exempt single items or items of aggregated quantities of large volume or weight, such that exemption requests would not be necessary and the security provisions of part 37 of title 10 of the *Code of Federal Regulations* (10 CFR) would not apply.

The NRC agreed, in part, with the commenters and determined that it is appropriate to include a partial exemption in the regulation instead of treating exemption requests on a case-by-case basis. The staff added paragraph (c) to § 37.11, ''Specific exemptions,'' to address radioactive waste materials. The provision does require the application of some security measures to waste exempted under § 37.11, but the majority of 10 CFR part 37 requirements would not apply. Security measures include the use of continuous physical

barriers, alarmed locked gates or doors, and assessment of and response to unauthorized entry. However, as described further below, the exemption does not cover large components or robust structures containing category 1 or category 2 quantities of radioactive material.

On March 19, 2013 (78 FR 16922), the NRC issued a final rule establishing 10 CFR part 37. The rule establishes physical protection requirements for licensees in possession of aggregated quantities of category 1 or category 2 radioactive material listed in Appendix A, ''Category 1 and Category 2 Radioactive Materials,'' to 10 CFR part 37. These requirements are similar to those previously imposed by orders from the NRC and Agreement States after September 11, 2001. The NRC licensees were required to be in compliance with the rule by March 19, 2014.

On March 13, 2014, before the compliance date for 10 CFR part 37, the NRC issued Enforcement Guidance Memorandum (EGM)–14–001, ''Interim Guidance for Dispositioning 10 CFR part 37 Violations with Respect to Large Components or Robust Structures Containing Category 1 or Category 2 Quantities of Material at Power Reactor Facilities Licensed Under 10 CFR parts 50 and 52 (RIN 3150–AI12)'' (ML14056A151). This EGM allows the staff to exercise enforcement discretion with respect to large components (*i.e.,* steam generators, steam dryers, turbine rotors, reactor vessels, reactor vessel heads, reactor coolant pumps, and shielding blocks) containing category 1 or category 2 quantities of radioactive material, and category 1 and category 2 quantities of radioactive material stored in robust structures such as a mausoleum (*i.e.,* closed concrete bunker or modular vault, for which the radioactive materials within can only be accessed using heavy equipment to remove structural components or large access blocks that weigh 2,000 kilograms or more) at power reactor facilities licensed under 10 CFR part 50 or 10 CFR part 52. The NRC staff developed and issued EGM–14–001 with input from staff subject matter experts and licensees, indicating that even with the addition of § 37.11(c), these licensees cannot reasonably meet the reduced security requirements of § 37.11(c) due to the locations of these storage facilities and the infrastructure needed.

On June 12, 2014, the Nuclear Energy Institute (NEI) submitted a Petition for Rulemaking (PRM)–37–1, identifying three issues and requesting that the NRC amend 10 CFR part 37 to clarify and expand current exemptions in § 37.11 for when the physical protection measures for category 1 and category 2 quantities of radioactive material do not apply to a power reactor licensee. NEI stated that both licensees and the NRC have encountered significant problems with § 37.11 that can only practically be remedied with a rulemaking. Specifically, NEI requested that the NRC revise the exemptions in § 37.11(b) and (c) and add a new paragraph (d) to address the issues identified in EGM–14–001. NEI indicated that the exemption in § 37.11(c) only addresses waste material, and therefore large components and non-waste material stored in robust structures that present a similar or lower risk for theft or diversion are not exempt from the 10 CFR part 37 requirements. NEI stated that a rulemaking to codify EGM–14–001's rationale would recognize the practicalities mitigating the actual risk of theft or diversion and would avoid the long-term use of enforcement discretion and case-by-case exemption in this area.

On June 12, 2015 (80 FR 33450), the NRC issued a **Federal Register** notice stating that it had reviewed the petition and related public comments and agreed to consider the issue raised in the rulemaking process. In the interim, EGM–14–001 would address large components and storage of radioactive material in robust structures.

In January 2022, regional management requested that the Office of Enforcement revise EGM–14–001 to incorporate a few minor editorial changes and to remove the requirement to bring these enforcement actions to an enforcement panel before allowing the staff to exercise enforcement discretion under the EGM. Additionally, the staff considered the potential risks presented by extended reliance on an EGM absent a clearly defined plan to restore compliance through the regulatory process.

EGM–14–001 has been executed approximately 20 times since its inception and has been in place longer than originally envisioned, primarily because of the lower priority of this rulemaking compared to other work and rulemaking activities. The staff is currently developing a rulemaking plan that would request Commission approval to initiate a rulemaking that would amend 10 CFR part 37 to address requirements for unescorted access, notification of legal actions, and coordination with law enforcement at temporary sites; specify time periods for advance license verifications; and require the development of implementing procedures associated with the shipment of radioactive materials. This rulemaking would also address the issues raised by NEI in PRM–37–1.

II. Discussion

EGMs are intended to provide temporary guidance and are typically put in place for relatively short periods of time. Pending the active pursuit of the Part 37 rulemaking, it would be appropriate and advantageous to issue an Interim Enforcement Policy (IEP) to allow continued enforcement discretion until the underlying technical issue is dispositioned through rulemaking or other regulatory action. IEPs provide an avenue to establish policy, allowing them to be in place for longer periods of time than EGMs and providing for increased regulatory clarity because they are approved by the Commission as a policy matter. IEPs also offer enhanced openness because they are published in the **Federal Register** to provide broad awareness among stakeholders and incorporated in the Enforcement Policy. This IEP addresses the need and would allow the staff to continue to exercise enforcement discretion and not issue a notice of violation pending rulemaking or other appropriate regulatory action.

After a review of how 10 CFR part 37 requirements apply to large components and category 1 or category 2 quantities of radioactive material stored in robust structures, and after interactions with stakeholders in public meetings, the staff has determined that enforcement discretion, under certain conditions, is appropriate for some violations of part 37 at power reactor facilities while rulemaking or appropriate regulatory action is considered.

For this Interim Enforcement Policy (IEP), a large component is defined as an item weighing 2,000 kilograms or more but not containing either discrete sources or ion-exchange resins. In this context, large components typically include steam generators, steam dryers, turbine rotors, reactor vessels, reactor vessel heads, reactor coolant pumps, and shielding blocks. Due to their size and weight, these large components are not easily moved without cranes, rigging, and heavy equipment. In addition, these large components are not easily concealed during loading or when they are in motion, and the amount of time required to steal or divert these large components is such that it is reasonable to expect that the licensee would detect these activities.

For this IEP, a robust structure is defined as a closed concrete bunker or modular vault, for which the radioactive materials contained within can only be accessed using heavy equipment to

remove structural components or large access blocks that weigh 2,000 kilograms or more. Access to these robust structures requires significant execution time. Typically, routine work activities, observation by licensees' authorized individuals located within or close to these robust structures, or observation by licensees' authorized individuals conducted in accordance with § 73.55(i)(5)(ii) requirements, make it likely that licensees would detect actual or attempted theft and diversion considering the time needed to accomplish these activities. The definitions of ''large component'' and ''robust structure'' used in this IEP are identical to those successfully used for several years under EGM–14–001 and to date are sufficient to address past or future violations until the underlying technical issue is dispositioned through a rulemaking or other regulatory action.

Under this IEP, the staff will typically exercise enforcement discretion and not issue a notice of violation pursuant to § 37.11(c)(1) and (2), ''Specific exemptions,'' or 10 CFR part 37 Subpart B, ''Background Investigations and Access Authorization Program,'' Subpart C, ''Physical Protection Requirements During Use,'' and Subpart D, ''Physical Protection in Transit,'' except for violations of 10 CFR 37.43(c), ''General security program requirements—Training''; 10 CFR 37.45, ''LLEA coordination''; 10 CFR 37.49(b), ''Monitoring, detection, and assessment''; 10 CFR 37.49(d), ''Response''; 10 CFR 37.57, ''Reporting of events''; and 10 CFR 37.81, ''Reporting of events,'' involving robust structures containing category 1 or category 2 quantities of radioactive material, or to large components containing category 1 or 2 quantities of radioactive material.

Discretion will be typically exercised if the licensee meets these conditions: (1) has identified in writing those large components and robust structures that contain category 1 or category 2 quantities of radioactive material, for which it is not in compliance with 10 CFR part 37, (2) has an approved 10 CFR part 73 security plan or a written 10 CFR part 37 security plan that provides security measures adequate to detect, assess, and respond to actual or attempted theft or diversion, as well as a written analysis that considers the time needed to accomplish these activities given the proximity and mobility of the equipment available for those large components and robust structures identified above, and (3) has a written analysis documenting that the measures above do not decrease the effectiveness of the 10 CFR part 73 security plan.

An enforcement panel (*i.e.,* a meeting to align on an enforcement approach for characterizing and issuing enforcement actions) is not required to disposition a violation using this discretion; however, each time discretion is granted, an enforcement action number will be assigned to document the use of discretion under this IEP. This discretion is not limited to the initial inspection identifying the noncompliance and can be applied to subsequent inspections, provided that all the criteria continue to be met.

Licensees must comply with all other requirements, as applicable, unless explicitly replaced or amended through this interim policy.

Licensees can submit a request for a specific exemption, as described in § 37.11(a), for material that may not be included in the definitions above. If a licensee submits such a request for a component weighing 2,000 kilograms or more that does not contain either discrete sources or ion-exchange resins, or for a structure sufficiently robust that it would take significant time to access the material inside, and the request is submitted before the NRC inspects the licensee's facility, the NRC will postpone an enforcement decision until the NRC staff completes its review of the exemption request. If the NRC grants the exemption request, it will also consider enforcement discretion for any prior violation remedied by the exemption. If the NRC denies, or the licensee withdraws, the exemption request, the NRC will disposition the violation through the enforcement process.

The NRC intends to keep this interim policy in place until the underlying technical issue is dispositioned through rulemaking or other regulatory action.

Accordingly, the NRC has revised its Enforcement Policy to read as follows:

III. Interim NRC Enforcement Policy

9.3 Enforcement Discretion for Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material (10 CFR Part 37)

This section sets forth the IEP that the NRC will use to exercise enforcement discretion for certain noncompliances with the requirements of 10 CFR part 37, ''Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material,'' involving large components containing category 1 or category 2 quantities of radioactive material, or category 1 or category 2 quantities of radioactive material stored in robust structures at power reactor facilities licensed under 10 CFR part 50, ''Domestic Licensing of Production and Utilization Facilities,'' or 10 CFR part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants.''

For this IEP, a large component is defined as an item weighing 2,000 kilograms or more that does not contain either discrete sources or ion-exchange resins. In this context, large components typically include steam generators, steam dryers, turbine rotors, reactor vessels, reactor vessel heads, reactor coolant pumps, and shielding blocks. Due to their size and weight, these large components are not easily moved without cranes, rigging, and heavy equipment. In addition, these large components are not easily concealed during loading or when they are in motion, and the amount of time required to steal or divert these large components is such that it is reasonable to expect that the licensee would detect these activities.

For this IEP, a robust structure is defined as a closed concrete bunker or modular vault for which the radioactive materials contained within the structure can only be accessed using heavy equipment to remove structural components or large access blocks weighing 2,000 kilograms or more. Access to these robust structures requires significant execution time. Typically, routine work activities, observation by licensees' authorized individuals located within or close to these robust structures, or observation by licensees' authorized individuals conducted in accordance with 10 CFR 73.55(i)(5)(ii) requirements make it likely that any actual or attempted theft and diversion would be detected, considering the time needed to accomplish these activities. This IEP's definitions of ''large component'' and ''robust structure'' are identical to those used successfully for several years under Enforcement Guidance Memorandum (EGM)–14–001, ''Interim Guidance for Dispositioning 10 CFR part 37 Violations with Respect to Large Components or Robust Structures Containing Category 1 or Category 2 Quantities of Material at Power Reactor Facilities Licensed Under 10 CFR parts 50 and 52 (RIN 3150–AI12),'' dated March 13, 2014 (Agencywide Document Access and Management System (ADAMS) Accession No. ML14056A151), and to date have proven sufficient to address past or future violations until the underlying technical issue is dispositioned through rulemaking or other regulatory action.

Under this IEP, the NRC will typically exercise enforcement discretion and not issue a notice of violation pursuant to 10 CFR 37.11(c)(1) and (2), ''Specific

exemptions,'' or 10 CFR part 37 Subpart B, ''Background Investigations and Access Authorization Program,'' Subpart C, ''Physical Protection Requirements During Use,'' and Subpart D, ''Physical Protection in Transit,'' except for violations of 10 CFR 37.43(c), ''General security program requirements—Training''; 10 CFR 37.45, ''LLEA coordination''; 10 CFR 37.49(b), ''Monitoring, detection, and assessment''; 10 CFR 37.49(d), ''Response''; 10 CFR 37.57, ''Reporting of events''; and 10 CFR 37.81, ''Reporting of events,'' involving robust structures containing category 1 or category 2 quantities of radioactive material, or to large components containing category 1 or 2 quantities of radioactive material, if the licensee meets the following conditions:

- The licensee has identified in writing those large components and robust structures that contain category 1 or category 2 quantities of radioactive material for which it is not in compliance with 10 CFR part 37.
- The licensee has an approved 10 CFR part 73 security plan or a written 10 CFR part 37 security plan that provides security measures adequate to detect, assess, and respond to actual or attempted theft or diversion, as well as a written analysis that considers the time needed to accomplish these activities given the proximity and mobility of the equipment available for those large components and robust structures identified above.
- The licensee has a written analysis documenting that the measures above do not decrease the effectiveness of the 10 CFR part 73 security plan.

An enforcement panel is not required to disposition a noncompliance using this discretion; however, each time discretion is granted, an enforcement action number will be assigned to document the use of discretion under this IEP. This discretion is not limited to the initial inspection identifying a noncompliance and can be applied to subsequent inspections, provided that all the criteria continue to be met.

Licensees must comply with all other requirements, as applicable, unless explicitly replaced or amended through this interim policy.

Licensees can submit a request for a specific exemption, as described in 10 CFR 37.11(a), for material that may not be included in the definitions above. If a licensee submits such a request for a component weighing 2,000 kilograms or more that does not contain either discrete sources or ion-exchange resins, or for a structure sufficiently robust that it would take significant time to access the material inside, and the request is submitted before the NRC inspects the licensee's facility, the NRC will postpone an enforcement decision until the NRC staff completes its review of the exemption request. If the NRC grants the exemption request, it will also consider enforcement discretion for any prior violation remedied by the exemption. If the NRC denies, or the licensee withdraws, the exemption request, the NRC will disposition the violation through the enforcement process.

This interim policy will remain in place until the underlying technical issue is dispositioned through rulemaking or other regulatory action.

IV. Paperwork Reduction Act

This revision to the Policy does not contain any new or amended collections of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing collections of information were approved by the Office of Management and Budget, approval numbers 3150–0136 and 3150–0214.

V. Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

VI. Congressional Review Act

This policy is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

Dated: August 15, 2024.

For the Nuclear Regulatory Commission.

Carrie Safford,

Secretary of the Commission.

[FR Doc. 2024–18669 Filed 8–22–24; 8:45 am]

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CONSUMER FINANCIAL PROTECTION BUREAU

12 CFR Part 1026

Truth in Lending (Regulation Z); Consumer Protections for Home Sales Financed Under Contracts for Deed

AGENCY: Consumer Financial Protection Bureau.

ACTION: Advisory opinion.

SUMMARY: This advisory opinion affirms the current applicability of consumer protections and creditor obligations under the Truth in Lending Act (TILA) and its implementing Regulation Z to transactions in which a consumer purchases a home under a ''contract for deed.'' When a creditor sells a home to a buyer under a contract for deed, that transaction will generally meet TILA and Regulation Z's definition of credit. Where the transaction is secured by the buyer's dwelling, the buyer will also generally be entitled to the protections associated with residential mortgage loans under TILA.

DATES: This advisory opinion is applicable as of August 23, 2024.

FOR FURTHER INFORMATION CONTACT: George Karithanom, Regulatory Implementation & Guidance Program Analyst, Office of Regulations, at 202–435–7700 or at: *https://reginquiries.consumerfinance.gov/.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION: The Consumer Financial Protection Bureau (CFPB) is issuing this advisory opinion through the procedures for its Advisory Opinions Policy.[1] Refer to those procedures for more information.

I. Advisory Opinion

A. Background

The CFPB is issuing this advisory opinion to affirm the applicability of certain consumer protections under the Truth in Lending Act (TILA) and its implementing Regulation Z to transactions in which a consumer purchases a home under a ''contract for deed.'' Broadly speaking, TILA protects consumers engaged in credit transactions by requiring creditors to disclose information about the costs and terms of the credit, and, where the credit is secured by the consumer's dwelling, provides additional protections. The CFPB has previously identified certain contracts for deed as consumer credit under the Consumer Financial Protection Act (CFPA),[2] which uses a substantially similar definition of credit. Consistent with that earlier application of the CFPA, this advisory opinion clarifies how the CFPB understands the current application of TILA and Regulation Z to contracts for deed.

1. Contract for Deed Overview and History

A contract for deed is a type of home loan, alternatively called a ''land contract,'' ''land installment contract,'' ''land sales contract,'' ''bond for deed,''

[1] 85 FR 77987 (Dec. 3, 2020).

[2] Consent Order, *In re Harbour Portfolio Advisors et al.,* CFPB No. 2020–BCFP–0004 (June 23, 2020), ¶ 4.

''agreement for deed,'' or ''buying on contract.'' Home loans commonly referred to as contracts for deed, which this advisory opinion refers to as ''contracts for deed,'' tend to have a few key features. In a typical contract for deed, a homebuyer agrees to make periodic payments to the home seller, and the seller retains the deed to the property until the loan is fully repaid.[3] Loan terms vary but often range from 5 to 30 years and may include balloon payments. Properties are often purchased ''as is,'' without inspection or appraisal, and may have property condition issues that prevent them from being suitable for rental or qualifying for mainstream mortgage financing. Additionally, because the sales price of the home may not be tied to appraisal or other typical market measures, the sales price may be inflated. During the repayment period, the buyer has the exclusive right to occupy the home and often assumes many of the responsibilities of homeownership, including paying for taxes, insurance, home maintenance, and repairs.[4]

Another common feature is a forfeiture clause that can be triggered if the borrower fails to meet the terms of the contract. In these scenarios, the contract is canceled, the seller retakes possession of the property, and the buyer generally forfeits their entire investment—including their downpayment, principal payments, and any increase in home equity, including home equity that the buyer generated by making property improvements.[5] In some contracts, a single missed payment is enough to trigger these losses. Forfeiture clauses can also be triggered by breaches unrelated to payment status, such as when a borrower fails to pay taxes, is unable to obtain or maintain insurance, or does not make improvements to the property within a specified timeframe.[6] While some states restrict forfeiture and require foreclosure, others have allowed ''virtually unrestricted use of forfeiture clauses.'' [7]

2. TILA Legislative History

Congress first enacted TILA, 15 U.S.C. 1601 *et seq.,* in 1968 intending ''to assure a meaningful disclosure of credit terms'' and ''avoid the uninformed use of credit, and to protect the consumer against inaccurate and unfair credit billing and credit card practices.'' [8] As industry commenters noted at the time, TILA's disclosure regime could help ''a prospective mortgage borrower [ ] consider the relative costs of credit offered by . . . various purchase arrangements, for example, contract for deed or an FHA-insured mortgage'' when purchasing a home.[9]

In 1994, Congress amended TILA by enacting the Home Ownership and Equity Protection Act (HOEPA) to require special disclosures and restrictions for high-cost mortgage loans secured by the consumer's principal dwelling.[10] In the wake of the 2008 financial crisis, in which widespread mortgage loan defaults produced a wave of foreclosures and systemic economic instability, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) which added additional protections to TILA, as well as establishing the CFPB under the Consumer Financial Protection Act.[11]

New TILA sections added by the Dodd-Frank Act required creditors to make good-faith assessments of consumers' ability to repay loans secured by their dwellings, imposed new standards on mortgage disclosures, and prohibited certain practices, including mandatory arbitration clauses and waivers of Federal causes of action in consumer credit transactions secured by a dwelling.[12] The Dodd-Frank Act also expanded the scope of HOEPA coverage and protections. In the Senate Report accompanying the Dodd-Frank Act, Congress cited the ''proliferation of poorly underwritten mortgages with abusive terms,'' made ''with little or no regard for a borrower's understanding of the terms [ ], or their ability to repay,'' as precipitators of the financial crisis and motivation for the Act's financial reforms.[13] Congress explained that, because of failures in consumer protection, ''millions of Americans have lost their homes,'' [14] and quoted expert testimony that ''a plague of abusive and unaffordable mortgages and exploitative credit cards . . . cost millions of responsible consumers their homes, their savings, and their dignity.'' [15]

B. Legal Analysis

1. *Because contracts for deed allow buyers to acquire property and defer the payment, contracts for deed are generally ''credit'' under TILA and Regulation Z.*

a. Credit Under TILA

TILA's definition of ''credit'' includes the typical contract for deed. TILA and Regulation Z define credit as ''the right granted [by a creditor to a debtor] to defer payment of debt or to incur debt and defer its payment.'' [16] TILA and Regulation Z do not define debt. Used infrequently in the statute and the regulation, ''debt'' for the most part appears only in the definition of ''credit.'' As the CFPB has noted elsewhere,[17] in the ordinary usage, debt means simply ''something owed,'' without any obvious limitation.[18] Legal dictionaries, including those dating to the enactment of TILA, similarly describe debt as a ''sum of money due by certain and express agreement'' or ''a financial liability or obligation owed by one person, the debtor, to another, the creditor.'' [19] This understanding of ''debt,'' as any obligation by a consumer to pay another party, applies to contracts for deed in a straightforward manner.

[3] More complex arrangements exist, such as those where the buyer pays the seller's agent.

[4] *See* Joint Center for Housing Studies of Harvard University, *The American Dream or Just an Illusion? Understanding Land Contract Trends in the Midwest Pre- and Post-Crisis* (Aug. 2019), *https://www.jchsharvard.edu/sites/default/files/media/imp/harvard_jchs_housing_tenure_symposium_carpenter_george_nelson.pdf.*

[5] *Id.*

[6] *Id.*

[7] *See* The Pew Charitable Trusts, *Summary of State Land Contract Statutes* (Apr. 30, 2021), *https://www.pewtrusts.org/-/media/assets/2022/02/summary-of-state-land-contract-statutes.pdf.*

[8] 15 U.S.C. 1601.

[9] *Truth in Lending Act: Hearings Before the Subcomm. on Financial Institutions of the S. Comm. on Banking and Currency,* 90th Cong., 1st Sess. (Apr. 18, 1967) (testimony of Darrel M. Holt, Mortgage Bankers Association of America).

[10] 15 U.S.C. 1602(bb), 1639.

[11] Public Law 111–203, 124 Stat. 1376 (2010).

[12] Sections 1411, 1412, and 1414 of the Dodd-Frank Act, codified at 15 U.S.C. 1639c; sections 1418, 1420, 1463, and 1464 of the Dodd-Frank Act, codified at 12 U.S.C. 2605; 15 U.S.C. 1638, 1638a, 1639f, and 1639g. Other protections apply to servicing practices, such as prompt payment processing, no pyramiding of late fees, and loan originator qualification requirements. *See* 12 CFR 1026.36(c), (d), (f).

[13] S. Rept. No. 176, 111th Cong. (2010), at 11, 12.

[14] *Id.* at 9.

[15] *Id.,* n.19 (quoting Testimony of Michael Barr, Assistant Secretary of the Treasury for Financial Institutions, to the Senate Committee on Banking, Housing, and Urban Affairs, July 14, 2009).

[16] 15 U.S.C. 1602(f), 12 CFR 1026.2(a)(14). Whether a seller is a ''creditor'' under TILA and Regulation Z depends on several factors, discussed below, at section I.B.3.

[17] Proposed rule, *Truth in Lending (Regulation Z); Consumer Credit Offered to Borrowers in Advance of Expected Receipt of Compensation for Work,* 89 FR 61358 (July 31, 2024), *https://files.consumerfinance.gov/f/documents/cfpb_paycheck-advance-marketplace_proposed-interpretive-rule_2024-07.pdf.*

[18] *Debt,* Merriam-Webster, *https://www.merriam-webster.com/dictionary/debt* (last updated Jan. 30, 2024).

[19] *Debt,* Black's Law Dictionary (4th ed. 1968) (defining debt as ''[a] sum of money due by certain and express agreement; as by bond for a determinate sum, a bill or note, a special bargain, or a rent reserved on a lease, where the amount is fixed and specific, and does not depend upon any subsequent valuation to settle it''); *Debt,* Wex, *https://www.law.cornell.edu/wex/debt* (last updated Sept. 2021).

In a typical contract-for-deed transaction, as discussed above, a debt is created by the buyer receiving exclusive possession of the property, along with certain ownership obligations, at the outset of the contract in exchange for the obligation to repay the agreed-upon value of that property over time.[20] Courts applying common law doctrines have broadly recognized these property-related rights and obligations under the contract for deed as constituting a grant of equitable title to the buyer.[21] In exchange for these rights granted in the property, the purchaser agrees to complete payment on a deferred basis. The contractual obligation to repay the agreed-upon value of the property according to the terms of the contract, therefore, constitutes a debt under TILA. From the face of the typical contract for deed, it will be clear that the seller has granted to the purchaser ''the right . . . to defer'' payment of this debt.

b. Closed-End Credit

Where the property acquired under a contract for deed is purchased by a consumer primarily for personal, family, or household purposes, as it generally is when a purchaser buys a home using a contract for deed, the transaction is ''consumer credit'' under Regulation Z.[22] Any consumer credit that is not open-end credit under Regulation Z is considered ''closed-end credit.'' [23] Because the typical contract for deed is contemplated as a one-time transaction, it is not open-end credit.[24] Thus, when a buyer purchases a personal dwelling from a creditor under a contract for deed, that transaction typically meets the definition of closed-end credit under TILA and Regulation Z, and is subject to the applicable requirements of subpart C of Regulation Z.

c. Consistency With Other Laws

In 2020, the CFPB settled with an entity selling property under contracts for deed, requiring penalties for violations of the CFPA.[25] In doing so, the CFPB applied the CFPA's substantially similar definition of credit, which is ''the right granted by a person to a consumer to defer payment of a debt, incur debt and defer its payment, or purchase property or services and defer payment for such purchase.'' [26] This advisory opinion therefore affirms the consistency with which the CFPB views and applies these statutory definitions, when presented with similar contexts. Although this advisory opinion does not analyze the application of other laws, the CFPB expects that under other consumer financial laws with similar definitions of credit, the same considerations will apply.[27]

2. *Contracts for deed secured by a dwelling, generally will be ''residential mortgage loans'' under TILA and Regulation Z.*

Several provisions of TILA and Regulation Z apply specifically to credit transactions secured by the consumer's dwelling or by real property.[28] As discussed above, Congress amended TILA through the Dodd-Frank Act with the recognition that, when consumers commit to loans secured by possession of their homes, the stakes are particularly high.[29] It added to TILA specific protections that apply to ''residential mortgage loans.'' Many States define ''mortgages'' separately from their definitions for contracts for deed, with distinct requirements for each. However, in TILA Congress defined ''residential mortgage loan'' to include ''any consumer credit transaction that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real property that includes a dwelling, other than a[n open-end] consumer credit transaction . . . .'' [30] Thus, the relevant consideration for determining whether contracts for deed are ''residential mortgage loans'' under TILA is not whether State law specifically regards contracts for deed as ''mortgages,'' but only whether the contract for deed is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real property that includes a dwelling. Additional protections under Regulation Z apply to ''any consumer credit transaction secured'' by ''a dwelling,'' [31] by ''the consumer's principal dwelling,'' [32] or by ''real property.'' [33]

Regulation Z defines a ''security interest'' as ''an interest in property that

[20] This is distinct from lease-based rental arrangements, even those involving an eventual right to purchase (often called ''lease-to-own''), because the lessee's legal interest, privileges, and obligations in the property are more limited in scope, while the lessor retains both ownership obligations and title. Many lease-to-own products also require a separate agreement to effectuate a purchase option, allowing for complete performance of the original contract without necessarily transferring property ownership. In a typical contract for deed, complete performance includes the transfer of full legal ownership. Regardless of how the arrangement is styled, courts have generally looked to the function of the transaction and intent of the parties to determine its nature. *See, e.g., Gilliland* v. *Port Auth. of City of St. Paul,* 270 NW2d 743, 747 (Minn. 1978) (''To break the transaction into two separate parts, a sale and a lease, would be to distort its real nature and to ignore the intent of the parties.''); *In re Montgomery Ward, L.L.C.,* 469 B.R. 522, 529 (Bankr. D. Del. 2012) (''Courts must analyze the 'economic reality' of the agreement at issue to determine its true nature.''). Depending on their terms, such leases, as well as contracts for deed, may be considered ''credit sales'' covered under TILA and Regulation Z. 15 U.S.C. 1602(h); 12 CFR 1026.2(a)(16).

[21] *In re Restivo Auto Body, Inc.,* 772 F.3d 168, 177 (4th Cir. 2014) (''upon contracting to buy land, 'in equity the vendee becomes the owner of the land, the vendor of the purchase money' '') (internal citation omitted); *Hauben* v. *Harmon,* 605 F.2d 920, 925 (5th Cir. 1979) (''Under the doctrine of equitable conversion a purchaser of realty becomes seized of beneficial title to the property upon execution of the contract of sale.''); *In re Blanchard,* 819 F.3d 981, 985 (7th Cir. 2016) (''Under Wisconsin's doctrine of equitable conversion, a land contract buyer obtains equitable title to the property, which includes 'all the incidents of a real ownership.' '') (internal citation omitted); *Redevelopment Agency of City of Stockton* v. *BNSF Ry. Co.,* 643 F.3d 668, 678 (9th Cir. 2011) (''The doctrine of equitable conversion generally provides that when a valid executory land sales contract is entered into, the purchaser becomes the equitable owner of the land.''); *In re Hodes,* 402 F.3d 1005, 1011 (10th Cir. 2005); *SMS Assocs.* v. *Clay,* 868 F. Supp. 337, 340 (D.D.C. 1994), *aff'd,* 70 F.3d 638 (D.C. Cir. 1995). Even where some courts have declined to view a contract for deed as transferring equitable title, they nonetheless acknowledge that the purchaser has received possession in exchange for the promise of payment. *See, e.g., In re Wall Tire Distributors, Inc.,* 110 B.R. 614, 618 (Bankr. M.D. Ga. 1990).

[22] 12 CFR 1026.2(a)(12).

[23] 12 CFR 1026.2(a)(10).

[24] 12 CFR 1026.2(a)(20).

[25] Consent Order, *In re Harbour Portfolio Advisors et al.,* CFPB No. 2020–BCFP–0004 (June 23, 2020), ¶ 4.

[26] 12 U.S.C. 5481(7). A court validated the CFPB's authority to investigate the entity's contracts for deed as possible credit under the CFPA, noting that the transactions may be credit because they ''obligate the purchaser to pay a principal sum plus interest through deferred monthly payments.'' *CFPB* v. *Harbour Portfolio Advisors,* No. 16–014183, 2017 WL 631914, at *3 (E.D. Mich. Feb. 16, 2017). The court further characterized an acceleration clause that ''gives the seller the option to demand the full purchase price once the purchaser misses a payment'' as ''strongly suggest[ing] that Respondents are supplying 'credit' . . . .'' *Id.*

[27] *See, e.g.,* 15 U.S.C. 1691a(d) (defining ''credit'' under the Equal Credit Opportunity Act); 12 CFR pt. 1002 supp. I para. 2(j)–1 (''Regulation B covers a wider range of credit transactions than Regulation Z.'').

[28] The CFPA similarly has provisions specifically addressing loans secured by real estate. *See, e.g.,* 12 U.S.C. 5514(a)(1)(A) (providing supervisory authority over any covered person who originates consumer loans ''secured by real estate''). This advisory opinion does not assess the applicability of such provisions beyond TILA, but the CFPB expects to apply such definitions consistently across Federal consumer financial laws to the extent appropriate.

[29] *See supra,* text accompanying notes 13–15.

[30] 15 U.S.C. 1602(dd)(5).

[31] *E.g.,* 12 CFR 1026.43(a). Regulation Z defines a ''dwelling'' as ''a residential structure that contains one to four units, whether or not that structure is attached to real property.'' 12 CFR 1026.2(a)(19).

[32] *E.g.,* 12 CFR 1026.32(a)(1).

[33] *E.g.,* 12 CFR 1026.19(e). Under Regulation Z, a ''dwelling'' does not need to be attached to real property. 12 CFR 1026.2(a)(19). Thus, there may be instances where, depending on the transaction, a contract for deed is secured by a dwelling, but not real property, or by real property without a dwelling.

secures performance of a consumer credit obligation and that is recognized by State or Federal law.'' [34] While State and Federal law regarding secured transactions and contracts for deed will vary, the CFPB expects that this definition would be satisfied in many or most cases. As a matter of general usage, security is the ''[c]ollateral given or pledged to guarantee the fulfillment of an obligation.'' [35] As described earlier, in a typical contract for deed, the seller retains legal title to the subject property, which generally allows the seller to retake possession of the property should the purchaser default on the payment agreement. In function, this retention of title serves to ensure that the purchaser, who already has exclusive possession of the property, fulfills the payment obligations.[36] The CFPB notes that this structure is functionally equivalent to common definitions of ''mortgage,'' [37] and is aware of State laws that expressly consider such transactions to be mortgages.[38]

The CFPB is additionally aware of many instances nationwide in which a seller's retention of legal title to the property has been characterized as securing payment of the contract for deed, either by State statute [39] or by courts applying State law and equitable principles.[40] While this advisory opinion does not provide any specific interpretation or application of State law, the prevalence of similar language across State law and related jurisprudence informs the CFPB's expectation that contracts for deed will generally trigger Regulation Z's thresholds for mortgage transaction protections based on the security interest in the buyer's home. As noted above, this is the case whether or not the relevant State or Federal law regards a contract for deed generally as a ''mortgage,'' or its equivalent, including for the purpose of forfeiture. Similarly, this advisory opinion's recognition that contracts for deed are often ''residential mortgage loans'' under TILA and Regulation Z does not constitute a determination that they are mortgages under State or other Federal laws.

3. *Creditors selling homes using contracts for deed must comply with applicable requirements under TILA and Regulation Z.*

a. TILA Creditors

Contract for deed sellers have important obligations under TILA and Regulation Z depending on the nature of the contract for deed and whether they are ''creditors.'' [41] For a transaction to be credit covered under TILA, the seller must be a creditor, and whether a seller of a contract for deed is a creditor under TILA turns not only on whether the seller extends credit, but on the characteristics of the credit and frequency with which the seller engages in such transactions. First, the credit extended must be either subject to a finance charge (such as interest or implied interest) or be payable by a written agreement in more than four installments, not including a downpayment.[42] Second, the obligation must be initially payable to the person, either on the face of the note or contract, or by agreement when there is no note or contract, in order for that person to be considered a creditor.[43] These first two prongs will typically be satisfied in a contract-for-deed transaction. Contracts for deed are generally set up to require periodic payments during the term of the contract—often monthly over the span of years—and thus, require repayment of more than four installments.[44] Contracts for deed also generally are established by a written agreement that lists the title holder as the payee.

Third, a creditor is a person that regularly extends credit.[45] For purposes of this requirement, a ''person'' is a natural person or an organization, including a corporation, partnership, proprietorship, association, cooperative, estate, trust, or government unit.[46] It may include, for example, business arrangements where multiple related subsidiaries of a single organization each conduct contract-for-deed sales.[47] Whether a person *regularly* extends credit will depend on the frequency with which the person extends credit, as well as the specific nature of those credit transactions. As described below, Regulation Z may require as many as 25 transactions or as few as one to be deemed a person who regularly extends credit, depending on the type of credit.[48] This will, in turn, determine the seller's legal obligations under TILA and Regulation Z.

b. TILA Obligations With Contracts for Deed

In general, when a person extends consumer credit more than 25 times, or more than 5 times for transactions secured by a dwelling, in the preceding calendar year, that person is a creditor under TILA.[49] Thus, in contract-for-deed sales that are not considered secured by a dwelling in the relevant jurisdiction, a seller that extends credit more than 25 times in the preceding or current calendar year will qualify as a TILA creditor, assuming all other elements of the ''creditor'' definition are met.[50] In such a case, the contract-for-deed sale is closed-end credit, subject to TILA and Regulation Z's general disclosure requirements regarding the key terms of the loan, including the

[34] 12 CFR 1026.2(a)(25).

[35] *Security,* Black's Law Dictionary (11th ed. 2019).

[36] *See* Restatement (Third) of Property (Mortgages) sec. 3.4 (1997) (''A contract for deed is a contract for the purchase and sale of real estate under which the purchaser acquires the immediate right to possession of the real estate and the vendor defer delivery of a deed until a later time to secure all or part of the purchase price. A contract for deed creates a mortgage.'').

[37] *Id. See also Mortgage,* Black's Law Dictionary (11th ed. 2019) (''A conveyance of title to property that is given as security for the payment of a debt or the performance of a duty and that will become void upon payment or performance according to the stipulated terms.''); Restatement (Third) of Property (Mortgages) sec. 1.1 (1997) (''The function of a mortgage is to employ an interest in real estate as security for the performance of some obligation.'').

[38] *See, e.g.,* Florida (Fla. Stat. Ann. sec. 697.01); Indiana (Ind. Code Ann. sec. 24–4.4–1–301(14)); Oklahoma (Okla. Stat. Ann. tit. 16 sec. 11A).

[39] *See, e.g.,* Maine (33 M.R.S. sec. 481); Maryland (Md. Real Property Code sec. 10–101); Ohio (Ohio Rev. Code Ann. sec. 5313.01).

[40] *See, e.g.,* California (*Petersen* v. *Hartell,* 40 Cal. 3d 102, 112, 707 P.2d 232, 239 (1985)); Indiana (*Vic's Antiques & Uniques, Inc.* v. *J. Elra Holdingz, LLC,* 143 NE3d 300, 305 (Ind. Ct. App. 2020)); Kentucky (*Sebastian* v. *Floyd,* 585 SW2d 381 (Ky. 1979)); Michigan (*Barker* v. *Klingler,* 302 Mich. 282, 288, 4 NW2d 596, 599 (1942)); Minnesota (*Gagne* v. *Hoban,* 280 Minn. 475, 479, 159 NW2d 896, 899 (1968)); Nebraska (*Mackiewicz* v. *J.J. & Assocs.,* 245 Neb. 568, 573, 514 NW2d 613, 618 (1994)); Oregon (*Bedortha* v. *Sunridge Land Co.,* 312 Or. 307, 311, 822 P.2d 694, 696 (1991)); Pennsylvania (*Anderson Contracting Co.* v. *Daugherty,* 274 Pa. Super. 13, 21, 417 A.2d 1227, 1231 (1979)); Washington (*Lanzce G. Douglass, Inc.* v. *Dep't of Revenue,* 25 Wash. App. 2d 893, 908, 525 P.3d 999, 1007 (2023)); Wisconsin *(Larchmont Holdings, LLC* v. *N. Shore Servs.,* LLC, 292 F. Supp. 3d 833, 848–49 (W.D. Wis. 2017)).

[41] 12 CFR 1026.2(a)(17).

[42] 12 CFR 1026.2(a)(17)(i), 1026.4(b).

[43] 12 CFR 1026.2(a)(17)(i).

[44] Further, even if the contract for deed required less than four installments, often the sales price is inflated such that the additional profits earned by the seller meet the requirement for finance charge under Regulation Z.

[45] 12 CFR 1026.2(a)(17).

[46] 12 CFR 1026.2(a)(22).

[47] *See Ward* v. *Shad,* No. 18–CV–01933 (NEB/ECW), 2019 WL 1084219, at *3 (D. Minn. Mar. 7, 2019).

[48] 12 CFR 1026.2(a)(17)(v). The CFPB is aware that some contract-for-deed transactions may involve one-time sellers. Where such transactions are conducted without a broker and/or do not qualify as ''high-cost'' mortgages, such one-time sellers will not be creditors under Regulation Z.

[49] *Id.*

[50] *Id.* (''A person regularly extends consumer credit only if it extended credit . . . more than 25 times . . . in the preceding calendar year. If a person did not meet these numerical standards in the preceding calendar year, the numerical standards shall be applied to the current calendar year.'').

amount financed, any finance charge, and the annual percentage rate.[51]

If the contract for deed is considered to be secured by a dwelling by the applicable law in the relevant jurisdiction but is not a high-cost mortgage loan, the seller will qualify as a creditor if the seller has extended credit secured by a dwelling more than five times in the preceding or current calendar year and all other elements of the ''creditor'' definition are met.[52] In such a case, the seller is subject to TILA and Regulation Z's general disclosure requirements, as well as additional mortgage disclosure requirements.[53] The transaction would generally also qualify as a residential mortgage loan.[54] These transactions are subject to important additional requirements, including the requirement that a creditor make a reasonable, good faith determination of the consumer's ability to repay the loan as well as the prohibition on mandatory arbitration clauses.[55] These transactions may also be subject to rules regarding servicing, origination, and fees under TILA.[56]

If the contract for deed is secured by a dwelling and qualifies as a high-cost mortgage,[57] a seller who extends credit more than once in any 12-month period can qualify as a creditor.[58] A seller who originates one or more such credit extensions through a mortgage broker can also qualify as a creditor.[59]

High-cost mortgage transactions will also trigger HOEPA requirements and protections, including required disclosures.[60] Specific prohibitions also apply to high-cost mortgages, including a prohibition on extending high-cost mortgages without written certification that a consumer has obtained counseling, a prohibition on opening a plan without regarding a consumer's ability to repay, and prohibitions on certain fees, among others.[61]

Regulatory Matters

This advisory opinion is an interpretive rule issued under the CFPB's authority to interpret TILA and Regulation Z, including under section 1022(b)(1) of the Consumer Financial Protection Act of 2010, which authorizes guidance as may be necessary or appropriate to enable the CFPB to administer and carry out the purposes and objectives of Federal consumer financial laws.[62]

By operation of TILA section 130(f), no provision of TILA sections 130, 108(b), 108(c), 108(e), or section 112 imposing any liability applies to any act done or omitted in good faith in conformity with this interpretive rule, notwithstanding that after such act or omission has occurred, the interpretive rule is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.[63]

Pursuant to the Congressional Review Act,[64] the CFPB will submit a report containing this advisory opinion and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to the rule's published effective date. The Office of Information and Regulatory Affairs has designated this interpretive rule as not a ''major rule'' as defined by 5 U.S.C. 804(2).

The CFPB has determined that this advisory opinion does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act.[65]

Rohit Chopra,

Director, Consumer Financial Protection Bureau.

[FR Doc. 2024–18620 Filed 8–22–24; 8:45 am]

BILLING CODE 4810–AM–P

[51] What specific protections and requirement apply will depend on the particular loan. *See* 15 U.S.C. 1631, 1632; *see also* 12 CFR 1026.17–.18.

[52] 12 CFR 1026.2(a)(17)(v) (the person must regularly extend credit ''more than 5 times for transactions secured by a dwelling'').

[53] 15 U.S.C. 1631, 1632; 12 CFR 1026.17–.18; *see also* 15 U.S.C. 1638; 12 CFR 1026.19(e), 1026.37, 1026.38. Specific disclosure requirements will depend on whether the dwelling-secured credit is also secured by real property.

[54] 15 U.S.C. 1602(dd)(5).

[55] 12 CFR 1026.43(c); 12 CFR 1026.36(h)(1).

[56] *See generally* 12 CFR 1026.36; 15 U.S.C. 1639a, 1639b, 1639e, 1639c(a)–(h). Some provisions only apply if the loan is secured by the consumers' principal dwelling. *See, e.g.,* 12 CFR 1026.23.

[57] A high-cost mortgage is any consumer credit transaction secured by a principal dwelling and which meets certain conditions as described in 12 CFR 1026.32. 15 U.S.C. 1602(bb), 1639; *see also* 12 CFR 1026.31, 1026.32, 1026.34.

[58] 12 CFR 1026.2(a)(17)(v).

[59] *Id.*

[60] 12 CFR 1026.32, 1026.34.

[61] 12 CFR 1026.34(a)(4) (open-end, high-cost mortgage repayment prohibitions), 1026.34(a)(5) (pre-loan counseling requirements), 1026.34(a)(7)–(8), 1026.34(a)(10) (requirements and prohibitions related to fees).

[62] 12 U.S.C. 5512(b)(1).

[63] 15 U.S.C. 1640(f).

[64] 5 U.S.C. 801 *et seq.*

[65] 44 U.S.C. 3501 through 3521.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

[Docket Number SBA–2024–0006]

RIN 3245–AI17

Business Loan Program Temporary Changes; Paycheck Protection Program—Extension of Lender Records Retention Requirements

AGENCY: U.S. Small Business Administration.

ACTION: Interim final rule.

SUMMARY: This interim final rule lengthens the required records retention for lenders that made loans under the Paycheck Protection Program (PPP) to ten years. PPP was established under the Coronavirus Aid, Relief, and Economic Security Act as a temporary emergency guaranteed loan program to provide economic relief to small businesses nationwide adversely impacted by the Coronavirus Disease 2019 (COVID–19), as amended. SBA has issued a number of final rules implementing the PPP Program. This interim final rule harmonizes the PPP lender records retention requirements with subsequent legislation extending the statute of limitations for criminal charges and civil enforcement actions for alleged PPP borrower fraud to ten years after the offense.

DATES:

Effective date: The provisions of this interim final rule are effective August 22, 2024.

Applicability date: This interim final rule applies to all PPP lender loan records. This includes PPP loan applications that were withdrawn, approved, denied or cancelled, and all other PPP lender loan records for PPP loans with an outstanding balance, PPP loans that have been forgiven, and PPP loans that are in repayment or have been paid in full by the borrower as of the effective date of this rule.[1]

Comment date: Comments must be received on or before September 23, 2024.

ADDRESSES: You may submit comments, identified by docket number SBA–2024–0006 through the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

[1] To the extent that a federally regulated PPP lender destroyed any PPP loan records before the effective date of this rule in accordance with a general internal records retention policy that was acceptable to the PPP lender's federal regulator, SBA will not enforce compliance by that federally regulated PPP lender with respect to the PPP loan records that were destroyed before the effective date of this rule.

SBA will post all comments on *www.regulations.gov.* If you wish to submit confidential business information (CBI) as defined in the User Notice at *www.regulations.gov,* please send an email to *ppp-ifr@sba.gov.* All other comments must be submitted through the Federal eRulemaking Portal described above. Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination whether it will publish the information.

FOR FURTHER INFORMATION CONTACT: A Call Center Representative at 833–572–0502 or the local SBA Field Office; the list of offices can be found at *https://www.sba.gov/tools/local-assistance/districtoffices.* If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339. Individuals with disabilities can obtain this document in an accessible format that may be provided in Rich Text Format (RTF) or text format (txt), a thumb drive, an mp3 file, Braille, large print, audiotape, or compact disc, or other accessible formats.

SUPPLEMENTARY INFORMATION:

I. Background Information

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (Pub. L. 116–136) was enacted to provide emergency assistance and health care response for individuals, families, and businesses affected by the Coronavirus Disease 2019 (COVID–19) pandemic. Section 1102 of the CARES Act temporarily permitted the Small Business Administration (SBA) to guarantee 100 percent of 7(a) loans made by participating lenders under a new program titled the ''Paycheck Protection Program'' (PPP), pursuant to section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)) (First Draw PPP Loans). Section 1102(F)(ii)(I) of the CARES Act stated that all PPP lenders were deemed to have been delegated authority by the SBA Administrator to make and approve PPP loans (15 U.S.C. 636(a)(36)(F)(ii)(I)). Section 1106 of the CARES Act provided for forgiveness of up to the full principal amount of qualifying loans guaranteed under the PPP. On April 24, 2020, the Paycheck Protection Program and Health Care Enhancement Act (Pub. L. 116–139) was enacted, which provided additional funding and authority for the PPP Program.

On June 5, the Paycheck Protection Program Flexibility Act of 2020 (PPP Flexibility Act) (Pub. L. 116–142) was enacted, which changed provisions of the PPP relating to the maturity of PPP loans, the deferral of PPP loan payments, and the forgiveness of PPP loans. On July 4, 2020, Public Law 116–147 extended SBA's authority to guarantee PPP loans to August 8, 2020.

On December 27, 2020, the Economic Aid to Hard-Hit Small Businesses, Nonprofits and Venues Act (Economic Aid Act) (Pub. L. 116–260) was enacted. The Economic Aid Act reauthorized lending under the PPP through March 31, 2021. The Economic Aid Act added a new temporary section 7(a)(37) to the Small Business Act, which authorized SBA to guarantee additional PPP loans (Second Draw PPP Loans) to certain eligible borrowers that previously received a First Draw PPP Loan under generally the same terms and conditions available under section 7(a)(36) of the Small Business Act. The Economic Aid Act also redesignated section 1106 of the CARES Act as section 7A of the Small Business Act, to appear after section 7 of the Small Business Act.

On March 11, 2021, the American Rescue Plan Act (ARPA) (Pub. L. 117–2) was enacted, and among other things, expanded eligibility for First Draw PPP Loans and Second Draw PPP Loans. On March 30, 2021, the PPP Extension Act of 2021 (Pub. L. 117–6) was enacted, extending SBA's PPP program authority through June 30, 2021.

From April 3, 2020, through August 8, 2020, when the 2020 round of PPP expired, SBA guaranteed over 5.2 million PPP loans made by over 5,000 PPP lenders under delegated authority. Of the approximately 5,000 lenders that participated in the PPP Program, approximately 4,900 were federally regulated lenders and several hundred were SBA Supervised Lenders (as defined in 13 CFR 120.10). From January 11, 2021, when the PPP reopened, through June 30, 2021, when the PPP program authority expired, SBA guaranteed over 6.6 million additional PPP loans made by PPP lenders under delegated authority. Thus, the total number of PPP loans guaranteed by SBA exceeds 11.8 million.[2] The total dollar amount of the PPP loans guaranteed by SBA exceeds $806 billion.

Because the approximately 5,000 PPP lenders processed PPP loans under the delegated authority provided by the CARES Act, the PPP lenders were responsible for obtaining loan applications and supporting documentation and preparing the loan note and other closing documentation. The PPP lenders were not required to provide SBA with copies of the loan origination and closing documentation, but instead when the PPP lenders applied to SBA for the issuance of a PPP loan number, the PPP lenders were required to certify that they would retain those documents in their files. See, SBA Form 2484 (Lender's Application—Paycheck Protection Program Loan Guaranty) and SBA Form 2484–SD (Lender's Application—Second Draw Loan Guaranty). The forms did not specify the length of time required to retain documents in their files.

SBA posted the first interim final rule implementing the PPP on SBA's website on April 2, 2020, and published the rule in the **Federal Register** on April 15, 2020 (85 FR 20811). SBA subsequently issued numerous additional interim final rules. In particular, on February 5, 2021, SBA published an interim final rule implementing Economic Aid Act changes related to the forgiveness and review of PPP loans (86 FR 8283) (Consolidated Forgiveness and Loan Review IFR).

On August 5, 2022, President Biden signed the PPP and Bank Fraud Enforcement Harmonization Act of 2022 (Harmonization Act) (Pub. L. 117–166). The Harmonization Act amends section 7(a) of the Small Business Act to provide, for both First Draw PPP Loans and Second Draw PPP Loans, that notwithstanding any other provision of law, any criminal charge or civil enforcement action alleging that a borrower engaged in fraud with respect to a PPP loan guaranteed by SBA shall be filed not later than 10 years after the offense was committed. The Harmonization Act was necessitated by the unprecedented volume of PPP loans, law enforcement estimates of the amount of fraud associated with these loans, and the tremendous strain on law enforcement resources in dealing not only with PPP Program fraud, but fraud in the other COVID–19 pandemic assistance programs administered by SBA and other Federal agencies.[3]

SBA, with support from the Department of Justice (DOJ) and SBA's Office of Inspector General (OIG), which

[2] In addition to the approximately 11.8 million loans guaranteed by SBA, there were also loans where the borrower's application was withdrawn by the borrower, declined by the PPP lender, or the PPP lender cancelled the loan guaranty.

[3] On August 5, 2022, President Biden also signed the COVID–19 EIDL Fraud Statute of Limitations Act of 2022 extending the statute of limitations for criminal or civil enforcement actions alleging that a borrower engaged in fraud in SBA's COVID EIDL disaster loan program, EIDL Advance program and Targeted EIDL Advance program to not later than ten years after the offense was committed.

are charged with investigating and prosecuting PPP fraud, is seeking to harmonize the records retention requirements applicable to PPP lenders by extending those requirements so that they are consistent with expanded statute of limitations in the Harmonization Act.

As of December 31, 2023, U.S. Attorneys' Offices had criminally charged approximately 3,500 defendants in 2,388 pandemic fraud related cases, of which approximately 2,005 defendants had pleaded guilty or been convicted at trial.[4] The fraud loss associated with these completed cases is more than $1.2 billion. While not all of the cases were related to the PPP Program, a substantial number were, and the U.S. Attorneys' Offices have a similar number of investigations open that are yet to be charged. Further, more than $1.4 billion in seizures and forfeiture orders have been issued to recover stolen CARES Act funds.

To date, the DOJ Civil Frauds Division has opened more than 800 new investigations relating to potential civil fraud enforcement in connection with the PPP Program. These include investigations implicating more than 5,000 individuals and entities and billions of dollars in pandemic relief funds. To date, DOJ has obtained more than 450 civil settlements and judgments relating to the PPP Program, totaling more than $200 million. The number of civil fraud investigations relating to PPP borrowers has grown in volume every year since 2020, and DOJ believes that trend is likely to continue.

Extending the PPP lender records retention requirements will ensure that PPP loan records remain available to law enforcement while they continue to investigate and prosecute PPP fraud during the expanded ten-year statute of limitations period authorized by the Harmonization Act.

II. Current SBA Records Retention Requirements for PPP Lenders

The Consolidated Forgiveness and Loan Review IFR sets forth the current SBA records retention requirements for PPP lenders as follows:

Lenders must comply with applicable SBA requirements for records retention, which for federally regulated lenders means compliance with the requirements of their federal financial institution regulator and for SBA supervised lenders (as defined in 13 CFR 120.10 and including PPP lenders with authority under SBA Form 3507) means compliance with 13 CFR 120.461. (86 FR 8283, 8295). These records retention requirements apply to all PPP loan records, including First Draw PPP Loans and Second Draw PPP Loans.

The records retention requirements in 13 CFR 120.461 for SBA Supervised Lenders provide as follows:

- *Other preservation of records.* An SBA Supervised Lender must preserve for at least 6 years following final disposition of each individual SBA loan:

All applications for financing;

Lending, participation, and escrow agreements;

Financing instruments; and

○ All other documents and supporting material relating to such loans, including correspondence.

Id.

As noted previously, several hundred SBA Supervised Lenders participated in the PPP Program. An SBA Supervised Lender is defined in 13 CFR 120.10 as a 7(a) Lender that is either a Small Business Lending Company or a NFRL. A 7(a) Lender is defined in 13 CFR 120.10 as an institution that has executed a participation agreement with SBA under the guaranteed loan program.[5] A Small Business Lending Company (SBLC) is defined in 13 CFR 120.10 as a non-depository lending institution that is SBA-licensed and is authorized by SBA to make loans pursuant to section 7(a) of the Small Business Act and loans to Intermediaries in SBA's Microloan program. An NFRL or Non-Federally Regulated Lender is defined in 13 CFR 120.10 as a business concern that is authorized by the SBA to make loans under section 7(a) and is subject to regulation by a state but whose lending activities are not regulated by a federal financial institution regulator. Many of the several hundred SBA Supervised Lenders that participated in the PPP Program did so under their existing SBA Form 750 (Loan Guaranty Agreement (Deferred Participation)) or SBA Form 750CA (Community Advantage Pilot Program Loan Guaranty Agreement (Deferred Participation)). Other SBA Supervised Lenders participated in PPP by signing an SBA Form 3507 (CARES Act Section 1102 Lender Agreement—Non-Bank and Non-Insured Depository Institution Lenders).[6]

The overwhelming majority of lenders that participated in the PPP Program are not SBA Supervised Lenders. Instead, they are federally regulated lenders. The approximately 4,900 federally regulated lenders that participated in the PPP Program included those PPP lenders regulated by the Federal Deposit Insurance Corporation, the Federal Reserve, the Office of the Comptroller of the Currency, the National Credit Union Administration, and the Farm Credit Administration. Many of these federally regulated lenders participated in PPP under their existing SBA Form 750 (Loan Guaranty Agreement (Deferred Participation)). Other federally regulated lenders participated in PPP by signing an SBA Form 3506 (CARES Act Section 1102 Lender Agreement).

Under the Consolidated Forgiveness and Loan Review IFR, federally regulated lenders that participated in the PPP Program are currently required to retain their PPP loan records in accordance with the records retention requirements imposed by their federal financial institution regulator. SBA has determined that there do not appear to be any consistent or specific time requirements imposed by federal financial institution regulators that are applicable to PPP records retention as a whole. Instead, federally regulated PPP lenders may implement and follow general internal records retention policies that are acceptable to their regulators. It is likely that many of these general internal records retention policies allow for periodic destruction of certain records after a loan is paid in full, which for PPP would include payment in full through forgiveness or otherwise.[7] SBA has been making forgiveness payments to lenders on PPP loans since late 2020, so there is considerable time sensitivity associated with the need to extend the current PPP records retention requirements for federally regulated lenders.

This interim final rule extends the records retention requirements for all PPP lenders to ten years from the date of final disposition of each individual PPP loan.

III. Interim Final Rule With Immediate Effective Date

This interim final rule is being issued without advance notice and public comment because section 1114 of the CARES Act and section 303 of the Economic Aid Act authorize SBA to issue regulations to implement the PPP Program without regard to notice requirements. Congress designed the PPP as a temporary emergency program, and the issuance of this interim final rule under the statutory rulemaking

[4] See, COVID–19 Fraud Enforcement Task Force 2024 Report (April 2024), *https://www.justice.gov/coronavirus/media/1347161/dl?inline.*

[5] Because PPP is authorized under section 7(a) of the Small Business Act, all lenders participating in the PPP Program are 7(a) Lenders.

[6] SBA Form 3507 lenders included numerous fintechs.

[7] See, *e.g.,* 12 CFR part 749, Appendix A.

authority in the CARES Act and the Economic Aid Act is consistent with Congressional intent.

SBA finds good cause for forgoing the advance notice-and-public-comment procedure because that procedure would be impracticable. The earliest PPP loan was made in April 2020 and SBA began forgiving PPP loans in late 2020, so it is urgent that the PPP lender records retention requirements be extended to prevent the lapse of records retention requirements for and potential destruction of PPP records by federally regulated lenders that could result in the loss of records that need to be preserved for law enforcement purposes. As noted previously, the overwhelming majority of PPP lenders are federally regulated lenders. Under the Consolidated Forgiveness and Loan Review IFR, those approximately 4,900 lenders are currently required to follow the records retention requirements of their federal financial institution regulators. SBA has determined that there do not appear to be any consistent or specific time requirements imposed by federal financial institution regulators that are applicable to PPP records retention as a whole. Instead, federally regulated PPP lenders may implement and follow general internal records retention policies that are acceptable to their regulators. It is likely that many of these general internal records retention policies allow for periodic destruction of certain records after a loan is paid in full, which for PPP would include payment in full through forgiveness or otherwise. Since SBA began making forgiveness payments to PPP lenders starting in late 2020, it is urgent that the current PPP records retention requirements be extended to prevent the destruction of PPP loan records.

Additionally, advising PPP lenders of the extended records retention requirement expeditiously will allow those lenders to adjust their systems and processes as soon as possible in order to comply with the newly extended records retention period. If SBA were to follow the advance notice-and-public-comment process, that would delay issuance of the rule by at least three months, during which time records that need to be preserved for law enforcement purposes are at risk of loss.

For related reasons, SBA has determined that there is good cause to make this rule effective immediately. 5 U.S.C. 553(d)(3). An immediate effective date will prevent potential loss of records that need to be preserved for law enforcement purposes. Given the urgent need to preserve PPP loan records for law enforcement purposes, SBA has determined that it is impractical and not in the public interest to provide a delayed effective date. An immediate effective date will allow PPP lenders to adjust their systems and processes to prevent the loss of PPP loan records that need to be preserved for law enforcement purposes. In this rule, SBA is not imposing a new requirement on PPP lenders, rather SBA is extending an existing requirement of records retention. The systems and process that will need to be adjusted are those that prevent the periodic destruction of records, and SBA believes that PPP lenders do not need a delayed effective date to make these adjustments.

Although this interim final rule is effective immediately, comments are solicited from interested members of the public on all aspects of the interim final rule. These comments must be submitted on or before September 23, 2024. SBA will consider these comments and the need for making any revisions as a result of these comments.

IV. Revisions to Prior PPP Rule

To harmonize the PPP lender records retention requirements with the ten-year PPP fraud statute of limitations in the Harmonization Act, SBA is extending the records retention requirements for all PPP lenders to ten years from the date of final disposition of each individual PPP loan. The extended records retention requirements apply equally to federally regulated lenders (including lenders that executed an SBA Form 3506) and SBA Supervised Lenders (including lenders that executed an SBA Form 3507).

Therefore, the following change is made to the Consolidated Forgiveness and Loan Review IFR:

The last paragraph of Part V.1.c. of the Consolidated Forgiveness and Loan Review IFR (86 FR 8283, 8295) is revised to read as follows:

1. SBA Reviews of Individual PPP Loans

* * *

c. When will SBA undertake a loan review?

* * *

All PPP lenders must preserve for at least 10 years following final disposition of each individual PPP loan:

i. All applications for financing (including applications for withdrawn, approved, declined and cancelled loans);

ii. Lending, participation, and escrow agreements;

iii. Financing instruments; and

iv. All other documents and supporting material relating to such loans, including correspondence.

V. Additional Information

SBA may provide further guidance, if needed, through SBA notices that will be posted on SBA's website at *www.sba.gov.* Questions on the PPP Program may be directed to the Lender Relations Specialist in the local SBA Field Office. The local SBA Field Office may be found at *https://www.sba.gov/tools/local-assistance/districtoffices.*

Compliance With Executive Orders 12866, 12988, 13132 and 13563, the Congressional Review Act, the Administrative Procedure Act, the Paperwork Reduction Act (44 U.S.C. Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Executive Orders 12866 and 13563

OMB's Office of Information and Regulatory Affairs (OIRA) has determined that this interim final rule is significant for the purposes of Executive Orders 12866 and 13563. SBA, however, is proceeding under the emergency provision at Executive Order 12866 section 6(a)(3)(D) based on the need to move expeditiously to preserve the PPP lender records for law enforcement purposes.

This rule is necessary to prevent the loss of PPP loan records during the expanded statute of limitations period under the Harmonization Act. SBA anticipates that this rule will result in substantial benefits to law enforcement. As discussed above, as of December 31, 2023, DOJ has prosecuted thousands of cases of pandemic-related criminal fraud involving over a billion dollars in fraud loss. DOJ has a similar number of investigations that are open and yet to be charged. There have also been over a billion dollars in seizures and forfeitures issued in connection with stolen CARES Act funds. Further, the DOJ Civil Frauds Division has over 800 pending investigations for civil fraud enforcement actions related to the PPP Program, involving thousands of individuals and entities and billions of dollars in losses. DOJ believes that the numbers of these civil fraud investigations will continue to grow.

Extending the records retention requirements for PPP loan records will provide a substantial benefit to the government and the public by preserving records to allow law enforcement to continue to investigate and prosecute these criminal and civil fraud cases and recover taxpayer funds that were wrongfully obtained by these individuals and entities.

In this rule, SBA is not imposing new records retention requirements on the PPP lenders. Instead, SBA is extending existing records retention requirements

for an additional period of time to allow continued investigation and prosecution of criminal and civil fraud cases. For this reason, SBA expects the costs incurred by PPP lenders due to the expanded records retention requirements to be *de minimis.*

Congressional Review Act and Administrative Procedure Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides a major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rulemaking has been reviewed and determined by OMB not to be a ''major rule'' under 5 U.S.C. 804(2).

As explained above, SBA has found good cause to bypass the Administrative Procedure Act's notice-and-comment and 30-day effective date delay requirements. 5 U.S.C. 553(b)(B), (d)(3).

Executive Order 12988

SBA has drafted this rule, to the extent practicable, in accordance with the standards set forth in section 3(a) and 3(b)(2) of Executive Order 12988, to minimize litigation, eliminate ambiguity, and reduce burden. The rule has no preemptive or retroactive effect.

Executive Order 13132

SBA has determined that this rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various layers of government. Therefore, SBA has determined that this rule has no federalism implications warranting preparation of a federalism assessment.

Paperwork Reduction Act, 44 U.S.C. Chapter 35

SBA has determined that this rule will require revisions to existing recordkeeping or reporting requirements of the PPP Program information collection, OMB Control Number 3245–0407. The revisions will have a *de minimis* effect on the costs associated with PPP lender recordkeeping. SBA has requested Office of Management and Budget (OMB) emergency approval of the revisions to the PPP lender recordkeeping requirements to prevent the loss of PPP loan records.

Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act (RFA) generally requires that when an agency issues a proposed rule, or a final rule pursuant to section 553(b) of the Administrative Procedure Act or another law, the agency must prepare a regulatory flexibility analysis that meets the requirements of the RFA and publish such analysis in the **Federal Register**. 5 U.S.C. 603, 604.

Rules that are exempt from notice and comment are also exempt from the RFA requirements, including conducting a regulatory flexibility analysis, when among other things the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. SBA Office of Advocacy guide: How to Comply with the Regulatory Flexibility Act, Ch.1. p.9. Since this rule is exempt from notice and comment, SBA is not required to conduct a regulatory flexibility analysis.

Authority: 15 U.S.C. 636(a)(36); 15 U.S.C. 636(a)(37); and 15 U.S.C. 636m; Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116–136, section 1114, and Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, Pub. L. 116–260, section 303; PPP and Bank Fraud Enforcement Harmonization Act of 2022, Pub. L. 117–166.

Isabella Casillas Guzman,

Administrator.

[FR Doc. 2024–18083 Filed 8–22–24; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 25, 91, 121, and 125

[Docket No. FAA–2024–2052; Amdt. Nos. 25–153, 91–377, 121–393, 125–76]

RIN 2120–AM00

Modernization of Passenger Information Requirements Relating to ''No Smoking'' Sign Illumination

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

ACTION: Direct final rule; request for comments.

SUMMARY: The Federal Aviation Administration (FAA) is amending its regulations to allow aircraft to operate either with ''No Smoking'' signs continuously illuminated or with ''No Smoking'' signs a crewmember can turn on and off. Currently, crewmembers must be able to manually turn aircraft ''No Smoking'' signs on and off. However, the current regulations were drafted when the Department of Transportation (DOT) permitted smoking at times on commercial flights. These amendments bring FAA regulations into alignment with current practice for aircraft manufacturing and operations.

DATES: This direct final rule is effective October 22, 2024.

Submit comments on or before September 23, 2024. If the FAA receives an adverse comment, the FAA will advise the public by publishing a document in the **Federal Register** before the effective date of this direct final rule. That document may withdraw the direct final rule in whole or in part.

ADDRESSES: Send comments identified by docket number FAA–2024–2052 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

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

FOR FURTHER INFORMATION CONTACT: Catherine Burnett, Flight Standards Implementation and Integration Group, Air Transportation Division, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267–8166; email *Catherine.Burnett@faa.gov*.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

Currently, crewmembers must be able to manually turn aircraft ''No Smoking'' signs on and off. This requirement was implemented prior to the prohibition on smoking in passenger cabins during all phases of flight. As a general matter, there is no longer a need for the signs to indicate two different states of smoking permissibility because smoking is not typically permitted at any time on most transport category aircraft operated commercially in the United States. However, when smoking is permitted on

aircraft, such as when they are operated privately, crewmembers still must be able to manually turn ''No Smoking'' signs on and off to inform passengers when it is acceptable to smoke. This direct final rule provides more flexibility by allowing ''No Smoking'' signs to be illuminated continuously. This direct final rule revises five sections of regulations that affect aircraft manufacturers and aircraft operators.

Aircraft manufacturers will benefit from relieving changes in title 14 of the Code of Federal Regulations (14 CFR) part 25. In addition, pilots and aircraft operators will benefit from relieving changes to regulations in parts 91, 121, and 125. The revisions to these five sections of the CFR will allow for ''No Smoking'' signs to be illuminated continuously without the requirement for a physical or software switch to be built into the aircraft at the factory or used by a crewmember during an aircraft operation. Specifically, the revision to part 25 imposes no new requirements on manufacturers; they may continue to make aircraft with manually operated ''No Smoking'' signs. However, as an alternative, the revision to part 25 allows aircraft on which the ''No Smoking'' signs remain illuminated continuously to receive type certification from the FAA without having to request relief from the current regulations. Similarly, with this direct final rule, operators will be able to operate aircraft where signs can either be manually operated by crewmembers or remain continuously illuminated.

The FAA has long recognized the incongruity between the prohibition on smoking in most commercial aircraft and the requirement for manufacturers to construct, and operators to operate, aircraft with ''No Smoking'' signs that can be turned on and off. For almost 30 years, the FAA has addressed this incongruity through equivalent level of safety (ELOS) findings [1] and regulatory exemptions,[2] which allows aircraft to have ''No Smoking'' signs that are continuously illuminated during flight operations. This rule makes such ELOS findings and regulatory exemptions unnecessary. Manufacturers will be able to continue to manufacture, and pilots and operators will be able to continue to operate, aircraft with ''No Smoking'' signs that can be turned on and off or ''No Smoking'' signs that are illuminated continuously.

II. Direct Final Rule

An agency typically uses direct final rulemaking when it anticipates that a proposed rule is unnecessary as the rule is considered noncontroversial.[3] The FAA has determined that this rule is suitable for direct final rulemaking and that publication of a notice of proposed rulemaking (NPRM) is unnecessary because the rule merely aligns minor regulations of lighted ''No Smoking'' signs with the current prohibition on smoking. The rule imposes no new duties on regulated entities and will have little to no practical effect on the American flying public.

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with prior notice and comment for rules when the agency for ''good cause'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without first publishing a proposed rule. The FAA finds that publication of an NPRM would be ''unnecessary'' [4] for this action. A proposed rule is unnecessary for ''the issuance of a minor rule in which the public is not particularly interested.'' [5] As noted previously, this rule will have no direct impact on the American flying public; smoking has been generally banned on flights since 2000.[6] A direct final rule is also appropriate because this is a largely technical change with no detrimental effects on regulated entities.[7] This rule imposes no new duties on manufacturers and operators. It explicitly allows manufacturers to continue to make, and operators to continue to operate, aircraft with manually operated ''No Smoking'' signs, but it no longer requires them to do so. Finally, this rulemaking is largely technical in that it codifies practices already widely permitted by exemption.

The FAA is providing notice to and seeking comment from the public prior to effectuating these changes.[8] If the FAA receives an adverse comment during the comment period, the FAA will advise the public by publishing a document in the **Federal Register** before the effective date of the direct final rule, in accordance with part 11. If the FAA withdraws a direct final rule because of an adverse comment, the FAA may incorporate the commenter's recommendation into another direct final rule or may publish an NPRM.[9]

For purposes of this direct final rule, an adverse comment is one that explains (1) why the rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change.[10] In determining whether an adverse comment necessitates withdrawal of this direct final rule, the FAA will consider whether the comment raises an issue serious enough to warrant a substantive response had it been submitted in response to publication of an NPRM. A comment recommending additional provisions to the rule will not be considered adverse unless the comment explains how this direct final rule would be ineffective without the added provisions.[11]

Under the direct final rule process, the FAA does not consider a comment to be adverse if that comment recommends an amendment to a different regulation beyond the regulations in the direct final rule at issue. The FAA also does not consider a frivolous or insubstantial comment to be adverse.[12]

If the FAA receives no adverse comments, the FAA will publish a confirmation notice in the **Federal**

[1] An aircraft can be type certificated, despite apparent noncompliance with specific airworthiness provisions, if ''any airworthiness provisions not complied with are compensated for by factors that provide an equivalent level of safety.'' 14 CFR 21.21(b)(1). These equivalent level of safety (ELOS) findings, also known as equivalent safety findings (ESF), can be described in issue papers. Issue papers are a structured means to address certain issues in the certification and validation processes of aircraft and aircraft parts. Issue papers establish a vehicle for formal communication between the FAA and the applicant, and track resolution of the subject issues. FAA Advisory Circular (AC) 20–166.

[2] A petition for exemption is a request to the FAA by an individual or entity asking for relief from the requirements of a current regulation. 14 CFR 11.15.

[3] 14 CFR 11.13. *See also* U.S. Department of Transportation (DOT) Order 2100.6A, paragraph 10.j(1)(b) (saying proposed rules are not required for ''[r]ules for which notice and comment is unnecessary to inform the rulemaking, such as rules correcting de minimis technical or clerical errors or rules addressing other minor and insubstantial matters, provided the reasons to forgo public comment are explained in the preamble to the final rule.'')

[4] 5 U.S.C. 553(b)(B).

[5] Attorney General's Manual on the Administrative Procedure Act (1947), 31. *See also Mack Trucks, Inc.* v. *E.P.A.,* 682 F.3d 87, 94 (D.C. Cir. 2012) (quoting *Util. Solid Waste Activities Grp.* v. *E.P.A.,* 236 F.3d 749, 755 (D.C. Cir. 2001), which cites, in turn, the Attorney General's Manual.).

[6] Prohibition of Smoking on Scheduled Passenger Flights final rule, 65 FR 36776 (Jun. 9, 2000).

[7] *Nat'l Helium Corp.* v. *Fed. Energy Admin.,* 569 F.2d 1137, 1146 (Temp. Emer. Ct. App. 1977).

[8] Adoption of Recommendations, 60 FR 43109, 43110–43111 (Aug. 18, 1995) (describing Administrative Conference of the United States, Recommendation 95–4, Procedures for Noncontroversial and Expedited Rulemaking).

[9] 14 CFR 11.31(c).

[10] 14 CFR 11.31(a).

[11] 14 CFR 11.31(a)(1).

[12] 14 CFR 11.31(a)(1) and (2).

(''Because the change was largely technical and did not substantively alter the existing regulatory framework . . . , and because there was ultimately no detrimental impact on the rights of the parties regulated, prior notice and opportunity to comment were 'unnecessary'.'')

Register, generally within 15 days after the comment period closes. The confirmation notice announces the effective date of the rule.[13]

III. Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in title 49 of the United States Code (U.S.C.). Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. Under section 44701, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce.

This rulemaking is promulgated under 49 U.S.C. 41706, which prohibits smoking on passenger flights and grants the FAA authority to ''prescribe such regulations as are necessary'' to enforce that prohibition. Regulations requiring ''No Smoking'' signs and prescribing specific standards for required ''No Smoking'' signs fall within that grant of authority. This rulemaking, which removes a previously required standard for the construction of ''No Smoking'' signs, also falls within that authority.

This rulemaking is also promulgated under the authority granted to the Administrator in 49 U.S.C. subtitle VII, part A, subpart iii, chapter 401, section 40113 (prescribing general authority of the Administrator of the FAA with respect to aviation safety duties and powers to prescribe regulations) and subpart III, chapter 447, sections 44701 (general authority of the Administrator to promote safe flight of civil aircraft in air commerce by prescribing regulations and setting minimum standards for other practices, methods, and procedures necessary for safety in air commerce and national security), 44702 (general authority of the Administrator to issue certificates, including airworthiness certificates), 44704 (general authority of the Administrator to prescribe regulations for the issuance of certificates), and 44705 (authority to issue air carrier operating certificates). These authorities provide the means by which the Administrator enforces the prohibition on smoking. As the Administrator has broad discretion over certification and aviation safety, the Administrator has broad discretion over how a ban on smoking is enforced.

[13] 14 CFR 11.31(b).

IV. Discussion of the Direct Final Rule

A. History

In 1973, the Civil Aeronautics Board (CAB) required the separation of smoking and non-smoking passengers onboard flights.[14] In subsequent years, the CAB and then the Office of the Secretary (OST) of the DOT, to which CAB functions were transferred, revised the rule several times, each time further limiting smoking.[15] In a final rule that established 14 CFR part 125, the FAA confirmed that smoking must be prohibited during takeoff and landing.[16] The FAA further limited smoking on aircraft in 1988 with the promulgation of 14 CFR 121.317,[17] which limited smoking during takeoff and landing along with a smoking ban on flights with a duration of two hours or less. The purpose of the ''No Smoking'' signs during this time was to inform occupants in the cabin when smoking was otherwise permitted. Furthermore, in 1990, the FAA published a final rule that amended § 25.791 to consolidate the passenger-required placards such as the ''Fasten Seat Belt'' and ''No Smoking'' signs in one easy-to-reference section for aircraft manufacturers.[18] The amendment to § 25.791 also consolidated the requirement for crew to be able to turn on and off the ''No Smoking'' signs to apply to aircraft on which smoking was prohibited as well as aircraft on which smoking was allowed.[19] Prior to the consolidation, aircraft on which smoking was prohibited only required a placard rather than an operable sign.

In 1992, the FAA promulgated regulations requiring ''No Smoking'' signs to be on when an airplane is taxiing.[20] These clarifying amendments also harmonized requirements across CFR sections for passengers to obey the lighted ''No Smoking'' signs. Finally, in response to a Congressional mandate, the FAA required all domestic and international air carriers to prohibit smoking on their aircraft.[21] DOT issued a final rule the same day also updating its regulations to implement the statutory ban.[22] After the issuance of this regulation in 2000, practically all commercial scheduled flights have banned smoking for the entirety of the flight. The FAA acknowledges that not all transport-category aircraft certificated under part 25 are operated solely in the United States, and as such, they are not required to comply with DOT and the FAA regulations pertaining to smoking. However, by the time DOT and the FAA banned smoking in 2000, nearly all U.S. international flights were already smoke-free, due to both governmental regulation and voluntary action by airlines, and most commercial airline flights operated in countries other than the U.S. were also smoke-free.

Today, aircraft manufactured to the airworthiness standards of § 25.791(a) must have ''No Smoking'' signs that a member of the flightcrew can turn on and off, and that are legible while turned on to each person seated in the cabin under all cabin lighting configurations. Additionally, pilots and crewmembers who conduct flights operated under §§ 91.517(a), 121.317(a), 125.207(a)(3), or 125.217(a) are required to be able to turn on and off the ''No Smoking'' signs on an aircraft with either a software or hardware action.

B. Addressing Requests for Regulatory Relief

In 1992, in response to smoking becoming prohibited on most scheduled flight segments in the United States, the FAA coordinated with an aircraft manufacturer to develop an ELOS finding in accordance with § 21.21(b)(1) addressing lighted ''No Smoking'' signs. The manufacturer requested that the FAA allow it to install lighted ''No Smoking'' signs that remain continuously illuminated on specific aircraft models. The FAA concluded that continuously lighted ''No Smoking'' signs provide an ELOS to ''No Smoking'' placards on the requested aircraft. The FAA has since developed four other ELOS findings in accordance with § 21.21(b)(1) with manufacturers to allow the installation of ''No Smoking'' signs that are continuously illuminated on other models of aircraft. Even with an ELOS finding in accordance with § 21.21(b)(1), aircraft operators who elect to operate aircraft with the continuously illuminated ''No

[14] Provision of Designated ''No-Smoking'' Areas Aboard Aircraft Operated By Certificated Air Carriers final rule, 38 FR 12207 (May 10, 1973).

[15] Smoking Aboard Aircraft final rule, 65 FR 36772 (Jun. 9, 2000).

[16] Certification and Operation Rules for Certain Large Airplanes; Establishment of Part and Miscellaneous Amendments to Existing Regulations final rule, 45 FR 67214 (Oct. 9, 1980), at 67246.

[17] Smoking Aboard Aircraft final rule 52 FR 12358 (Apr. 13, 1988), at 12361–12362.

[18] Special Review: Transport Category Airplane Airworthiness Standards final rule, 55 FR 29756 (Jul. 20, 1990) at 29764.

[19] *Id.,* 29780.

[20] Miscellaneous Operational Amendments final rule, 57 FR 42662 (Sep. 15, 1992), at 42665.

[21] Prohibition of Smoking on Scheduled Passenger Flights final rule, 65 FR 36776 (Jun. 9, 2000).

[22] Smoking Aboard Aircraft final rule, 65 FR 36772 (Jun. 9, 2000).

Smoking'' signs then need to petition for an exemption from §§ 91.517(a), 121.317(a), 125.207(a)(3), or 125.217(a), as applicable, to allow flight operations with the continuously illuminated ''No Smoking'' signs.

Delta Air Lines, Inc. (Delta) became the first aircraft operator to request an exemption from the then-current regulations in 1995.[23] Delta sought relief from the requirement that a crewmember be able to operate a switch to turn the ''No Smoking'' sign on and off. The FAA granted Delta's petition for exemption from both §§ 121.317(a) and 25.791(a), and dozens of petitions for exemption from other aircraft manufacturers and aircraft operators for relief from the FAA's ''No Smoking'' signs regulations followed. There are currently 44 active exemptions regarding these ''No Smoking'' sign regulations.

Currently, the FAA requires aircraft manufacturers to show that the aircraft meets an ELOS findings in accordance with § 21.21(b)(1) before it will certify aircraft with continuously illuminated ''No Smoking'' signs. Aircraft operators require exemptions to operate such aircraft. This rulemaking revises the ''No Smoking'' sign regulations so that all manufacturers and operators will no longer need to expend resources to receive regulatory relief through ELOS findings and exemptions. Since continuously illuminated signs generally provide an ELOS to placards and operable signs, there is no benefit to continuing to require manufacturers and operators to prove this in each individual case.

C. Revisions to Requirements of Aircraft ''No Smoking'' Signs

The FAA is revising its regulations to provide an additional option regarding the manufacture and operation of ''No Smoking'' signs and placards on aircraft. Specifically, this rulemaking permits aircraft manufacturers to manufacture aircraft with lighted ''No Smoking'' signs that are continuously illuminated and cannot be turned off and permits crews to operate aircraft with ''No Smoking'' signs that remain continuously illuminated. No new requirements are imposed; for example, manufacturers may still produce aircraft with placards stating smoking is prohibited. Since air carriers may not allow smoking during most operations conducted in the United States, outdated language stating ''If smoking is to be allowed . . .'' has been removed.

To address the current requirement that aircraft be manufactured only with ''No Smoking'' signs that can be turned on and off, the FAA is revising § 25.791(a) to permit an aircraft manufacturer to manufacture an aircraft with ''No Smoking'' signs that can be turned on and off, with placards stating smoking is prohibited, or with lighted ''No Smoking'' signs that are continuously illuminated. Revised sections 91.517(a), 121.317(a), 125.207(a)(3), and 125.217(a) will allow operators to continuously illuminate ''No Smoking'' signs or, as before, to continue operating aircraft with ''No Smoking'' signs that can be controlled by a crewmember.

With these changes, the FAA is providing an alternative to existing regulatory requirements and not creating any new requirements. Even though smoking is prohibited, there are still passengers who may wish to smoke despite the prohibition, and the FAA continues to believe the sign or placard requirement provides a continuous reminder to passengers of the ban on smoking.

D. Regulations Not Revised as Part of This Rulemaking

Section 25.791(a), as it is written currently, does not differentiate between requirements for the construction of ''No Smoking'' signs on aircraft where smoking is to be prohibited and on aircraft where smoking is to be allowed. However, prior to publication of the Revision of Airworthiness Standards for Normal, Utility, Acrobatic, and Commuter Category Airplanes final rule,[24] §§ 23.853, 27.853, and 29.853, the corresponding regulations addressing ''No Smoking'' signs in current parts 23, 27, and 29, were written such that the requirement for ''No Smoking'' signs to be constructed so that the crew can turn them on and off only applied to aircraft where smoking is to be allowed. Parts 23, 27, and 29 aircraft on which smoking is prohibited require only a placard stating so. Thus, the FAA is not revising parts 23, 27, and 29 in this direct final rule.

Similarly, the FAA is not revising regulations in part 135 related to ''No Smoking'' signs as these regulations do not include the prescriptive requirements found in parts 91, 121, and 125 related to crew operation of ''No Smoking'' signs. Finally, this rulemaking action does not revise any placarding requirements in part 25.

V. Regulatory Notices and Analyses

Federal agencies consider the impacts of regulatory actions under a variety of executive orders and other requirements. First, Executive Order 12866 and Executive Order 13563, as amended by Executive Order 14094 (''Modernizing Regulatory Review''), direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify the costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. The current threshold after adjustment for inflation is $183 million using the most current (2023) Implicit Price Deflator for the Gross Domestic Product. This portion of the preamble presents the FAA's analysis of the economic impacts of this rule.

In conducting these analyses, the FAA has determined that this direct final rule: will not exceed the economic impact threshold for a ''significant regulatory action'' set in section 3(f)(1) of Executive Order 12866, as amended by Executive Order 14094; will not have a significant economic impact on a substantial number of small entities; will not create unnecessary obstacles to the foreign commerce of the United States; and will not impose an unfunded mandate on State, local, or tribal governments, or on the private sector.

A. Regulatory Evaluation

On June 4, 2000, the FAA banned smoking for all U.S. scheduled flights. At the time of the ban, several rules required ''No Smoking'' signs to be constructed so that they were ''operable'' (14 CFR 25.171) or could be turned on and off (14 CFR 91.571, 121.317, 125.207, and 125.217) by a crewmember by means of an on-off switch.

As noted previously, the FAA recognizes the incongruity of these rules given the industry-wide ban on

[23] FAA Exemption No. 6034.

[24] Revision of Airworthiness Standards for Normal, Utility, Acrobatic, and Commuter Category Airplanes final rule, 81 FR 96572 at 96689 (Dec. 30, 2016).

smoking. By means of ELOS findings, part 25 manufacturers have been allowed to hardwire ''No Smoking'' signs on existing in-service aircraft and, for newly manufactured aircraft, have been allowed to construct ''No Smoking'' signs that were permanently and continuously illuminated. Correspondingly, operators have been allowed to operate such aircraft after they receive the authority to do so through an exemption issued by the FAA.

Over a period of nearly 30 years, the FAA has made several ELOS findings and issued 57 exemptions.[25] ELOS findings and the exemption process are both time-consuming and burdensome for manufacturers and operators, who must justify their requests for this regulatory relief, and for the FAA, which must evaluate and coordinate these regulatory requests. The burden of the exemptions process has been exacerbated since the exemptions, until recently, were generally issued for a two-year period only and thus had to be regularly renewed.

This direct final rule provides permanent and universal regulatory relief previously granted to specific parties through ELOS findings and exemptions. Manufacturers are now allowed to produce aircraft with ''No Smoking'' signs that can be illuminated continuously, and operators are allowed to operate them without petitioning the FAA. For manufacturers, operators, and the FAA, this rulemaking eliminates unnecessary costs of time and paperwork associated with ELOS findings and exemptions.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980, (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) and the Small Business Jobs Act of 2010 (Pub. L. 111–240), requires Federal agencies to consider the effects of regulatory action on small business and other small entities and to minimize any significant economic impact. The term ''small entities'' comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

As described in the Regulatory Evaluation, this rule relieves aircraft manufacturers from the need to request ELOS findings from the FAA and operators from the need to petition the FAA to allow ''No Smoking'' signs to be continuously illuminated. Further, if an agency determines that a rulemaking will not result in a significant economic impact on a substantial number of small entities, the head of the agency may so certify under section 605(b) of the RFA. Therefore, based on the foregoing, the FAA Administrator certifies that this direct final rule will not have a significant economic impact on a substantial number of small entities.

C. International Trade Impact Assessment

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

The FAA has assessed the potential effect of this direct final rule and determined that it ensures the safety of the American public and does not exclude imports that meet this objective. The rule relieves restrictions on ''No Smoking'' signs for both domestic and foreign manufacturers and operators and so does not create unnecessary obstacles to foreign commerce. As a result, this direct final rule is a safety rule consistent with the Trade Agreements Act.

D. Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal governments, or the private sector to incur direct costs without the Federal government having first provided the funds to pay those costs. This rulemaking creates no new requirements and so imposes no direct costs. Therefore, the FAA has determined that the requirements of the Unfunded Mandates Reform Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there will be no new requirement for information collection associated with this direct final rule.

F. International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these regulations.

G. Environmental Analysis

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

VI. Executive Order Determinations

A. Executive Order 13132, Federalism

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

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

The FAA analyzed this direct final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. The FAA has determined that it is not a ''significant energy action'' under the executive order and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

[25] The FAA granted exemptions to Delta Airlines in 1995 (FAA Exemption No. 6034) and to American Airlines in 1999 (FAA Exemption No. 6853), both of which established an airline-wide ban on smoking prior to the FAA industry-wide ban in 2000.

C. Executive Order 13609, Promoting International Regulatory Cooperation

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

VII. Additional Information

A. Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the rule, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

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

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

B. Confidential Business Information

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

C. Electronic Access and Filing

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

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

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

D. Small Business Regulatory Enforcement Fairness Act

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

List of Subjects

14 CFR Part 25

Aircraft, Aviation safety.

14 CFR Part 91

Aircraft, Airmen, Aviation safety, Air carriers, Air taxis, Charter flights.

14 CFR Part 121

Air carriers, Aircraft, Airmen, Aviation safety, Charter flights, Safety.

14 CFR Part 125

Aircraft, Airmen, Aviation safety.

The Amendment

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

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

■ 1. The authority citation for part 25 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702 and 44704; Pub. L. 115–254, 132 Stat 3281 (49 U.S.C. 44903 note).

■ 2. Amend § 25.791 by revising paragraph (a) to read as follows:

§ 25.791 Passenger information signs and placards.

(a) Regarding ''No Smoking'' signs and placards:

(1) There must be at least one placard, or lighted sign, stating if smoking is prohibited. The placard or lighted sign must be legible to each person seated in the cabin.

(2) Lighted ''No Smoking'' signs must either be operable by a member of the flightcrew or be illuminated continuously during airplane operations. Illuminated signs must be legible under all probable conditions of cabin illumination to each person seated in the cabin.

* * * * *

PART 91—GENERAL OPERATING AND FLIGHT RULES

■ 3. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40101, 40103, 40105, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, 47534, Pub. L. 114–190, 130 Stat. 615

(49 U.S.C. 44703 note); articles 12 and 29 of the Convention on International Civil Aviation (61 Stat. 1180), (126 Stat. 11).

■ 4. Amend § 91.517 by revising paragraph (a) to read as follows:

§ 91.517 Passenger information.

(a) Except as provided in paragraph (b) of this section, no person may operate an airplane carrying passengers unless it is equipped with signs that are visible to passengers and flight attendants to notify them when smoking is prohibited and when safety belts must be fastened.

(1) The signs that notify when safety belts must be fastened must be so constructed that the crew can turn them on and off.

(2) The signs that prohibit smoking and signs that notify when safety belts must be fastened must be illuminated during airplane movement on the surface, for each takeoff, for each landing, and when otherwise considered to be necessary by the pilot in command.

* * * * *

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

■ 5. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40119, 41706, 42301 preceding note added by Pub. L. 112–95, sec. 412, 126 Stat. 89, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44729, 44732; 46105; Pub. L. 111–216, 124 Stat. 2348 (49 U.S.C. 44701 note); Pub. L. 112–95, 126 Stat. 62 (49 U.S.C. 44732 note); Pub. L. 115–254, 132 Stat. 3186 (49 U.S.C. 44701 note).

■ 6. Amend § 121.317 by revising paragraph (a) to read as follows:

§ 121.317 Passenger information requirements, smoking prohibitions, and additional seat belt requirements.

(a) Except as provided in paragraph (l) of this section, no person may operate an airplane unless it is equipped with passenger information signs that meet the requirements of § 25.791 of this chapter.

* * * * *

PART 125—CERTIFICATION AND OPERATIONS: AIRCRAFT HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE; AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 7. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701–44702, 44705, 44710–44711, 44713, 44716–44717, 44722.

■ 8. Amend § 125.207 by revising paragraph (a)(3) to read as follows:

§ 125.207 Emergency equipment requirements.

(a) * * *

(3) Signs that meet the following requirements:

(i) Signs that are visible to all occupants to notify them when safety belts should be fastened. These signs must be so constructed that they can be turned on and off by a crewmember. They must be turned on for each takeoff and each landing and when otherwise considered to be necessary by the pilot in command.

(ii) Signs that are visible to all occupants to notify them when smoking is prohibited. These signs must be turned on for each takeoff and each landing and when otherwise considered to be necessary by the pilot in command.

* * * * *

■ 9. Amend § 125.217 by revising paragraph (a) to read as follows:

§ 125.217 Passenger information.

(a) Except as provided in paragraph (b) of this section, no person may operate an airplane carrying passengers unless it is equipped with signs that meet the requirements of § 25.791 of this chapter and that are visible to passengers and flight attendants to notify them when smoking is prohibited and when safety belts must be fastened.

(1) The signs that notify when safety belts must be fastened must be so constructed that the crew can turn them on and off.

(2) The signs that prohibit smoking and signs that notify when safety belts must be fastened must be illuminated during airplane movement on the surface, for each takeoff, for each landing, and when otherwise considered to be necessary by the pilot in command.

* * * * *

Issued under authority provided by 49 U.S.C. 106(f), 44701(a), and 41706(e) in Washington, DC.

Michael Gordon Whitaker,

Administrator.

[FR Doc. 2024–18602 Filed 8–22–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

Florida Keys National Marine Sanctuary: Establishment of Temporary Special Use Area for Coral Nursery

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Extension of temporary special use areas.

SUMMARY: On July 27, 2024, the National Oceanic and Atmospheric Administration (NOAA) issued an interim final rule establishing three special use areas within Federal waters of the Florida Keys National Marine Sanctuary (FKNMS) from July 27, 2024 through August 26, 2024. This notice extends the temporary special use areas an additional 60 days. The special use areas prohibit all entry except for restoration activities under a valid Office of National Marine Sanctuaries (ONMS) permit, continuous transit without interruption, and for law enforcement purposes, from August 26, 2024 to October 25, 2024. This temporary rule is necessary to prevent or minimize destruction of, loss of, or injury to sanctuary resources, specifically to facilitate restoration activities to improve or repair living habitats through protecting coral nursery stock at this site from potential impacts caused by anchor damage and/or fishing gear. This extension is necessary to protect the corals in the temporary special use areas until water temperatures cool and all of the corals are moved back to the original in-shore permitted nursery site. This temporary special use area will expire within 120 days from the date it was established.

DATES: The effective period for the interim final rule, temporary emergency rule published July 27, 2024, at 89 FR 53483, is extended. This extension of this rule is effective August 26, 2024 through October 25, 2024.

ADDRESSES: Sarah Fangman, Superintendent, Florida Keys National Marine Sanctuary, 33 East Quay Road, Key West, FL 33040, 305–360–2713 phone, or by email at *sarah.fangman@noaa.gov.*

Additional background materials can be found on the FKNMS website at *https://floridakeys.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Sarah Fangman, Superintendent, Florida Keys National Marine Sanctuary, 33 East Quay Road, Key West, FL 33040, 305–360–2713 phone, or by email at *sarah.fangman@noaa.gov*.

SUPPLEMENTARY INFORMATION: On July 27, 2024, NOAA issued an interim final rule, temporary emergency rule (RIN 0648–BN10) creating three temporary special use areas for the purpose of coral restoration within Federal waters of FKNMS for 60 days with the possibility of extending an additional 60 days following public notice (89 FR 53483). Section 15 CFR 922.164(e) of the FKNMS regulations allows the ONMS Director to set aside discrete areas of the Sanctuary as special use areas in order to provide for, among other uses, the restoration of degraded or otherwise injured sanctuary resources (15 CFR 922.164(e)(1)(i)). A special use area shall be no larger than the size the ONMS Director deems reasonably necessary to accomplish the applicable objective. No person may enter a special use area except to conduct restoration activities under a valid ONMS permit, continuous transit without interruption, or law enforcement purposes. Activities that are currently allowed in the area, including fishing, are prohibited.

These temporary special use areas were established to limit the potential for physical impact to coral nurseries that were temporarily relocated to deeper waters to protect the nursery corals from heat stress caused by the current on-going marine heat wave. Creation of these temporary special use areas limits the potential for physical impact to this sensitive coral nursery stock from anchoring, unintentional fouling of fishing gear, and bottom tending fishing gear including traps. The ONMS Director determined that the size of 0.07 square miles for each site is no larger than the size reasonably necessary to protect the coral nursery stock from physical damage. The original rule established these special use areas for 60 days, until August 26, 2024, with the possibility of one 60-day extension. NOAA has determined a 60-day extension is necessary to protect the corals in the temporary special use areas until water temperatures cool and all of the corals are moved back to the original in-shore permitted nursery sites.

NOAA will continue to provide notice of the location of these areas through sanctuary radio announcements, press releases, and with assistance from the U.S. Coast Guard and FKNMS staff. NOAA has requested the U.S. Coast Guard give an additional notification to vessels, via notice to mariners, to remain in continuous transit through this temporary area through October 25, 2024.

Justification for Emergency Action and Extension

The establishment of the three temporary special use areas was taken in accordance with 15 CFR 922.165 of the FKNMS regulations (62 FR 32154, June 12, 1997). Section 922.165 provides that, where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource, any and all activities are subject to immediate temporary regulation, including prohibition, for up to 60 days, with one 60-day extension. This notification is for one 60-day extension to allow water temperatures to cool and complete the relocation of the corals from these off-shore temporary special use areas back to the original in-shore permitted nursery site.

The interim final rule was necessitated by anticipation of a marine heat wave this summer that would impact and likely kill coral reefs in the Florida Keys at an unprecedented rate and scale. These conditions are unsustainable for coral reef ecosystems, and those at most risk are the coral nursery stock because these are located in shallow, nearshore protected environments that heat up much more than offshore locations. There are currently 14 active coral nursery sites throughout the Florida Keys. These nursery sites are strategically located in close proximity to the sites where the nursery coral will be outplanted to promote coral restoration. Active coral restoration in the Florida Keys is necessary to facilitate coral restoration, as in the last 40 years, healthy coral cover in the Florida Keys reefs has declined by more than 90 percent.

NOAA and restoration partners identified these three deepwater locations because they maintain temperatures below the bleaching threshold, are not exposed to deleterious levels of ultraviolet (UV) radiation, and experience substantial water movement, all conditions more conducive to coral survival. A portion of the most valuable corals, including representative colonies of each species of boulder and branching corals, samples of elkhorn coral, staghorn coral, star corals (*Orbicella spp.*), pillar corals and cactus coral listed under the Endangered Species Act, as well as multiple representative genotypes of these corals to ensure we protect the genetic diversity of these species, were relocated to deeper water sites within FKNMS Federal waters. Temperature meters at these deep sites have consistently shown readings below the bleaching threshold of 30.5° Celsius (C).

This extension of NOAA's emergency action maintains the offshore temporary special use areas to continue to limit the potential for physical impact to this sensitive coral nursery stock until temperatures cool and corals may be relocated back to the original inshore permitted nursery sites. These sensitive corals are being grown to support critical sanctuary restoration efforts and could be impacted from anchoring, unintentional fouling of fishing gear, and bottom tending fishing gear including traps. The protections afforded by maintaining these special use areas need to be in place to avoid further damage to these sensitive nursery corals that have already experienced impact from heat stress. As such, a 60-day extension of these special use areas is necessary to prevent or minimize the destruction of, loss of, or injury to Sanctuary resources.

Emergency Measures

The 60-day extension of this interim final rule continues the applicability of three special use areas, approximately 0.07 square miles in size for each site, into which all entry will be prohibited except for conducting restoration activities under a valid ONMS permit, continuous transit without interruption, and law enforcement purposes. These special use areas were created for 60 days from July 27, 2024 until August 26, 2024. This action extends the temporary special use areas for an additional 60 days, until October 25, 2024.

The coordinates for this temporary special use area are included in Appendix VI to Subpart P of Part 922 and in the July 27, 2024 **Federal Register** (89 FR 53483).

Location and Boundary

Effective from July 27, 2024 through October 25, 2024, all entry except for conducting restoration activities under a valid ONMS permit, continuous transit without interruption, and law enforcement purposes is prohibited within these temporary special use areas. The boundaries for the special use areas begin at Point 1 in each of the coordinates in Appendix VI to Subpart P of Part 922 and continue to each subsequent point in numerical order ending at Point 5. (Coordinates are unprojected (Geographic) and based on the North American Datum of 1983).

1. Tavernier Special Use Area (Temporary)

The first of these special use areas was created in 2023 with a final temporary rule (88 FR 60887, September

6, 2023), and proved to be a very good temporary location for moving the coral nursery stock given that there was double the survivorship of nursery coral relocated to this deeper water site as compared to nursery coral that remained at inshore, shallow sites. It is approximately five miles southeast of the community of Tavernier, on the island of Key Largo.

2. Marathon Special Use Area (Temporary)

The second area is located within Federal open waters of the Atlantic Ocean, approximately four miles offshore from the City of Key Colony Beach/Marathon.

3. Looe Key Special Use Area (Temporary)

The third area is located within Federal open waters of the Atlantic Ocean, approximately 6.5 miles offshore from Summerland Key. Looe Key Special Use Area includes within its boundary one mooring buoy that is used by private individuals or diving and fishing charter operators, which is unavailable for these uses while the temporary special use area restrictions are in place. This is one of 47 total mooring buoys in the vicinity of Looe Key, representing 2% of the total mooring buoy availability in this area (or 0.22% of all mooring buoys available throughout the sanctuary). Currently within this area anchoring is prohibited on living coral other than hardbottom in water depths less than 40 feet when visibility is such that the seabed can be seen (15 CFR 922.163(a)(5)(ii)), and in Looe Key Sanctuary Preservation Area, anchoring is prohibited if a mooring buoy is available or if conducted anywhere other than a designated anchoring area when such areas have been designated and are available (15 CFR 922.164(d)(1)(vi)).

Penalties

Pursuant to 16 U.S.C. 1437(d)(1) and 15 CFR 922.8(a), any person who violates this rule is subject to a civil penalty. The maximum civil monetary penalty authorized under the National Marine Sanctuaries Act (NMSA) has been adjusted for inflation over time and is currently $216,972 per violation per day. *See* 15 CFR 6.3(f)(13). Furthermore, NMSA authorizes a proceeding in rem against any vessel used in violation of this regulation. *See* 16 U.S.C. 1437(d)(3).

Classification

A. National Marine Sanctuaries Act

This action is issued pursuant to the National Marine Sanctuaries Act, 16 U.S.C. 1431 *et seq.* and implementing regulations at 15 CFR part 922. This action is being taken pursuant to the emergency provision of the Florida Keys National Marine Sanctuary regulations at 15 CFR 922.164(e) and 922.165.

B. Administrative Procedure Act

In the interim final rule, 89 FR 53483, the Assistant Administrator of the National Ocean Service, NOAA, found good cause to waive notice and public comment pursuant to 5 U.S.C. 553(b)(3)(B) and make the rule immediately effective under 5 U.S.C. 553(d)(3), as it would be impracticable and contrary to the public interest to delay taking the emergency measure to protect corals that were relocated due to heat stress to deeper, cooler waters. NOAA invited comments for 30 days (until July 29, 2024) following publication of the interim final rule. The interim final rule authorized one 60-day extension of the special use area, which we hereby invoke.

Authority: 16 U.S.C. 1431 *et seq.*

John Armor,

Director, Office of National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2024–18844 Filed 8–22–24; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2024–0225]

RIN 1625–AA00

Safety Zones; Aerial Drone Displays, Hudson and East Rivers, New York, NY

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing specific areas of the Hudson and East Rivers where safety zones will be enforced on the navigable waters beneath aerial drone shows. This action is necessary to protect personnel, vessels, and the marine environment from potential hazards created by aerial drone displays. This final rule would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Sector New York or a designated representative.

DATES: This rule is effective September 23, 2024.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2024–0225 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 about this rule, call or email MST1 Melanie Hughes, Sector New York Waterways Management Division, U.S. Coast Guard; 718–354–4352, *D01-SMB-SecNY-Waterways@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

From November 2022 until June 2024, U.S. Coast Guard Sector New York received 13 requests for aerial drones displays within the Captain of The Port's (COTP) area of responsibility. Of those 13 requests, 10 have either taken place or were planned to take place in areas above the Hudson and East Rivers. In all cases, the sponsors of the drone displays requested safety zones beneath the drones' flight path. The request for safety zones is driven by Federal Aviation Administration (FAA) regulation that drones cannot safely fly over human beings. It is becoming increasingly more common to hold aerial drone displays over the water to reduce the number of occupants immediately below a drone show. In response, on May 24, 2024, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zones; Aerial Drone Displays, Hudson and East Rivers, New York, NY (89 FR 45803). There we stated why we issued the NPRM and invited comments on our proposed regulatory action related to this rule. During the comment period that ended June 24, 2024, we received three comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The COTP New York has determined the potential hazards associated with drone shows to be a safety concern for anyone directly underneath the flight path of aerial drone displays. The purpose of this rule is to ensure the safety of human life and vessels on the navigable waters of the Hudson and East Rivers

while a drone show is taking place overhead.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received three comments; one was submitted directly to the docket and the other two were emailed to the Coast Guard point of contact referenced in the **FOR FURTHER INFORMATION CONTACT** section and have since been added to the docket, on our NPRM published May 24, 2024. Although we received three comments, there are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

One commenter asked whether a barge would be allowed to remain in place while a safety zone is being enforced. The commenter stated that removing a barge would entail additional costs if it were required to move. The rule allows entry and occupancy in the designated safety zone by contacting the COTP or the COTP's Designated Representative via VHF–FM Marine Channel 16, or by contacting the Coast Guard Sector New York command center at 718–354–4356. Such requests as the commenter presents will be considered on a case-by-case basis with regards to the safety of the event and users of the waterway. Additionally, Zones 1 and 2 occur within areas monitored by the Coast Guard's Vessel Traffic Center, who will ensure adequate notice and predictability in the waters through coordination of vessel movements and dissemination of information.

One commenter inquired about a scenario where the City of New York would need to pass through a closed safety zone in order to inspect and/or repair a location that is deemed an emergency and whether they would be given special permission to do so. This rule allows all vessels, not just those operated by the City of New York, to seek permission to enter the zone if necessary. The COTP can grant access on a case-by-case basis into the regulated area. To seek access into a safety zone, you may contact the Sector New York Command Center at 718–354–4356 or use VHF channel 13 or 16. Additionally, the Coast Guard anticipates any enforcement of a regulated area to be of a short duration (while drones are in flight, typically between 10–20 minutes at a time) and impact a small, designated area of the waterway. In many cases, vessels can safely transit around the safety zone. The areas designated as Zone 1 (Hudson River) and Zone 2 (East River) will not be enforced in their entirety, rather, a smaller portion of the zone will be enforced to cover all waters beneath the drone's flight path. The Coast Guard anticipates, on average, that these safety zones would only cover the waters within a 200-yard radius of the aerial drone display. However, safety zones could be established up to a radius of 500-yards from the aerial drone display.

One commenter requested to know if Pier 89 and Pier 90, near the Intrepid Museum (Pier 86), on the Hudson River were included in Zone 1 (Hudson River). Zone 1 (Hudson River) covers all waters of the Hudson River extending from lower Manhattan (Staten Island Ferry, Whitehall terminal) north to Pier 99.

This rule establishes designated zones on the Hudson and East Rivers in which a safety zone radius up to 500-yards will be established for aerial drone displays. The establishment of a safety zone within a designated zone requires the coordinates defining the center of the safety zone to be within the boundaries of one of the zones.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a ''significant regulatory action,'' under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the ability of other waterway users to safely transit around the safety zones in many cases, and the size and duration of the safety zones will impact a small, designated area of the waterway for a relatively short period of time. Moreover, the Coast Guard will notify mariners of the enforcement via marine broadcasts, local notice to mariners, local news media, distribution in leaflet form, or by an on-scene oral notice as appropriate. The rule will also allow vessels to seek permission to enter the zone if necessary.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the 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 designating areas on the Hudson and East Rivers where safety zones can be established underneath drone shows. It is categorically excluded from further review under paragraph L60a 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 § 165.166 to read as follows:

§ 165.166 Safety Zones; Coast Guard Captain of the Port New York Zone Drone Displays.

(a) *Locations.* The following areas are designated zones in which a safety zone with a radius up to 500-yards will be established for drone shows. The establishment of a safety zone within a designated zone requires the coordinates defining the center of the safety zone to be within the boundaries of one of the zones described as follows:

(1) *Hudson River Zone 1:* All waters of the Hudson River to include Morris Canal Basin in the vicinity of lower Manhattan, from surface to bottom, encompassed by a line connecting the following points beginning at 40°42′20.9″ N, 74°02′05.7″ W; traveling north along the shoreline thence to 40°46′41.1″ N, 74°00′30.4″ W; thence to 40°46′22.2″ N, 73°59′38.3″ W; traveling south along the shoreline thence to 40°42′02.0″ N, 74°00′51.1″ W; and back to the point of origin.

(2) *East River Zone 2:* All waters of the East River in the vicinity of lower Manhattan, from surface to bottom, encompassed by a line connecting the following points beginning at 40°42′01.6″ N, 74°00′48.7″ W; traveling north along the shoreline thence to 40°46′38.0″ N, 73°56′31.6″ W; thence to 40°46′33.2″N, 73°56′13.4″ W; traveling south along the shoreline thence to 40°44′17.2″ N, 73°57′38.7″ W; thence to 40°44′11.6″ N, 73°57′37.0″ W; continuing south along the shoreline thence to 40°41′35.7″ N, 74°00′14.3″ W; and back to the point of origin. These coordinates are based on Datum WGS 84.

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

Designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port New York Zone in the enforcement of the safety zone.

Official Patrol Vessels means any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned as an on-scene representative approved by the COTP.

Spectators means all persons and vessels not registered with the event sponsor as participants or official patrol vessels.

(c) *Regulations.* (1) When enforced, 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) To seek permission to enter the designated safety zone, contact the COTP or the COTP's Designated Representative via VHF–FM Marine Channel 16, or by contacting the Coast Guard Sector New York command center at 718–354–4356. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement periods.* The COTP will make notification of the exact dates and times in advance of each enforcement period for the locations above in paragraph (a) of this section to the local maritime community through marine broadcasts, local notice to mariners, local news media, distribution in leaflet form, or by an on-scene oral notice and signage.

Jonathan A. Andrechik,

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

[FR Doc. 2024–18865 Filed 8–22–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2024–0748]

Safety and Security Zone; Lake Michigan at Chicago Harbor & Burnham Park Harbor

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Lake Michigan at Chicago Harbor and Burnham Park Harbor safety and security zone on a portion of Lake Michigan in Chicago, IL. This action is intended to protect spectators and dignitaries associated with the Democratic National Convention. During the enforcement period listed below, entry into, transiting, or anchoring within the safety and security zone is prohibited unless authorized by the Captain of the Port Lake Michigan or a designated Coast Guard or U.S. Secret Service representative.

DATES: The regulations in 33 Code of Federal Regulations (CFR) 165.904 will be enforced from 12 p.m. on August 18, 2024 through 12 p.m. on August 23, 2024.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email LT James Fortin, Waterways Management Division, Marine Safety Unit Chicago, U.S. Coast Guard; telephone: (630) 986–2155, email: *D09-SMB-MSUChicago-WWM@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Lake Michigan at Chicago Harbor and Burnham Park Harbor safety and security zone listed in 33 CFR 165.904 from 12 p.m. on August 18, 2024 through 12 p.m. on August 23, 2024. This safety and security zone encompasses all waters of Lake Michigan within Burnham Park Harbor shoreward of a line across the entrance of the harbor connecting coordinates 41°51′09″ N, 087°36′36″ W and 41°51′11″ N, 087°36′22″ W.

Pursuant to 33 CFR 165.904, all vessels must obtain permission from the Captain of the Port Lake Michigan, or his or her designated on-scene representative to enter, move within, or exit this safety zone during the enforcement times listed in this notice of enforcement. The designation of the Captain of the Port Lake Michigan's on-scene representative need not be in writing. Requests must be made in advance and approved by the Captain of the Port or a designated on-scene representative before transits will be authorized. Approvals will be granted on a case-by-case basis. Vessels and persons granted permission to enter the safety and security zone shall obey all lawful orders or directions of the Captain of the Port Lake Michigan or U.S. Secret Service official.

This notice of enforcement is issued under authority of 33 CFR 165.904, Lake Michigan at Chicago Harbor & Burnham Park Harbor—Safety and Security Zone and 5 U.S.C. 552(a). In addition to this notification of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with notification of this enforcement period via Broadcast Notice to Mariners. The Captain of the Port Lake Michigan may be reached by contacting the Coast Guard Sector Lake Michigan Command Center at (414) 747–7182. An on-scene designated representative may be reached via VHF–FM Channel 16.

Dated: August 16, 2024.

Gregory J. Knoll,

Commander, U.S. Coast Guard, Alternate Captain of the Port, Lake Michigan.

[FR Doc. 2024–18873 Filed 8–22–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2024–0749]

RIN 1625–AA87

Security Zone; Chicago River (Main Branch), North Branch Chicago River, South Branch Chicago River, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard will establish a Security Zone on the Chicago River (Main Branch) between mile marker 325.6 (point at which the Chicago River connects to the South Branch Chicago River) and 100 yards extending past the end of the Chicago River covering the area of the Federal channel within Chicago Harbor and the North Branch Chicago River between mile marker 325.6 (point at which the North Branch Chicago River connects to the Chicago River-Main Branch and the South Branch Chicago River) and mile marker 331.4 (end of navigation channel). This action is intended to protect spectators and dignitaries associated with the Democratic National Convention. During the enforcement period listed below, entry into, transiting, or anchoring within the Security Zone if prohibited unless authorized by the Captain of the Port Lake Michigan or a designated Coast Guard or U.S. Secret Service Representative.

DATES: For the purposes of enforcement, actual notice will be used from August 18, 2024, until August 23, 2024. This rule is effective without actual notice from August 23, 2024, through August 23, 2024.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2024–0749 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 about this Temporary Final Rule, call or email LT James Fortin, Waterways Management Division, Marine Safety Unit Chicago, U.S. Coast Guard; telephone: (630) 986–2155, email: *D09-SMB-MSUChicago-WWM@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 under authority in 5 U.S.C. 553(b)(B). This statutory 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.'' The Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule due to it being impracticable and contrary to the public interest. Due to the sensitive security issues related to the Democratic National Convention, providing a public notice and comment period would be contrary to the security zone's intended objective of protecting VIPs and the public because we cannot share the sensitive security information details prior to the rule being published.

Also, 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 by first publishing an NPRM and holding a comment period would be contrary to the rule's objectives of ensuring safety of life on the navigable waters and protection of the Democratic National Convention and accompanying high-ranking government officials.

III. Legal Authority and Need for Rule

The Coast Guard may issue security zone regulations under authority in 46

U.S.C. 70051 and 70124. The Captain of the Port, Sector Lake Michigan has determined that this temporary security zone is necessary to provide for the security of the Democratic National Convention and the accompanying high-ranking government officials, and to protect against sabotage or terrorist attacks to human life, vessels, mariners, and waterfront venues at or near this event.

IV. Discussion of the Rule

The Democratic National Convention will take place in Chicago, IL from August 18, 2024, until August 23, 2024. The Coast Guard will enforce a Security Zone on the Chicago River (Main Branch) between mile marker 325.6 (point at which the Chicago River connects to the South Branch Chicago River) and 100 yards extending past the end of the Chicago River covering the area of the Federal channel within Chicago Harbor and the North Branch Chicago River between mile marker 325.6 (point at which the North Branch Chicago River connects to the Chicago River-Main Branch and the South Branch Chicago River) and mile marker 331.4 (end of navigation channel). The regulations in 33 Code of Federal Regulations (CFR) 165.T09–0749 will be enforced intermittently from 12 p.m. on August 18, 2024, through 12 p.m. on August 23, 2024.

All vessels must obtain permission from the Captain of the Port Lake Michigan, or his or her designated on-scene representative to enter, move within, or exit this security zone during the enforcement times listed in this temporary final rule. The designation of the Captain of the Port Lake Michigan's on-scene representative need not be in writing. Requests must be made in advance and approved by the Captain of the Port or a designated on-scene representative before transits will be authorized. Approvals will be granted on a case-by-case basis. Vessels and persons granted permission to enter the security zone shall obey all lawful orders or directions of the Captain of the Port Lake Michigan or a designated on-scene representative.

This temporary final rule is issued under the authority of 46 U.S.C. 70051, 46 U.S.C. 70124, and 5 U.S.C. 552(a). In addition to this temporary final rule in the **Federal Register**, the Coast Guard will provide the maritime community with notification of this enforcement period via Broadcast Notice to Mariners. The Captain of the Port Lake Michigan or a designated on-scene representative may be contacted via VHF–FM Channel 16 or (414) 747–7182.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a ''significant regulatory action,'' under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time of year of the security zone. The security zone will impact a small, designated area and will be enforced only during the event and event-related activities. The security zone will be in a location where commercial vessel traffic is expected to be significant during enforcement; commercial and recreational vessel traffic will not be authorized to transit the security zone to the extent compatible with public safety and security. Persons and vessels will be able to operate in the surrounding area adjacent to the security zone during the enforcement period. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF–FM marine channel 16 identifying the continuously and intermittently security zone location, maritime restrictions, and enforcement dates.

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 near or adjacent the security 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 one security zone which will be enforced for a span of multiples days during the timeframe stated above and will prohibit entry within certain waters of the Chicago River. It is categorically excluded from further review under paragraph L60(c) 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 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.T09–0749 to read as follows:

§ 165.T09–0749 Security Zone; Chicago River (Main Branch), North Branch Chicago River, South Branch Chicago River, Chicago, IL.

(a) *Location.* The Security Zone consists of the following areas:

(1) *South Branch Chicago River.* All U.S. waters of the South Branch Chicago River between mile marker 321.8 (point at which the South Branch Chicago River connects to the Chicago Sanitary and Ship Canal) and mile marker 325.6 (point at which the South branch Chicago River connects to the Chicago River (Main Branch) and North Branch Chicago River)

(2) *Chicago River (Main Branch).* All U.S. waters of the Chicago River (Main Branch) between mile marker 325.6 (point at which the Chicago River connects to the South Branch Chicago River) and 100 yards extending past the end of the Chicago River covering the area of the Federal channel within Chicago Harbor.

(3) *North Branch Chicago River.* All U.S. waters of the North Branch Chicago River between mile marker 325.6 (point at which the North Branch Chicago River connects to the Chicago River (Main Branch) and the South Branch Chicago River) and mile marker 331.4 (end of navigation channel).

(b) *Effective period.* This section is effective from 12 p.m. on August 18, 2024, through 12 p.m. on August 23, 2024.

(c) *Regulations.* In accordance with the general regulations in § 165.33, unless otherwise provided in the special regulations in subpart F of this part:

(1) No person or vessel may enter or remain in a security zone without the permissions of the Captain of the Port.

(2) Each person and vessel in a security zone shall obey any direction or order of the Captain of the Port;

(3) The Captain of the Port may take possession and control of any vessel in the security zone;

(4) The Captain of the Port may remove any person, vessel, article, or thing from a security zone;

(5) No person may board, or take or place any article or thing on board, any vessel in a security zone without the permission of the Captain of the Port; and

(5) No person may take or place any article or thing upon any waterfront facility in a security zone without the permission of the Captain of the Port.

(d) *Enforcement period.* The Captain of the Port, Sector Lake Michigan, will enforce this security zone as necessary, in whole, in segments, or by any combination of segments throughout the effective period from 12 p.m. on August 18, 2024, through 12 p.m. on August 23, 2024.

Dated: August 16, 2024.

Gregory J. Knoll,

Commander, U.S. Coast Guard, Alternate Captain of the Port, Lake Michigan.

[FR Doc. 2024–18872 Filed 8–22–24; 8:45 am]

BILLING CODE 9110–04–P

POSTAL SERVICE

39 CFR Part 20

Removal of International Money Transfer Service—Outbound and International Money Transfer Service—Inbound

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: On July 12, 2024, the Postal Service™ published notice of international product changes concerning the requests by the Postal Service for classification changes filed at the Postal Regulatory Commission (PRC) about International Money Transfer Service—Outbound and International Money Transfer Service—Inbound. On August 9, 2024, the PRC favorably reviewed the classification changes, which have an effective date of October 1, 2024, for International Money Transfer Service—Outbound, and an effective date of October 1, 2025, for International Money Transfer Service—Inbound. Therefore, the Postal Service is revising *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM®), to reflect the discontinuation of International Money Transfer Service—Outbound, effective October 1, 2024, and the discontinuation of International Money Transfer Service—Inbound, effective October 1, 2025. Notice 123, *Price List,* will be updated accordingly.

DATES: *Applicable dates:* October 1, 2024, and October 1, 2025.

FOR FURTHER INFORMATION CONTACT: Dale Kennedy at 202–268–6592 or Kathy Frigo at 202–268–4178.

SUPPLEMENTARY INFORMATION: On July 5, 2024, in PRC Docket No. MC2024–413, the Postal Service filed a request to remove International Money Transfer

Service—Outbound, effective October 1, 2024, and International Money Transfer Service—Inbound, effective October 1, 2025, from the Competitive Product List in the Mail Classification Schedule. On July 12, 2024 (89 FR 57174), the Postal Service published notice of the filing in PRC Docket No. MC2024–413 in the **Federal Register** notice entitled ''International Product Change—Removal of International Money Transfer Service—Outbound and International Money Transfer Service—Inbound''.

As stated in the PRC's Order No. 7352 issued in Docket No. MC2024–413 on August 9, 2024, the PRC favorably reviewed the request to remove International Money Transfer Service—Outbound, which has an effective date of October 1, 2024, and the request to remove International Money Transfer Service—Inbound, which has an effective date of October 1, 2025. The order is available on the PRC's website at *http://www.prc.gov*.

The Postal Service is eliminating the competitive international extra service for International Money Transfer Service known as International Postal Money Orders. This elimination will occur in two phases as follows:

- Effective October 1, 2024, the foreign posts for the following countries will stop selling international postal money orders destined for the United States:
  - Belize.
  - Peru.

Likewise, effective October 1, 2024, the Postal Service will stop selling international postal money orders destined to the countries listed below:

  - Albania.
  - Belize.
  - Bolivia.
  - Cape Verde.
  - Dominican Republic.
  - Ecuador.
  - El Salvador.
  - Guinea.
  - Guyana.
  - Honduras.
  - Mali.
  - Peru.
  - Sierra Leone.
- Effective October 1, 2025, the foreign posts for the following countries will stop cashing international postal money orders issued by the Postal Service:
  - Albania.
  - Belize.
  - Bolivia.
  - Cape Verde.
  - Dominican Republic.
  - Ecuador.
  - El Salvador.
  - Guinea.
  - Guyana.
  - Honduras.
  - Mali.
  - Peru.
  - Sierra Leone.

Likewise, effective October 1, 2025, the Postal Service will stop cashing international postal money orders issued by the countries listed below:

  - Belize.
  - Peru.

A customer who is in possession of an international postal money order issued by the U.S. Postal Service® may redeem it at a U.S. Post Office™ facility at face value until September 30, 2025. A customer who is in possession of an international postal money order issued by the U.S. Postal Service who does not redeem it at a U.S. Post Office facility by September 30, 2025, may file a PS Form 6401 pursuant to IMM 371.421. Inquiries concerning an international postal money order issued by another country should be directed to the postal operator of the issuing country.

The Postal Service hereby adopts the following changes to *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM), which is incorporated by reference in the *Code of Federal Regulations.*

We will publish an appropriate amendment to 39 CFR part 20 to reflect these changes.

List of Subjects in 39 CFR Part 20

Foreign relations, International postal services.

Accordingly, the Postal Service amends *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM), incorporated by reference in the Code of Federal Regulations, as follows (see 39 CFR 20.1):

PART 20—INTERNATIONAL POSTAL SERVICE

■ 1. The authority citation for part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 407, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Effective October 1, 2024, revise the following sections of the IMM as follows:

Mailing Standards of the United States Postal Service, International Mail Manual (IMM)

* * * * *

3 Extra Services

* * * * *

370 International Money Transfer Services

371 International Money Orders

[Revise 371 in its entirety to read as follows:]

371.1 Description

International postal money order service is a service used to transfer funds to individuals or firms in countries that have entered into agreements with the United States Postal Service for the exchange of international postal money orders.

371.2 Availability

Effective October 1, 2024, the United States Postal Service no longer offers customers the ability to purchase international postal money orders. Exhibit 371.2 lists the countries that accept international postal money orders purchased *before* October 1, 2024, from the U.S. Postal Service using the International Postal Money Order (Form MP1). International postal money orders purchased before October 1, 2024, may be sent by Priority Mail Express International service, Priority Mail International service, First-Class Mail International service, or First-Class Package International Service.

Effective October 1, 2025, the postal operators of the countries listed in Exhibit 371.2 will stop cashing international postal money orders issued by the U.S. Postal Service that are destined for those countries. Likewise, effective October 1, 2025, the Postal Service will stop cashing international postal money orders issued by the postal operators of the two countries marked with asterisks in Exhibit 371.2 (Belize and Peru) that are destined for the United States.

Exhibit 371.2

Countries Accepting the International Postal Money Order Form (MP1) Purchased Before October 1, 2024, That Will Stop Cashing MP1 Effective October 1, 2025

[Revise the exhibit to read as follows:]

Albania	Ecuador	Mali
Belize *	El Salvador	Peru *
Bolivia	Guinea	Sierra Leone
Cape Verde	Guyana	
Dominican Republic	Honduras	

** Effective October 1, 2025, the Postal Service will stop cashing international postal money orders issued by the postal operators of Belize and Peru. (See 371.3.)*

371.3 Procedures for Cashing Valid International Postal Money Orders Issued by Foreign Countries

Valid international postal money orders issued by the postal operators of the two countries marked with asterisks in Exhibit 371.2 (Belize and Peru) will be paid in accordance with the procedures for cashing domestic money orders (see DMM 509.3). However, no international postal money order will be paid after the expiration of the validity date on the international money order or after September 30, 2025, whichever comes first.

371.4 Inquiries Regarding Payment of International Postal Money Orders (Form MP1)

Use PS Form 6401, *Money Order Inquiry,* in accordance with DMM 509.3 when filing inquiries concerning an International Postal Money Order (Form MP1). Only the purchaser may file and receive payment. Payments are issued 10 days after PS Form 6401 is processed by Accounting Services.

* * * * *

Individual Country Listings

* * * * *

Extra Services

* * * * *

International Postal Money Order (371)

[For the following countries—Albania, Belize, Bolivia, Cape Verde, Dominican Republic, Ecuador, El Salvador, Guinea, Guyana, Honduras, Mali, Peru, and Sierra Leone—revise the text to read as follows:]

NOT Available

* * * * *

Sarah Sullivan,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2024–18848 Filed 8–22–24; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2024–0153; FRL–12156–01–OCSPP]

Oxirane, phenyl-, polymer With oxirane, mono(dihydrogen phosphate), decyl ether in Pesticide Formulations; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of oxirane, phenyl-, polymer with oxirane, mono(dihydrogen phosphate), decyl ether, minimum number average molecular weight 1300 Daltons (CAS Reg. No. 308336–53–0) when used as an inert ingredient in a pesticide chemical formulation. Evonik Corporation, submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of oxirane, phenyl-, polymer with oxirane, mono(dihydrogen phosphate), decyl ether on food or feed commodities when used in accordance with these exemptions.

DATES: This regulation is effective August 23, 2024. Objections and requests for hearings must be received on or before October 22, 2024 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2024–0153, is available at *https://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room and the OPP Docket is (202) 566–1744. Please review the visitor instructions and additional information about the docket available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Charles Smith, Registration Division (7505T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (202) 566–1030; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Office of the Federal Register's e-CFR site at *https://www.ecfr.gov/current/title-40.*

C. Can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2024–0153 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before October 22, 2024.

EPA's Office of Administrative Law Judges (OALJ), where the Hearing Clerk is housed, urges parties to file and serve documents by electronic means only, notwithstanding any other particular requirements set forth in other procedural rules governing those proceedings. See ''Revised Order Urging Electronic Service and Filing'', dated June 22, 2023, which can be found at *https://www.epa.gov/system/files/documents/2023-06/2023-06-22%20-%20revised%20order%20urging%20electronic%20filing%20and%20service.pdf.* Although EPA's regulations require submission via U.S. Mail or hand delivery, EPA intends to treat submissions filed via electronic means as properly filed submissions; therefore, EPA believes the preference for submission via electronic means will not be prejudicial. When submitting documents to the OALJ electronically, a person should utilize the OALJ e-filing system at *https://yosemite.epa.gov/oa/eab/eab-alj_upload.nsf.*

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please

submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2024–0153, by one of the following methods.

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *https://www.epa.gov/dockets/where-send-comments-epa-dockets#express.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

II. Background and Statutory Findings

In the **Federal Register** of May 3, 2024 (89 FR 36737) (FRL–11682–03–OCSPP), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP IN–11860) filed by Evonik Corporation, 7801 Whitepine Road, Richmond, VA 23237. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of oxirane, phenyl-, polymer with oxirane, mono (dihydrogen phosphate), decyl ether, (CAS Reg. No. 308336–53–0), with a minimum number average molecular weight of 1225 Daltons. However, based on data provided, the minimum number average molecular weight is 1300 Dalton. That document included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. The Agency did not receive any comments.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and use in residential settings but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing an exemption from the requirement of a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . .'' and specifies factors EPA is to consider in establishing an exemption.

III. Risk Assessment and Statutory Findings

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be shown that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d). Oxirane, phenyl-, polymer with oxirane, mono(dihydrogen phosphate), decyl ether conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers.

1. The polymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. The polymer does contain as an integral part of its composition at least two of the atomic elements carbon, hydrogen, nitrogen, oxygen, silicon, and sulfur.

3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize. An available biodegradation study supports that oxirane, phenyl-, polymer with oxirane, mono (dihydrogen phosphate), decylethers, is not readily biodegradable (MRID 52270301).

5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 Daltons.

7. The polymer does not contain certain perfluoroalkyl moieties consisting of a CF3- or longer chain length as listed in 40 CFR 723.250(d)(6).

Additionally, the polymer also meets as required the following exemption criteria: specified in 40 CFR 723.250(e):

The polymer's number average MW of 1300 Daltons is greater than 1,000 and less than 10,000 Daltons. The polymer contains less than 10% oligomeric material below MW 500 and less than 25% oligomeric material below MW 1,000, and the polymer does not contain any reactive functional groups.

Thus, oxirane, phenyl-, polymer with oxirane, mono (dihydrogen phosphate), decyl ether, meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to oxirane, phenyl-, polymer with oxirane, mono (dihydrogen phosphate), decyl ether.

IV. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that oxirane, phenyl-, polymer with oxirane, mono (dihydrogen phosphate), decyl

ether, could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of oxirane, phenyl-, polymer with oxirane, mono (dihydrogen phosphate), decyl ether, is 1300 Daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since oxirane, phenyl-, polymer with oxirane, mono (dihydrogen phosphate), decyl ether, conforms to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found oxirane, phenyl-, polymer with oxirane, mono (dihydrogen phosphate), decyl ether, to share a common mechanism of toxicity with any other substances, and oxirane, phenyl-, polymer with oxirane, mono (dihydrogen phosphate), decyl ether, does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance exemption, therefore, EPA has assumed that oxirane, phenyl-, polymer with oxirane, mono (dihydrogen phosphate), decyl ether, does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *https://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides.*

VI. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of oxirane, phenyl-, polymer with oxirane, mono (dihydrogen phosphate), decyl ether, EPA has not used a safety factor analysis to assess the risk. For the same reasons no additional safety factor is needed for assessing risk to infants and children.

VII. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of oxirane, phenyl-, polymer with oxirane, mono (dihydrogen phosphate), decyl ether.

VIII. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

IX. Conclusion

Accordingly, EPA finds that exempting residues of oxirane, phenyl-, polymer with oxirane, mono (dihydrogen phosphate), decyl ether, from the requirement of a tolerance will be safe.

X. Statutory and Executive Order Reviews

This action establishes a tolerance exemption under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or Tribal governments, on the relationship between the National Government and the States or Tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

XI. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 8, 2024.

Charles Smith,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.960, amend table 1 to § 180.960 by adding, in alphabetical order, the polymer ''Oxirane, phenyl-, polymer with oxirane, mono(dihydrogen phosphate), decyl ether, minimum number average molecular weight (in amu) 1300'' to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

* * * * *

TABLE 1 TO § 180.960

Polymer	CAS No.
* * * * * * *	
Oxirane, phenyl-, polymer with oxirane, mono(dihydrogen phosphate), decyl ether, minimum number average molecular weight (in amu) 1300	308336–53–0
* * * * * * *	

[FR Doc. 2024–18909 Filed 8–22–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2023–0146; FRL–11652–01–OCSPP]

Bacillus Licheniformis Strain 414–01; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of *Bacillus licheniformis* strain 414–01 in or on food commodities. when used in accordance with label directions and good agricultural practices. UPL NA, Inc., submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Bacillus licheniformis* strain 414–01 under FFDCA when used in accordance with this exemption.

DATES: This regulation is effective August 23, 2024. Objections and requests for hearings must be received on or before October 22, 2024 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2023–0146, is available at *https://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20004. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room and OPP Docket is (202) 566–1744. Please review the visitor instructions and additional information about the docket available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Madison H. Le, Biopesticides and Pollution Prevention Division (7511M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (202) 566–1400; email address: *BPPDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Office of the Federal Register's e-CFR site at *https://www.ecfr.gov/current/title-40/chapter-I/subchapter-E/part-180.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2023–0146, in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before October 22, 2024.

The EPA's Office of Administrative Law Judges (OALJ), in which the Hearing Clerk is housed, urges parties to file and serve documents by electronic means only, notwithstanding any other particular requirements set forth in other procedural rules governing those proceedings. *See* ''Revised Order Urging Electronic Filing and Service,'' dated June 22, 2023, which can be found at *https://www.epa.gov/system/files/documents/2023-06/2023-06-22%20-%20revised%20order%20urging%20electronic%20filing%20and%20service.pdf.* Although the EPA's regulations require submission via U.S. Mail or hand delivery, the EPA intends to treat submissions filed via electronic means as properly filed

submissions; therefore, the EPA believes the preference for submission via electronic means will not be prejudicial. When submitting documents to the OALJ electronically, a person should utilize the OALJ e-filing system at *https://yosemite.epa.gov/oa/eab/eab-alj_upload.nsf.*

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2023–0146, by one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *https://www.epa.gov/dockets/where-send-comments-epa-dockets.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

II. Background

In the **Federal Register** of March 24, 2023 (88 FR 17779) (FRL–10579–02–OCSPP), EPA issued a notice pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance exemption petition (PP 2F9017) by UPL NA, Inc., 630 Freedom Business Center, Suite 402, King of Prussia, PA 19406. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of *Bacillus licheniformis* strain 414–01 in or on all food commodities. That notice referenced a summary of the petition prepared by the petitioner UPL NA, Inc. and available in the docket via *https://www.regulations.gov.* EPA received no comments in response to the notice of filing.

III. Final Rule

A. EPA's Safety Determination

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement of a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance or tolerance exemption and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .'' Additionally, FFDCA section 408(b)(2)(D) requires that EPA consider ''available information concerning the cumulative effects of [a particular pesticide's] . . . residues and other substances that have a common mechanism of toxicity.''

EPA evaluated the available toxicological and exposure data on *Bacillus licheniformis* strain 414–01 and considered their validity, completeness, and reliability, as well as the relationship of this information to human risk. A full explanation of the data upon which EPA relied and its risk assessment based on those data can be found within the document entitled ''Human Health Risk Assessment of the New Active Ingredient *Bacillus licheniformis* strain 414–01 in the Proposed Manufacturing-use Product (MUP) *Bacillus licheniformis* strain 414–01 MUP and End-use Products (EPs) 414–02 and 414–03 for FIFRA Section 3 Registration and an Associated Petition Requesting a Tolerance Exemption'' (*Bacillus licheniformis* strain 414–01 MUP and EPs 414–02 and 414–03 Human Health Risk Assessment). This document, as well as other relevant information, is available in the docket for this action as described under **ADDRESSES**.

The available data and information demonstrated that, with regard to humans, *Bacillus licheniformis* strain 414–01 is not anticipated to be toxic, pathogenic, or infective via any route of exposure. Significant dietary and non-occupational exposures to residues of *Bacillus licheniformis* strain 414–01 are not expected as the products will be applied in agricultural settings by seed treatment and direct soil applications, other non-occupational exposures through drift or other measures are considered very unlikely. Even if dietary and non-occupational exposures to residues of *Bacillus licheniformis* strain 414–01 were to occur, there is not concern due to the lack of adverse effects from toxicity and pathogenicity studies. Because there are no threshold levels of concern with the toxicity, pathogenicity, or infectivity of *Bacillus licheniformis* strain 414–01, EPA determined that the additional margin of safety referred to as the Food Quality Protection Act (FQPA) Safety Factor (SF) is not necessary to protect infants and children as part of the qualitative assessment conducted.

Based upon its evaluation in the *Bacillus licheniformis* strain 414–01 MUP and EPs 414–02 and 414–03 Human Health Risk Assessment, which concludes that there are no risks of concern from aggregate exposure to *Bacillus licheniformis* strain 414–01, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of *Bacillus licheniformis* strain 414–01.

B. Analytical Enforcement Methodology

An analytical method is not required for *Bacillus licheniformis* strain 414–01 because EPA is establishing an exemption from the requirement of a tolerance without any numerical limitation.

C. Conclusion

Therefore, an exemption from the requirement of a tolerance is established for residues of *Bacillus licheniformis* strain 414–01 in or on in or on all food commodities.

IV. Statutory and Executive Order Reviews

This action establishes a tolerance exemption under FFDCA section 408(d) in response to a petition submitted to EPA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is

not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance exemption in this action, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes. As a result, this action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, EPA has determined that this action will not have a substantial direct effect on States or Tribal governments, on the relationship between the National Government and the States or Tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, EPA has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require EPA's consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (15 U.S.C. 272 note).

V. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 12, 2024.

Edward Messina,

Director, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR part 180 as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Add § 180.1412 to subpart D to read as follows:

§ 180.1412 *Bacillus licheniformis* **strain 414–01; exemption from the requirement of a tolerance.**

An exemption from the requirement of a tolerance is established for residues of *Bacillus licheniformis* strain 414–01 in or on all food commodities when used in accordance with label directions and good agricultural practices.

[FR Doc. 2024–18935 Filed 8–22–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2023–0259; FRL–12119–01–OCSPP]

Ethaboxam; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of ethaboxam in or on leaf petiole vegetable subgroup 22B. The Interregional Project Number 4 (IR–4) requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective August 23, 2024. Objections and requests for hearings must be received on or before October 22, 2024, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2023–0259, is available at *https://www.regulations.gov* or in-person at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room and the OPP Docket is (202) 566–1744. For the latest status information on EPA/DC services, docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Charles Smith, Director, Registration Division (7505T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (202) 566–1030; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Office of the Federal Register's e-CFR site at *https://www.ecfr.gov/current/title-40.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an

objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2023–0259, in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before October 22, 2024. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

EPA's Office of Administrative Law Judges (OALJ), in which the Hearing Clerk is housed, urges parties to file and serve documents by electronic means only, notwithstanding any other particular requirements set forth in other procedural rules governing those proceedings. See ''Revised Order Urging Electronic Service and Filing'', dated June 22, 2023, which can be found at *https://www.epa.gov/system/files/documents/2023-06/2023-06-22%20-%20revised%20order%20urging%20electronic%20filing%20and%20service.pdf.* Although EPA's regulations require submission via U.S. Mail or hand delivery, EPA intends to treat submissions filed via electronic means as properly filed submissions; therefore, EPA believes the preference for submission via electronic means will not be prejudicial. When submitting documents to the OALJ electronically, a person should utilize the OALJ e-filing system at *https://yosemite.epa.gov/OA/EAB/EAB-ALJ_Upload.nsf/HomePage?ReadForm.*

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2023–0259, by one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *https://www.epa.gov/dockets/where-send-comments-epa-dockets.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of February 9, 2024 (89 FR 9103) (FRL–10579–12–OCSPP), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 3E9052) by Interregional Project Number 4 (IR–4), North Carolina State University, 1730 Varsity Drive, Venture IV, Suite 210, Raleigh, NC 27606. The petition requested that 40 CFR 180.622 be amended to establish a tolerance for residues of the fungicide ethaboxam, including its metabolites and degradates, in or on leaf petiole vegetable subgroup 22B at 0.15 parts per million (ppm). That document referenced a summary of the petition prepared by IR–4, the petitioner, which is available in the docket, *https://www.regulations.gov.* There were no comments received in response to the notice of filing.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified therein, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for ethaboxam including exposure resulting from the tolerance established by this action. EPA's assessment of exposures and risks associated with ethaboxam follows.

In an effort to streamline its publications in the **Federal Register**, EPA is not reprinting sections that repeat what has been previously published for tolerance rulemakings for the same pesticide chemical. Where scientific information concerning a particular chemical remains unchanged, the content of those sections would not vary between tolerance rulemakings, and EPA considers referral back to those sections as sufficient to provide an explanation of the information EPA considered in making its safety determination of the new rulemaking.

EPA has previously published a number of tolerance rulemakings for ethaboxam in which EPA concluded, based on the available information, that there is a reasonable certainty that no harm would result from aggregate exposure to ethaboxam and established a tolerance for residues of that chemical. EPA is incorporating previously published sections from those rulemakings as described further in this rulemaking, as they remain unchanged.

Toxicological profile. Since the toxicological doses and endpoints for ethaboxam have not changed since the most recent risk assessment, see Unit III.A. of the August 3, 2017, rulemaking (82 FR 36086) (FRL–9961–69) for a discussion of the Toxicological Profile.

Toxicological points of departure/Levels of concern. For a summary of the Toxicological Points of Departure/Levels of Concern for ethaboxam used for human health risk assessment, see Unit III.B. of the August 3, 2017, rulemaking.

Exposure assessment. Much of the exposure assessment remains unchanged from the previous rulemakings, although updates have occurred to accommodate for exposures from the petitioned-for tolerance and additional exposures from the tolerances established since the August 3, 2017, rulemaking. For a description of EPA's approach to and assumptions for the exposure assessment, refer to Unit III.C. of the August 3, 2017, rulemaking.

EPA's dietary exposure assessments have been updated to include the additional exposure from the new use of ethaboxam in or on leaf petiole vegetable subgroup 22B in greenhouses and the exposures assessed in rulemakings since 2017. An acute endpoint attributable to a single dose

exposure was not identified; therefore, an acute dietary risk assessment is not necessary. In conducting the chronic dietary exposure assessment, EPA used the Dietary Exposure Evaluation Model software using the Food Commodity Intake Database (DEEM–FCID), Version 4.02, which uses the 2005–2010 food consumption data from the United States Department of Agriculture (USDA) National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). The chronic dietary exposure assessment is unrefined, assuming tolerance level residues and 100 percent crop treated (PCT).

Drinking water exposure. The new use does not result in an increase in the estimated residue levels in drinking water, so EPA used the same estimated drinking water concentrations in the chronic dietary exposure assessments as identified in Unit III.C.2 of the August 3, 2017, rulemaking.

Non-occupational exposure. There are no residential (non-occupational) uses proposed or currently registered for ethaboxam. Therefore, residential exposures were not assessed.

Cumulative exposure. Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to ethaboxam and any other substances and ethaboxam does not appear to produce a toxic metabolite produced by other substances. For the purposes of this action, therefore, EPA has not assumed that ethaboxam has a common mechanism of toxicity with other substances.

Safety factor for infants and children. Section 408(b)(2)(C) requires the application of an additional tenfold margin of safety to account for potential risks to infants and children, in the case of threshold effects. EPA continues to conclude that there are reliable data to support the reduction of the Food Quality Protection Act (FQPA) safety factor from 10X to 1X. See Unit III.D. of the August 3, 2017, rulemaking for a discussion of the Agency's rationale for that determination.

Aggregate risks and Determination of safety. EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing dietary exposure estimates to the acute population adjusted dose (aPAD) and the chronic population adjusted dose (cPAD). Short-, intermediate-, and chronic term aggregate risks are evaluated by comparing the estimated total food, water, and residential exposure to the appropriate points of departure to ensure that an adequate margin of exposure (MOE) exists.

An acute endpoint attributable to a single dose exposure was not identified; therefore, an acute dietary risk assessment is not necessary. Chronic dietary risks are below the Agency's level of concern of 100% of the cPAD; they are 39% of the cPAD for children 1 to 2 years old, the population group with the highest estimated exposure. There is no short- or intermediate-term residential exposure expected since there are no proposed or previously registered residential uses of ethaboxam. Therefore, the chronic aggregate risks consist only of the dietary risks from food and water and, as stated above, are below the Agency's level of concern.

Ethaboxam is classified as showing ''suggestive evidence of carcinogenic potential'' based on increased incidence of benign Leydig cell tumors in males. The Agency determined that quantification of cancer risk using a nonlinear approach would adequately account for all chronic toxicity, including carcinogenicity, that could result from exposure to ethaboxam. Therefore, the noncancer chronic reference dose is protective of cancer dietary risk and is not of concern.

Therefore, based on the risk assessments and information described above, EPA concludes there is a reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to ethaboxam residues, including its metabolites and degradates. More detailed information about the Agency's analysis can be found at *https://www.regulations.gov* in the document titled ''Ethaboxam. Human Health Risk Assessment for the Proposed New Uses on Leaf Petiole Vegetable (Crop Subgroup 22B) in Greenhouses.'' in docket ID number EPA–HQ–OPP–2023–0259.

IV. Other Considerations

A. Analytical Enforcement Methodology

For a discussion of the available analytical enforcement method, see Unit IV.A. of the August 3, 2017, rulemaking.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4).

Codex does not have established MRLs for ethaboxam in commodities that are members of the leaf petiole vegetable subgroup 22B.

V. Conclusion

Therefore, a tolerance is established for residues of ethaboxam, including its metabolites and degradates, in or on leaf petiole vegetable subgroup 22B at 0.15 ppm.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not

have a substantial direct effect on States or Tribal governments, on the relationship between the National Government and the States or Tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 20, 2024.

Charles Smith,

Director, Registration Division, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR part 180 as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.622, amend table 1 to paragraph (a) by adding in alphabetical order an entry for ''Leaf petiole vegetable subgroup 22B'' to read as follows:

§ 180.622 Ethaboxam; tolerances for residues.

(a) * * *

TABLE 1 TO PARAGRAPH (a)

Commodity	Parts per million
* * * * *	
Leaf petiole vegetable subgroup 22B	0.15
* * * * *	

* * * * *

[FR Doc. 2024–19000 Filed 8–22–24; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 63

[IB Docket No. 16–155; FCC 20–133; FR ID 238500]

Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget has approved revisions to the information collection requirements under OMB Control Numbers 3060–0686, 3060–0944 and 3060–1163, as associated with rules and procedures that improve the timeliness and transparency of the process by which it seeks the review of executive branch agencies for certain applications with foreign ownership. IB Docket No. 16–155; FCC 20–133.

DATES: The amendments to 47 CFR 1.767, 1.5001, 1.40001(a)(2) and (3), 1.40003, 63.12, 63.18 and 63.24, published at 85 FR 76360 on November 27, 2020, are effective on August 19, 2024.

FOR FURTHER INFORMATION CONTACT: Cathy Williams, Office of the Managing Director, Federal Communications Commission, at (202) 418–2918 or *Cathy.Williams@fcc.gov.*

SUPPLEMENTARY INFORMATION: This document announces that the Office of Management and Budget (OMB) approved the information collection requirements in 47 CFR 1.767, 1.5001, 1.40001(a)(2) and (3), 1.40003, 63.12, 63.18 and 63.24 on May 9, 2024 and May 29, 2024. These rule sections were adopted in the Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership, FCC 20–133. The Commission publishes this document as an announcement of the effective date for these amended rules.

If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 3.317, 45 L Street NE, Washington, DC 20554, regarding OMB Control Numbers 3060–0686, 3060–0944 and 3060–1163. Please include the OMB Control Number in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov.*

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), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the Commission is notifying the public that it received final OMB approval on May 9, 2024 and May 29, 2024 for the information collection requirements contained in 47 CFR 1.767, 1.5001, 1.40001(a)(2) and (3), 1.40003, 63.12, 63.18 and 63.24. Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Numbers for the information collection requirements in 47 CFR 1.767, 1.5001, 1.40001(a)(2) and (3), 1.40003, 63.12, 63.18 and 63.24 are 3060–0686, 3060–0944 and 3060–1163.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0686.

Title: International Section 214 Authorizations, 47 CFR 63.10–63.25, 1.40001,1.40003.

Form Number: FCC Forms 214 and 225.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 192 respondents; 614 responses.

Estimated Time per Response: 1 hour to 120 hours.

Frequency of Response: On occasion, annual and quarterly reporting requirements, third party disclosure requirement, and recordkeeping requirement.

Total Annual Burden: 2,393 hours.

Total Annual Costs: $874,045.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for part 1 of this information collection is contained in 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309, and 325(e). The statutory authority for part 63 of this information collection is contained in sections 1, 4(j), 10, 11, 201–205, 214, 218, 403, and 651 of the Communications Act of 1934, as amended.

Needs and Uses: The 2020 Executive Branch Review Order creates new requirements associated with certain applications, including international section 214 applications with reportable foreign ownership, that will be reviewed by the relevant Executive Branch agencies for national security, law enforcement, foreign policy, and trade policy issues as well as other changes.

In the 2020 Executive Branch Review Order, the Commission adopted rules and procedures to facilitate a more streamlined and transparent review process for coordinating applications with the Executive Branch agencies. The Commission also established firm time frames for the Executive Branch agencies to complete their review consistent with Executive Order 13913, which established the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (the Committee). Specifically, under the new rules, the Committee has 120 days for initial review, plus an additional 90 days for secondary assessment if the Committee determines that the risk to national security or law enforcement interests cannot be mitigated with standard mitigation measures. The Commission also adopted and codified five categories of information for which applicants must provide detailed and comprehensive information to the Committee.

In the 2021 Executive Branch Second Order, the Commission adopted the Standard Questions—a baseline set of national security and law enforcement questions covering the five categories of information described above. The responses to the Standard Questions will replace the information that applicants currently provide to the Committee on an individualized basis. The Standard Questions consist of six separate questionnaires (based on subject matter) and a supplement for the provision of personally identifiable information (PII). Two of these questionnaires and the PII supplement are applicable to international section 214s. International section 214 applicants with reportable foreign ownership will be required to answer the questions, and file their responses, as well as a copy of the FCC application, directly with the Committee.

OMB Control Number: 3060–0944.

Title: Cable Landing License Act, 47 CFR 1.767, 1.768, 1.40001, 1.40003, Executive Order 10530.

Form Number: FCC Form 220.

Respondents: Business and other for profit entities.

Number of Respondents and Responses: 41 respondents; 118 responses.

Estimated Time per Response: 1 hour to 120 hours.

Frequency of Response: On occasion reporting requirement, Quarterly reporting requirement, Recordkeeping requirement and third-party disclosure requirement.

Total Annual Burden: 960 hours.

Total Annual Cost: $340,255.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in the Submarine Cable Landing License Act of 1921, 47 U.S.C. 34–39, Executive Order 10530, Executive Order 13913, section 5(a), and the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i)–(j), 155, 303(r), 309, and 403.

Needs and Uses: The 2020 Executive Branch Review Order creates new requirements associated with certain applications, including submarine cable applications, with reportable foreign ownership that will be reviewed by the relevant Executive Branch agencies for national security, law enforcement, foreign policy and trade policy issues as well as other changes.

In the 2020 Executive Branch Review Order, the Commission adopted rules and procedures to facilitate a more streamlined and transparent review process for coordinating applications with the Executive Branch agencies. The Commission also established firm time frames for the Executive Branch agencies to complete their review consistent with Executive Order 13913, which established the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (the Committee). Specifically, under the new rules, the Committee has 120 days for initial review, plus an additional 90 days for secondary assessment if the Committee determines that the risk to national security or law enforcement interests cannot be mitigated with standard mitigation measures. The Commission also adopted and codified five categories of information for which applicants must provide detailed and comprehensive information to the Committee.

In the 2021 Executive Branch Second Order, the Commission adopted the Standard Questions—a baseline set of national security and law enforcement questions covering the five categories of information described above. The responses to the Standard Questions will replace the information that applicants currently provide to the Committee on an individualized basis. The Standard Questions consist of six separate questionnaires (based on subject matter) and a supplement for the provision of personally identifiable information (PII). Two of these questionnaires and the PII supplement are applicable to submarine cables. Submarine cable applicants with reportable foreign ownership will be required to answer the questions and file their responses as well as a copy of the FCC application, directly with the Committee.

OMB Control Number: 3060–1163.

Title: 47 CFR 1.5001–1.5004 Regulations Applicable to Broadcast, Common Carrier, and Aeronautical Radio Licensees Under Section 310(b) of the Communications Act of 1934, as amended; 47 CFR 1.40001, 1.40003.

Form Number: FCC Form 235.

Respondents: Business and other for profit entities.

Number of Respondents and Responses: 20 respondents; 52 responses.

Estimated Time per Response: 1 hour to 120 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 1,219 hours.

Total Annual Cost: $407,000.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for Part 1 of this information collection is contained in 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309, and 325(e).

Needs and Uses: The 2020 Executive Branch Review Order creates new requirements associated with certain applications, including section 310(b) petitions that will be reviewed by the relevant Executive Branch agencies for

national security, law enforcement, foreign policy, and trade policy issues as well as other changes.

In the 2020 Executive Branch Review Order, the Commission adopted rules and procedures to facilitate a more streamlined and transparent review process for coordinating applications with the Executive Branch agencies. The Commission also established firm time frames for the Executive Branch agencies to complete their review consistent with Executive Order 13913, which established the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (the Committee). Specifically, under the new rules, the Committee has 120 days for initial review, plus an additional 90 days for secondary assessment if the Committee determines that the risk to national security or law enforcement interests cannot be mitigated with standard mitigation measures. The Commission also adopted and codified five categories of information for which applicants must provide detailed and comprehensive information to the Committee.

In the 2021 Executive Branch Second Order, the Commission adopted the Standard Questions—a baseline set of national security and law enforcement questions covering the five categories of information described above. The responses to the Standard Questions will replace the information that applicants currently provide to the Committee on an individualized basis. The Standard Questions consist of six separate questionnaires (based on subject matter) and a supplement for the provision of personally identifiable information (PII). Petitioners will be required to submit their responses to the Standard Questions and a copy of the section 310(b) petition, directly with the Committee. Broadcast petitioners will be required to answer Standard Questions specific to broadcast licensees and common carrier wireless petitioners will be required to answer Standard Questions specific to common carrier licenses as well as a general PII supplement applicable to all respondents to the Standard Questions.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2024–18604 Filed 8–22–24; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 220919–0193; RTID 0648–XE181]

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; Closure of the General Category June Through August Fishery for 2024

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the General category fishery for Atlantic bluefin tuna (BFT) for the remainder of the June through August time period. The General category may only retain, possess, or land large medium and giant (*i.e.,* measuring 73 inches (185 centimeters (cm) curved fork length (CFL) or greater) BFT when open. This action applies to Atlantic Tunas General category (commercial) permitted vessels and Atlantic highly migratory species (HMS) Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT. This action also waives the previously scheduled restricted-fishing days (RFDs) for the remainder of the June through August time period. With the RFDs waived during the closure, fishermen aboard General category permitted vessels and HMS Charter/Headboat permitted vessels may tag and release BFT of all sizes, subject to the requirements of the catch-and-release and tag-and-release programs. On September 1, 2024, the fishery will reopen automatically and previously-scheduled RFDs for September will resume.

DATES: Effective 11:30 p.m., local time, August 22, 2024, through August 31, 2024.

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

SUPPLEMENTARY INFORMATION: Atlantic BFT fisheries are managed under the 2006 Consolidated HMS Fishery Management Plan (FMP) and its amendments, pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) and consistent with the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*). HMS implementing regulations are at 50 CFR part 635. Section 635.27(a) divides the U.S. BFT quota, established by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and as implemented by the United States among the various domestic fishing categories, per the allocations established in the 2006 Consolidated HMS FMP and its amendments. NMFS is required under the Magnuson-Stevens Act at 16 U.S.C. 1854(g)(1)(D) to provide U.S. fishing vessels with a reasonable opportunity to harvest quotas under relevant international fishery agreements such as the ICCAT Convention, which is implemented domestically pursuant to ATCA.

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

As described in § 635.27(a), the current baseline U.S. BFT quota is 1,316.14 metric tons (mt) (not including the 25 mt ICCAT allocated to the United States to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Gear Restricted Area per § 635.27(a)(3)). The General category baseline quota is 710.7 mt. The General category baseline quota is suballocated to time periods. Relevant to this action, the baseline subquota for the June through August time period is 355.4 mt.

Closure of the June Through August 2024 BFT General Category Fishery

To date, reported landings for the BFT General category June through August time period total 316.1 mt. Based on these landings data, as well as average catch rates and anticipated fishing conditions, NMFS has determined that the adjusted June through August time period subquota of 355.4 mt is projected to be reached and exceeded shortly. Therefore, retaining, possessing, or landing large medium or giant (*i.e.,* measuring 73 inches (185 cm) CFL or greater) BFT by persons aboard vessels permitted in the Atlantic Tunas General category and HMS Charter/Headboat permitted vessels (while fishing commercially) must cease at 11:30 p.m. local time on August 22, 2024. The BFT General category will automatically reopen September 1, 2024, for the September time period. This action applies to Atlantic Tunas General category (commercial) permitted vessels

and HMS Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT and is taken consistent with the regulations at § 635.28(a)(1).

Waiver for Remaining June Through August RFDs

On May 31, 2024 (89 FR 47095), NMFS published a final rule, which among other things, implemented RFDs every Sunday, Tuesday, Friday, and Saturday from July 1 through November 30, 2024. Since the fishery will be closed for the remainder of the June through August time period, NMFS has decided to waive the previously-scheduled RFDs for the remainder of that time period. Previously-scheduled RFDs (*i.e.,* every Sunday, Tuesday, Friday, and Saturday) will resume on September 1, 2024.

With the RFDs waived during a closure, consistent with § 635.23(a)(7) fishermen aboard General category permitted vessels and HMS Charter/Headboat permitted vessels may tag and release BFT of all sizes, subject to the requirements of the catch-and-release and tag-and-release programs at § 635.26. All BFT that are released must be handled in a manner that will maximize their survival, and without removing the fish from the water, consistent with requirements at § 635.21(a)(1). For additional information on safe handling, see the ''Careful Catch and Release'' brochure available at *https://www.fisheries.noaa.gov/resource/outreach-and-education/careful-catch-and-release-brochure/.*

Monitoring and Reporting

NMFS will continue to monitor the BFT fisheries closely. Per § 635.5(b)(2)(i)(A), dealers are required to submit landing reports within 24 hours of a dealer receiving BFT. Late reporting by dealers compromises NMFS' ability to timely implement actions such as quota and retention limit adjustments, as well as closures, and may result in enforcement actions. Additionally, and separate from the dealer reporting requirement, General and HMS Charter/Headboat category vessel owners are required per § 635.5(a)(4) to report their own catch of all BFT retained or discarded dead within 24 hours of the landing(s) or end of each trip, by accessing *https://hmspermits.noaa.gov,* using the HMS Catch Reporting app, or calling 888–872–8862 (Monday through Friday from 8 a.m. until 4:30 p.m.).

After the fishery reopens on September 1, depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional adjustments are necessary to ensure available subquotas are not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas as specified under § 635.27(a)(7). If needed, subsequent adjustments will be published in the **Federal Register**. In addition, fishermen may access *https://hmspermits.noaa.gov,* for updates on quota monitoring and inseason adjustments.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act (16 U.S.C. 1855(d)) and regulations at 50 CFR part 635 and this action is exempt from review under Executive Order 12866.

The Assistant Administrator for NMFS (AA) finds that pursuant to 5 U.S.C. 553(b)(B), it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on this action, for the following reasons. Specifically, the regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments and fishery closures to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Providing for prior notice and an opportunity to comment is impracticable and contrary to the public interest as this fishery is currently underway and, based on the most recent landings information, the available time period subquota is projected to be reached shortly. Delaying this action could result in BFT landings that exceed the June through August time period subquota, which may result in future potential quota reductions for other BFT categories, depending on the magnitude of a potential overharvest. Taking this action does not raise conservation and management concerns and would support effective management of the BFT fishery. NMFS notes that the public had an opportunity to comment on the underlying rulemakings that established the U.S. BFT quota and the inseason adjustment and closure criteria.

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

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

Dated: August 20, 2024.

Kelly Denit,

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

[FR Doc. 2024–18972 Filed 8–20–24; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 240227–0061; RTID 0648–XE061]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher/Processors Using Trawl Gear in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting retention of Pacific cod by catcher/processors using trawl gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary because the 2024 total allowable catch of Pacific cod allocated to catcher/processors using trawl gear in the Central Regulatory Area of the GOA has been reached.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), August 20, 2024, through 2400 hours, A.l.t., December 31, 2024.

FOR FURTHER INFORMATION CONTACT: Krista Milani, 907–581–2062.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR parts 600 and 679.

The 2024 total allowable catch (TAC) of Pacific cod allocated to catcher/processors using trawl gear in the Central Regulatory Area of the GOA is 635 metric tons as established by the final 2024 and 2025 harvest specifications for groundfish of the GOA (89 FR 15484, March 4, 2024).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS

(Regional Administrator), has determined that the 2024 TAC of Pacific cod allocated to catcher/processors using trawl gear in the Central Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that Pacific cod caught by catcher/processors using trawl gear in the Central Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(a)(2).

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 prohibiting the retention of Pacific cod by catcher/processors using trawl gear in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 19, 2024.

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: August 19, 2024.

Lindsay Fullenkamp,

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

[FR Doc. 2024–18916 Filed 8–20–24; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 89, No. 164
Friday, August 23, 2024

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2024–0746]

RIN 1625–AA00

Safety Zone, Cuyahoga River, Cleveland, OH

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for certain waters of the Cuyahoga River. This action is necessary to provide for the safety of life on these navigable waters from position 41–29.716′ N, 081–42.137′ W to position 41–29.927′ N, 081–42.356′ W during the Cleveland Dragon Boat Festival on or about September 21, 2024. This rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Eastern Great Lakes or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before September 9, 2024.

ADDRESSES: You may submit comments identified by docket number USCG–2024–0746 using the Federal Decision-Making Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email Cody Mayrer at Marine Safety Unit Cleveland's Waterways Management Division, U.S. Coast Guard; telephone 216–937–0111, email *D09-SMB-MSUCLEVELAND-WWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

The Cleveland Dragon Boat Festival has occurred annually for over a decade on the Cuyahoga River. However, the past two years events were relocated to the Black River. For 2024, the festival will return to the Cuyahoga River. The Captain of the Port Eastern Great Lakes (COTP) initiated a rulemaking in 2015 (80 FR 51943) to protect spectators, participants, and vessels from the hazards associated with the rowing event.

The Cleveland Dragon Boat Association notified the Coast Guard that it will be conducting a dragon boat festival from 7 a.m. through 4 p.m. on September 21, 2024. Typically, the event occurs on or about the third Saturday of September between the hours of 7 a.m. through 4 p.m. The exact date may differ based on local environmental conditions. The safety zone will cover all navigable waters of the Cuyahoga River from position 41–29.716′ N, 081–42.137′ W to position 41–29–927′ N, 081–42.356′ W in Cleveland, Ohio. Hazards from the event include, but are not limited to, sponsor operated vessels needing to transit the area during the festival. These vessels are expected to accompany the vessels competing in the rowboat style races. The COTP has determined that potential hazards associated with the festival would be a safety concern for anyone within this portion of the Cuyahoga River.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within this portion of the Cuyahoga River before, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Discussion of Proposed Rule

The COTP is proposing to establish a safety zone from 6:30 a.m. to 4:30 p.m. on or about September 21, 2024. The Dragon Boat Festival is scheduled to occur on September 21, 2024, but may occur on or about that date due to local environmental conditions. The safety zone would cover all navigable waters adjacent to Settler's Landing to north of the Cleveland Memorial Shoreway in Cleveland, Ohio, from position 41–29.716′ N, 081–42.137′ W to position 41–29–927′ N, 081–42.356′ W. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled dragon boat festival. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a ''significant regulatory action,'' under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on size, location, and duration of the proposed rule. This Safety Zone would restrict navigation on and through this small, designated portion of the Cuyahoga River for ten hours on one day.

B. Impact on Small Entities

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

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

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone that will cover all navigable waters of the Cuyahoga River from position 41–29.716′ N, 081–42.137′ W to position 41–29–927′ N, 081–42.356′ W in Cleveland, Ohio. Normally, such actions are categorically excluded from further review under paragraph L63(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary 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. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision-Making Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2024–0746 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select ''Supporting & Related Material'' in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the *https://www.regulations.gov* Frequently Asked Questions web page. Also, if you click on the Dockets tab and then the proposed rule, you should see a ''Subscribe'' option for email alerts. The option will notify you when comments are posted, or a final rule is published.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to *https://www.regulations.gov* will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 165

Marine safety, Navigation (water), Reporting and recordkeeping

requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 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.T09–0746 to read as follows:

§ 165.T09–0746 Safety Zone, Cuyahoga River, Cleveland, OH.

(a) *Location.* The following area is a safety zone: all navigable waters of the Cuyahoga River from position 41–29.716′ N, 081–42.137′ W to position 41–29–927′ N, 081–42.356′ W in Cleveland, Ohio.

(b) *Enforcement Period.* This section will be enforced from 6:30 a.m. through 4:30 p.m. on or around September 21, 2024, depending on local environmental conditions.

(c) *Definitions. Official Patrol Vessel* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Eastern Great Lakes, (COTP) in the enforcement of the regulations in this section. *Participant* means all persons and vessels attending the event.

(d) *Regulations.* When this safety zone is enforced, the following regulations, along with those contained in 33 CFR 165.23 apply:

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

(2) All persons and vessels not registered with the sponsor as participants or official patrol vessels are considered spectators. The ''official patrol vessels'' consist of any Coast Guard, state or local law enforcement and sponsor provided vessels designated or assigned by the Captain of the Port Eastern Great Lakes, to patrol the event.

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

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

(5) The Patrol Commander may forbid and control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel shall come to an immediate stop and comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

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

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

(8) The Patrol Commander will terminate enforcement of the special regulations at the conclusion of the event.

Dated: August 14, 2024.

M.I. Kuperman,

Captain, U.S. Coast Guard, Captain of the Port Eastern Great Lakes.

[FR Doc. 2024–18874 Filed 8–22–24; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 79

[CG Docket No. 05–231; FCC 24–80; FR ID 235802]

Closed Captioning of Video Programming

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: The Federal Communications Commission (Commission) published a proposed rule document in the **Federal Register** of August 2, 2024 (89 FR 63135). The document contained an incorrect deadline for filing replies to comments filed in response to the proposed rule. This document corrects the deadline for replies to comments filed in response to the proposed rule.

DATES: August 23, 2024.

ADDRESSES: Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Joshua Mendelsohn, Disability Rights Office, Consumer and Governmental Affairs Bureau, at 202–559–7304, or *Joshua.Mendelsohn@fcc.gov.*

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of August 2, 2024, in FR Doc. 17071, on page 63135, in the first column, correct the **DATES** section to read:

DATES: Comments are due September 3, 2024. Reply comments are due October 1, 2024.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

[FR Doc. 2024–18541 Filed 8–22–24; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 89, No. 164
Friday, August 23, 2024

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

DEPARTMENT OF AGRICULTURE

Farm Service Agency

[Docket ID FSA–2023–0020]

Notice; Emergency Relief Program 2022 (ERP 2022)

AGENCY: Farm Service Agency, USDA.

ACTION: Notice.

SUMMARY: The Farm Service Agency (FSA) is issuing this notice to announce the actions it is taking to comply with a preliminary injunction related to payment calculations for ERP 2022.

FOR FURTHER INFORMATION CONTACT: Kathy Sayers; telephone: (202) 720–6825; email: *kathy.sayers@usda.gov.* Individuals who require alternative means for communication should contact the 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).

SUPPLEMENTARY INFORMATION:

Background

FSA announced ERP 2022 in a notice published in the **Federal Register** on October 21, 2023 (88 FR 74404–74419). The application period for ERP 2022 began on October 31, 2023.[1] On June 7, 2024, the United States District Court for the Northern District of Texas, Amarillo Division, issued a preliminary injunction in *Rusty Strickland et al.* v. *U.S. Dept. of Agriculture et al.* (Case No. 2:24–CV–60–Z) enjoining USDA ''from making or increasing payments, or providing any additional relief, based on its 'socially disadvantaged farmer or rancher' designation under [ERP 2022], whether used directly or as a subset of its 'underserved farmer or rancher' designation.'' [2]

The Notice of Funds Availability includes the following provisions related to the payment calculations that were applicable only to underserved farmers or ranchers:

- For Track 1, the payment calculation provides a refund of an underserved farmer or rancher's share of the premium and fee for crop insurance or Noninsured Crop Disaster Assistance Program coverage; and
- For Track 2, the payment calculation provides an increase to an underserved farmer or rancher's payment that is equal to 15 percent of the gross Track 2 payment after progressive factoring, not to exceed the calculated Track 2 payment before progressive factoring.

Upon issuance of the preliminary injunction, and in order to comply with the preliminary injunction, FSA took action to immediately halt ERP 2022 payments while FSA evaluated the scope of changes that would be required. This notice announces that FSA is resuming issuance of ERP 2022 payments; however, consistent with the preliminary injunction, payments to socially disadvantaged farmers or ranchers will be subject to a modified payment calculation that does not include the refund of premiums and fees under Track 1 or the 15 percent increase under Track 2 described above. If the preliminary injunction is lifted, with available funds, FSA will make or update payments to affected and eligible socially disadvantaged producers consistent with the terms of the Notice of Funds Availability.

Some ERP 2022 payments may continue to be delayed due to the need to modify payment software to accommodate these changes, but FSA intends to begin issuing payments again in late August to eligible producers.

Zach Ducheneaux,

Administrator, Farm Service Agency.

[FR Doc. 2024–18993 Filed 8–22–24; 8:45 am]

BILLING CODE 3410–05–P

[1] The current deadlines to submit ERP 2022 applications and eligibility documentation were announced on July 15, 2024. See *https://www.fsa.usda.gov/news-room/news-releases/2024/usda-announces-august-14-application-deadline-for-emergency-relief-program-assistance-for-commodity-and-specialty-crop-producers-impacted-by-2022-natural-disasters.*

[2] As defined in the October 21, 2023, Notice of Funds Availability, ''socially disadvantaged farmer or rancher'' means a farmer or rancher who is a member of a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities. For entities, at least 50 percent of the ownership interest must be held by individuals who are members of such a group. Socially disadvantaged groups include the following and no others unless approved in writing by the Deputy Administrator:

(1) American Indians or Alaskan Natives;

(2) Asians or Asian-Americans;

(3) Blacks or African Americans;

(4) Hispanics or Hispanic Americans;

(5) Native Hawaiians or other Pacific Islanders; and

(6) Women.

''Underserved farmer or rancher'' means a beginning farmer or rancher, limited resource farmer or rancher, socially disadvantaged farmer or rancher, or veteran farmer or rancher.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

[Docket No. FCIC–24–0004]

Notice of Request for Renewal and Revision of the Currently Approved Information Collection

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Renewal and Revision of the Currently Approved Information Collection.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency (FSA) and Risk Management Agency (RMA) are requesting comments from all interested individuals and organizations on a revision of a currently approved paperwork package associated with the Acreage and Crop Reporting Streamlining Initiative (ACRSI).

DATES: Written comments on this notice will be accepted until close of business October 22, 2024.

ADDRESSES: We invite you to submit comments on this information collection request. In your comments, include the date, volume, and page number of this issue of the **Federal Register**, and the title of rule. You may submit comments by any of the following methods, although FCIC prefers that you submit comments electronically through the Federal eRulemaking Portal:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for Docket ID FCIC–24–0004. Follow the online instructions for submitting comments.
- *Mail:* Fritz Matetzschk, United States Department of Agriculture, FSA, DAFP, PDD, 1400 Independence Ave.

SW, mail stop 0570, Washington, DC 20250–0570; or David Zanoni, RMA, United States Department of Agriculture, P.O. Box 419205, Kansas City, MO 64133–6205.

All comments received, including those received by mail, will be posted without change and publicly available on *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Fritz Matetzschk, United States Department of Agriculture, FSA, DAFP,PDD, Washington, DC 20250–0570, (202) 690–2031; or David Zanoni, RMA, United States Department of Agriculture, P.O. Box 419205, Kansas City, MO 64133–6205, (816) 507–9302.

SUPPLEMENTARY INFORMATION:

Title: Acreage/Crop Reporting Streamlining Initiative (ACRSI).

OMB Number: 0563–0084.

Expiration Date of Approval: December 31, 2024.

Type of Request: Extension of a currently approved information collection.

Abstract: The currently approved information collection of OMB Number 0563–0084 is up for renewal and we are requesting an extension for 3 years. FSA and RMA are requesting comments from all interested individuals and organizations on the information collection request associated with ACRSI. FSA and RMA have established the procedures, processes, and standards to simplify commodity and acreage reporting by producers, eliminate or minimize duplication of information collection by multiple agencies, and reduce the burden on producers, allowing producers to report this information through FSA county office service centers, insurance agents, or through precision ag technology capabilities. FSA and RMA implemented a streamlined reporting solution to establish a common data collection and reporting capability that supports USDA's programs.

RMA is continuing to improve the existing Office of Management and Budget (OMB) approved information collections for RMA, 0563–0053, Multiple Peril Crop Insurance, acreage information, generally collected from the respondent during a personal visit to the FSA Service Center and again from the respondent during a personal visit with the insurance agent.

The forms are still available to accommodate respondents with no internet access and those who wish to continue to personally visit the FSA Service Center and insurance agent to report this common information.

Information reported to the common data collection and reporting capability (otherwise known as the Clearinghouse) are shared by both FSA and Approved Insurance Providers (AIPs) via RMA. With continued ACRSI process enhancements, some or all of the commodity and acreage information in the existing approved information collections are reported through this solution. Furthermore, the information collected are the same as the information currently approved. Additionally, the respondent will continue to report their common information one time through a single source thereby reducing the respondent's burden of reporting such common information and eliminating the duplicate reporting that may be currently required. The information collected will continue to be the same as the information currently approved and are used in the same manner it would be used if reported separately to each agency. The producers are continuing to use their precision-ag systems, farm management information systems, or download data files to directly report certain commodity and acreage information needed to participate in USDA programs.

The information being collected may consist of, but not be limited to: Producer name, customer/tax ID, state, county, commodity name, commodity type or variety, intended use, date planted, planted acreage, and land location (which may include legal description, FSA farm number, FSA tract number, FSA field number, geospatial as-planted field boundaries, Resource Land Unit, etc.).

FSA and RMA continues to enhance the ACRSI process. The effectiveness and lessons learned from each phase informed changes and expansions in subsequent phases. The first phase was initiated in the fall of 2011 in Dickenson, Marion, McPherson, and Saline Counties in Kansas, and only for the collection of information from producers regarding winter wheat. The second phase was implemented in the spring of 2015 in 30 counties of Illinois and Iowa covering 9 crops. The third phase was implemented in the fall of 2015 in all counties of 15 states covering 9 crops. The fourth phase was implemented in the spring of 2016 in all counties nationwide covering 13 crops and about 90 percent of reported acreage. The fifth phase was implemented in the fall of 2016 expanding nationwide coverage to 16 crops and about 93 percent of reported acreage. The sixth phase was implemented in the fall of 2017 expanding nationwide coverage to 25 crops and about 94 percent of reported acreage. Since that time, ACRSI has continuously added more crops and types that now covers over 97 percent of insurable acreage. The program will continue to add crops and types over time to stay current; however, there are no crops left to cross walk that have major acreage impacts.

RMA and FSA additionally piloted a process to allow external providers to submit required data from precision agriculture or farm management information systems. This 2018 Pilot used planting data from Nebraska producers that was disseminated to the Agencies through the ACRSI Clearinghouse process. Beginning in 2024, FSA now processes geospatial data from third parties or AIPs with the Geospatial Review Application. This allows FSA staff to process more efficiently the submitted data and reduce the time and effort spent by producers when reporting detailed precision data to FSA.

However, the existing approved information collection will be updated, modified or eliminated, as applicable, to reflect the reduction in burden on the respondents as the ACRSI process is enhanced.

Respondents: Producers.

Estimated Annual Number of Respondents Utilizing the Web-Based Single Source Reporting System and Benefiting From Sharing Information Between Agencies: 500,000.

Estimated Annual Number of Responses per Respondent: 1.5.

Estimated Total Annual Burden on Respondents Utilizing the Web-Based Single Source Reporting System and Benefiting From Having That Information Shared Between Agencies: 187,500 hours.

We are requesting comments on all aspects of this information collection to help us to:

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

(2) Evaluate the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used;

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

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

All comments in response to this notice, including names and addresses when provided, will be a matter of

public record. Comments will be summarized and included in the request for Office of Management and Budget (OMB) approval.

Marcia Bunger,

Administrator, Federal Crop Insurance Corporation.

[FR Doc. 2024–18906 Filed 8–22–24; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Privacy Act of 1974; Computer Matching Program

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice of reestablished matching program.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, USDA FNS is providing notice of a reestablished computer matching program between FNS and the State agencies that administer the Supplemental Nutrition Assistance Program (SNAP). The matching program allows State agencies access to the Electronic Disqualified Recipient System (eDRS), a national database operated by FNS. The system maintains records of SNAP disqualifications imposed by State agencies on individuals who have been found to have committed an intentional program violation (IPV).

DATES: The deadline for comments on this notice is September 23, 2024.

The re-established matching program will become effective not sooner than 30 days after publication of this notice, provided no comments are received that warrant a change to this notice. The matching program will be conducted for an initial term of 18 months and may be renewed for up to one additional year if the parties make no change to the matching program and certify that the program has been conducted in compliance with the matching agreement.

ADDRESSES: Interested parties may submit written comments by one of the following methods:

- *Preferred:* Federal eRulemaking Portal at *http://www.regulations.gov* provides the ability to type short comments directly into the comment field on this web page or attach a file for lengthier comments. Follow the online instructions at that site for submitting comments.
- *By email:* FNS, SNAP, State Administration Branch (SAB) at *SM.FN.SNAPSAB@usda.gov*.
- *By mail:* Maribelle Balbes, Branch Chief, SAB, SNAP, FNS, 1320 Braddock Place, Alexandria, VA 22314.
- *Instructions:* All comment submissions must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.
- *Docket:* For access to the docket to read background documents or comments received go to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact the above individual, Maribelle Balbes, Branch Chief, SAB, SNAP, FNS at *Maribelle.Balbes@usda.gov* or 703–605–4272.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974, as amended, 5 U.S.C. 552a, provides certain protections for individuals applying for and receiving federal benefits. The law governs the use of computer matching by federal agencies when records in a system of records, which contains information about individuals that are retrieved by name or other personal identifier, are matched with records of other Federal, State, or local government records. The Privacy Act requires agencies involved in a matching program to:

- Obtain approval of a Computer Matching Agreement, prepared in accordance with the Privacy Act, by the Data Integrity Board of any Federal agency participating in a matching program.
- Enter into a written Computer Matching Agreement.
- Provide a report of the matching program to Congress and the Office of Management and Budget (OMB), and make it available to the public, as required by 5 U.S.C. 552a(o), (u)(3)(A), and (u)(4).
- Publish a notice of the matching program in the **Federal Register** as required by 5 U.S.C. 552a(e)(12) after OMB and Congress complete their review of the report, as provided by OMB Circular A–108, Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act.
- Notify the individuals whose information will be used in the matching program that the information they provide is subject to verification through matching, as required by 5 U.S.C. 552a(o)(1)(D).
- Verify match findings before suspending, terminating, reducing, or making a final denial of an individual's benefits or payments or taking other adverse action against the individual, as required by 5 U.S.C. 552a(p).

This matching program meets these requirements.

Participating Agencies

FNS and the State agencies that administer SNAP to include all 50 States, the District of Columbia, and the territories of Guam and the U.S. Virgin Islands.

Authority for Conducting the Matching Program

The Food and Nutrition Act of 2008 (the Act), as amended, 7 U.S.C. 2015(b), provides the legal authority for conducting the matching program. Section 6(b) of the Act prescribes mandatory periods of ineligibility for persons found to have committed an IPV such as fraud, misrepresentation, or other violation of statute or regulation in connection with SNAP. Section 6(b)(4) prescribes regulations to ensure that appropriate State and Federal entities forward information concerning determinations arising out of such proscribed activity by a specific individual.

Purpose(s)

The eDRS matching program maintains program integrity and reduces payment errors by providing information to assist State agencies with establishing or verifying the eligibility of individuals for SNAP benefits and determining the appropriate disqualification period to be imposed for a new IPV as required in regulations at 7 CFR 273.16, Disqualification for intentional Program violation. Each State agency must submit information about individuals who have been disqualified from SNAP within their State to eDRS. As a participant in this matching program, each State agency has access to this national system to both submit the required information for their State and perform the required matches against information provided by all State agencies.

Categories of Individuals

SNAP applicants and new household members are matched against eDRS as part of the eligibility determination process to ensure the individual is not currently disqualified from receiving benefits due to an IPV. Individuals who are being disqualified by a State agency due to a new IPV finding are matched against eDRS to assist the State agency in determining the appropriate duration of the new disqualification

Categories of Records

The data elements in eDRS provide information about individuals who have been disqualified, the disqualification details, and the agency that imposed the disqualification. State agencies submit this information about disqualifications imposed in their State and this information is then available to all participating State agencies with access to eDRS. State agencies use personally identifying information to search eDRS for the individual being matched.

- Information about the disqualified individual:
- Name
- Social security number or alternative ID
- Date of birth
- Gender
- Alias
- Disqualification number
- Disqualification decision date
- Disqualification start date
- Duration of disqualification period
- Offense code
- Agency information:
- Locality code
- Locality contact name, title, location, and phone number

System(s) of Records

The system of records for this data exchange comprising eDRS is USDA/FNS–5, Information on Persons Disqualified from the Supplemental Nutrition Assistance Program, 75 FR 81205 (Dec. 27, 2010). This data exchange is authorized under routine uses.

Tameka Owens,

Acting Administrator and Assistant Administrator, Food and Nutrition Service.

[FR Doc. 2024–18945 Filed 8–22–24; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Supplemental Nutrition Assistance Program (SNAP) Mobile Payment Pilots (MPPs)

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on the proposed information collection. This is a revision of an existing information collection to conduct demonstration pilot projects to test the redemption of SNAP benefits through mobile payment technologies.

DATES: Written comments must be received on or before October 22, 2024.

ADDRESSES: Comments may be sent via the following methods:

- *Preferred Method:* Comments can be submitted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov* and follow the online instructions for submitting comments electronically.
- *Email:* Send comments to *RPMDHQ-WEB@USDA.GOV.*
- *Mail:* Send comments to Shelly Pierce, Food and Nutrition Service, U.S. Department of Agriculture, 1320 Braddock Place, Alexandria, VA 22314.

All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Eden Temple, at (703) 457–7734 or via email to *RPMDHQ-WEB@USDA.GOV.*

SUPPLEMENTARY INFORMATION: Comments are invited 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, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: SNAP Mobile Payment Pilots (MPPs)

Form Number: None.

OMB Number: 0584–0672.

Expiration Date: 6/30/2025.

Type of Request: Revision to existing collection.

Abstract: Section 4006(e) of the Agricultural Act of 2018 (Pub. L. 115–334) authorizes the Food and Nutrition Service (FNS) to allow up to five Mobile Payment Pilots (MPPs) to allow the use of personal mobile devices, such as cellular phones, tablets and smart watches in place of SNAP Electronic Benefit Transfer (EBT) cards to conduct SNAP transactions. Respondents (SNAP State agencies (State agencies) and their SNAP business partners) will conduct pilots to test the use of mobile payment technologies for the redemption of SNAP benefits by SNAP households at participating retailers, to determine their feasibility and implications for program integrity. FNS will conduct these projects to evaluate whether allowing mobile payments is in the best interest of the Program, and to therefore, recommend allowing their use to the Secretary.

The information collected in the pilot evaluation (to be submitted for OMB approval under a separate information collection request) will help FNS determine the success of and best practices for the use of mobile payment technologies to redeem SNAP benefits. This information will inform Program design, standards, rulemaking, and guidance for approval of SNAP mobile payment technologies as well as Departmental decisions and recommendations to Congress with respect to requiring all State EBT systems to accept mobile payment technologies in the future.

To achieve these objectives, FNS seeks OMB approval only for implementation of MPP by State agencies. Under the Paperwork Reduction Act, FNS will seek a separate OMB approval to evaluate the results of completed MPPs under a separate 60-day **Federal Register** Notice and information collection request.

1. Assumptions

In 2022, FNS issued a request for volunteers for participate in the MPP. FNS received 12 proposals and selected 5 States to participate. Because the request for volunteers (RFV) process has already occurred and its burden was covered in the initial 2022 information collection request, FNS is removing the hours associated with the RFV process from this renewal. Because pilot projects are still being designed, it is impossible for FNS to know in advance the design and structure of pilots that may be proposed or the specific activities each State and associated partners will undertake while conducting a MPP. Therefore, we have provided general estimates based on an assumed pilot model. Actual pilots may vary widely from this model and include a variety of potential stakeholders; this information collection does not intend to establish a standard model; this model will be used throughout this notice simply for ease of estimation.

If there are substantive changes to this data collection request, the agency will seek OMB approval to revise this information collection request following

the Paperwork Reduction Act process. Because the pilots are still being designed by the 5 States, the estimates below are based on a model in which one State agency partners with an average of four (4) stakeholder businesses (2 retailers, 1 EBT processor, and 1 mobile payment vendor) and recruits 1,000 SNAP participants per pilot proposal. It is important to note for burden estimation purposes that, while there are numerous retailer and mobile payment vendors the States may choose to partner with, there are only 4 EBT processors nationally. Therefore, EBT processors may partner with multiple pilot proposals submitted by the various State agencies; this has been considered in our estimation.

2. Mobile Payment Pilot Implementation

The pilot period will last a total of eighteen (18) months, and Pilot Participants (State agencies and associated business partner organizations) will join on a rolling basis with the condition that they must each participate for a minimum of nine (9) months. Per the requirement in Section 4006(e) of the Agricultural Act of 2018 (Pub. L. 115–334) FNS has selected 5 MPPs. FNS estimates that, based on the assumed model in this notice, each State agency may require 80 hours to conduct the following activities during each month of implementation of an MPP (as applicable). These activities include:

1. Design of mobile payment integration and changes to EBT systems and functionality to accommodate mobile payments,

2. Testing of EBT systems to ensure compatibility,

3. Provision of technical assistance and support to SNAP households that participate in an MPP, and/or

4. Coordination with EBT processors, SNAP retailers, and mobile payment contractors.

FNS estimates that, based on the assumed model in this notice, each of the 5 State agencies may issue 1 recruitment notice for the MPP to 5,000 individuals who are members of SNAP households in each State for a total of 25,000 individuals. These notices may be issued to SNAP households electronically or via mail, depending on the State. Generation and issuance of each notice by the State agency is expected to take approximately 3 minutes (0.05 hours). FNS also estimates that each of the 25,000 individual household members will require up to 3 minutes (0.05 hours) to read the recruitment notice for participation in the pilot. FNS estimates that approximately 5,000 of the recruited participants will opt to participate in the pilot (1,000 per State) and that each of the 5,000 participants will require 15 minutes to enroll in an MPP. Potential enrollment activities for SNAP household respondents are based on the assumed model in this information collection may include calling or emailing the State agency to indicate interest, reviewing instructions, downloading an application (as known as app), technical assistance, and/or enrolling in the app.

Because the RFV process has already occurred and its burden was covered in the 2022 information collection request, FNS is removing the hours associated with the RFV process from this renewal. This results in a decrease of 23,510 burden hours.

Reporting Burden for State Agencies

Affected Public: State SNAP agencies.

Estimated Number of Respondents: 5 State agencies.

Estimated Number of Responses per Respondent: 5,048.

Estimated Total Annual Responses: 25,240.

Estimated Time per Response: .94.

Estimated Total Annual Burden on Respondents: 23,675.

Reporting Burden for Businesses

Affected Public: Business (Respondent Types: EBT Stakeholders (EBT Processors, SNAP Retailers, Mobile Payment Vendors or Contractors).

Estimated Number of Respondents: 20.

Estimated Number of Responses per Respondent: 12.

Estimated Total Annual Responses: 240.

Estimated Time per Response: 120 hours per response.

Estimated Total Annual Burden on Respondents: 28,800 hours.

Reporting Burden for Individual Households

Affected Public: SNAP Recipients.

Estimated Number of Respondents: 25,000 (15,000 respondents and 10,000 non-respondents).

Estimated Number of Responses per Respondent: .83 responses.

Estimated Total Annual Responses: 30,000 responses.

Estimated Time per Response: .07 hour.

Estimated Total Annual Burden on Respondents: 2,167 hours.

Recordkeeping Burden for State Agencies

There is no recordkeeping or third-party reporting burden associated with this information collection.

BILLING CODE 3410–30–P

		Respondents						Non-Respondents					
Respondent Type	Burden Activity	Sample Size	Number of Respondents	Annual Frequency of Response	Total Annual Responses	Hours Per Response	Total Estimated Annual Burden	Estimated Number of Non-Respondents	Annual Frequency of Response	Total Annual Responses	Hours Per Response	Total Estimated Annual Burden	Grand Annual Burden Hours
A	B	C	D	E	F = D x E	G	H = F x G	I	J	K = I x J	L	M = K x L	N = H + M
State SNAP Agencies	*Request for Volunteers - Preparation and Submission of Application*	*N/A*	*0*	*0*	*0*	*0.00*	*0*	*0.00*	*0.00*	*0.00*	*0.00*	*0.00*	*0*
	Request for Volunteers - Stakeholder Coordination	*N/A*	*0*	*0*	*0*	*0.00*	*0*	*0.00*	*0.00*	*0.00*	*0.00*	*0.00*	*0*
	Mobile Payment Pilot – Design & System Changes	N/A	5	12	60	80.00	4,800	0.00	0.00	0.00	0.00	0.00	4,800
	Mobile Payment Pilot – System Testing	N/A	5	12	60	80.00	4,800	0.00	0.00	0.00	0.00	0.00	4,800
	Mobile Payment Pilot – Issue Recruitment Notices	N/A	5	5,000	25,000	0.08	2,075	0.00	0.00	0.00	0.00	0.00	2,075
	Mobile Payment Pilot – Implementation & Support	N/A	5	12	60	120.00	7,200	0.00	0.00	0.00	0.00	0.00	7,200

	Mobile Payment Pilot – Stakeholder Coordination	N/A	5	12	60	80.00	4,800	0.00	0.00	0.00	0.00	0.00	4,800.00
State Agency Subtotal			**5**	**5,048.00**	**25,240**	**0.94**	**23,675.00**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**23,675.00**
EBT Processors	*Request for Volunteers - Coordination*	*N/A*	*0*	*0*	*0*	*0.00*	*0.00*	*0.00*	*0.00*	*0.00*	*0.00*	*0.00*	*0.00*
	Mobile Payment Pilot - Coordination	N/A	4	12	60	120.00	7,200.00	0.00	0.00	0.00	0.00	0.00	7,200.00
SNAP Retailers	*Request for Volunteers - Coordination*	*N/A*	*0*	*0*	*0*	*0.00*	*0.00*	*0.00*	*0.00*	*0.00*	*0.00*	*0.00*	*0.00*
	Mobile Payment Pilot - Coordination	N/A	10	12	120	120.00	14,400.00	0.00	0.00	0.00	0.00	0.00	14,400.00
Mobile Payment Vendor	*Request for Volunteers - Coordination*	*N/A*	*0*	*0*	*0*	*0.00*	*0.00*	*0.00*	*0.00*	*0.00*	*0.00*	*0.00*	*0.00*
	Mobile Payment Pilot - Coordination	N/A	5	12	60	120.00	7,200.00	0.00	0.00	0.00	0.00	0.00	7,200.00
Business Subtotal			**20**	**12.00**	**240**	**120**	**28,800**	**0.00**	**0.00**	**0.00**	**0.00**	**0.00**	**28,800.00**
SNAP Recipients	Mobile Payment Pilot – Review Recruitment Notice	25,000	15,000	1	15,000	0.05	750.00	10,000.00	1.00	10,000.00	0.01667	167.00	917.00
	Mobile Payment Pilot – Complet	N/A	5,000	1	5,000	0.25	1,250.00	0.00	0.00	0.00	0.00	0.00	1,250.00

	e Enrollment												
Individual/Household Subtotal			15,000	1.33	20,000	0.10	2,000.00	10,000.00	1.00	10,000.00	0.0167	167.00	2,167.00
Totals			15,025	3.03	45,480	1.20	54,475.00	10,000.00	1.00	10,000.00	0.0167	167.00	54,642.00

Note: Italicized rows represent activities in previous information collection that have been removed from this revision; all columns are zeroed out of those rows.

Tameka Owens,

Acting Administrator and Assistant Administrator, Food and Nutrition Service.

[FR Doc. 2024–18947 Filed 8–22–24; 8:45 am]

BILLING CODE 3410–30–C

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

[Docket #: RBS–24–BUSINESS–0010]

Notice of Solicitation of Applications for the Rural Economic Development Loan and Grant Programs for Fiscal Year 2025

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Business-Cooperative Service (RBCS or Agency), a Rural Development (RD) agency of the United States Department of Agriculture (USDA), invites applications for loans and grants under the Rural Economic Development Loan and Grant Programs (REDLG or Programs) for fiscal year (FY) 2025, subject to the availability of funding. This notice is being issued prior to the passage of a FY 25 Consolidated Appropriations Act, which may or may not provide funding for this program, to allow applicants sufficient time to leverage financing, prepare and submit their applications, and give the Agency time to process applications within FY 2025. Based on FY 2024 appropriated funding and current budget situation, the Agency estimates that approximately $50,000,000 will be available for FY 2025. Successful applications will be selected by the Agency for funding and subsequently awarded to the extent that funding may ultimately be made available through appropriations. All applicants are responsible for any expenses incurred in developing their applications.

DATES: The deadlines for completed applications to be received in the RD State Office for quarterly funding competitions are no later than 4:30 p.m. (local time) on: First Quarter, September 30, 2024; Second Quarter, December 31, 2024; Third Quarter, March 31, 2025, and Fourth Quarter, June 30, 2025. The Agency will not consider any application received after the deadline for funding competition in that fiscal quarter.

ADDRESSES: Applications must be submitted in paper or electronically to the RD State Office for the state where the project is located. A list of the RD State Office contacts can be found at: *www.rd.usda.gov/about-rd/state-offices.* This notice will also be announced at *www.grants.gov.*

FOR FURTHER INFORMATION CONTACT: Cindy Mason at *cindy.mason@usda.gov,* Program Management Division, Business Programs, Rural Business-Cooperative Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Stop 3226, Room 5160-South, Washington, DC 20250–3226, or call (202) 720–1400. For further information on this notice, please contact the RD State Office in the state which the applicant's headquarters is located. A list of RD State Office contacts is provided at the following link: *www.rd.usda.gov/about-rd/state-offices.*

SUPPLEMENTARY INFORMATION:

Overview

Federal Awarding Agency Name: Rural Business-Cooperative Service (RBCS).

Funding Opportunity Type: Rural Economic Development Loans and Grants (REDLG).

Announcement Type: Notice of Solicitation of Applications (NOSA).

Funding Opportunity Number: RD–RBCS–25–REDLG.

Assistance Listing Number: 10.854.

Dates: The deadlines for complete applications to be received in the RD State Office for quarterly funding competitions are no later than 4:30 p.m. (local time) on: First Quarter, September 30, 2024; Second Quarter, December 31, 2024; Third Quarter, March 31, 2025, and Fourth Quarter, June 30, 2025.

Rural Development Key Priorities: The Agency encourages applicants to consider projects that will advance the following key priorities (more details available at *www.rd.usda.gov/priority-points):*

- Addressing Climate Change and Environmental Justice; Reducing climate pollution and increasing resilience to the impacts of climate change through economic support to rural communities.
- Advancing Racial Justice, Place-Based Equity, and Opportunity; Ensuring all rural residents have equitable access to RD programs and benefits from RD funded projects.
- Creating More and Better Market Opportunities; Assisting rural communities recover economically through more and better market opportunities and through improved infrastructure.

A. Program Description

1. *Purpose of the Program.* The Rural Economic Development Loan (REDL) and Grant (REDG) Programs (REDLG or Program(s)) provide financing to eligible Rural Utilities Service (RUS) electric or telecommunications borrowers (Intermediaries) to promote rural economic development and job creation projects. Assistance provided to rural and Tribal areas, as defined, under this program may include business startup costs, business expansion, business incubators, technical assistance feasibility studies, advanced telecommunications services and computer networks for medical, educational, and job training services, and Community Facilities, as defined at 7 CFR 4280.3, projects for economic development.

2. *Statutory and Regulatory Authority.* These Programs are authorized under section 313B of the Rural Electrification

Act of 1936, as amended and implemented by 7 CFR part 4280, subpart A.

The Consolidated Appropriations Act, 2024, (Pub. L. 118–42, Division B, Title VII), Section 736 designates funding for projects in persistent poverty counties. Persistent poverty counties is ''any county that has had 20 percent or more of its population living in poverty over the past 30 years, as measured by the 1990 and 2000 decennial censuses, and 2007–2011 American Community Survey 5-year average, or any territory or possession of the United States''. Section 736 expands the eligible population in persistent poverty counties to include any county seat of such a persistent poverty county that has a population that does not exceed the authorized population limit by more than 10 percent, expanding the current 50,000 population limit to 55,000 for only county seats located in persistent poverty counties. Therefore, assuming the Appropriations Act for 2025 has similar language, applicants and/or beneficiaries located in persistent poverty county seats with populations up to 55,000 (per the 2010 Census) are eligible.

3. *Definitions.* The definitions applicable to this notice are published at 7 CFR 4280.3.

4. *Application of Awards.* The Agency will review, evaluate, and score applications received in response to this notice based on the provisions found in 7 CFR part 4280, subpart A, and as indicated in this notice. Awards under the REDLG programs will be made on a competitive basis using specific selection criteria contained in 7 CFR part 4280, subpart A and as indicated in this notice. The applicant bears the full burden in preparing and submitting an application in response to this notice regardless of whether or not funding is appropriated for the programs in FY 2025.

B. Federal Award Information

Type of Awards: Loans and Grants.

Fiscal Year Funds: FY 2025.

Available Funds: Dependent upon FY 2025 appropriations. Funding is anticipated to be approximately $50,000,000 based on FY 2024 amounts. RBCS may, at its discretion, increase the total level of funding available in these funding rounds from any available source provided the awards meet the requirements of the statute which made the funding available to the Agency.

Award Amounts: The Agency anticipates the following maximum amounts per award: Loans—$2,000,000; Grants—$300,000.

Anticipated Award Dates: First Quarter, November 30, 2024; Second Quarter, February 29, 2025; Third Quarter, May 31, 2025; and Fourth Quarter, August 31, 2025.

Performance Period: December 1, 2024, through September 30, 2026.

Renewal or Supplemental Awards: None.

Type of Assistance Instrument: Direct Loan and Financial Assistance Agreement.

C. Eligibility Information

1. *Eligible Applicants.* Loans and grants may be made to any entity that is identified by USDA RD as an eligible borrower under the Rural Electrification Act of 1936, as amended (Act). In accordance with 7 CFR 4280.13, applicants that are not delinquent on any Federal debt or not otherwise disqualified from participation in these Programs are eligible to apply. Notwithstanding any other provision of law, any former RUS borrower that has repaid or prepaid an insured, direct, or guaranteed loan under the Act, or any not-for-profit utility that is eligible to receive an insured or direct loan under such Act shall be eligible for assistance under section 313B(a) of such Act in the same manner as a borrower under such Act. All other restrictions in this notice will apply.

2. *Cost Sharing or Matching.* For loans, either the ultimate recipient or the intermediary must provide supplemental funds for the project equal to at least 20 percent of the loan to the intermediary. For grants, the intermediary must establish a revolving loan fund and contribute an amount equal to at least 20 percent of the grant. The supplemental contribution must come from the intermediary's which may not be from other Federal grants, unless permitted by law.

3. *Other.*

(a) There are no ''responsiveness'' or ''threshold'' eligibility criteria for these loans and grants. There is no limit on the number of applications an applicant may submit under this announcement.

(b) None of the funds made available by this or any other Act may be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to any corporation that:

(i) Has any unpaid Federal tax liability, that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability where the awarding agency is aware of the unpaid tax liability, unless a Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government.

(ii) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless a Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government.

(c) Applications will not be considered for funding if they do not provide sufficient information to determine eligibility or are missing required elements.

D. Application and Submission Information

1. *Address to Request Application Package.* For further information, entities wishing to apply for assistance should contact the RD State Office provided in the **ADDRESSES** section of this notice to obtain copies of the application package.

2. *Content and Form of Application Submission.* An application must contain all of the required elements outlined in 7 CFR 4280.39 and address each selection priority criterion outlined in 7 CFR 4280.42(b). Failure to address any of the criterion will result in a zero-point score for that criterion and will impact the overall evaluation of the application.

3. *System for Award Management and Unique Entity Identifier.*

(a) At the time of application, each applicant must have an active registration in the System for Award Management (SAM) before submitting its application in accordance with 2 CFR part 25. In order to register in SAM, entities will be required to obtain a Unique Entity Identifier (UEI). Instructions for obtaining the UEI are available at *sam.gov/content/entity-registration.*

(b) Applicants must maintain an active SAM registration, with current, accurate and complete information, at all times during which it has an active Federal award or an application under consideration by a Federal awarding agency.

(c) Applicants must ensure they complete the Financial Assistance General Certifications and Representations in SAM.

(d) Applicants must provide a valid UEI in its application, unless determined exempt under 2 CFR 25.110.

(e) The Agency will not make an award until the applicant has complied with all SAM requirements including providing the UEI. If an applicant has not fully complied with the requirements by the time the Agency is ready to make an award, the Agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant.

4. *Submission Dates and Times.*

(a) *Application Technical Assistance Deadline Date.* Prior to official submission of grant applications, applicants may request technical assistance or other application guidance from the Agency, as long as such requests are made at least 15 days prior to each quarter submission date. Technical assistance is not meant to be an analysis or assessment of the quality of the materials submitted, a substitute for agency review of completed applications, nor a determination of eligibility, if such determination requires in-depth analysis.

(b) *Application Deadline Dates.* Completed applications must be received no later than 4:30 p.m. (local time) on: First Quarter, September 30, 2024; Second Quarter, December 31, 2024; Third Quarter, March 31, 2025; and Fourth Quarter, June 30, 2025. Applications must be in the RD State Office by the dates and times as indicated. If the due date falls on a Saturday, Sunday, or Federal holiday, the application is due the next business day. If completed applications are not received by the deadline established above, the application will neither be reviewed nor considered in that quarter under any circumstances.

The Agency will not solicit or consider new scoring or eligibility information that is submitted after the application deadline. The Agency also reserves the right to ask applicants for clarifying information and additional verification of assertations in the application.

5. *Intergovernmental Review.* Executive Order (E.O.) 12372, ''Intergovernmental Review of Federal Programs,'' applies to this program. This E.O. requires that Federal agencies provide opportunities for consultation on proposed assistance with State and local governments. Many states have established a Single Point of Contact (SPOC) to facilitate this consultation. For a list of States that maintain a SPOC, please see the White House website: *www.whitehouse.gov/omb/management/office-federal-financial-management/*. If your State has a SPOC, you may submit a copy of the application directly for review. Any comments obtained through the SPOC must be provided to your State Office for consideration as part of your application. If your state has not established a SPOC, you may submit your application directly to the Agency. Applications from Federally recognized Indian Tribes are not subject to this requirement.

6. *Funding Restrictions.* The grantee may utilize a previously approved indirect cost rate. Otherwise, the applicant may elect to charge the 10 percent indirect cost permitted under 2 CFR 200.414(f). An indirect cost rate determination may be requested with the application; however, due to the time required to evaluate indirect cost rates, it is likely that all funds will be awarded before the indirect cost rate is determined. No foreign travel is permitted. Pre-Federal award costs will only be permitted with prior written approval by the Agency.

7. *Other Submission Requirements.*

(a) There are no specific limitations on the number of pages, font size and type face, margins, paper size, number of copies, and the sequence or assembly requirements.

(b) The component pieces of this application should contain original signatures on the original application. Any form that requires an original signature but is signed electronically in the application submission, must be signed in ink by the authorized person prior to the disbursement of funds.

(c) An original copy of the application package must be filed with the RD State Office for the State where the intermediary is located.

(d) Applicants may submit applications in hard copy or electronic format as previously indicated in the Application and Submission Information section of this notice. If the applicant wishes to hand deliver their application, the addresses for these deliveries can be located in the **ADDRESSES** section of this notice. Applicants are encouraged to contact their respective State Office for an email contact to submit an electronic application prior to the submission deadline date(s).

Applicants intending to mail applications must allow sufficient time to permit delivery on or before the closing deadline date and time. Acceptance by the United States Postal Service or private mailer does not constitute delivery. Facsimile (FAX) or postage due applications will not be accepted.

E. Application Review Information

1. *Criteria.* All eligible and complete applications will be evaluated and scored based on the selection criteria and weights contained in 7 CFR part 4280, subpart A. Failure to address any one of the criteria by the application deadline will result in the application being determined ineligible, and the application will not be considered for funding.

2. *Review and Selection Process.* The RD State Offices will review applications to determine if they are eligible for assistance based on requirements contained in 7 CFR part 4280, subpart A. If determined eligible, applications will be submitted to the National Office. Funding of projects is subject to the intermediary's satisfactory submission of the additional items required by that subpart and the RD Letter of Conditions. The Agency reserves the right to offer the applicant less than the funding requested. Discretionary priority points, under 7 CFR 4280.43(e), may be awarded with documented justification for the following categories:

(a) Assisting rural communities recover economically through more and better market opportunities and through improved infrastructure. Applicant would receive priority points if the project is located in or serving a rural community whose economic well-being ranks in the most distressed tier (distress score of 80 or higher) of the Distressed Communities Index using the Distressed Communities Look-Up Map available at *www.rd.usda.gov/priority-points.*

(b) Ensuring all rural residents have equitable access to RD programs and benefits from RD funded projects. Using the Social Vulnerability Index (SVI) Look-Up Map (available at *www.rd.usda.gov/priority-points*), an applicant would receive priority points if the project:

- Is located in or serving a community with score 0.75 or above on the SVI;
- Is a Federally recognized Tribe, including Tribal instrumentalities and entities that are wholly owned by Tribes; or
- Is a project where at least 50 percent of the project beneficiaries are members of Federally recognized Tribes and non-Tribal applicants include a Tribal Resolution of Consent from the Tribe or Tribes that the applicant is proposing to serve.
- Is an application from or benefiting a Rural Partner's Network's (RPN) community network (rural.gov). Currently, RPN Networks exist in

Alaska, Arizona, Georgia, Kentucky, Mississippi, Nevada, New Mexico, North Carolina, Puerto Rico, West Virginia and Wisconsin. Use the Community Look-Up map (available at *www.rd.usda.gov/priority-points*) to determine if your project qualifies for priority points.

(c) Reducing climate pollution and increasing resilience to the impacts of climate change through economic support to rural communities. Using the Disadvantaged Community and Energy Community Look-Up Map (available at *www.rd.usda.gov/priority-points*), applicants will receive priority in three ways:

- If the project is located in or serves a *Disadvantaged Community* as defined by the Climate and Economic Justice Screening Tool (CEJST), from the White House Council on Environmental Quality (CEQ), or
- If the project is located in or serves an *Energy Community* as defined by the Inflation Reduction Act (IRA).
- If applicants can demonstrate through a written narrative how the proposed climate-impact projects will improve the livelihoods of community residents and meet pollution mitigation or clean energy goals.

F. Federal Award Administration Information

1. *Federal Award Notices.* Successful applicants will receive notification for funding from the RD State Office. Applicants must comply with all applicable statutes and regulations before the loan/grant award can be approved. Provided the application and eligibility requirements have not changed, an eligible application not selected will be reconsidered in three subsequent quarterly funding competitions for a total of four competitions. If an application is withdrawn by the applicant, it can be resubmitted and will be evaluated as a new application.

2. *Administrative and National Policy Requirements.*

(a) *Additional Requirements for Intermediaries and/or Grantees.* Additional requirements that apply to intermediaries or grantees selected for these programs can be found in 7 CFR part 4280, subpart A; Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards of the U.S. Department of Agriculture codified in 2 CFR 400.1 to 400.2, and 2 CFR part 415 to 422, and successor regulations to these parts.

(b) *Awards.* All awards are subject to USDA grant regulations at 2 CFR part 400 which adopts the Office of Management and Budget (OMB) regulations 2 CFR part 200.

(c) *Notification.* All successful applicants will be notified by letter which will include a Letter of Conditions, and a Letter of Intent to Meet Conditions. This letter is not an authorization to begin performance. If the applicant wishes to consider beginning performance prior to the loan or grant being officially closed, all pre-award costs must be approved in writing and in advance by the Agency. The loan or grant will be considered officially awarded when all conditions in the Letter of Conditions have been met and the Agency obligates the funding for the project.

The following additional requirements apply to intermediaries or grantees selected for these Programs:

(i) Form RD 4280–2, ''Rural Business-Cooperative Service Financial Assistance Agreement.''

(ii) Letter of Conditions.

(iii) Form RD 1940–1, ''Request for Obligation of Funds.''

(iv) Form RD 1942–46, ''Letter of Intent to Meet Conditions.''

(v) SF LLL, ''Disclosure of Lobbying Activities,'' if applicable.

(vi) Form SF 270, ''Request for Advance or Reimbursement.''

(vii) Form RD 400–4, ''Assurance Agreement'' must be completed by the applicant and each prospective ultimate recipient.

(viii) Intermediaries or grantees must collect and maintain data provided by ultimate recipients on race, sex, and national origin and ensure ultimate recipients collect and maintain this data. Race and ethnicity data will be collected in accordance with OMB **Federal Register** notice, ''Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity'' (62 FR 58782), October 30, 1997. Sex data will be collected in accordance with Title IX of the Education Amendments of 1972. These items should not be submitted with the application but should be available upon request by the Agency.

(d) *Build America, Buy America.* Awardees that are Non-Federal Entities, defined pursuant to 2 CFR 200.1 as any State, local government, Indian Tribe, Institution of Higher Education, or nonprofit organization, shall be governed by the requirements of Section 70914 of the Build America, Buy America Act (BABAA) within the Infrastructure Investment and Jobs Act (Pub. L. 117–58). Any requests for waiver of these requirements must be submitted pursuant to USDA's guidance available online at *www.usda.gov/ocfo/federal-financial-assistance-policy/USDABuyAmericaWaiver.*

(e) *Geospatial Information.* Awardee, and any and all contracts entered into by the Awardee with respect to the Award, shall ensure that geospatial data required to be collected and provided to the agency, conforms with the requirements of USDA Department Regulation DR–3465–001 and the Geospatial Metadata Standards set forth in the USDA Departmental Manual at DM 3465–001, which can be obtained online at *www.usda.gov/directives/dr-3465-001* and *www.usda.gov/directives/dm-3465-001.*

3. Reporting.

(a) A financial status report and a project performance activity report will be required of all grantees on a quarterly basis until initial funds are expended and yearly thereafter, if applicable, based on the Federal FY. The grantee will complete the project within the total time available to it in accordance with the scope of work and any necessary modifications thereof prepared by the grantee and approved by the Agency. A final project performance report will be required with the final financial status report. The final report may serve as the last quarterly report. The final report must provide complete information regarding the jobs created and supported as a result of the grant if applicable. Grantees must continuously monitor performance to ensure that time schedules are being met, projected work by time periods is being accomplished, and other performance objectives are being achieved. Grantees must submit an original of each report to the Agency no later than 30 days after the end of the quarter. The project performance reports must include, but not be limited to, the following:

(i) A comparison of actual accomplishments to the objectives established for that period;

(ii) Problems, delays, or adverse conditions, if any, which have affected or will affect attainment of overall project objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular project work elements during established time periods. This disclosure shall be accompanied by a statement of the action taken or planned to resolve the situation;

(iii) Objectives and timetable established for the next reporting period;

(iv) Any special reporting requirements, such as jobs supported and created, businesses assisted, or economic development which results in improvements in median household

incomes, and any other specific requirements, should be placed in the reporting section of the Letter of Conditions; and

(v) Within 90 days after the conclusion of the project, the intermediary will provide a final project evaluation report. The last quarterly payment will be withheld until the final report is received and approved by the Agency. Even though the intermediary may request reimbursement on a monthly basis, the last 3 months of reimbursements will be withheld until a final report, project performance, and financial status report are received and approved by the Agency.

(b) In addition to any reports required by 2 CFR part 200 and 2 CFR 400.1 to 400.2 and 2 CFR part 415 to 422, the intermediary or grantee must provide reports as required by 7 CFR part 4280, subpart A.

G. Federal Awarding Agency Contact(s)

For general questions about this announcement, please contact your RD State Office provided in the **ADDRESSES** section of this notice.

H. Other Information

1. *Paperwork Reduction Act.* In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the information collection requirements associated with the program, as covered in this notice, has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0570–0035.

2. *National Environmental Policy Act.* All recipients under this notice are subject to the requirements of 7 CFR part 1970. Awards for technical assistance and training under this notice are classified as a Categorical Exclusion according to 7 CFR 1970.53(b), and usually do not require any additional documentation. RBCS will review each grant application to determine its compliance with 7 CFR part 1970. The applicant may be asked to provide additional information or documentation to assist RBCS with this determination.

3. *Federal Funding Accountability and Transparency Act.* All applicants, in accordance with 2 CFR part 25, must be registered in SAM and have a UEI number as stated in Section D.3 of this notice. All recipients of Federal financial assistance are required to report information about first-tier sub-awards and executive total compensation in accordance with 2 CFR part 170.

4. *Civil Rights Act.* All grants made under this notice (to applicant and ultimate recipient) are subject to Title VI of the Civil Rights Act of 1964 as required by the USDA 7 CFR part 15, subpart A and Section 504 of the Rehabilitation Act of 1973, Title VIII of the Civil Rights Act of 1968, Title IX, Executive Order 12250, Executive Order 13166 (Limited English Proficiency), Executive Order 11246, and the Equal Credit Opportunity Act of 1974, Americans with Disabilities Act (ADA), and 7 CFR part 1901, subpart E.

5. *Equal Opportunity for Religious Organizations.*

(a) Faith-based organizations may apply for this award on the same basis as any other organization, as set forth at, and subject to the protections and requirements of, this part and any applicable constitutional and statutory requirements, including 42 U.S.C. 2000bb *et seq.* USDA will not, in the selection of recipients, discriminate for or against an organization on the basis of the organization's religious character, motives, or affiliation, or lack thereof, or on the basis of conduct that would not be considered grounds to favor or disfavor a similarly situated secular organization.

(b) A faith-based organization that participates in this program will retain its independence from the Government and may continue to carry out its mission consistent with religious freedom and conscience protections in Federal law. Religious accommodations may also be sought under many of these religious freedom and conscience protection laws.

(c) A faith-based organization may not use direct Federal financial assistance from USDA to support or engage in any explicitly religious activities except when consistent with the Establishment Clause of the First Amendment and any other applicable requirements. An organization receiving Federal financial assistance also may not, in providing services funded by USDA, or in their outreach activities related to such services, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.

6. *Nondiscrimination Statement.* In accordance with Federal civil rights laws and USDA civil rights regulations and policies, the USDA, its Mission Areas, agencies, staff offices, employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (*e.g.,* Braille, large print, audiotape, American Sign Language) should contact the responsible Mission Area, agency, or staff office or the 711 Relay Service.

To file a program discrimination complaint, a complainant should complete a Form AD–3027, USDA Program Discrimination Complaint Form, which can be obtained online at *www.usda.gov/sites/default/files/documents/ad-3027.pdf* from any USDA office, by calling (866) 632–9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD–3027 form or letter must be submitted to USDA by:

(a) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410; or

(b) *Fax:* (833) 256–1665 or (202) 690–7442; or

(c) *Email: program.intake@usda.gov.*

USDA is an equal opportunity provider, employer, and lender.

Kathryn E. Dirksen Londrigan,

Administrator, Rural Business-Cooperative Service, USDA Rural Development.

[FR Doc. 2024–19008 Filed 8–22–24; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–985]

Xanthan Gum From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Rescission, in Part, and Preliminary Determination of No Shipments; 2022–2023

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that one of the exporters subject to this antidumping duty administrative review made sales of subject merchandise at less than normal value, one of the exporters subject to this antidumping duty administrative review did not make sales of subject merchandise at less than normal value, and that two companies, Shanghai Smart Chemicals Co. Ltd. (Shanghai Smart), and Deosen Biochemical Ltd., had no shipments of subject merchandise during the period of review (POR) July 1, 2022, through June 30, 2023. In addition, we are rescinding this review, in part, with respect to five companies. Interested parties are invited to comment on these preliminary results.

DATES: Applicable August 23, 2024.

FOR FURTHER INFORMATION CONTACT: Reginald Anadio, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3166.

SUPPLEMENTARY INFORMATION:

Background

On July 3, 2023, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on xanthan gum from the People's Republic of China (China).[1] Between July 27 and 31, 2023, Commerce received requests to conduct administrative reviews.[2] Commerce published the *Initiation Notice* of this administrative review on September 11, 2023, where we initiated a review for 34.[3] On March 1, 2024, Commerce extended the deadline for these preliminary results to July 30, 2024.[4] On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.[5] The deadline for these preliminary results is now August 6, 2024.

For a complete description of the events that occurred following the initiation of the review, *see* the Preliminary Decision Memorandum.[6] A list of topics discussed in the Preliminary Decision Memorandum is included in Appendix I. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Order

The product covered by the *Order* includes dry xanthan gum, whether or not coated or blended with other products. For a full description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Preliminary Determination of No Shipments

Between September and October 2023, Meihua Group International Trading (Hong Kong) Limited/Langfang Meihua Biotechnology Co., Ltd./Xinjiang Meihua Amino Acid Co., Ltd. (collectively, Meihua), Shanghai Smart, and Deosen Biochemical Ltd. filed timely certifications that they had no exports, shipments, sales, or entries of subject merchandise to the United States during the POR.[7] Based on information obtained from U.S. Customs and Border Protection (CBP) and on Deosen Biochemical Ltd.'s, Meihua's, and Shanghai Smart's no-shipment certifications, Commerce preliminarily determines that Deosen Biochemical Ltd. and Shanghai Smart had no shipments of subject merchandise during the POR.[8]

Consistent with Commerce's practice in non-market economy (NME) cases, we are not rescinding this administrative review with respect to Deosen Biochemical Ltd. and Shanghai Smart but intend to complete the review and issue appropriate instructions to CBP based on the final results of the review.[9]

Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if all parties that requested a review withdraw their requests within 90 days of the publication date of the notice of initiation of the requested review in the **Federal Register**. Between August and September 2023, the petitioner timely withdrew its request for an administrative review of the following companies: Henan Sinowin Chemical Industry Co., Ltd. (Henan Sinowin); Meihua; Qingdao Yalai Chemical Co., Ltd. (Qingdao Yalai); Foodchem Biotech Co., Ltd.; and Shanghai Cy-Everlasting Imp. & Exp. Co., Ltd. (Shanghai Cy-Everlasting).[10] On September 21, 2023, Meihua withdrew its request for an

[1] *See Xanthan Gum from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 78 FR 43143 (July 19, 2013) (*Order*); and *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review and Join Annual Inquiry Service List,* 88 FR 42693 (July 3, 2023).

[2] Additionally, we note that review requests were filed for two separate companies with minor variations in their names: Shaanxi Rainwood Biotech Co., Ltd.; and Shaanxi Rainwood Biotech Co. Ltd. Accordingly, Commerce initiated this administrative review with respect to the 33 companies. *See* Jianlong Biotechnology Co. Ltd. (formerly, Inner Mongolia Jianlong Biochemical Co., Ltd.)'s Letter, ''Request for Administrative Review,'' dated July 31, 2023; *see also* Meihua Group International Trading (Hong Kong) and Xinjiang Meihua Amino Acid Co., Ltd.'s Letter, ''Request for Administrative Review,'' dated July 31, 2023; Deosen Biochemical (Ordos) Ltd.'s Letter, ''Request for Administrative Review,'' dated July 27, 2023; CP Kelco US, Inc.'s (the petitioner) Letter, ''Petitioner's Request for Administrative Review,'' dated July 31, 2023; Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd.)/Shandong Fufeng Fermentation Co., Ltd./Xinjiang Fufeng Biotechnologies Co., Ltd.'s Letter, ''Request for Antidumping Administrative Review,'' dated July 31, 2023; and SAM HPRP Chemicals, Inc.'s Letter, ''Request for Administrative Review,'' dated July 28, 2023.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 88 FR 62322 (September 11, 2023) (*Initiation Notice*).

[4] *See* Memorandum, ''Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,'' dated March 1, 2024.

[5] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,'' dated July 22, 2024.

[6] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the 2022–2023 Administrative Review of the Antidumping Duty Order on Xanthan Gum from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[7] *See* Deosen Biochemical Ltd.'s Letter, ''No Shipment Certification of Deosen Biochemical Ltd.,'' dated October 11, 2023; *see also* Shanghai Smart Chemicals Co. Ltd.'s Letter, ''No Shipment Certification,'' dated September 25, 2023; and Meihua's Letter, ''No Shipment Certification,'' dated September 21, 2023.

[8] *See* Memoranda, ''Xanthan Gum from the People's Republic of China; No Shipment Inquiry for Shanghai Smart Chemicals Co., Ltd. during the period 07/01/2022 through 06/30/2023,'' dated July 22, 2024; ''Xanthan Gum from the People's Republic of China; No Shipment Inquiry for Langfang Meihua Bio-Technology Co., Ltd.; Xinjiang Meihua Amino Acid Co., Ltd.; Meihua Group International Trading (Hong Kong) Limited during the period 07/01/2022 through 06/30/2023,'' dated July 22, 2024; and ''Xanthan Gum from the People's Republic of China; No Shipment Inquiry for Deosen Biochemical (Ordos) Ltd.; Deosen Biochemical Ltd. during the period 07/01/2022 through 06/30/2023,'' dated July 22, 2024.

[9] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011); and the ''Assessment Rates'' section, *infra.*

[10] *See* Petitioner's Letters, ''Withdrawal of Request for Review,'' dated August 17, 2023; ''Petitioner's Withdrawal of Certain Requests for Administrative Review,'' dated September 19, 2023; and ''Petitioner's Withdrawal of Certain Requests for Administrative Review,'' dated September 22, 2023.

administrative review of itself.[11] Because no other party requested a review of these companies, consistent with 19 CFR 351.213(d)(1), Commerce is rescinding this review, in part, with respect to Henan Sinowin, Meihua, Qingdao Yalai, Foodchem Biotech Co. Ltd. and Shanghai Cy-Everlasting.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act). We calculated constructed export price in accordance with section 772 of the Act. Because China is an NME country within the meaning of section 771(18) of the Act, we calculated normal value in accordance with section 773(c) of the Act. For a full description of the methodology underlying these preliminary results, *see* the Preliminary Decision Memorandum.

Separate Rates

Commerce preliminarily determines that two non-individually examined companies are eligible for separate rates in this administrative review.[12] The Act and Commerce's regulations do not address the establishment of a separate rate to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for separate-rate respondents which Commerce did not examine individually in an administrative review. Section 735(c)(5)(A) of the Act states that the all-others rate should be calculated by averaging the weighted-average dumping margins calculated for individually-examined respondents, excluding dumping margins that are zero, *de minimis,* or based entirely on facts available. In this review, Commerce preliminarily found a zero rate for Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd.)/Shandong Fufeng Fermentation Co., Ltd./Xinjiang Fufeng Biotechnologies Co., Ltd. Therefore, the only rate that is not zero, *de minimis* or based entirely on facts otherwise available is the rate calculated for Deosen Biochemical (Ordos) Ltd. Consequently, the rate calculated for Deosen Biochemical (Ordos) Ltd. is also assigned as the rate for all other producers and exporters.

China-Wide Entity

Under Commerce's policy regarding the conditional review of the China-wide entity,[13] the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity in this review, the entity is not under review, and the entity's rate (*i.e.,* 154.07 percent) is not subject to change.[14]

Aside from Deosen Biochemical Ltd. and Shanghai Smart, for which we preliminarily find no shipments, and Henan Sinowin, Meihua, Qingdao Yalai, and Foodchem Biotech Co., Ltd. and Shanghai Cy-Everlasting, for which this review is being rescinded, Commerce considers all other companies for which a review was requested and did not demonstrate separate rate eligibility to be part of the China-wide entity.[15] For these preliminary results, we consider the companies listed in Appendix II to be part of the China-wide entity because they did not file separate rate applications or certifications. For additional information, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

We preliminarily determine that the following weighted-average dumping margins exist for the POR July 1, 2022, through June 30, 2023:

Exporter	Weighted-average dumping margin (percent)
Deosen Biochemical (Ordos) Ltd	1.56
Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd.)/Shandong Fufeng Fermentation Co., Ltd./Xinjiang Fufeng Biotechnologies Co., Ltd	0.00
Non-Individually Examined Companies Receiving a Separate Rate	
Jianlong Biotechnology Co., Ltd. (formerly, Inner Mongolia Jianlong Biochemical Co., Ltd)	1.56
CP Kelco (Shandong) Biological Company Limited	1.56

Disclosure

Commerce intends to disclose its calculations performed to interested parties for these preliminary results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(3) of the Act, because Commerce has received a timely request to conduct verification by an interested party and has not made a verification in the two immediately preceding reviews, Commerce intends to verify certain information reported by Deosen Biochemical (Ordos) Ltd. and Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd.)/Shandong Fufeng Fermentation Co., Ltd./Xinjiang Fufeng Biotechnologies Co., Ltd.[16]

Public Comment: Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs to Commerce no later than seven days after the date on which the last verification report is issued in this review. Rebuttal briefs, limited to

[11] *See* Meihua's Letter, ''Withdrawal of Request for Administrative Review,'' dated September 21, 2023.

[12] *See* Preliminary Decision Memorandum at the ''Separate Rate Determination'' section for more details.

[13] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[14] *See Order,* 78 FR at 43144.

[15] *See Initiation Notice,* 87 FR at 54464 (''All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below.'').

[16] *See* Petitioner's Letter, ''Verification Request,'' dated December 20, 2023; *see also Xanthan Gum From the People's Republic of China: Final Results of the Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015–2016,* 83 FR 6513 (February 14, 2018), and accompanying IDM.

issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[17] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[18]

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this review, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[19] Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[20]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any briefs, within 120 days of publication of these preliminary results of review in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results of review, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[21] Commerce intends to issue appropriate assessment instructions to CBP 35 days after the publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

We will calculate importer/customer-specific assessment rates equal to the ratio of the total amount of dumping calculated for examined sales to a particular importer/customer to the total entered value of those sales, in accordance with 19 CFR 351.212(b)(1).[22] Where the respondent reported reliable entered values, Commerce intends to calculate importer/customer-specific *ad valorem* assessment rates by dividing the total amount of dumping calculated for all reviewed U.S. sales to the importer/customer by the total entered value of the merchandise sold to the importer/customer.[23] Where the respondent did not report entered values, Commerce will calculate importer/customer-specific assessment rates by dividing the total amount of dumping calculated for all reviewed U.S. sales to the importer/customer by the total quantity of those sales. Commerce will calculate an estimated *ad valorem* importer/customer-specific assessment rate to determine whether the per-unit assessment rate is *de minimis;* however, Commerce will use the per-unit assessment rate where entered values were not reported.[24] Where an importer/customer-specific *ad valorem* assessment rate is not zero or *de minimis,* Commerce will instruct CBP to collect the appropriate duties at the time of liquidation. Where either the respondent's *ad valorem* weighted-average dumping margin is zero or *de minimis,* or an importer/customer-specific *ad valorem* assessment rate is zero or *de minimis,*[25] Commerce will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For respondents not individually examined in this administrative review that qualified for a separate rate, the assessment rate will be equal to the weighted-average dumping margin assigned to the respondent in the final results of this review.[26]

Pursuant to Commerce's refinement to its practice, for sales that were not reported in the U.S. sales database submitted by a respondent individually examined during this review, Commerce will instruct CBP to liquidate the entry of such merchandise at the dumping margin assigned to the China-wide entity (*i.e.,* 154.07 percent).[27] Additionally, where Commerce determines that an exporter under review had no shipments of subject merchandise to the United States during the POR, any suspended entries of subject merchandise that entered under that exporter's CBP case number during the POR will be liquidated at the dumping margin assigned to the China-wide entity (*i.e.,* 154.07 percent).[28]

In accordance with section 751(a)(2)(C) of the Act, the final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated antidumping duties, where applicable.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of xanthan gum from China entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of the final results of this administrative review in the **Federal Register**, as provided for by section 751(a)(2)(C) of the Act: (1) for companies granted a separate rate in the final results of this review, the cash deposit rate will be equal to the

[17] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

[18] *See* 19 351.309(c)(2) and (d)(2).

[19] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[20] *See APO and Service Final Rule,* 88 FR at 67079; *see also* 19 CFR 351.303 (for general filing requirements).

[21] *See* 19 CFR 351.212(b)(1).

[22] We applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

[23] *See* 19 CFR 351.212(b)(1).

[24] *Id.*

[25] *See* 19 CFR 351.106(c)(2).

[26] *See Drawn Stainless Steel Sinks from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review and Preliminary Determination of No Shipments: 2014–2015,* 81 FR 29528 (May 12, 2016), and accompanying Preliminary Decision Memorandum at 10–11, unchanged in *Drawn Stainless Steel Sinks from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; Final Determination of No Shipments; 2014–2015,* 81 FR 54042 (August 15, 2016).

[27] For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011); *see also Order,* 78 FR at 43144.

[28] *See Order,* 78 FR at 43144.

weighted-average dumping margin established in the final results of this review for the company (except, if the rate is zero or *de minimis,* then a cash deposit rate of zero will be required); (2) for previously investigated or reviewed China and non-China exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all China exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the China-wide entity, which is 154.07 percent; [29] and (4) for all non-China exporters of subject merchandise that have not received their own rate, the cash deposit rate will be the rate applicable to China exporter(s) that supplied that non-China exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

Commerce is issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4) and 351.221(b)(4).

Dated: August 6, 2024.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I—List of Topics Discussed in the Preliminary Decision Memorandum

[29] *See Order,* 78 FR at 43144.

Appendix II—Companies Determined To Be Part of the China-Wide Entity

1. A.H.A. International Co., Ltd.
2. East Chemsources Ltd.
3. Far East International Forwarding Company
4. Foodchem Biotech Pte. Ltd.
5. Greenhealth International Co., Ltd. (Hong Kong)
6. Guangzhou Zio Chemical Co., Ltd.
7. Hangzhou Yuanjia Chemical Co., Ltd.
8. Hebei Xinhe Biochemical Co., Ltd.
9. Nanotech Solutions SDN BHD
10. Pingxiang Omni Trading Co., Ltd.
11. Shaanxi Rainwood Biotech Co., Ltd.
12. Shanghai Tianjia Biochemical Co., Ltd.
13. Shanxi Reliance Chemicals Co., Ltd.
14. The TNN Development Ltd.
15. Tianjin Okay International Trading Co., Ltd.
16. Unibest Industrial Co., Ltd.
17. Unionchem Corp. Ltd.
18. Wanping Bio Chem Co., Ltd.
19. Weifang Hongyuan Chemical Co., Ltd.
20. Zhejiang Joston Machinery Company

[FR Doc. 2024–19020 Filed 8–22–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Announcement of Postponement of Approved International Trade Administration Trade Mission

AGENCY: International Trade Administration, Department of Commerce.

SUMMARY: The United States Department of Commerce, International Trade Administration (ITA), is announcing the postponement of the Sub-Saharan Africa Rail and Port (SSARP) Trade Mission to South Africa and Angola, announced in the Notice published in the **Federal Register** on May 3, 2024.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce is postponing the Sub-Saharan Africa Rail and Port Trade Mission to South Africa and Angola announced May 03, 2024 (89 FR 36756) as scheduled for August 19–24, 2024. The Sub-Saharan Africa Rail and Port Trade Mission to South Africa and Angola has been postponed to 2025 with the specific dates to be confirmed. ITA will publish another announcement with the dates once confirmed.

Contact Information

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Gemal Brangman,

Director, ITA Events Management Task Force.

[FR Doc. 2024–18882 Filed 8–22–24; 8:45 am]

BILLING CODE 3510–Dr–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE195]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a joint public meeting of its Monkfish Committee and Advisory Panel 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, September 9, 2024, at 1 p.m.

ADDRESSES:

Webinar registration URL information: https://nefmc-org.zoom.us/meeting/register/tJwkc-qhqT4qE9dgYxU4LLUJWqBRH432JtGQ.

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

FOR FURTHER INFORMATION CONTACT: Cate O'Keefe, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Monkfish Committee and Advisory panel will meet to review and discuss the 2024 Monkfish Fishery Performance draft report. They will review the non-regulatory improvements made to the Monkfish Research Set-Aside (RSA) program to date, based on recommendations of the 2023 Monkfish RSA Working Group. The group will receive an update from the 2023–2024 Monkfish RSA project participants including an overview of work to date and an opportunity to provide feedback to the project participants. The Committee and Advisory Panel will also discuss the possibility of recommending a pause to the Monkfish RSA RFP solicitation until the program's underlying economic and programmatic issues are addressed. 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 Cate O'Keefe, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: August 19, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024–18887 Filed 8–22–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE122]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico

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

ACTION: Notice of issuance of letter of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, its implementing regulations, and NMFS' MMPA Regulations for Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico, notification is hereby given that a Letter of Authorization (LOA) has been issued to CCG for the take of marine mammals incidental to geophysical survey activity in the Gulf of Mexico (GOM).

DATES: The LOA is effective from August 15, 2024 through July 31, 2025.

ADDRESSES: The LOA, LOA request, and supporting documentation are available online at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-oil-and-gas-industry-geophysical-survey-activity-gulf-mexico.* In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Jenna Harlacher, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

On January 19, 2021, we issued a final rule with regulations to govern the unintentional taking of marine mammals incidental to geophysical survey activities conducted by oil and gas industry operators, and those persons authorized to conduct activities on their behalf (collectively ''industry operators''), in U.S. waters of the GOM over the course of 5 years (86 FR 5322, January 19, 2021). The rule was based on our findings that the total taking from the specified activities over the 5-year period will have a negligible impact on the affected species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of those species or stocks for subsistence uses, and became effective on April 19, 2021.

The regulations at 50 CFR 217.180 allow for the issuance of LOAs to industry operators for the incidental take of marine mammals during geophysical survey activities and prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat (often referred to as mitigation), as well as requirements pertaining to the monitoring and reporting of such taking. Under 50 CFR

217.186(e), issuance of an LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations and a determination that the amount of take authorized under the LOA is of no more than small numbers.

NMFS subsequently discovered that the 2021 rule was based on erroneous take estimates. We conducted another rulemaking using correct take estimates and other newly available and pertinent information relevant to the analyses supporting some of the findings in the 2021 final rule and the taking allowable under the regulations. We issued a final rule in April 2024, effective May 24, 2024 (89 FR 31488, April 24, 2024).

The 2024 final rule made no changes to the specified activities or the specified geographical region in which those activities would be conducted, nor to the original 5-year period of effectiveness. In consideration of the new information, the 2024 rule presented new analyses supporting affirmance of the negligible impact determinations for all species, and affirmed that the existing regulations, which contain mitigation, monitoring, and reporting requirements, are consistent with the ''least practicable adverse impact'' (LPAI) standard of the MMPA.

Summary of Request and Analysis

CGG plans to conduct a three-dimensional (3D) ocean bottom node (OBN) survey over 1,840 lease blocks in the Garden Banks and Keathley Canyon areas, with water depths ranging from approximately 1,000 to 3,200 meters (m). See section F of the LOA application for a map of the area.

CGG anticipates using two dual-source vessels, and would preferentially use the low-frequency tuned pulse source (TPS). Alternatively, CGG may use conventional airgun array sources consisting of 42 elements with a total volume of 5,220 cubic inches (in^3). Please see CGG's application for additional detail.

The TPS was not included in the acoustic exposure modeling developed in support of the rule. However, the TPS was previously described and evaluated in support of previous LOAs and we rely on those analyses here (86 FR 37309, 37310; July 15, 2021; see also 87 FR 55790, 55791; September 12, 2022). For additional detail regarding sources, see section C of the LOA application. Based on this information we have determined there will be no effects of a magnitude or intensity different from those evaluated in support of the rule. NMFS therefore expects that use of modeling results supporting the final rule relating to use of the 32 element, 5,110 in^3 airgun array are expected to be conservative as a proxy for use in evaluating potential impacts of use of the TPS.

Consistent with the preamble to the final rule, the survey effort proposed by CGG in its LOA request was used to develop LOA-specific take estimates based on the acoustic exposure modeling results described in the preamble (89 FR 31488, April 24, 2024). In order to generate the appropriate take number for authorization, the following information was considered: (1) survey type; (2) location (by modeling zone [1]); (3) number of days; (4) source; and (5) month.[2] In this case, the 5,110 in^3 airgun array was selected, as discussed above. The acoustic exposure modeling performed in support of the rule provides 24-hour exposure estimates for each species, specific to each modeled source and survey type in each zone and month.

No 3D OBN surveys were included in the modeled survey types, and use of existing proxies (*i.e.,* 2D, 3D NAZ, 3D WAZ, Coil) is generally conservative for use in evaluation of 3D OBN survey effort, largely due to the greater area covered by the modeled proxies. Summary descriptions of these modeled survey geometries are available in the preamble to the proposed rule (83 FR 29212, 29220, June 22, 2018). Coil was selected as the best available proxy survey type in this case because the spatial coverage of the planned survey is most similar to the coil survey pattern. The planned OBN survey will involve two source vessels sailing along closely spaced survey lines, with daily survey area coverage of approximately 144 kilometers squared (km^2) per day, similar to that assumed for the coil survey proxy. Among the different parameters of the modeled survey patterns (*e.g.,* area covered, line spacing, number of sources, shot interval, total simulated pulses), NMFS considers area covered per day to be most influential on daily modeled exposures exceeding Level B harassment criteria. Although CGG is not proposing to perform a survey using the coil geometry, the coil proxy is most representative of the effort planned by CGG in terms of predicted Level B harassment exposures.

The survey will take place over approximately 115 days with 65 days of sound source operation, with 40 days planned in Zone 5 and 25 days planned in Zone 6. The monthly distribution of survey days is not known in advance, though we assume that the planned 65 days of source operation would occur contiguously. Take estimates for each species are based on the time period that produces the greatest value.

For the Rice's whale, take estimates based solely on the modeling yielded results that are not realistically likely to occur when considered in light of other relevant information available during the rulemaking process regarding marine mammal occurrence in the GOM. The approach used in the acoustic exposure modeling, in which seven modeling zones were defined over the U.S. GOM, necessarily averages fine-scale information about marine mammal distribution over the large area of each modeling zone. Thus, although the modeling conducted for the rule is a natural starting point for estimating take, the rule acknowledged that other information could be considered (see, *e.g.,* 86 FR 5442, January 19, 2021, discussing the need to provide flexibility and make efficient use of previous public and agency review of other information and identifying that additional public review is not necessary unless the model or inputs used differ substantively from those that were previously reviewed by NMFS and the public). For this survey, NMFS has other relevant information reviewed during the rulemaking that indicates use of the acoustic exposure modeling to generate a take estimate may produce results inconsistent with what is known regarding their occurrence in the GOM. Accordingly, we have adjusted the calculated take estimates as described below.

NMFS' 2024 final rule provided detailed discussion regarding Rice's whale habitat (see, *e.g.,* 89 FR 31508, 31519). In summary, recent survey data, sightings, and acoustic data support Rice's whale occurrence in waters throughout the GOM between approximately 100 m and 400 m depth along the continental shelf break, and associated habitat-based density modeling has identified similar habitat (*i.e.,* approximately 100 to 400 m water depths along the continental shelf break) as being Rice's whale habitat (Garrison *et al.,* 2023; Soldevilla *et al.,* 2022, 2024).

Although Rice's whales may occur outside of the general depth range expected to provide suitable habitat, we expect that any such occurrence would be rare. CGG's planned activities will

[1] For purposes of acoustic exposure modeling, the GOM was divided into seven zones. Zone 1 is not included in the geographic scope of the rule.

[2] Acoustic propagation modeling was performed for two seasons: Winter (December–March) and Summer (April–November). Marine mammal density data is generally available on a monthly basis, and therefore further refines take estimates temporally.

occur in water depths of approximately 1,000 to 3,200 m in the central GOM. Thus, NMFS does not expect there to be the reasonable potential for take of Rice's whale in association with this survey and, accordingly, does not authorize take of Rice's whale through the LOA.

Based on the results of our analysis, NMFS has determined that the level of taking expected for this survey and authorized through the LOA is consistent with the findings made for the total taking allowable under the regulations. See table 1 in this notice and table 6 of the rule (89 FR 31488, April 24, 2024).

Small Numbers Determination

Under the GOM rule, NMFS may not authorize incidental take of marine mammals in an LOA if it will exceed ''small numbers.'' In short, when an acceptable estimate of the individual marine mammals taken is available, if the estimated number of individual animals taken is up to, but not greater than, one-third of the best available abundance estimate, NMFS will determine that the numbers of marine mammals taken of a species or stock are small (see 89 FR 31535, May 24, 2024). For more information please see NMFS' discussion of small numbers in the 2021 final rule (86 FR 5438, January 19, 2021).

The take numbers for authorization are determined as described above in the Summary of Request and Analysis section. Subsequently, the total incidents of harassment for each species are multiplied by scalar ratios to produce a derived product that better reflects the number of individuals likely to be taken within a survey (as compared to the total number of instances of take), accounting for the likelihood that some individual marine mammals may be taken on more than 1 day (see 86 FR 5404, January 19, 2021). The output of this scaling, where appropriate, is incorporated into adjusted total take estimates that are the basis for NMFS' small numbers determinations, as depicted in table 1.

This product is used by NMFS in making the necessary small numbers determinations through comparison with the best available abundance estimates (see discussion at 86 FR 5391, January 19, 2021). For this comparison, NMFS' approach is to use the maximum theoretical population, determined through review of current stock assessment reports (SAR; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and model-predicted abundance information (*https://seamap.env.duke.edu/models/Duke/GOM/*). Information supporting the small numbers determinations is provided in table 1.

TABLE 1—TAKE ANALYSIS

Species	Authorized take	Scaled take [1]	Abundance [2]	Percent abundance
Rice's whale	0	n/a	51	n/a
Sperm whale	572	241.8	3,007	8.0
Kogia spp.	[3] 196	59.6	980	7.1
Beaked whales	1,354	136.8	803	17.0
Rough-toothed dolphin	1,471	422.2	4,853	8.7
Bottlenose dolphin	1,986	570.0	165,125	0.3
Clymene dolphin	1,553	445.7	4,619	9.6
Atlantic spotted dolphin	1,702	488.5	21,506	2.3
Pantropical spotted dolphin	12,124	3,479.5	67,225	5.2
Spinner dolphin	188	53.9	5,548	1.0
Striped dolphin	2,246	644.7	5,634	11.4
Fraser's dolphin	554	158.9	1,665	9.5
Risso's dolphin	468	138.2	1,974	7.0
Blackfish [4]	3,514	1,036.5	6,113	17.0
Short-finned pilot whale	1,305	384.9	2,741	14.0

[1] Scalar ratios were applied to ''Authorized Take'' values as described at 86 FR 5322, 5404 (January 19, 2021) to derive scaled take numbers shown here.

[2] Best abundance estimate. For most taxa, the best abundance estimate for purposes of comparison with take estimates is considered here to be the model-predicted abundance (Garrison *et al.,* 2023). For Rice's whale, Atlantic spotted dolphin, and Risso's dolphin, the larger estimated SAR abundance estimate is used.

[3] Includes 10 takes by Level A harassment and 186 takes by Level B harassment. Scalar ratio is applied to takes by Level B harassment only; small numbers determination made on basis of scaled Level B harassment take plus authorized Level A harassment take.

[4] The ''blackfish'' guild includes melon-headed whales, false killer whales, pygmy killer whales, and killer whales.

Based on the analysis contained herein of CGG's proposed survey activity described in its LOA application and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the affected species or stock sizes (*i.e.,* less than one-third of the best available abundance estimate) and therefore the taking is of no more than small numbers.

Authorization

NMFS has determined that the level of taking for this LOA request is consistent with the findings made for the total taking allowable under the incidental take regulations and that the amount of take authorized under the LOA is of no more than small numbers. Accordingly, we have issued an LOA to CGG authorizing the take of marine mammals incidental to its geophysical survey activity, as described above.

Dated: August 15, 2024.

Kimberly Damon-Randall,

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

[FR Doc. 2024–18941 Filed 8–22–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE203]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of hybrid meeting.

SUMMARY: The North Pacific Fishery Management Council (Council) Crab Plan Team will meet September 9, 2024, through September 12, 2024.

DATES: The meeting will be held on Monday, September 9, 2024, through Wednesday, September 11, 2024, from 9 a.m. to 4 p.m., and Thursday, September 12, 2024, from 9 a.m. to 12:30 p.m., Pacific Standard Time.

ADDRESSES: The meetings will be a hybrid meeting. The in-person component of the meeting will be held at the Alaska Fishery Science Center in the Traynor Room 2076, 7600 Sand Point Way NE, Building 4, Seattle, WA 98115. If you plan to attend in person, you need to notify Diana Stram (*diana.stram@noaa.gov*) at least 2 days prior to the meeting (or 2 weeks prior if you are a foreign national). You will also need a valid U.S. Identification Card. If you are attending virtually, join the meeting online through the link at *https://meetings.npfmc.org/Meeting/Details/3055.*

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave., Anchorage, AK 99501–2252; telephone: (907) 271–2809.

Instructions for attending the meeting via video conference are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Diana Stram, Council staff; phone: (907) 271–2809; email: *diana.stram@noaa.gov.* For technical support, please contact our admin Council staff, email: *npfmc.admin@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Agenda

Monday, September 9, 2024 Through Thursday, September 12, 2024

The agenda will include: (a) summer trawl survey results; (b) Fishery summary 2023/2024; (c) Ecosystem Status reports; (d) SMKC SAFE report; (e) BBRKC SAFE report and risk table; (f) Snow crab SAFE report and risk table; (g) BBRKC and snow crab report cards; (h) Tanner crab SAFE report and risk table; (i) NSRKC proposed models; (j) Overfishing status updates; (k) BSFRF update; and (l) additional topics. The agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/3055* prior to the meeting, along with meeting materials.

Connection Information

You can attend the meeting online using a computer, tablet, or smart phone, or by phone only. Connection information will be posted online at: *https://meetings.npfmc.org/Meeting/Details/3055.*

Public Comment

Public comment letters will be accepted and should be submitted electronically to *https://meetings.npfmc.org/Meeting/Details/3055.*

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

Dated: August 19, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024–18888 Filed 8–22–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE169]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Ad Hoc Ecosystem Workgroup (EWG) is holding an online meeting, which is open to the public.

DATES: The online meeting will be held Monday to Wednesday, September 9–11, 2024, from 10 a.m. to 3 p.m. on Monday, September 9 and 9 a.m. to 2 p.m. on Tuesday and Wednesday, September 10 and 11. The meeting may extend beyond the noticed end time on each day, if necessary, to conclude the day's business.

ADDRESSES: This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). You may send an email to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*) or contact him at (503) 820–2412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Kit Dahl, Staff Officer, Pacific Council; telephone: (503) 820–2422.

SUPPLEMENTARY INFORMATION: The purpose of this online meeting is for the EWG to discuss and draft reports for items on the September 2024 Pacific Council meeting agenda. The EWG may also discuss other items related to the Pacific Council's Fishery Ecosystem Plan. An agenda for the webinar will be posted on the Pacific Council website in advance of the webinar.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov;* (503) 820–2412) at least 10 days prior to the meeting date.

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

Dated: August 19, 2024.

Rey Israel Marquez,

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

[FR Doc. 2024–18886 Filed 8–22–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Agency Information Collection Activities; Submission for OMB, Comment Request; State Digital Equity Capacity Grant Program: Native Entities

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 January 19, 2024, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Telecommunications and Information Administration (NTIA), Commerce.

Title: State Digital Equity Capacity Grant Program: Native Entities.

OMB Control Number: 0660–00XX.

Form Number(s): TBD.

Type of Request: New information collection.

Number of Respondents: 490 for the Application Form; 250 for the Capacity Consolidated Budget Form; 240 for the Planning and Capacity Consolidated Budget Form; and 15 for the Consortium Members Form.

Average Hours per Response: 13.57 hours.

Burden Hours: 6,650 hours.

Needs and Uses: With this information collection, NTIA will review the proposed applications and budgets of applicants to evaluate alignment to Native Entity Capacity Grant Program requirements and program priorities. Applicants will have more structured questions and guidance for their applications. The forms will ultimately reduce the applicant burden by making the application process clearer and simpler. Additionally, the structured forms will reduce application errors and the number of application updates needed after the applications have been submitted.

Affected Public: Indian Tribes, Alaska Native entities, and Native Hawaiian organizations.

Frequency: One-time submission.

Respondent's Obligation: Mandatory.

Legal Authority: Sections 60304(c) and 60304(d) of the Infrastructure Investment and Jobs Act of 2021, Public Law 117–58, 135 Stat. 429 (November 15, 2021).

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

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

Sheleen Dumas,

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

[FR Doc. 2024–18968 Filed 8–22–24; 8:45 am]

BILLING CODE 3510–60–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Deletions from the Procurement List.

SUMMARY: This action deletes product(s) and service(s) from the Procurement List that were furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Date added to and deleted from the Procurement List:* September 22, 2024.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 489–1322 or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions

On July 19, 2024 (89 FR 58723), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List. This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3.

After consideration of the relevant matter presented, the Committee has determined that the product(s) and service(s) listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the product(s) and service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) and service(s) deleted from the Procurement List.

End of Certification

Accordingly, the following product(s) and service(s) are deleted from the Procurement List:

Product(s)

NSN(s)—Product Name(s):
7530–01–455–6055—Folders, File, Manila, 1/5 Cut, Legal, PG/25
7530–01–455–6056—Folders, File, Manila, 1/2 Cut, Legal, PG/24
7530–01–645–8092—File Folder, Single Tab, 1/3 Cut, Legal, Position 1
7530–01–645–8094—File Folder, Single Tab, 1/3 Cut, Legal, Position 2
7530–01–645–8095—File Folder, Single Tab, 1/3 Cut, Legal, Position 3
7530–01–661–8831—Booklet Envelope, Poly, String and Button, Side Loading, Red, 11 5/8″ x 9 3/4″
7530–01–661–9618—Envelope, Poly, Hook and Loop, Top Loading, Clear, 11 5/8″ x 9 3/4″
Authorized Source of Supply: Association for Vision Rehabilitation and Employment, Inc., Binghamton, NY
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY

Service(s)

Service Type: Switchboard Operation
Mandatory for: Department of Veterans Affairs, Michael E. DeBakey VA Medical Center, Houston, TX, 2002 Holcombe Boulevard, Houston, TX
Authorized Source of Supply: Lighthouse for the Blind of Houston, Houston, TX
Contracting Activity: VETERANS AFFAIRS, DEPARTMENT OF, 256–NETWORK CONTRACT OFC 16(00256)

Service Type: Janitorial/Custodial
Mandatory for: US Army, PVT Sterling L. Morelock USARC, Pittsburgh, PA, 7100 Leech Farm Road, Pittsburgh, PA
Contracting Activity: DEPT OF THE ARMY, W6QK ACC–PICA

Service Type: Janitorial/Grounds Maintenance
Mandatory for: US Army Corps of Engineers, East Totten Trail Recreation Area, Lake Sakakawea, Riverdale, ND, 201 1st Street, Riverdale, ND
Authorized Source of Supply: MVW Services, Inc., Minot, ND
Contracting Activity: DEPT OF THE ARMY, W071 ENDIST OMAHA

Service Type: Laundry Service
Mandatory for: Navy Bureau of Medicine and Surgery (BUMED),

2300 East Street Northwest, Washington, DC
Mandatory for: Malcolm Grow Medical Center, Andrews AFB, MD
Mandatory for: Walter Reed Army Medical Center: 6900 Georgia Avenue NW, Washington, DC
Mandatory for: DiLorenzo Army Health Clinic, Pentagon, Arlington, VA
Mandatory for: Kimbrough Ambulatory Care Center, Fort Meade, MD
Mandatory for: National Naval Medical Center: Naval Surface Warfare Center, Bethesda, MD
Mandatory for: US NAVY, Patuxent River Naval Station and Branch Naval Health Clinics, Patuxent River, MD, 47149 Buse Road, Patuxent River, MD
Authorized Source of Supply: Rappahannock Goodwill Industries, Inc., Fredericksburg, VA
Contracting Activity: DEPT OF THE ARMY, W40M RHCO–ATLANTIC USAHCA

Service Type: Grounds Maintenance
Mandatory for: US Air Force, Patrick Space Force Base, Athletic Fields, Patrick Air Force Base, FL, 1225 Pershing Pl, Patrick Air Force Base, FL
Authorized Source of Supply: Brevard Achievement Center, Inc., Rockledge, FL
Contracting Activity: DEPT OF THE AIR FORCE, FA2521 45 CONS LGC

Service Type: Food Service Attendant
Mandatory for: US Air Force, Alabama Air National Guard, HQ 117th Air Refueling Wing, Birmingham, AL, 5401 East Lake Boulevard, Birmingham, AL
Authorized Source of Supply: Alabama Goodwill Industries, Inc., Birmingham, AL
Contracting Activity: DEPT OF THE ARMY, W7MT USPFO ACTIVITY ALANG 117

Service Type: Corrosion Repair Services
Mandatory for: US Marine Corps, Marine Corps Base Hawaii (MCBH), Corrosion Rehabilitation Facility, Building 3016 Harris Ave, Kaneohe Bay, HI
Authorized Source of Supply: Goodwill Contract Services of Hawaii, Inc., Honolulu, HI
Contracting Activity: DEPT OF THE NAVY, HQBN MCBH

Service Type: Grounds Maintenance
Mandatory for: US Army Reserve, Myrtle Beach USARC, Myrtle Beach, SC, 3392 Phillis Blvd., Myrtle Beach, SC
Authorized Source of Supply: Horry County Disabilities and Special Needs Board, Conway, SC
Contracting Activity: DEPT OF THE ARMY, W074 ENDIST CHARLESTON

Service Type: Switchboard Operation
Mandatory for: Department of Veterans Affairs, Birmingham VA Medical Center, Birmingham, AL, 700 19th Street South, Birmingham, AL
Authorized Source of Supply: Alabama Goodwill Industries, Inc., Birmingham, AL
Contracting Activity: VETERANS AFFAIRS, DEPARTMENT OF, 247–NETWORK CONTRACT OFC 7(00247)

Service Type: Grounds Maintenance
Mandatory for: Prince George's County Memorial USARC, 6601 Baltimore Avenue, Riverdale, MD
Contracting Activity: DEPT OF THE ARMY, W6QM MICC–FT DIX (RC–E)

Service Type: Tactical Vehicle Wash Facility
Mandatory for: Yano Tactical Vehicle Wash Facility, Dir of Training Sustainment, Harmony Church Fort Benning, GA, Building 5525, Fort Benning, GA
Authorized Source of Supply: Power Works Industries, Inc., Columbus, GA
Contracting Activity: DEPT OF THE ARMY, W6QM MICC–FT MOORE

Service Type: Janitorial/Custodial
Mandatory for: US Army Corps of Engineers, Coralville Lake Office Project, Iowa City, 2850 Prairie Du Chien Road NE, Iowa City, IA
Contracting Activity: DEPT OF THE ARMY, W07V ENDIST ROCK ISLAND

Michael R. Jurkowski,
Director, Business Operations.

[FR Doc. 2024–18927 Filed 8–22–24; 8:45 am]
BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed additions and deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add service(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities and deletes product(s) and service(s) previously furnished by such agencies.

DATES: *Comments must be received on or before:* September 22, 2024.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 355 E Street SW, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 489–1322 or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

On 5/31/2024 (89 FR 47135), the Committee for Purchase From People Who Are Blind or Severely Disabled (operating as the U.S. AbilityOne Commission) stated that a service proposed for addition to the Procurement List at Fort Liberty, NC, was a Base Operations Services requirement. This statement was in error. The service type is Base Operation Support, Sustainment, Restoration, and Modernization (SRM) (Barracks only), which is hereby corrected by publishing this Notice. Because the prior Notice fully complied with 41 CFR 51–2.3 by allowing for 30 days of public comment, additional public comments to this correction must be received by 9/1/2024 to meet contracting activity award timing. The Committee will consider public comments previously received under 89 FR 47135 together with any public comments received pursuant to this correction.

The following service(s) are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Service(s)

Service Type: Base Operation Support, Sustainment, Restoration, and Modernization (SRM) (Barracks only)
Mandatory for: US Army, DPW, Fort Liberty, Fort Liberty, NC
Authorized Source of Supply: Skookum Educational Programs, Bremerton, WA
Contracting Activity: DEPT OF THE ARMY, W2V6 USA ENG SPT CTR HUNTSVIL, CA

Deletions

The following service(s) are proposed for deletion from the Procurement List:

Service(s)

Service Type: Grounds Maintenance
Mandatory for: Federal Aviation Administration, Patrick Henry Field (PHF) Air Traffic Control Tower, Newport News, VA, 2402 G Avenue,

Newport News, VA*Mandatory Source of Supply:* VersAbility Resources, Inc., Hampton, VA
Contracting Activity: FEDERAL AVIATION ADMINISTRATION, 697DCK REGIONAL ACQUISITIONS SVCS

Michael R. Jurkowski,

Director, Business Operations.

[FR Doc. 2024–18926 Filed 8–22–24; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF EDUCATION

Notice Inviting Publishers To Submit Tests for a Determination of Suitability for Use in the National Reporting System for Adult Education

AGENCY: Office of Career, Technical, and Adult Education, Department of Education.

ACTION: Notice.

SUMMARY: The Secretary of Education invites publishers to submit tests for review and approval for use in the National Reporting System for Adult Education (NRS) and announces the date by which publishers must submit these tests. This notice relates to the approved information collection under OMB control number 1830–0567.

DATES: *Deadline for transmittal of applications:* October 1, 2024.

ADDRESSES: Submit your application by email to *NRS@air.org*.

FOR FURTHER INFORMATION CONTACT: John LeMaster, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202–7240. Telephone: (202) 987–0903. Email: *John.LeMaster@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: The Department's regulations for Measuring Educational Gain in the National Reporting System for Adult Education, 34 CFR part 462 (NRS regulations), include the procedures for determining the suitability of tests for use in the NRS.

There is a review process that will begin on October 1, 2024. Only tests submitted from publishers by the due date will be reviewed in that review cycle, 34 CFR 462.10. If a publisher submits a test after October 1, 2024, the test will not be reviewed until the review cycle that begins on October 1, 2025.

Criteria the Secretary Uses: In order for the Secretary to consider a test suitable for use in the NRS, the test must meet the criteria and requirements established in 34 CFR 462.13.

Submission Requirements:

(a) In preparing your application, you must comply with the requirements in 34 CFR 462.11.

(b) In accordance with 34 CFR 462.10, the deadline for transmittal of applications in this fiscal year is October 1, 2024.

(c) Applications are due by 11:59 p.m. Eastern Time on October 1, 2024. You must retain a copy of your sent email message and the email attachments as proof that you timely submitted your application.

(d) We do not consider applications submitted after the application deadline date to be timely for the October 1, 2024, review cycle. If an application is submitted after the October 1, 2024, deadline date, the application will be considered timely for the October 1, 2025, deadline date.

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, compact disc or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov*. At this site you can view this document, as well as all other Department documents published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access Department documents published in the **Federal Register** by using the article search feature at *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: 29 U.S.C. 3292.

Amy Loyd,

Assistant Secretary for Career, Technical, and Adult Education.

[FR Doc. 2024–18981 Filed 8–22–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

President's Board of Advisors on Historically Black Colleges and Universities

AGENCY: President's Board of Advisors on Historically Black Colleges and Universities, Office of the Secretary, U.S. Department of Education.

ACTION: Announcement of an open meeting.

SUMMARY: This notice sets forth the agenda for the fall 2024 meeting of the President's Board of Advisors on Historically Black Colleges and Universities (Board) and provides information to members of the public about how to attend the meeting, request to make oral comments at the meeting, and submit written comments pertaining to the work of the Board.

DATES: On Thursday, September 19, 2024, the Board will hold a hybrid meeting from 10:30 a.m. to 3:30 p.m. E.D.T. in the Liberty Ballroom of the Philadelphia Marriott Downtown located at 1201 Market Street, Philadelphia, PA 19107.

FOR FURTHER INFORMATION CONTACT: Sedika Franklin, Associate Director/Designated Federal Official, U.S. Department of Education, White House Initiative on Historically Black Colleges and Universities, 400 Maryland Avenue SW, Washington, DC 20202 or by email at *sedika.franklin@ed.gov.*

SUPPLEMENTARY INFORMATION:

The Board's Statutory Authority and Function: The Board is established by 20 U.S.C. 1063e (the HBCUs Partners Act) and Executive Order 14041 (September 3, 2021) and is continued by Executive Order 14109 (September 29, 2023). The Board is also governed by the provisions of 5 U.S.C. chapter 10 (commonly known as the Federal Advisory Committee Act), which sets forth standards for the formation and use of advisory committees. The purpose of the Board is to advise the President, through the White House Initiative on Historically Black Colleges and Universities (Initiative), on all matters pertaining to strengthening the educational capacity of Historically Black Colleges and Universities (HBCUs).

The Board advises the President in the following areas: (i) improving the identity, visibility, and distinctive capabilities and overall competitiveness of HBCUs; (ii) engaging the philanthropic, business, government, military, homeland-security, and education communities in a national dialogue regarding new HBCU programs and initiatives; (iii) improving the

ability of HBCUs to remain fiscally secure institutions that can assist the Nation in achieving its educational goals and in advancing the interests of all Americans; (iv) elevating the public awareness of, and fostering appreciation of, HBCUs; (v) encouraging public-private investments in HBCUs; and (vi) improving government-wide strategic planning related to HBCU competitiveness to align Federal resources and provide the context for decisions about HBCU partnerships, investments, performance goals, priorities, human capital development, and budget planning. Notice of the meeting is required by 5 U.S.C. Chapter 10 (commonly known as the Federal Advisory Committee Act) and is intended to notify the public of an opportunity to attend the meeting.

Meeting Agenda: The meeting agenda will include roll call; approval of the minutes from the April 18, 2024, Board meeting; welcome remarks from the Board Chair and Vice Chair; a Biden-Harris Administration update from the White House Office of Public Engagement; an update from the Under Secretary of the U.S. Department of Education; an update from the Executive Director of the Initiative; a briefing on the status of the Departments of Education and Agriculture's Letter to States on the unequitable funding of 1890 institutions; a review of the 2023 Report to the President with presentations from invited advocacy groups (UNCF, Thurgood Marshall College Fund, and NAFEO); and a discussion on the history of voting rights and HBCUs. The public comment period will begin immediately following the conclusion of such discussions. The Board will hold a vote on recommendations presented by its subcommittees and/or any final elements of its report to the President.

Access to the Meeting: An advance RSVP is not required to attend the meeting. The public may join the meeting virtually or in person. The public may virtually join the meeting by computer at the following link: *https://events.intellor.com/login/507130* or by phone at 1–202–735–3323 with access code 7347197#.

To virtually join the meeting, please click on the appropriate link, enter your name, email address, and organization, and follow the prompts to connect to the meeting audio by computer or telephone. Members of the public may virtually join the meeting 5 minutes prior to its start time. Members of the public joining by phone will be automatically placed in listen only mode.

Members of the public may also join in person. The meeting will take place in the Liberty Ballroom of the Philadelphia Marriott Downtown located at 1201 Market Street, Philadelphia, PA 19107. There will be signs in the building directing you to the meeting space.

Submission of requests to make an oral comment: There will be an allotted time for oral comment at the meeting. The public may submit a request to make oral comment by sending a note via the chat function to the Host and Presenters of the meeting. Please include ''Oral Comment Request'' in the note and provide the name, title, organization/affiliation, and email address of the person requesting to speak. Those joining by phone will be given instructions by the event producer on how to make oral comment. Those joining in person may submit a request at the registration desk in the meeting room. The Designated Federal Official will call upon each requestor in the order in which the requests were received. Those in the room will be called on first followed by those online. Each individual who makes a request will have an opportunity to speak for up to two minutes. All oral comments will become part of the official record of the meeting.

Access to Records of the Meeting: The Department will post the official report of the meeting on the Board's website, *https://sites.ed.gov/whhbcu/policy/presidents-board-of-advisors-pba-on-hbcus,* no later than 90 days after the meeting. Pursuant to 5 U.S.C. 1009(b), the public may also inspect the meeting materials and other Board records at 400 Maryland Avenue SW, Washington, DC, by emailing *oswhi-hbcu@ed.gov* or by calling (202) 453–5634 to schedule an appointment.

Reasonable Accommodations: The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (*e.g.,* interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least two weeks before the meeting date. Although we will attempt to meet a request received after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Electronic Access to this Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: HBCUs Partners Act, Presidential Executive Order 14041, continued by Executive Order 14109.

Alexis Barrett,

Chief of Staff, Office of the Secretary.

[FR Doc. 2024–18903 Filed 8–22–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2024–SCC–0081]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Impact Aid Electronic Data Collection (EDC) Program Questionnaire

AGENCY: Office of the Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before September 23, 2024.

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 Andrew Brake, 202–453–6136.

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: Impact Aid Electronic Data Collection (EDC) Program Questionnaire.

OMB Control Number: 1810–0764.

Type of Review: An extension without change of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 30.

Total Estimated Number of Annual Burden Hours: 8.

Abstract: The Impact Aid Program (IAP) in the Office of Elementary and Secondary Education (OESE) at the U.S. Department of Education (ED) requests an extension without change of the U.S. Office of Management and Budget (OMB) collection 1810–0764 for the Electronic Data Collection (EDC) Program Questionnaire. Local educational agencies (LEAs) are required to annually submit federally connected student count data with the grant application for Section 7003 Payments for Federally Connected Children. Traditionally, LEAs have used paper survey forms to collect this information. However, the IAP has allowed LEAs to demonstrate that they can successfully collect this information electronically through student information systems (SIS). IAP has created a questionnaire to help LEAs and IAP determine if the electronic data collection can meet the statutory and regulatory requirements to successfully count their federally connected student counts.

Dated: August 20, 2024.

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. 2024–18976 Filed 8–22–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Presidential Advisory Commission on Advancing Educational Equity, Excellence, and Economic Opportunity for Black Americans

AGENCY: White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity for Black Americans, Office of the Secretary, Department of Education.

ACTION: Announcement of an open meeting.

SUMMARY: This notice sets forth the agenda for the September 10, 2024, open meeting of the Presidential Advisory Commission on Advancing Educational Equity, Excellence, and Economic Opportunity for Black Americans (PAC) and provides information to members of the public about how to attend the meeting and submit written comments related to the work of the PAC.

DATES: The PAC will meet on September 10, 2024, from 10:00 a.m. to 2:00 p.m. E.D.T.

ADDRESSES: The meeting will occur at the U.S. Capitol Visitor Center located at First St. SE, Washington, DC 20515. Only PAC members will participate in the meeting at this address. Members of the public are invited to join the meeting virtually.

FOR FURTHER INFORMATION CONTACT: Monique Toussaint, Designated Federal Official, U.S. Department of Education, White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity for Black Americans, 400 Maryland Avenue SW, Washington, DC 20202; email *monique.toussaint@ed.gov.*

SUPPLEMENTARY INFORMATION:

PAC's Statutory Authority and Function: The PAC is established by Executive Order 14050 (October 19, 2021) and is continued by Executive Order 14109 (September 29, 2023). The PAC is governed by the provisions of 5 U.S.C. chapter 10 (commonly known as the Federal Advisory Committee Act), which sets forth standards for the formation and use of advisory committees. The purpose of the PAC is to advise the President, through the Secretary of the U.S. Department of Education, on all matters pertaining to advancing educational equity, excellence, and economic opportunity for Black Americans and communities.

The PAC advises the President in the following areas: (i) what is needed for the development, implementation, and coordination of educational programs and initiatives at the Department and other agencies to improve educational opportunities and outcomes for Black Americans; (ii) how to promote career pathways for in-demand jobs for Black students, including registered apprenticeships, internships, fellowships, mentorships, and work-based learning initiatives; (iii) how to increase public awareness of and generate solutions for the educational and training challenges and equity disparities that Black Americans face and the causes of these challenges; and (iv) approaches to establish local and national partnerships with public, private, philanthropic, and nonprofit stakeholders to advance the mission and objectives of Executive Order 14050, consistent with applicable law. Notice of the meeting is required by 5 U.S.C. chapter 10 and is intended to notify the public of its opportunity to attend.

Meeting Agenda: On September 10, 2024, the meeting agenda will include remarks from Congressional representatives, leaders of other Presidential advisory committees, U.S. Department of Education senior leaders, national leaders, a student, and subject matter experts on topics that reflect the priorities outlined in Executive Order 14050. The meeting agenda will also include a presentation by the Commissioners on the policy paper that they have generated in their working groups and discussed at the last PAC meeting.

Access to the Meeting: An RSVP is required in order to attend the meeting virtually. Please RSVP at *https://sites.ed.gov/whblackinitiative/our-commission/.* RSVPs must be received by 5:00 p.m. E.D.T. on September 9, 2024. Members of the public that RSVP will get information on how to attend the meeting virtually.

Submission of written comments: The public may submit written comments pertaining to the work of the PAC via the registration site, *https://sites.ed.gov/whblackinitiative/our-commission/,* or to the *whblackinitiative@ed.gov* mailbox. Written comments related to the September 10, 2024 PAC meeting should be submitted no later than 5:00 p.m. E.D.T. on September 8, 2024. If submitting a comment via email, please use the subject line ''PAC Public Comment'' and include in the email the name(s), title, organization/affiliation,

mailing address, email address, and telephone number, of the person(s) making the comment. Comments should be submitted as a Microsoft Word document or in a medium compatible with Microsoft Word (not a PDF file) that is attached to an electronic mail message (email) or provided in the body of an email message. Please do not send material directly to the PAC members.

Access to Records of the Meeting: The Department will post the official report of the meeting on the Initiative's website no later than 90 days after the meeting. Pursuant to 5 U.S.C. 1009, the public may also inspect the meeting materials and other PAC records at 400 Maryland Avenue SW, Washington, DC, by emailing *whblackinitiative@ed.gov* to schedule an appointment.

Reasonable Accommodations: The meeting platform is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (*e.g.,* interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least one week before the meeting date. Although we will attempt to meet a request received after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Electronic Access to this Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: Presidential Executive Order 14050.

Alexis Barrett,

Chief of Staff, Office of the Secretary.

[FR Doc. 2024–18904 Filed 8–22–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP24–512–000]

Texas Connector Pipeline, LLC; Notice of Application and Establishing Intervention Deadline

Take notice that on August 12, 2024, Texas Connector Pipeline, LLC (Texas Connector), 1500 Post Oak Blvd., Houston, Texas 77056, filed an application under section 7(c) of the Natural Gas Act (NGA), and Part 157 of the Commission's regulations to amend its authorization granted by the Commission in Docket Nos. CP17–20–000, et al. on April 18, 2019 for the Texas Connector Project (Project), located in Jefferson and Orange Counties, Texas and Calcasieu Parish, Louisiana. The proposed amendment: (1) eliminates the southern compressor station; (2) changes the number and size of compressor units at the northern compressor station (Orangefield Compressor Station), increasing the compression at that station by 45,984 horsepower; (3) decreases the overall amount of pipeline by 3.2 miles; (4) eliminates one meter station and associated lateral; and (5) revises Texas Connector's initial rates. The estimated cost of the activities proposed in this amendment increases the cost of the Texas Connector Project by $322,287,118, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

Any questions regarding the proposed project should be directed to Jerrod L. Harrison, Sempra Infrastructure, Assistant General Counsel, 488 8th Avenue, San Diego, California 92101, by phone at (619) 696–2987, or by email at *jharrison@sempraglobal.com.*

Pursuant to section 157.9 of the Commission's Rules of Practice and Procedure,[1] within 90 days of this Notice the Commission staff will either: complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Water Quality Certification

Texas Connector stated that a water quality certificate under section 401 of the Clean Water Act is required for the Project from the Railroad Commission of Texas. When available, Texas Connector should submit to the Commission a copy of the request for certification for the Commission authorization, including the date of the request was submitted to the certifying agency and either (1) a copy of the certifying agency's decision or (2) evidence of waiver of water quality certification.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file comments on the project, you can protest the filing, and you can file a motion to intervene in the proceeding. There is no fee or cost for filing comments or intervening. The deadline for filing a motion to intervene is 5:00 p.m. Eastern Time on September 6, 2024. How to file protests, motions to intervene, and comments is explained below.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in

[1] 18 CFR 157.9.

Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Comments

Any person wishing to comment on the project may do so. Comments may include statements of support or objections, to the project as a whole or specific aspects of the project. The more specific your comments, the more useful they will be.

Protests

Pursuant to sections 157.10(a)(4)[2] and 385.211[3] of the Commission's regulations under the NGA, any person[4] may file a protest to the application. Protests must comply with the requirements specified in section 385.2001[5] of the Commission's regulations. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

To ensure that your comments or protests are timely and properly recorded, please submit your comments on or before September 6, 2024.

There are three methods you can use to submit your comments or protests to the Commission. In all instances, please reference the Project docket number CP24–512–000 in your submission.

(1) You may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments or protests electronically by using the eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments or protests by mailing them to the following address below. Your written comments must reference the Project docket number (CP24–512–000).

To file via USPS: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other courier: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of comments (options 1 and 2 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Persons who comment on the environmental review of this project will be placed on the Commission's environmental mailing list, and will receive notification when the environmental documents (EA or EIS) are issued for this project and will be notified of meetings associated with the Commission's environmental review process.

The Commission considers all comments received about the project in determining the appropriate action to be taken. *However, the filing of a comment alone will not serve to make the filer a party to the proceeding.* To become a party, you must intervene in the proceeding. For instructions on how to intervene, see below.

Interventions

Any person, which includes individuals, organizations, businesses, municipalities, and other entities,[6] has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure[7] and the regulations under the NGA[8] by the intervention deadline for the project, which is CP24–512–000. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

There are two ways to submit your motion to intervene. In both instances, please reference the Project docket number CP24–512–000 in your submission.

(1) You may file your motion to intervene by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Intervention.'' The eFiling feature includes a document-less intervention option; for more information, visit *https://www.ferc.gov/docs-filing/efiling/document-less-intervention.pdf.;* or

(2) You can file a paper copy of your motion to intervene, along with three copies, by mailing the documents to the address below. Your motion to intervene must reference the Project docket number CP24–512–000.

To file via USPS: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other courier: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of motions to intervene (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail or email at: Jerrod L. Harrison, Sempra Infrastructure, Assistant General Counsel, 488 8th Avenue, San Diego, California 92101 or by email at *jharrison@sempraglobal.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online. Service can be via email with a link to the document.

All timely, unopposed[9] motions to intervene are automatically granted by

[2] 18 CFR 157.10(a)(4).

[3] 18 CFR 385.211.

[4] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[5] 18 CFR 385.2001.

[6] 18 CFR 385.102(d).

[7] 18 CFR 385.214.

[8] 18 CFR 157.10.

[9] The applicant has 15 days from the submittal of a motion to intervene to file a written objection to the intervention.

operation of Rule 214(c)(1).[10] Motions to intervene that are filed after the intervention deadline are untimely, and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations.[11] A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Intervention Deadline: 5:00 p.m. Eastern Time on September 6, 2024.

Dated: August 16, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–18893 Filed 8–22–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD24–11–000]

Large Loads Co-Located at Generating Facilities; Supplemental Notice of Commissioner-Led Technical Conference

As announced in the August 2, 2024 Notice in this proceeding, the Federal Energy Regulatory Commission (Commission) will convene a Commissioner-led technical conference in the above-referenced proceeding. The technical conference will take place on November 1, 2024, from 10:00 a.m. to 3:00 p.m. Eastern Time. The technical conference will be held in-person at the Commission's headquarters at 888 First Street NE, Washington, DC 20426 in the Commission Meeting Room. The purpose of this technical conference is to discuss generic issues related to the co-location of large loads at generating facilities. The Commission does not intend to discuss at this technical conference any specific proceeding before the Commission. Broadly, issues to be explored at the technical conference may include whether co-located loads require the provision of wholesale transmission or ancillary services, related cost allocation issues, and potential resource adequacy, reliability, affordability, market, and customer impacts. Our next supplemental notice will include details on panels and a self-nomination process.

The technical conference will be open to the public. Advance registration is not required, and there is no fee for attendance. Information will also be posted on the Calendar of Events on the Commission's website, *www.ferc.gov,* prior to the event.

The technical conference will be transcribed and webcast. Transcripts will be available for a fee from Ace Reporting (202–347–3700). A link to the webcast of this event will be available in the Commission Calendar of Events at *www.ferc.gov.* The Commission provides technical support for the free webcasts. Please call 202–502–8680 or email *customer@ferc.gov* if you have any questions.

Commission technical conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–208–8659 (TTY) or send a fax to 202–208–2106 with the required accommodations.

For more information about this technical conference, please contact Keatley Adams at *Keatley.Adams@ferc.gov* or 202–502–8678. For legal information, please contact Christopher Chaulk at *Christopher.Chaulk@ferc.gov* or 202–502–6720. For information related to logistics, please contact Sarah McKinley at *sarah.mckinley@ferc.gov* or (202) 502–8368.

Dated: August 16, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–18889 Filed 8–22–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RC11–6–018]

North American Electric Reliability Corporation; Notice of Staff Review of Enforcement Programs

Commission staff coordinated with the staff of the North American Electric Reliability Corporation (NERC) to conduct the annual oversight of the Find, Fix, Track and Report (FFT) program, as outlined in the March 15, 2012, Order,[1] and the Compliance Exception (CE) Program, as proposed by NERC's September 18, 2015, annual Compliance Filing and accepted by delegated letter order.[2]

Commission staff reviewed a sample of 32 of 173 FFTs and 30 of 889 CEs submitted by NERC between October 2022 and September 2023.

Commission staff found that the FFT and CE programs are meeting expectations. All 62 FFTs and CEs have been adequately remediated and the root cause of each noncompliance was clearly identified. Commission staff also reviewed the supporting information for these FFTs or CEs and agreed with the final risk determinations for all 62 noncompliances, which clearly identified the factors affecting the risk prior to mitigation (such as potential and actual risk) and actual harm. Further, no FFTs or CEs sampled contained any material misrepresentations by the registered entities. Commission staff found that the Regional Entities appropriately identified all 62 of the sampled noncompliances as appropriate to be processed as FFTs and CEs.

Dated: August 16, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–18895 Filed 8–22–24; 8:45 am]

BILLING CODE 6717–01–P

[10] 18 CFR 385.214(c)(1).

[11] 18 CFR 385.214(b)(3) and (d).

[1] *N. Am. Elec. Reliability Corp.,* 138 FERC ¶ 61,193, at P 73 (2012) (discussing Commission plans to survey a random sample of FFTs submitted each year to gather information on how the FFT program is working).

[2] *N. Am. Elec. Reliability Corp.,* Docket No. RC11–6–004, at 1 (Nov. 13, 2015) (delegated letter order) (accepting NERC's proposal to combine the evaluation of CEs with the annual sampling of FTs)

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG24–257–000.

Applicants: HV Sun SFA Manager 1, LLC.

Description: HV Sun SFA Manager 1, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 8/13/24.

Accession Number: 20240813–5092.

Comment Date: 5 p.m. ET 9/3/24.

Docket Numbers: EG24–258–000.

Applicants: MS Solar 7, LLC.

Description: MS Solar 7, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 8/16/24.

Accession Number: 20240816–5050.

Comment Date: 5 p.m. ET 9/6/24.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER24–2668–001.

Applicants: LS Power Grid California, LLC.

Description: Tariff Amendment: LS Power Grid California Errata Filing to be effective 10/1/2024.

Filed Date: 8/16/24.

Accession Number: 20240816–5232.

Comment Date: 5 p.m. ET 9/6/24.

Docket Numbers: ER24–2786–000.

Applicants: Southwest Power Pool, Inc.

Description: 205(d) Rate Filing: Submission of Revisions to the FRT of OGE to Incorp Changes Accepted in ER24–722 to be effective 1/1/2024.

Filed Date: 8/15/24.

Accession Number: 20240815–5185.

Comment Date: 5 p.m. ET 9/5/24.

Docket Numbers: ER24–2787–000.

Applicants: Agway Energy Services, LLC.

Description: Baseline eTariff Filing: Application for Market Based Rate to be effective 8/16/2024.

Filed Date: 8/15/24.

Accession Number: 20240815–5195.

Comment Date: 5 p.m. ET 9/5/24.

Docket Numbers: ER24–2788–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: 205(d) Rate Filing: 2024–08–16_SA 4325 ITC Midwest-Golden Stripe Solar Energy GIA (J1504) to be effective 8/6/2024.

Filed Date: 8/16/24.

Accession Number: 20240816–5052.

Comment Date: 5 p.m. ET 9/6/24.

Docket Numbers: ER24–2789–000.

Applicants: California Independent System Operator Corporation.

Description: 205(d) Rate Filing: 2024–08–16 Certificate of Concurrence—LGIA—Elisabeth Solar to be effective 6/18/2024.

Filed Date: 8/16/24.

Accession Number: 20240816–5119.

Comment Date: 5 p.m. ET 9/6/24.

Docket Numbers: ER24–2790–000.

Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.

Description: Tariff Amendment: Alabama Power Company submits tariff filing per 35.15: Pine Burr Solar 1 LGIA Termination Filing to be effective 8/16/2024.

Filed Date: 8/16/24.

Accession Number: 20240816–5127.

Comment Date: 5 p.m. ET 9/6/24.

Docket Numbers: ER24–2791–000.

Applicants: Breckinridge Energy Storage, LLC.

Description: Baseline eTariff Filing: Breckinridge Energy Storage, LLC Application for Market-Based Rate Authorization to be effective 10/16/2024.

Filed Date: 8/16/24.

Accession Number: 20240816–5157.

Comment Date: 5 p.m. ET 9/6/24.

Docket Numbers: ER24–2792–000.

Applicants: Oliver Wind IV, LLC.

Description: Baseline eTariff Filing: Oliver Wind IV, LLC Application for Market-Based Rate Authorization to be effective 10/16/2024.

Filed Date: 8/16/24.

Accession Number: 20240816–5162.

Comment Date: 5 p.m. ET 9/6/24.

Docket Numbers: ER24–2793–000.

Applicants: Ponderosa Wind II, LLC.

Description: Baseline eTariff Filing: Ponderosa Wind II, LLC Application for Market-Based Rate Authorization to be effective 10/16/2024.

Filed Date: 8/16/24.

Accession Number: 20240816–5166.

Comment Date: 5 p.m. ET 9/6/24.

Docket Numbers: ER24–2794–000.

Applicants: Minco II Energy Storage, LLC.

Description: Baseline eTariff Filing: Minco II Energy Storage, LLC Application for Market-Based Rate Authorization to be effective 10/16/2024.

Filed Date: 8/16/24.

Accession Number: 20240816–5177.

Comment Date: 5 p.m. ET 9/6/24.

Docket Numbers: ER24–2795–000.

Applicants: Nantucket Electric Company.

Description: Baseline eTariff Filing: 2024–08–16 Nantucket Electric Company's FERC Electric Tariff No. 1 to be effective 12/31/9998.

Filed Date: 8/16/24.

Accession Number: 20240816–5212.

Comment Date: 5 p.m. ET 9/6/24.

Docket Numbers: ER24–2796–000.

Applicants: Massachusetts Electric Company.

Description: 205(d) Rate Filing: 2024–08–16 Massachusetts Electric Company's FERC Electric Tariff No. 3 to be effective 12/31/9998.

Filed Date: 8/16/24.

Accession Number: 20240816–5222.

Comment Date: 5 p.m. ET 9/6/24.

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, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) 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: August 16, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–18890 Filed 8–22–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–2787–000]

Agway Energy Services, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Agway Energy Services, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 5, 2024.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov*.

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: August 16, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–18894 Filed 8–22–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP24–975–000.

Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: 4(d) Rate Filing: BP Energy Company SP336421 to be effective 9/1/2024.

Filed Date: 8/15/24.

Accession Number: 20240815–5175.

Comment Date: 5 p.m. ET 8/27/24.

Docket Numbers: RP24–976–000.

Applicants: Portland Natural Gas Transmission System.

Description: 4(d) Rate Filing: Tariff Contact Updates to be effective 9/15/2024.

Filed Date: 8/15/24.

Accession Number: 20240815–5190.

Comment Date: 5 p.m. ET 8/27/24.

Docket Numbers: RP24–977–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: 4(d) Rate Filing: List of Non-Conforming Service Agreements (REA In-Svc) to be effective 9/16/2024.

Filed Date: 8/16/24.

Accession Number: 20240816–5124.

Comment Date: 5 p.m. ET 8/28/24.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

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: August 16, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–18891 Filed 8–22–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP24–508–000]

Rover Pipeline LLC; Notice of Application and Establishing Intervention Deadline

Take notice that on August 2, 2024, Rover Pipeline LLC (Rover), 1300 Main

Street, Houston, Texas 77002, filed an application under section 7(c), of the Natural Gas Act (NGA), and Part 157 of the Commission's regulations requesting authorization for its Rover—Sunny Farms Receipt and Delivery Meter Station Project (Project). The Project consists of a new delivery point interconnection and a new receipt point interconnection on Rover's existing mainline in Hancock County, Ohio. The Project will allow Rover to receive up to 6,269 dekatherms per day (Dth/d) of renewable natural gas (RNG) from VRNG Seneca LLC (Vision) and for Rover to deliver up to 7,893 Dth/d of natural gas to Vision to fuel its RNG facility equipment. Rover estimates the total cost of the Project to be $2,373,860, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

Any questions regarding the proposed project should be directed to Mr. Blair Lichtenwalter, Senior Director, Regulatory Affairs, Rover Pipeline LLC, 1300 Main Street, Houston, Texas 77002, by phone at (713) 989–2605, or by email at *Blair.Lichtenwalter@energytransfer.com.*

Pursuant to section 157.9 of the Commission's Rules of Practice and Procedure,[1] within 90 days of this Notice the Commission staff will either: complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file comments on the project, you can protest the filing, and you can file a motion to intervene in the proceeding. There is no fee or cost for filing comments or intervening. The deadline for filing a motion to intervene is 5:00 p.m. Eastern Time on September 6, 2024. How to file protests, motions to intervene, and comments is explained below.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Comments

Any person wishing to comment on the project may do so. Comments may include statements of support or objections, to the project as a whole or specific aspects of the project. The more specific your comments, the more useful they will be.

Protests

Pursuant to sections 157.10(a)(4)[2] and 385.211[3] of the Commission's regulations under the NGA, any person[4] may file a protest to the application. Protests must comply with the requirements specified in section 385.2001[5] of the Commission's regulations. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

To ensure that your comments or protests are timely and properly recorded, please submit your comments on or before September 6, 2024.

There are three methods you can use to submit your comments or protests to the Commission. In all instances, please reference the Project docket number CP24–508–000 in your submission.

(1) You may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments or protests electronically by using the eFiling feature, which is located on the Commission's website (*www.ferc.gov)* under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments or protests by mailing them to the following address below. Your written comments must reference the Project docket number (CP24–508–000).

To file via USPS: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other courier: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of comments (options 1 and 2 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Persons who comment on the environmental review of this project will be placed on the Commission's environmental mailing list, and will receive notification when the environmental documents (EA or EIS) are issued for this project and will be notified of meetings associated with the Commission's environmental review process.

The Commission considers all comments received about the project in

[1] 18 CFR 157.9.

[2] 18 CFR 157.10(a)(4).

[3] 18 CFR 385.211.

[4] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[5] 18 CFR 385.2001.

determining the appropriate action to be taken. However, the filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding. For instructions on how to intervene, see below.

Interventions

Any person, which includes individuals, organizations, businesses, municipalities, and other entities,[6] has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [7] and the regulations under the NGA [8] by the intervention deadline for the project, which is September 6, 2024. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

There are two ways to submit your motion to intervene. In both instances, please reference the Project docket number CP24–508–000 in your submission.

(1) You may file your motion to intervene by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov)* under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Intervention.'' The eFiling feature includes a document-less intervention option; for more information, visit *https://www.ferc.gov/docs-filing/efiling/document-less-intervention.pdf.;* or

(2) You can file a paper copy of your motion to intervene, along with three copies, by mailing the documents to the address below. Your motion to intervene must reference the Project docket number CP24–508–000.

To file via USPS: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other courier: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of motions to intervene (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail or email at: Mr. Blair Lichtenwalter, Senior Director, Regulatory Affairs, Rover Pipeline LLC, 1300 Main Street, Houston, Texas 77002 or at *Blair.Lichtenwalter@energytransfer.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online. Service can be via email with a link to the document.

All timely, unopposed [9] motions to intervene are automatically granted by operation of Rule 214(c)(1).[10] Motions to intervene that are filed after the intervention deadline are untimely, and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations.[11] A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Intervention Deadline: 5:00 p.m. Eastern Time on September 6, 2024.

Dated: August 16, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–18892 Filed 8–22–24; 8:45 am]

BILLING CODE 6717–01–P

[6] 18 CFR 385.102(d).

[7] 18 CFR 385.214.

[8] 18 CFR 157.10.

[9] The applicant has 15 days from the submittal of a motion to intervene to file a written objection to the intervention.

[10] 18 CFR 385.214(c)(1).

[11] 18 CFR 385.214(b)(3) and (d).

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2024–0058; FRL–11681–07–OCSPP]

Pesticide Product Registration; Receipt of Applications for New Active Ingredients (July 2024)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before September 23, 2024.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2024–0058, through the *Federal eRulemaking Portal* at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Madison H. Le, Biopesticides and Pollution Prevention Division (BPPD) (7511M), main telephone number: (202) 566–1400, email address: *BPPDFRNotices@epa.gov;* Anita Pease, Antimicrobials Division (AD) (7510P),

main telephone number: (202) 566–0736; email address: *ADFRNotices@epa.gov.* The mailing address for each contact person is Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. The mailing address for each contact person is Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).

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

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

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

II. Registration Applications

EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications. For actions being evaluated under EPA's public participation process for registration actions, there will be an additional opportunity for public comment on the proposed decisions. Please see EPA's public participation website for additional information on this process (*https://www2.epa.gov/pesticide-registration/public-participation-process-registration-actions*).

Notice of Receipt—New Active Ingredients

File Symbol: 464–IRLL and 464–IRLU. *Docket ID number:* EPA–HQ–OPP–2024–0213. *Applicant:* LANXESS CORPORATION, 111 RIDC Park West Drive, Pittsburgh, PA 15275–1112. *Product name:* Bioban PH 100 Antimicrobial and Bioban PH 100 Technical. *Active ingredient:* Antimicrobial—2-Phenoxyethanol at 99.8%. *Proposed use:* In-container preservative for the control of bacteria in industrial and household consumer products. *Contact:* AD.

File Symbol: 94201–E. *Docket ID number:* EPA–HQ–OPP–2024–0340. *Applicant:* MBFi LLC, 11125 North Ambassador Drive, Suite 120, Kansas City, MO 64153. *Product name: Trichoderma asperellum* DSM 33649 Technical. *Active ingredient:* Fungicide and nematicide—*Trichoderma asperellum* DSM33649 *at* 100%. *Proposed use:* For manufacturing use only to formulate end-use products. *Contact:* BPPD.

File Symbol: 94201–G. *Docket ID number:* EPA–HQ–OPP–2024–0340. *Applicant:* MBFi LLC, 11125 North Ambassador Drive, Suite 120, Kansas City, MO 64153. *Product name:* Trillum DS. *Active ingredient:* Fungicide and nematicide—*Trichoderma asperellum* DSM33649 *at* 1%. *Proposed use:* For control of soil-borne fungal pathogens and nematodes on outdoor agricultural and greenhouse crops, ornamental plants, and turf. *Contact:* BPPD.

File Symbol: 94201–U. *Docket ID number:* EPA–HQ–OPP–2024–0340. *Applicant:* MBFi LLC, 11125 North Ambassador Drive, Suite 120, Kansas City, MO 64153. *Product name:* Trillum WP. *Active ingredient:* Fungicide and nematicide—*Trichoderma asperellum* DSM33649 *at* 1%. *Proposed use:* For control of soil-borne fungal pathogens and nematodes on outdoor agricultural and greenhouse crops, ornamental plants, and turf. *Contact:* BPPD.

File Symbol: 102839–R. *Docket ID number:* EPA–HQ–OPP–2024–0329. *Applicant:* EcoPhage LTD., 3 Pinchas Sapir St., Ness Ziona, Israel 7403626 (c/o Spring Regulatory Sciences, 6620 Cypresswood Dr., Suite 250, Spring, TX 77379). *Product name:* Golden—Eco 1000. *Active ingredients:* Bactericides—Bacteriophage active against *Xanthomonas campestris* pv. *Vesicatoria* EcoPhage at 0.000001716% and Bacteriophage active against *Pseudomonas syringae* pv. *Tomato* EcoPhage at 0.000000624%. *Proposed use:* To protect tomatoes and peppers from bacterial spot (*Xanthomonas campestris* pv. *vesicatoria*) and bacterial speck (*Pseudomonas syringae* pv. *tomato*). *Contact:* BPPD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: August 19, 2024.

Kimberly Smith,

Acting Director, Information Technology and Resources Management Division, Office of Program Support.

[FR Doc. 2024–18966 Filed 8–22–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OP–OFA–140]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed August 12, 2024 10 a.m. EST

Through August 19, 2024 10 a.m. EST

Pursuant to 40 CFR 1506.9.

Notice: Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search.*

EIS No. 20240149, Final, USACE, FL, Tampa Harbor Navigation Improvement Study Final Integrated General Reevaluation Report and Environmental Impact Statement, Review Period Ends: 09/23/2024, Contact: Rachel Case 904–232–1035.

EIS No. 20240150, Final, BLM, WY, Proposed Resource Management Plan and Final Environmental Impact Statement for the Rock Springs Field Office, Wyoming, Review Period Ends: 09/23/2024, Contact: Kimberlee Foster 307–352–0201.

EIS No. 20240151, Draft, USACE, OR, Lower Columbia River Channel Maintenance Plan, Draft Dredged Material Management Plan and Environmental Impact Statement, Comment Period Ends: 10/07/2024, Contact: Amy Gibbons 503–808–4708.

Dated: August 19, 2024.

Timothy Witman,

Acting Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2024–18940 Filed 8–22–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2024–0061; FRL–11680–07–OCSPP]

Pesticide Product Registration; Receipt of Applications for New Uses (July 2024)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before September 23, 2024.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2024–0061, through the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Dan Rosenblatt, Registration Division (RD) (7505T), main telephone number: (202) 566–2875, email address: *RDFRNotices@epa.gov.* The mailing address for each contact person is Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).

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

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

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

II. Registration Applications

EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

Notice of Receipt—New Uses

1. *EPA Registration Number:* 279–3013 and 279–3051. *Docket ID number:* EPA–HQ–OPP–2024–0201. *Applicant:* FMC Corporation 2929 Walnut St., Philadelphia, PA 19104. *Active ingredient:* Permethrin. *Product type:* Insecticide. *Proposed use:* Dragon fruit (pitaya); crop group expansions to field corn subgroup 15–22C and sweet corn subgroup 15–22D; and a crop group conversion to leafy greens subgroup 4–16A, including tolerances for orphan crops arugula, garden cress and upland cress. *Contact:* RD.

2. *EPA Registration Number or File Symbol:* 352–591, 352–604. *Docket ID number:* EPA–HQ–OPP–2024–0156. *Applicant:* Corteva Agriscience LLC, 9330 Zionsville Road, Indianapolis, IN 46268. *Active ingredient:* Cymoxanil. *Product type:* Fungicide. *Proposed use:* Brassica, leafy greens subgroup 4–16B; leafy greens subgroup 4–16A; celtuce; Florence fennel; fruiting vegetables subgroup 8–10A; fruiting vegetables subgroup 8–10B; leaf petiole, subgroup 22B; succulent shelled bean subgroup 6–22C (East of Rocky Mountains); mango; root vegetables subgroup 1B (except sugar beet); tuberous and corm vegetables (subgroup 1C). *Contact:* RD.

3. *EPA Registration Number:* 70506–60. *Docket ID number:* EPA–HQ–OPP–2024–0363. *Applicant:* UPL NA Inc., P.O. Box 12219, Research Triangle Park, NC 27709–2219. *Active ingredient:* Acifluorfen. *Product type:* Herbicide. *Proposed use:* Sugar beet roots and sugar beet tops. *Contact:* RD.

EPA Registration Number: 91813–18. *Docket ID number:* EPA–HQ–OPP–2024–0363. *Applicant:* UPL Delaware Inc,. P.O. Box 12219, Research Triangle Park, NC 27709–2219. *Active ingredient:* Acifluorfen. *Product type:* Herbicide. *Proposed use:* Sugar beet roots and sugar beet tops. *Contact:* RD.

EPA File Symbol: 101563–EEE. *Docket ID number:* EPA–HQ–OPP–2024–0346. *Applicant:* Environmental Science U.S., LLC., 5000 CentreGreen Way, Suite 400, Cary, NC 27513. *Active ingredient:* Aminocyclopyrachlor potassium salt. *Product type:* Herbicide. *Proposed use:* Non-hayed rangeland, non-hayed permanent grass pastures, non-hayed natural areas, and Conservation Reserve Program (CRP) lands in AZ, ID, MT, ND, NE, NM, OK, SD, TX, and WY. *Contact:* RD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: August 19, 2024.

Kimberly Smith,

Acting Director, Information Technology and Resources Management Division, Office of Program Support.

[FR Doc. 2024–18908 Filed 8–22–24; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

Application for Final Commitment for a Long-Term Transaction in Excess of $100 Million: AP089519XX

AGENCY: Export-Import Bank of the United States.

ACTION: Notice.

SUMMARY: This Notice is to inform the public the Export-Import Bank of the United States (''EXIM'') has received an application for final commitment for a long-term loan or financial guarantee in excess of $100 million. Comments received within the comment period specified below will be presented to the EXIM Board of Directors prior to final action on this Transaction.

DATES: Comments must be received on or before September 17, 2024 to be assured of consideration before final consideration of the transaction by the Board of Directors of EXIM.

ADDRESSES: Comments may be submitted through *Regulations.gov* at *WWW.REGULATIONS.GOV*. To submit a comment, enter AP089519XX under the heading ''Enter Keyword or ID'' and select Search. Follow the instructions provided at the Submit a Comment screen. Please include your name, company name (if any) and AP089519XX on any attached document.

SUPPLEMENTARY INFORMATION:

Reference: AP089519XX.

Purpose and Use:

Brief description of the purpose of the transaction: The financing request is in support of the Obligor's acquisition of goods and services, to be utilized in the deployment of a nationwide 5G telecommunications network in India. EXIM's support is to be made pursuant to the EXIM co-financing agreement with Finnvera PLC, the Finnish export credit agency.

Brief non-proprietary description of the anticipated use of the items being exported: The 5G equipment and services will be used for deployment of the nation-wide 5G network in India.

Parties:

Principal Supplier: Nokia Oyj—Finland Obligor:

Reliance Jio Infocomm Ltd.—India Guarantor(s): N/A.

Description of Items Being Exported: 5G equipment and services.

Information on Decision: Information on the final decision for this transaction will be available in the ''Summary Minutes of Meetings of Board of Directors'' on *http://exim.gov/newsandevents/boardmeetings/board/.*

Confidential Information: Please note that this notice does not include confidential or proprietary business information; information which, if disclosed, would violate the Trade Secrets Act; or information which would jeopardize jobs in the United States by supplying information that competitors could use to compete with companies in the United States.

Authority: Section 3(c)(10) of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635a(c)(10)).

Deirdre Hodge,

Assistant Corporate Secretary.

[FR Doc. 2024–18546 Filed 8–22–24; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL MARITIME COMMISSION

[FMC–2024–0015]

Renewal of Agency Information Collection of a Previously Approved Collection; 60-Day Public Comment Request; Controlled Carriers

AGENCY: Federal Maritime Commission.

ACTION: Notice and request for comment.

SUMMARY: The Federal Maritime Commission (Commission) is giving public notice that the agency has submitted to the Office of Management and Budget (OMB) for approval an extension, without change, of an existing information collection related to controlled carriers. The public is invited to comment on the information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before October 22, 2024.

ADDRESSES: The Commission is accepting comments using the Federal eRulemaking Portal at *www.regulations.gov*. The docket for this notice and submitting comments can be found at *https://www.regulations.gov/* under Docket No. FMC–2024–0015. Follow the instructions provided for submitting comments.

FOR FURTHER INFORMATION CONTACT: Lucille L. Marvin, Managing Director, (202) 523–5800, *OMD@fmc.gov.*

SUPPLEMENTARY INFORMATION: The Commission invites the general public and other Federal agencies to comment on any aspect of the continuing information collection listed in this notice, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). We are particularly interested in receiving 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.

Comments submitted in response to this notice will be included or summarized in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments are part of the public record and subject to disclosure. Please do not include any confidential or inappropriate material in your comments.

Information Collection Open for Comment

Title: 46 CFR part 565—Controlled Carriers.

OMB Approval Number: 3072–0060 (Expires April 30, 2025).

Abstract: The Shipping Act requires that the Commission monitor the practices of controlled carriers (defined at 46 U.S.C. 40102(9)) to ensure that they do not maintain rates or charges in their tariffs and service contracts that are below a level that is just and reasonable; nor establish, maintain, or enforce unjust or unreasonable classifications, rules, or regulations in those tariffs or service contracts that result or are likely to result in the carriage or handling of cargo at rates or charges that are below a just and reasonable level, 46 U.S.C. 40701–40706. Part 565, title 46 of the Code of Federal Regulations establishes the method by which the Commission determines whether a particular ocean common carrier is a controlled carrier subject to 46 U.S.C. 40701–40706. When a government acquires a controlling interest in an ocean common carrier, or when a controlled carrier newly enters a United States trade, the Commission's rules require that such a carrier notify the Commission of these events.

Current Actions: There are no changes to this information collection, and it is being submitted for extension purposes only.

Type of Review: Extension.

Needs and Uses: The Commission uses these notifications in order to effectively discharge its statutory duty to determine whether a particular ocean common carrier is a controlled carrier and therefore subject to the requirements of 46 U.S.C. 40701–40706.

Frequency: The submission of notifications from controlled carriers is not assigned to a specific time frame by the Commission; they are submitted as circumstances warrant. The Commission only requires notification

when a majority portion of an ocean common carrier becomes owned or controlled by a government, or when a controlled carrier newly begins operation in any United States trade.

Type of Respondents: Controlled carriers are ocean common carriers that are, or whose operating assets are, directly or indirectly, owned or controlled by a government. The Shipping Act defines ''controlled carriers'' at 46 U.S.C. 40102(9).

Number of Annual Respondents: The Commission cannot anticipate when a new controlled carrier may enter the United States trade, when ownership or control of a carrier will change so that notification is required, or when a controlled carrier exists the United States trade. Over the past three years, the Commission has received, on average, fewer than one notification per year. However, as the Commission has recently classified several additional carriers as controlled carriers, the total estimated burden is increased.

Estimated Time per Response: The estimated time for each notification is 2 hours.

Total Annual Burden: For purposes of calculating total annual burden, the Commission assumes 12 responses annually. The Commission thus estimates the total annual burden to be 24 hours (12 responses × 2 hours per response).

David Eng,

Secretary.

[FR Doc. 2024–18967 Filed 8–22–24; 8:45 am]

BILLING CODE 6730–02–P

GENERAL SERVICES ADMINISTRATION

[Notice–Q–2024–05; Docket No. 2024–0002; Sequence No. 40]

Federal Secure Cloud Advisory Committee Notification of Upcoming Meeting

AGENCY: Federal Acquisition Service (Q), General Services Administration (GSA).

ACTION: Meeting notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act (FACA), as amended, GSA is hereby giving notice of two (2) open public meetings of the Federal Secure Cloud Advisory Committee (FSCAC). Information on attending and providing public comment is under the **SUPPLEMENTARY INFORMATION** section.

DATES: The open public meetings will be held virtually on Thursday, September 12, 2024, from 12:00 p.m. to 4:00 p.m., Eastern Time (ET), and Thursday, October 10, 2024, from 12:00 p.m. to 3:00 p.m., Eastern Time (ET). The meeting materials, registration information, and agendas for the meetings will be made available prior to the meetings online at *https://gsa.gov/fscac.* Additional information can be found under the **SUPPLEMENTARY INFORMATION** section of this notice. Both meetings will be open to the public for the entire time.

ADDRESSES: The meetings will be accessible via webcast. Separate registration is required for each meeting and will be made available prior to the meetings online at *https://gsa.gov/fscac,* by selecting the ''Federal Secure Cloud Advisory Committee meetings'' tab on the left, and then selecting the ''September 12, 2024—Virtual'' meeting accordion or ''October 10, 2024—Virtual'' meeting accordion in order to view all meeting materials, agendas, and registration information. Registrants will receive the webcast information before the meeting.

FOR FURTHER INFORMATION CONTACT: Michelle White, Designated Federal Officer (DFO), FSCAC, GSA, 703–489–4160, *fscac@gsa.gov.*

SUPPLEMENTARY INFORMATION:

Background

GSA, in compliance with the FedRAMP Authorization Act of 2022 (the Act), established the FSCAC, a statutory advisory committee in accordance with the provisions of FACA, as amended (5 U.S.C. 10). The Federal Risk and Authorization Management Program (FedRAMP) within GSA is responsible for providing a standardized, reusable approach to security assessment and authorization for cloud computing products and services that process unclassified information used by agencies.

The FSCAC will provide advice and recommendations to the Administrator of GSA, the FedRAMP Board, and agencies on technical, financial, programmatic, and operational matters regarding the secure adoption of cloud computing products and services. The FSCAC will ensure effective and ongoing coordination of agency adoption, use, authorization, monitoring, acquisition, and security of cloud computing products and services to enable agency mission and administrative priorities. The purposes of the Committee are:

- To examine the operations of FedRAMP and determine ways that authorization processes can continuously be improved, including the following:
  - Measures to increase agency reuse of FedRAMP authorizations.
  - Proposed actions that can be adopted to reduce the burden, confusion, and cost associated with FedRAMP authorizations for cloud service providers.
  - Measures to increase the number of FedRAMP authorizations for cloud computing products and services offered by small businesses concerns (as defined by section 3(a) of the Small Business Act (15 U.S.C. 632(a)).
  - Proposed actions that can be adopted to reduce the burden and cost of FedRAMP authorizations for agencies.
- Collect information and feedback on agency compliance with, and implementation of, FedRAMP requirements.
- Serve as a forum that facilitates communication and collaboration among the FedRAMP stakeholder community.

The FSCAC will meet no fewer than three (3) times a calendar year. Meetings shall occur as frequently as needed, called, and approved by the DFO.

Purpose of the Meeting and Agenda

The September 12, 2024 public meeting will be dedicated to providing the Committee with additional information pertinent to their new initiatives. Presentations may be held on the Office of Management and Budget's (OMB) Memorandum titled ''Modernizing the Federal Risk Authorization Management Program (FedRAMP)'' (OMB Memo), and several panel discussions by both industry and agencies will be held for the Committee to better understand both stakeholder groups' challenges. Members of the public will have the opportunity to provide oral public comments during this meeting, and may also submit public comments in writing prior to this meeting by completing the public comment form on our website, *https://gsa.gov/fscac.* The meeting agenda will be posted on *https://gsa.gov/fscac* prior to the meeting and can be accessed by selecting the ''Federal Secure Cloud Advisory Committee meetings'' tab on the left, and then selecting the ''September 12, 2024—Virtual'' meeting accordion in order to view all meeting materials, agendas, and registration information.

The October 10, 2024 public meeting will be dedicated to deliberations in order to develop an initial draft of recommendations to the GSA Administrator on their initial two (2) priority initiatives of (1) identifying and documenting top challenges and proposing solutions around the barrier

to entry for Cloud Service Providers(CSPs) with a focus on small businesses, third party assessment organizations (3PAOs), and small & large agencies, and (2) identifying and documenting ways to expedite the authorization process for Cloud Service Offerings (CSOs), such as exploring agile authorizations and other potential cost reductions, both labor and financial, with a focus on small businesses. Members of the public will have the opportunity to provide oral public comments during this meeting, and may also submit public comments in writing prior to this meeting by completing the public comment form on our website, *https://gsa.gov/fscac.* The meeting agenda will be posted on *https://gsa.gov/fscac* prior to the meeting and can be accessed by selecting the ''Federal Secure Cloud Advisory Committee meetings'' tab on the left, and then selecting the ''October 10, 2024—Virtual'' meeting accordion in order to view all meeting materials, agendas, and registration information.

Meeting Attendance

Both of these virtual meetings are open to the public. The meeting materials, registration information, and agendas for the meetings will be made available prior to the meetings online at *https://gsa.gov/fscac,* by selecting the ''Federal Secure Cloud Advisory Committee meetings'' tab on the left, and then selecting the ''September 12, 2024—Virtual'' meeting accordion or ''October 10, 2024—Virtual'' meeting accordion. Registration for attending the virtual meeting on Thursday, September 12, 2024, is highly encouraged by 5:00 p.m. EST, on Monday, September 9, 2024. Registration for attending the virtual meeting on Thursday, October 10, 2024, is highly encouraged by 5:00 p.m. EST, on Monday, October 7, 2024. After registration, individuals will receive instructions on how to attend the meeting via email.

For information on services for individuals with disabilities, or to request accommodation for a disability, please email the FSCAC staff at *FSCAC@gsa.gov* at least 10 days prior to the meeting date. Live captioning may be provided virtually.

Public Comment

Members of the public attending will have the opportunity to provide oral public comment during the FSCAC meeting. Written public comments can be submitted at any time by completing the public comment form on our website, *https://gsa.gov/fscac,* located under the ''Get Involved'' section. All written public comments will be provided to FSCAC members in advance of the meeting if received by Wednesday, September 4, 2024, for the Thursday, September 12, 2024 meeting; and by Wednesday, October 2, 2024, for the Thursday, October 10, 2024 meeting, respectively.

Margaret Dugan,

Service-Level Liaison, Federal Acquisition Service, General Services Administration.

[FR Doc. 2024–18937 Filed 8–22–24; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Administration on Disabilities, The President's Committee for People With Intellectual Disabilities

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The President's Committee for People with Intellectual Disabilities (PCPID) will host a meeting for its members to discuss the 2024 PCPID Report focused on Home and Community Based Services (HCBS) and discuss emerging issues facing people with intellectual disabilities. All the PCPID meetings, in any format, are open to the public. Members of the public can join in person or virtually. This meeting will be conducted in presentation and discussion format.

DATES: The meeting will take place on Septmber 26, 2024 from 9:00 a.m. to 4:00 p.m. (EST) and September 27, 2024 from 9:00 a.m. to 3:00 p.m. (EST).

Comments received by September 13, 2024 will be shared with the PCPID at the September 26–27, 2024 meeting.

ADDRESSES:

Comments: Comments and suggestions may be shared through the following *ACL.gov* link: *https://acl.gov/form/pcpid.*

In Person/Webinar/Conference Call: The meeting is open to the public and will be hosted at the U.S. Department of Health and Human Services on September 26 and September 27, 2024. The meeting will occur at the Switzer Building Conference Room 1400 located at 330 C Street SW, Washington, DC 20201. Members of the public can observe the meeting in person or virtually. To observe the meeting in person, seating will be available for the first 25 persons to reserve seats due to space limitations. To participate in the meeting virtually, the meeting will be hosted on zoom meeting platform. In order to observe the proceedings in person or virtually, you must register in advance of the meeting at the following link: *https://us06web.zoom.us/meeting/register/tZAlceGurzwjH9FLdHPW7YZKOrs3l5GuCDnq.*

FOR FURTHER INFORMATION CONTACT: Mr. David Jones, Director, Office of Intellectual Developmental Disabilities, 330 C Street SW, Switzer Building, Room 1126, Washington, DC 20201. Telephone: 202–795–7367. Fax: 202–795–7334. Email: *David.Jones@acl.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Agenda: The Committee will discuss the 2024 PCPID Report focused on Home and Community Based Services as it relates to the areas of direct support professionals, employment, community living, and Federal support programs. And, the committee will begin to examine emerging issues faced by people with intellectual disabilities to be addressed by the Committee. This discussion will help develop a framework for the preparation of the 2025 PCPID Report to the President.

Comments: Stakeholder input is very important to the PCPID. Comments and suggestions especially from people with intellectual disabilities, are welcomed. If there are comments related to HCBS or other areas that you would like to inform the PCPID, please share them through the following *ACL.gov* link: *https://acl.gov/form/pcpid.*

Background Information on the Committee: The PCPID acts in an advisory capacity to the President and the Secretary of Health and Human Services on a broad range of topics relating to programs, services and support for individuals with intellectual disabilities. The function of PCPID is to: (1) provide such advice concerning intellectual disabilities as the President or the Secretary of Health and Human Services may request; and (2) provide advice to the President and the Secretary of Health and Human Services to promote full participation of people with intellectual disabilities in their communities, such as: (A) expanding educational opportunities; (B) promoting housing opportunities; (C) expanding opportunities for competitive integrated employment; (D) improving accessible transportation options; (E) protecting rights and preventing abuse; and (F) increasing access to assistive and universally designed technologies; and (3) provide advice to the President and the Secretary of Health and Human Services to help advance racial equity and support for people with intellectual disabilities within underserved communities.

Statutory Authority: E.O. 14048, 85 FR 57313.

Dated: August 14, 2024.

Jennifer Johnson,

Acting Commissioner, Administration on Disabilities.

[FR Doc. 2024–18942 Filed 8–22–24; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2007–D–0369]

Product-Specific Guidances; Draft and Revised Draft Guidances for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of additional draft and revised draft product-specific guidances. The draft guidances provide product-specific recommendations on, among other things, the design of bioequivalence (BE) studies to support abbreviated new drug applications (ANDAs). In the **Federal Register** of June 11, 2010, FDA announced the availability of a guidance for industry entitled ''Bioequivalence Recommendations for Specific Products'' that explained the process that would be used to make product-specific guidances available to the public on FDA's website. The draft guidances identified in this notice were developed using the process described in that guidance.

DATES: Submit either electronic or written comments on the draft guidance by October 22, 2024 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2007–D–0369 for ''Product-Specific Guidances; Draft and Revised Draft Guidances for Industry.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Joseph Kotsybar, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 3623A, Silver Spring, MD 20993–0002, 240–402–1062, *PSG-Questions@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 11, 2010 (75 FR 33311), FDA announced the availability of a guidance for industry entitled ''Bioequivalence Recommendations for Specific Products'' that explained the process that would be used to make product-specific guidances available to the public on FDA's website at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs.*

As described in that guidance, FDA adopted this process to develop and disseminate product-specific guidances and provide a meaningful opportunity for the public to consider and comment on those guidances. Under that process, draft guidances are posted on FDA's website and announced periodically in

the **Federal Register**. The public is encouraged to submit comments on those recommendations within 60 days of their announcement in the **Federal Register**. FDA considers any comments received and either publishes final guidances or publishes revised draft guidances for comment. Guidances were last announced in the **Federal Register** on May 17, 2024 (89 FR 43413). This notice announces draft product-specific guidances, either new or revised, that are posted on FDA's website.

II. Drug Products for Which New Draft Product-Specific Guidances Are Available

FDA is announcing the availability of new draft product-specific guidances for industry for drug products containing the following active ingredients:

TABLE 1—NEW DRAFT PRODUCT-SPECIFIC GUIDANCES FOR DRUG PRODUCTS

Active ingredient(s)
Air polymer-Type A.
Fezolinetant.
Heparin sodium; Taurolidine.
Leniolisib phosphate.
Naloxone hydrochloride.
Nedosiran sodium.
Nirmatrelvir; Ritonavir.
Pegcetacoplan.
Risperidone.
Sotagliflozin.
Tafluprost.
Teriparatide.
Tofersen.
Trofinetide.

III. Drug Products for Which Revised Draft Product-Specific Guidances Are Available

FDA is announcing the availability of revised draft product-specific guidances for industry for drug products containing the following active ingredients:

TABLE 2—REVISED DRAFT PRODUCT-SPECIFIC GUIDANCES FOR DRUG PRODUCTS

Active ingredient(s)
Albuterol sulfate.
Albuterol sulfate; ipratropium bromide.
Apalutamide.
Azelaic acid.
Bempedoic acid; Ezetimibe.
Budesonide.
Bupropion hydrochloride.
Carvedilol phosphate.
Ciprofloxacin hydrochloride; Hydrocortisone.
Ciprofloxacin; Dexamethasone.
Cladribine.
Dalfampridine.
Dapagliflozin; Metformin hydrochloride.
Donepezil hydrochloride; Memantine hydrochloride.
Fentanyl citrate.
Ferric citrate.
Fluticasone furoate; Umeclidinium bromide; Vilanterol trifenatate.
Fluticasone propionate (multiple reference listed drugs).
Fluticasone propionate; Salmeterol xinafoate (multiple reference listed drugs).
Halobetasol propionate.
Hydrochlorothiazide; Metoprolol succinate.
Hydromorphone hydrochloride.
Ibrutinib.
Levalbuterol tartrate.
Levomilnacipran hydrochloride.
Memantine hydrochloride.
Metformin hydrochloride; Saxagliptin hydrochloride.
Metformin hydrochloride; Sitagliptin phosphate.
Mometasone furoate.
Morphine sulfate (multiple reference listed drugs).
Naloxone hydrochloride.
Olodaterol hydrochloride.
Olodaterol hydrochloride; Tiotropium bromide.
Oxcarbazepine.
Oxymorphone hydrochloride.

TABLE 2—REVISED DRAFT PRODUCT-SPECIFIC GUIDANCES FOR DRUG PRODUCTS—Continued

Active ingredient(s)
Phentermine hydrochloride; Topiramate.
Posaconazole.
Pramipexole dihydrochloride.
Progesterone.
Promethazine hydrochloride.
Quetiapine fumarate.
Tacrolimus.
Tapentadol hydrochloride.
Tiotropium bromide.
Tramadol hydrochloride.
Trospium chloride.
Venlafaxine hydrochloride.
Verteporfin.

For a complete history of previously published **Federal Register** notices related to product-specific guidances, go to *https://www.regulations.gov* and enter Docket No. FDA–2007–D–0369.

These draft guidances are being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). These draft guidances, when finalized, will represent the current thinking of FDA on, among other things, the product-specific design of BE studies to support ANDAs. They do not establish any rights for any person and are not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

IV. Paperwork Reduction Act of 1995

While these guidances contain no collection of information, they do refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in 21 CFR part 312 for investigational new drugs have been approved under 0910–0014. The collections of information in 21 CFR part 314 for applications for FDA approval to market a new drug and in 21 CFR part 320 for bioavailability and bioequivalence requirements have been approved under OMB control number 0910–0001.

V. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: August 20, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–18997 Filed 8–22–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2024–N–3647]

Oncologic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments—Immune Checkpoint Inhibitors in Patients With Unresectable or Metastatic Gastric and Gastroesophageal Junction Adenocarcinoma and Esophageal Squamous Cell Carcinoma

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Oncologic Drugs Advisory Committee (the Committee). The general function of the Committee is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on September 26, 2024, from 8 a.m. to 6:15 p.m. Eastern Time.

ADDRESSES: The public may attend the meeting at the FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. The public will also have the option to participate, and the advisory committee meeting will be heard, viewed, captioned, and recorded through an online teleconferencing and/or video conferencing platform.

Answers to commonly asked questions about FDA advisory committee meetings, including information regarding special accommodations due to a disability, visitor parking, and transportation, may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2024–N–3647. The docket will close on September 25, 2024. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of September 25, 2024. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Comments received on or before September 12, 2024, will be provided to the Committee. Comments received after that date will be taken into consideration by FDA. In the event that the meeting is cancelled, FDA will continue to evaluate any relevant applications or information, and consider any comments submitted to the docket, as appropriate.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your

comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2024–N–3647 for ''Oncologic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments—Immune Checkpoint Inhibitors in Patients with Unresectable or Metastatic Gastric and Gastroesophageal Junction Adenocarcinoma and Esophageal Squamous Cell Carcinoma.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify the information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Joyce Frimpong, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–7973, email: *ODAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last-minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: During the morning session, the Committee will discuss the use of immune checkpoint inhibitors in patients with unresectable or metastatic gastric and gastroesophageal junction adenocarcinoma. The current labeling for approved checkpoint inhibitors in this indication reflects broad approvals in the intent to treat patient populations agnostic of programmed death cell ligand-1 (PD-L1) expression. Cumulative data have shown that PD-L1 expression appears to be a predictive biomarker of treatment efficacy in this patient population; however, clinical trials have used different approaches to assess PD-L1 expression and different thresholds to define PD-L1 positivity. FDA would like the Committee's opinion on the following:

• adequacy of PD-L1 expression as a predictive biomarker for patient selection in this patient population;

• differing risk-benefit assessments in different subpopulations defined by PD-L1 expression; and

• adequacy of the cumulative data to restrict the approvals of immune checkpoint inhibitors based on PD-L1 expression.

The Committee will discuss the existing supplemental biologics license applications (sBLA) which were approved for patients with previously untreated HER2-negative unresectable or metastatic gastric or gastroesophageal adenocarcinoma:

• sBLA 125554/S–091 for OPDIVO (nivolumab) injection, submitted by Bristol Myers-Squibb Co.; and

• sBLA 125514/S–143 for KEYTRUDA (pembrolizumab) injection, submitted by Merck Sharp & Dohme LLC, a subsidiary of Merck & Co., Inc.

The Committee will also discuss BLA 761417 for tislelizumab injection, submitted by BeiGene USA, Inc., for the same proposed indication.

During the afternoon session, the Committee will discuss the use of immune checkpoint inhibitors in patients with metastatic or unresectable esophageal squamous cell carcinoma. The current labeling for approved checkpoint inhibitors in this indication reflects broad approvals in the intent to treat patient populations agnostic of PD-L1 expression. Cumulative data has shown that PD-L1 expression appears to be a predictive biomarker of treatment efficacy in this patient population; however, clinical trials have used different approaches to assess PD-L1 expression and different thresholds to define PD-L1 positivity. FDA would like the Committee's opinion on the following:

• adequacy of PD-L1 expression as a predictive biomarker for patient selection in this patient population;

• differing risk-benefit assessments in different subpopulations defined by PD-L1 expression; and

• adequacy of the cumulative data to restrict the approvals of immune checkpoint inhibitors based on PD-L1 expression.

The Committee will discuss the existing sBLAs which were approved for patients with previously untreated

unresectable or metastatic esophageal squamous cell carcinoma:

- sBLA 125514/S–096 for KEYTRUDA (pembrolizumab) injection, submitted by Merck Sharp & Dohme LLC, a subsidiary of Merck & Co., Inc.;
- sBLAs 125554/S–105 and S–106 for OPDIVO (nivolumab) injection, submitted by Bristol Myers-Squibb Co.; and
- sBLA 125377/S–122 for YERVOY (ipilimumab) injection, submitted by Bristol Myers-Squibb Co.

The Committee will also discuss the new BLA 761380 for tislelizumab, submitted by BeiGene USA, Inc., for the same proposed indication.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available on FDA's website at the time of the advisory committee meeting. Background material and the link to the online teleconference and/or video conference meeting will be available at the location of the advisory committee meeting and at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link. The meeting presentations will also be heard, viewed, captioned, and recorded through an online teleconferencing and/or video conferencing platform. The online presentation of materials will include slide presentations with audio and video components in a manner that most closely resembles an in-person advisory committee meeting.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. All electronic and written submissions to the Docket (see **ADDRESSES**) on or before September 12, 2024, will be provided to the Committee. Oral presentations from the public will be scheduled between approximately 11:15 a.m. to 11:45 a.m. and 4:45 p.m. to 5:15 p.m. Eastern Time. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, whether they would like to present online or in-person, and an indication of the approximate time requested to make their presentation on or before September 4, 2024. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. Similarly, room for interested persons to participate in-person may be limited. If the number of registrants requesting to speak in-person during the open public hearing is greater than can be reasonably accommodated in the venue for the in-person portion of the advisory committee meeting, FDA may conduct a lottery to determine the speakers who will be invited to participate in-person. The contact person will notify interested persons regarding their request to speak by September 5, 2024. Persons attending FDA's advisory committee meetings are advised that FDA is not responsible for providing access to electrical outlets.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Joyce Frimpong (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. 1001 *et seq.*). This meeting notice also serves as notice that, pursuant to 21 CFR 10.19, the requirements in 21 CFR 14.22(b), (f), and (g) relating to the location of advisory committee meetings are hereby waived to allow for this meeting to take place using an online meeting platform in conjunction with the physical meeting room (see location). This waiver is in the interest of allowing greater transparency and opportunities for public participation, in addition to convenience for advisory committee members, speakers, and guest speakers. The conditions for issuance of a waiver under 21 CFR 10.19 are met.

Dated: August 20, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–18970 Filed 8–22–24; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–D–3788]

Electronic Submission Template for Medical Device De Novo Requests; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance entitled ''Electronic Submission Template for Medical Device De Novo Requests.'' FDA is issuing this guidance to introduce submitters of De Novo requests to the Center for Devices and Radiological Health (CDRH) and Center for Biologics Evaluation and Research (CBER) to the current resources and associated content developed and made publicly available to support De Novo electronic submissions to FDA. This guidance is intended to represent one of several steps in meeting FDA's commitment to the development of electronic submission templates to serve as guided submission preparation tools for industry to improve submission consistency and enhance efficiency in the review process.

DATES: The announcement of the guidance is published in the **Federal Register** on August 23, 2024.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your

comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2023–D–3788 for ''Electronic Submission Template for Medical Device De Novo Requests.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see § 10.115 (21 CFR 10.115(g)(5))).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''Electronic Submission Template for Medical Device De Novo Requests'' to the Office of Policy, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Lisa Lim, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1108, Silver Spring, MD 20993–0002, 301–796–6443; or James Myers, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is issuing this guidance document to introduce submitters of De Novo requests [1] to CDRH and CBER to the current resources and associated content developed and made publicly available to support De Novo electronic submissions to FDA. This guidance is intended to represent one of several steps in meeting FDA's commitment to the development of electronic submission templates to serve as guided submission preparation tools for industry to improve submission consistency and enhance efficiency in the review process.[2] This guidance facilitates the implementation of FDA's mandate under section 745A(b) of the FD&C Act, amended by section 207 of the FDA Reauthorization Act of 2017 (FDARA) (Pub. L. 115–52 [3]) to provide further standards for the submission by electronic format, a timetable for establishment of these further standards, and criteria for waivers of and exemptions from the requirements.

FDA's guidance document ''Providing Regulatory Submissions for Medical Devices in Electronic Format—Submissions Under Section 745A(b) of the Federal Food, Drug, and Cosmetic Act'' [4] (hereafter referred to as the ''745A(b) device parent guidance'') provides a process for the development of templates to facilitate the preparation, submission, and review of regulatory submissions for medical devices solely in electronic format. As described in the 745A(b) device parent guidance, FDA plans to implement the requirements of section 745A(b)(3) of the FD&C Act with individual guidances specifying the formats for specific submissions and corresponding timetables for implementation. This guidance will provide such information for De Novo electronic submissions solely in electronic format.

A notice of availability of the draft guidance appeared in the **Federal Register** of September 29, 2023 (88 FR 67309). FDA considered comments received and revised the guidance as appropriate in response to the comments, including clarification of the use of technical screening during acceptance review and inclusion of the date when the use of eSTAR for De Novo Requests will become mandatory.

In section 745A(b) of the FD&C Act, Congress granted explicit statutory authorization to FDA to specify in guidance the statutory requirement for electronic submissions solely in electronic format by providing standards, a timetable, and criteria for waivers and exemptions. To the extent that this guidance provides such

[1] See section 513(f)(2) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) Act and 21 CFR part 860, subpart D.

[2] See 163 CONG. REC. S4729–S4736 (daily ed. August 2, 2017) (Food and Drug Administration User Fee Reauthorization), also available at *https://www.fda.gov/media/102699/download,* and 168 CONG. REC. S5194–S5203 (daily ed. September 28, 2022) (Food and Drug Administration User Fee Reauthorization), also available at *https://www.fda.gov/media/158308/downloadand* 168 CONG. REC. S5194–S5203 (daily ed. September 28, 2022) (Food and Drug Administration User Fee Reauthorization), also available at *https://www.fda.gov/media/158308/download.*

[3] *https://www.govinfo.gov/content/pkg/PLAW-115publ52/html/PLAW-115publ52.htm.*

[4] *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/providing-regulatory-submissions-medical-devices-electronic-format-submissions-under-section-745ab.*

requirements under section 745A(b)(3) of the FD&C Act (*i.e.,* standards, timetable, criteria for waivers of and exemptions), indicated by the use of the mandatory words, such as must or required, this document is not subject to the usual restrictions in FDA's good guidance practice regulations, such as the requirement that guidances not establish legally enforceable responsibilities. (See § 10.115(d).)

To the extent that this guidance describes recommendations that are not standards, timetable, criteria for waivers of, or exemptions under section 745A(b)(3) of the FD&C Act, it is being issued consistent with FDA's good guidance practices regulation (§ 10.115). The guidance represents the current thinking of FDA on Electronic Submission Template for Medical Device De Novo Requests. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance contains both binding and nonbinding provisions.

II. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/guidance-documents-medical-devices-and-radiation-emitting-products.* This guidance document is also available at *https://www.regulations.gov, https://www.fda.gov/regulatory-information/search-fda-guidance-documents* or *https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics.* Persons unable to download an electronic copy of ''Electronic Submission Template for Medical Device De Novo Requests'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number GUI00021027 and complete title to identify the guidance you are requesting.

III. Paperwork Reduction Act of 1995

While this guidance contains no new collection of information, it does refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The collections of information in the following table have been approved by OMB:

21 CFR part; guidance; or FDA form	Topic	OMB control No.
807, subpart E	Premarket notification	0910–0120
860, subpart D	De Novo classification process	0910–0844
800, 801, and 809	Medical Device Labeling Regulations	0910–0485

Dated: August 20, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–18983 Filed 8–22–24; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–N–0874]

Final Decision on the Proposal To Refuse To Approve a New Drug Application for ITCA 650

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (FD&C Act) refusing to approve a new drug application (NDA) submitted by Intarcia Therapeutics, Inc., an i2o Therapeutics Business Unit, (Intarcia) for ITCA 650 (exenatide in DUROS device). FDA has determined that the approval criteria in the FD&C Act have not been met because Intarcia has failed to demonstrate that ITCA 650 is safe for its intended conditions of use.

DATES: This notice is applicable August 23, 2024.

FOR FURTHER INFORMATION CONTACT: Rachael Vieder Linowes, Office of Scientific Integrity, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4206, Silver Spring, MD 20993, 240–402–5931.

SUPPLEMENTARY INFORMATION:

I. Factual and Procedural Background

ITCA 650 (exenatide in DUROS device) is a novel drug-device combination product for human patients intended to deliver the active ingredient, exenatide, a glucagon-like peptide-1 receptor agonist (GLP–1 RA). Intarcia proposed that ITCA 650 be indicated as an adjunct to diet and exercise to improve glycemic control in adults with type 2 diabetes mellitus. ITCA 650 is intended to provide continuous dosing of exenatide from an osmotic mini-pump implanted in the subdermal space of the abdomen for 3 months for initiation of therapy and every 6 months afterwards for maintenance therapy. ITCA 650 must be inserted and removed by a healthcare provider trained on the included placement tool and guide. ITCA 650 is proposed in two dosage strengths: 20 micrograms (mcg)/day for 3 months and 60 mcg/day for 6 months. The drug formulation used in ITCA 650 is a viscous, non-aqueous suspension. Each mini-pump of ITCA 650—20 mcg/day for 3 months and 60 mcg/day for 6 months—nominally contains 2.56 milligrams (mg) and 14.05 mg of synthetic exenatide, respectively.

On November 21, 2016, Intarcia submitted NDA 209053 for ITCA 650. In support of its NDA, Intarcia included three phase 3 clinical trials to establish substantial evidence of safety and effectiveness—CLP–103, CLP–105, and CLP–107. CLP–107, also known as FREEDOM, was a cardiovascular outcome trial (CVOT). On September 21, 2017, the Center for Drug Evaluation and Research (CDER) issued a complete response (CR) letter to Intarcia stating that the NDA could not be approved in its present form. On September 19, 2019, Intarcia resubmitted the NDA, and on March 9, 2020, CDER issued a second CR letter stating that the NDA could not be approved in its present form, describing specific deficiencies and, where deemed possible, recommending ways that Intarcia might remedy those deficiencies.

On March 16, 2021, after pursuing formal dispute resolution, Intarcia submitted a request under 21 CFR 314.110(b)(3) for an opportunity for a hearing on whether there are grounds under section 505(d) of the FD&C Act (21 U.S.C. 355(d)) for refusing to approve the NDA for ITCA 650. CDER subsequently published a notice of opportunity for a hearing (NOOH) regarding a proposal to refuse to approve the NDA (86 FR 49334

(September 2, 2021)). CDER highlighted six deficiencies with the NDA in the NOOH. CDER found that the clinical trial data raised concerns that ITCA 650 causes acute kidney injury (AKI), specifically that more subjects who received ITCA experienced AKI events than those who received the placebo. In addition to finding that those who experienced AKI events sometimes needed prolonged hospitalization, CDER also determined that ''a majority of the serious AKI events in participants randomized to ITCA 650 appeared to be associated with vomiting, diarrhea, and dehydration, which are known adverse reactions associated with exenatide therapy, supporting a causal relationship between ITCA 650 and AKI'' (86 FR 49334 at 49335). Further, CDER concluded that Intarcia's proposed risk mitigation measures were inadequate and that ''sufficient risk mitigation approaches could not be identified for the AKI risk identified in the clinical trial data, particularly because serious AKI events occurred in participants who received ITCA 650 who did not have known risk factors.'' (86 FR 49334 at 49336).

CDER's second deficiency noted that the cardiovascular risk assessment failed to provide sufficient assurances that ITCA 650 is not associated with excess cardiovascular risk. In particular, CDER stated that ''the clinical trial data suggested that ITCA 650 may be associated with an increased risk for major adverse cardiovascular events (MACE), defined as myocardial infarction, nonfatal stroke, and cardiovascular death.'' (86 FR 49334 at 49336). The other deficiencies related to concerns regarding the in vitro dose delivery performance data and drug-release specifications, delivery performance data and variability in daily in vitro drug-release (IVR) data, inadequate support of sterility assurance, and deficiencies regarding certain manufacturing practices. Key aspects of those deficiencies included that ''the in vitro device performance data demonstrated inconsistent day-to-day drug delivery and did not support that weekly and biweekly in vitro drug-release testing is adequate to ensure controlled in vivo drug release by the device constituent of ITCA 650,'' and that ''failure rate data was inadequate to support the safety and effectiveness of the device constituent of ITCA 650'' (86 FR 49334 at 49336).

Intarcia, through counsel, timely requested a hearing and subsequently submitted data, information, and analyses in support of that hearing request. Intarcia further argued that the risks identified by CDER are in line with the risks of the product class, as opposed to unique to ITCA 650, and that, provided there are appropriate restrictions included in ITCA 650's labeling, the safety profile for ITCA 650 falls in line with the product class. Intarcia stated that ITCA 650's benefits, including the new dosage form for patients, outweighs its risks and allows for a positive benefit-risk ratio that supports approval.

More specifically, Intarcia disputed CDER's determination that ITCA 650 led to higher AKI events in a controlled clinical setting compared to other products in its class. In support of its contention, Intarcia submitted an analysis of publicly available clinical review documents for Wegovy, an approved drug with a similar active ingredient, *i.e.,* a GLP–1 RA. Intarcia maintained that its analysis shows a comparable number of AKI events for Wegovy in the clinical trial setting but that FDA nonetheless approved Wegovy. Intarcia pointed to this analysis as evidence that ITCA 650's risks are in line with the drug product class risks and should also be able to receive approval, despite the AKI concerns. Intarcia made similar statements regarding adverse events (AEs) involving gastrointestinal (GI) issues stemming from AKI events in the clinical data for ITCA 650, in that their occurrence was in line with expectations for GLP–1 RA-containing drugs, including Wegovy.

Regarding the cardiovascular risk, Intarcia stated that CDER previously acknowledged that, ''due to the limited size and duration of the preapproval CVOT, the hazard ratio for cardiovascular risk was not definitive and would not constitute sufficient grounds for denial of the NDA, as long as a postmarketing CVOT would be completed.'' Intarcia stated that, because CDER overstated the AKI risk for ITCA 650 and admitted that the cardiovascular risk is not grounds for denial, ITCA 650 should be approved.

In accordance with 21 CFR 314.200, CDER then submitted a proposed order denying Intarcia's hearing request on the proposal to refuse to approve ITCA 650. In the proposed order, CDER provided findings that Intarcia had not raised a genuine and substantial issue of fact justifying a hearing regarding CDER's proposal to refuse to approve NDA 209053 in its present form. The proposed order found that the data and other evidence submitted in support of the NDA for ITCA 650 does not show the product to be safe under section 505(d)(2) of the FD&C Act:

> Intarcia's NDA fails to demonstrate that the novel combination of the DUROS pump device and exenatide (ITCA 650) is safe for use, in part because the IVR data do not demonstrate that ITCA is reliable and do not validate the limits of the dose delivery specifications for the device, the proposed acceptance criteria are too wide and would allow drug release that is not sufficiently controlled by the device to meet clinical needs, and the device hazards associated with failure modes have not been sufficiently addressed by new risk control measures.

The proposed order further described how the inaccurate dosing ''raises significant safety concerns because marked increases in [ ] exenatide increase the risk of gastrointestinal intolerability, AKI, and potentially MACE.'' In the proposed order, CDER noted how Intarcia's acceptance criteria for its dosing is ''unacceptably wide,'' indicating that the drug release is not well controlled and that, therefore, ITCA 650 is not safe for use under the proposed conditions.

Regarding the AKI events, the proposed order included analysis of Intarcia's clinical trials and concomitant findings that serious adverse events of AKI occurred in 14 study participants (0.5 percent) who received ITCA 650 (all requiring hospitalization) and 4 (0.2 percent) who received placebo. The proposed order found that this imbalance ''leads to an unfavorable benefit-risk assessment for ITCA 650 based on the data and information contained in the NDA in its present form.'' According to the proposed order, even a reanalysis of the data in a manner that would be most favorable to Intarcia would still raise a concern regarding the number AKI events for ITCA 650, leading to an unfavorable benefit-risk balance, which would preclude approval. CDER's proposed order accounted for Intarcia's Wegovy discussion and concluded that ''the numeric imbalance in serious AKI adverse events in [FREEDOM] suggests that ITCA 650 causes AKI to a greater extent than other members of the GLP–1 RA class, which did not show numeric imbalances in large, randomized clinical trials, and that the available data set ITCA 650 apart from the class with regard to AKI risk.'' The proposed order further included a conclusion that the AKI risk indicated by the data offered in support of approval cannot be adequately mitigated with post-approval measures because the AKI events occurred in patients who did not have known risk factors and they occurred in both the initial and maintenance dosing.

CDER's proposed order also addressed the cardiovascular risk, stating that the CVOT for ITCA 650, which was conducted in the population ''most

likely to reveal an adverse effect on MACE because of high baseline cardiovascular risk, had a hazard ratio (HR) for MACE alone of 1.24 (95 percent confidence interval: 0.90, 1.70).'' According to the proposed order, the HR was in the higher range, and, coupled with the AKI concerns, does not support approval. Additionally, the proposed order addressed Intarcia's contention that ITCA–650's status as a new dosing option tips the benefit-risk balance in favor of approval. CDER stated that Intarcia has provided no evidence that its new method would increase adherence among patients.

On October 10, 2022, Intarcia responded to CDER's proposed order. By letter dated February 7, 2023, the Office of the Commissioner (OC) provided Intarcia with an opportunity, pursuant to § 12.32 (21 CFR 12.32), to request a hearing under part 14 (21 CFR part 14) in lieu of a formal evidentiary hearing under part 12 (21 CFR part 12) and indicated that the Agency would conduct any such hearing before the Endocrinologic and Metabolic Drugs Advisory Committee (EMDAC). On February 20, 2023, Intarcia requested a public hearing before the EMDAC in lieu of a formal evidentiary hearing. On March 24, 2023, OC granted Intarcia's request and explained that, under § 12.32(f)(1), OC would treat the votes and discussion of the issues by the EMDAC as an initial decision under 21 CFR 12.120 and that both CDER and Intarcia could file exceptions to those votes and discussion pursuant to 21 CFR 12.125. OC further indicated that it would render a final decision for the Agency based on the public record.

On August 24, 2023, FDA published the notice of hearing before the EMDAC on the proposal to refuse to approve ITCA 650 and summarized the issues to be considered and addressed (88 FR 57958). CDER conducted the hearing before the EMDAC on September 21, 2023. After the EMDAC heard presentations from CDER, Intarcia, and the public participants, the EMDAC voted unanimously that, based on the available evidence, Intarcia had not demonstrated that the benefits of ITCA 650 outweigh its risks for the treatment of T2DM. The EMDAC members explained the reasoning behind their votes, which is summarized below. After the EMDAC meeting, Intarcia submitted timely exceptions to the EMDAC's votes and advice, and CDER responded to Intarcia's exceptions. Therefore, this matter is before the Principal Deputy Commissioner (PDC) on appeal under 21 CFR 12.130.

II. Relevant Statutory Framework

Pursuant to section 503(g) of the FD&C Act (21 U.S.C. 353(g)), for a combination product containing a drug and a device with a primary mode of action of a drug, Intarcia submitted an NDA for ITCA 650. Under section 505(d) of the FD&C Act, FDA may approve an NDA only if it contains, among other things, a demonstration of the safety and effectiveness of the product for the conditions prescribed, recommended, or suggested in the proposed labeling. FDA must deny approval if the evidence does not show that the drug is safe for use under the proposed conditions (section 505(d)(2) of the FD&C Act) or if there is insufficient information about the drug to determine whether it is safe for use under such conditions (section 505(d)(4) of the FD&C Act). In making these assessments, FDA ''implement[s] a structured risk-benefit assessment framework . . . to facilitate the balanced consideration of benefits and risks'' (section 505(d) of the FD&C Act).

III. Analysis

A. EMDAC's Votes and Discussion

At the hearing under part 14, both CDER and Intarcia made presentations consistent with their previous submissions in this matter with respect to CDER's proposal to refuse approval of ITCA 650. At the close of the hearing, in light of those presentations and the presentations by public participants, the EMDAC then considered two discussion questions and voted on whether, based on the available data, Intarcia had demonstrated that the benefits of ITCA 650 outweigh its risks for treating T2DM. The discussion questions focused on the safety profile of ITCA 650 with respect to AKI, ''cardiovascular safety'' and ''overall safety'' and the benefit-risk ''balance of ITCA 650 for the indication to improve glycemic control in patients with T2DM.''

With respect to the discussion question regarding ITCA 650's safety profile, including the risk of AKIs and cardiovascular events, the EMDAC Chair summarized the views expressed by the committee as follows:

> [R]egarding whether the safety profile of [ ] ITCA 650 has been adequately characterized based on available data with respect to the AKI safety signal, what I heard is that panel members expressed concerns about the imbalance in AKI. Although some panel members also noted the low incidence, there were concerns expressed about this risk being increased while on metformin, or ACE [angiotensin-converting enzyme] inhibitors, or ARBs [angiotensin receptor blockers], which are therapies that patients with [T2DM] are likely to be taking. * * * Regarding cardiovascular safety, there were a lot of comments about this, and I think, in general, the panel expressed a lot of concerns about the point estimate of cardiovascular risk being above 1 and felt that the cardiovascular safety signal needs to be further investigated before consideration for approval. * * * Then lastly, in terms of overall safety, the panel did have concerns. Some of the concerns expressed were related to, really again, AKI cardiovascular risk[,] but also all-cause mortality was mentioned. A few panel members expressed concerns about lack of information about glycemic excursions and rate of hyper- and hypoglycemia with concerns about variability in the release of the drug.

A review of the transcript confirms the accuracy of this summary. Of note, multiple EMDAC members expressed concerns about the AKIs and cardiovascular risks given how little is known about the drug delivery and the variability of the delivery levels. In general, the EMDAC expressed a need for more data related to AKIs, cardiovascular risks, and overall safety to assess whether ITCA 650 is sufficiently safe for the indicated population.

With respect to the discussion question regarding the benefit-risk balance of ITCA 650, the EMDAC Chair summarized the committee's stated views as follows:

> Regarding the panel's assessment of the benefit-risk balance of ITCA 650 for the indication to improve glycemic control in patients with [T2DM], what I heard was that, in general, panel members felt that the benefits of ITCA 650 didn't outweigh the risks. Panel members commented on the moving testimonies during the open public hearing. [T2DM] is a devastating disorder to live with. We need to do better with available therapies and other treatments, but right now there are other options for [T2DM] treatment, and several of them reduce cardiovascular risk and risk for kidney outcomes. * * * Furthermore, I heard the panel members talk about adherence being a very complex problem, and the management of [T2DM] is not just about taking a single medication; there are many other factors. Right now, we really don't have evidence for improved adherence or adequate data to alleviate the safety concerns. The benefit of [ ] lowering [blood sugar levels] is not enough for a [T2DM] medication necessarily now; we need to also be looking at cardiovascular benefits, heart failure, and kidney outcomes, among others.

A review of the transcript again confirms the accuracy of the Chair's summary. Of additional note, several EMDAC members expressed concerns that variability in drug delivery by ITCA 650, as suggested by the data, could lead to patients receiving less reliable dosages of the drug on a regular basis than they would if they were using an

analogous drug regimen not delivered via an osmotic drug-delivery device.

The hearing concluded with the EMDAC's consideration of a voting question: ''Based on the available data has the [sponsor] demonstrated that the benefits of the ITCA 650 drug-device combination product outweigh its risks for the treatment of T2DM?'' As noted above, the EMDAC members voted unanimously—by a vote of 19 to 0—that Intarcia had failed to make such a showing, and each provided a rationale for their vote. The Chair summarized the EMDAC members' stated rationales as follows:

> As you heard, none of the panel members voted yes[,] and all 19 panel members voted no. What I heard is that panel members mentioned the uncertainty about AKI and cardiovascular safety, as well as the variability in drug delivery being the greatest concerns, and then whether or not this is the best version of the device was questioned. * * * I think, overall, the panel acknowledged the work that has gone into ITCA 650 and this innovative approach[ ] but felt that it would be a disservice to our patients to recommend approval with the safety and drug delivery concerns that exist, and panel members voiced their understanding of the negative impact of [T2DM] and the hope that the applicant can do [ ] additional safety studies because of the great potential for this device.

Of note, the EMDAC consistently voiced safety concerns about ITCA 650 based on the data presented at the hearing, including the potential for cardiovascular complications and AKIs and the variability of the dosages provided by the device component of the product. Several EMDAC members also observed that resolving these safety concerns before approval of ITCA 650 would be essential and that post-approval studies would be inadequate to ensure the safety of the product for patients.

B. Procedural Objections Raised by Intarcia on Appeal

On appeal, Intarcia's arguments regarding the procedural aspects of the EMDAC hearing generally question the overall fairness of the proceeding. In general, Intarcia presented concerns related to the scope of the meeting and the voting question, specifically that the EMDAC did not focus solely on the issues identified in CDER's NOOH and that the considerations before the EMDAC were ''unjustly expanded'' beyond the scope of the NOOH. Furthermore, Intarcia states that the EMDAC Chair did not let Intarcia address certain ''inaccurate statements'' made by CDER and the EMDAC regarding: (1) the death narratives for certain subjects in the clinical studies of ITCA 650 and (2) a comparison of AKI events in the clinical data for ITCA 650 in relation to the clinical data for other products in the same class that received FDA approval. Intarcia also argues that CDER's presentation approach ''did not allow the EMDAC to engage in a fact-based and evidence-based deliberation and voting discussion that was supported to address the comparative GLP–1 safety assertions in CDER's proposed order under dispute.'' Where procedural objections and factual objections intertwine, the PDC addresses the core of the factual disputes below. Here, the analysis focuses on the overall fairness of the hearing.

After considering Intarcia's procedural objections, the PDC finds that they are unfounded. When Intarcia requested the part 14 hearing in lieu of a formal evidentiary hearing under part 12, the PDC did not limit the scope of what would be reviewed by the EMDAC. CDER appears to have followed its standard processes for advisory committee meetings and presented its full assessment of Intarcia's NDA to enable the EMDAC to render an initial decision on whether the data offered in support of the NDA show that the benefits of ITCA 650 outweigh its risks. Intarcia received proper notice of the issues before the EMDAC, including the voting question. As was borne out at the EMDAC meeting itself, Intarcia had the opportunity to shape the issues for the advisory committee meeting through its briefing materials and presentation.

As to Intarcia's contentions regarding the EMDAC Chair's meeting facilitation the PDC does not find any evidence of unfairness or prejudice against Intarcia after reviewing the EMDAC transcript. Both CDER and Intarcia had opportunities to present their views on the issues, ask clarifying questions of the other, and answer questions posed by the EMDAC. Intarcia argues that there were instances when the EMDAC Chair did not allow it to properly rebut certain assertions by CDER or the EMDAC members and when the EMDAC Chair made allegedly inaccurate statements. The PDC does not find that the inability to further respond to certain issues created an unfair hearing or any prejudice in this instance. The statements that Intarcia claims it was unable to rebut or challenge, namely statements regarding the death narratives for certain clinical study subjects and AKI rate reflected in the clinical data for ITCA 650 compared to the data for other products in the same class, were addressed in both CDER and Intarcia's presentations, as well as in the EMDAC's briefing documents. Intarcia had ample opportunity throughout the hearing to address both topics. Therefore, the EMDAC Chair's decision not to give Intarcia an additional opportunity to address either matter does not persuade me that the hearing was unfair. Further, as the PDC will explain in more detail below—after considering the additional information Intarcia presented on appeal, including statements on the death narratives and examples of what Intarcia states were ''inaccuracies''—the PDC does not believe that any of the procedural issues to which Intarcia points prejudiced it in a meaningful way or materially affected the advice and recommendations provided by the EMDAC. Perhaps more importantly, the PDC concludes that any alleged deficiency in the hearing process before the EMDAC would not affect her judgment with respect to the substantive issues discussed next.

C. Substantive Objections Raised by Intarcia on Appeal

Intarcia's factual challenges center on three areas: the AKI discussion and conclusions, the necessity of a post-approval CVOT, and the IVR data and performance. Intarcia disputes numerous assertions and findings related to AKI events in the clinical data offered in support of approval, including: (1) whether the number of serious adverse events (SAEs) in the clinical studies cited by CDER was accurate, (2) whether the AKI events are a product-class issue, as opposed to an issue specific to ITCA 650, and (3) whether the GI-related events are also a drug-class issue related to the AKI events. Intarcia further disputes the EMDAC's findings on the necessity of another pre-approval CVOT, largely by suggesting that CDER's presentation on the issue was incomplete or misleading. Intarcia states that CDER misrepresented conclusions related to the necessity of another CVOT and that CDER presented conclusions conflicting with statements from its own dispute resolution process. Intarcia also asserts that there were multiple areas where CDER either did not provide proper context or provided false information regarding ITCA 650 and other products in the drug class. Regarding ITCA 650's device performance and dose variability, Intarcia claims that CDER's presentation was misleading in that it relied on hypotheticals while discussing the device.

Beyond these specific challenges, Intarcia generally argues that the data provided in ITCA 650's NDA shows that the combination product would have a

positive benefit-risk profile if (1) the labeling included an AKI warning consistent with other products in its class and (2) Intarcia conducts a post-approval CVOT study. Intarcia presented a letter from 12 experts stating that (1) ITCA 650 addresses an unmet need by promoting adherence to the therapy though its implant, (2) the AKI imbalance issue is well-known and there is no ''meaningful difference'' between ITCA 650's occurrences and others in the drug class, and (3) the cardiovascular data meet the requirements for approval with a post-marketing study to ''further narrow the confidence interval around MACE events.'' Furthermore, Intarcia asserts that CDER made ''numerous misrepresentations of fact'' and that the EMDAC was given ''materially false and misleading information'' in the CDER briefing documents, which ''did not allow the EMDAC to engage in a fact-based and evidence-based deliberation and voting discussion that was supported to address the comparative GLP–1 safety assertions in CDER's proposed order under dispute.'' [1]

Before addressing the specific factual challenges, the PDC first addresses the allegations that CDER made misrepresentations of facts and presented materially false and misleading information. In support of this position, Intarcia points to alleged inconsistencies in CDER's position during the review process and in its presentation to the EMDAC. For example, Intarcia states that CDER made misrepresentations related to the MACE data and the intersection of that data with the AKI imbalance by citing what it claims are differences in CDER's position in the formal dispute resolution process and the current process. In both the proposed order and its presentation to the EMDAC, CDER has consistently described its concerns with the MACE data and maintained that, taken together with its other concerns with ITCA 650, the data do not support approval because the benefit-risk profile presented by the clinical data offered in support of the NDA does not support approval. The documents associated with the prior dispute resolution process are not part of the record before the PDC in this proceeding. Nevertheless, even if Intarcia's allegations of inconsistency are accurate, a mere evolution in thinking by CDER, including statements in previous decisions by specific officials within CDER, would not establish that CDER misled the EMDAC.

In support of its position that CDER misled the EMDAC, Intarcia also includes a list of allegedly inaccurate claims that misled the EMDAC, including but not limited to the number of AKI-related deaths, the AKI imbalance calculation, and hypothetical device graphs used during CDER's discussion of the IVR concerns. Intarcia's disagreement with CDER's assessments do not even approach establishing that CDER made an effort to mislead the EMDAC, and a review of Intarcia's arguments and the underlying record bears out that Intarcia merely disagrees with CDER's interpretation of the evidence in many instances.

Regarding the AKI disputes, the differences in interpretation of the data regarding AKI events were central to the presentations by Intarcia and CDER, and their divergent views do not establish an effort by CDER to mislead the EMDAC. The PDC addresses the disputes regarding AKI events in the clinical data in detail below but finds nothing in the record before her to indicate that CDER misled the EMDAC or included inaccurate information in its briefing materials for or its presentation to the EMDAC. As to the IVR dispute, CDER affirmatively disclosed that its presentation used hypothetical graphs, negating the argument that the data used in those hypothetical graphs were inaccurate or misleading. CDER appears to have presented those graphs to demonstrate the effect of inconsistent dose delivery in hypothetical devices as a means of providing context and enabling a fuller understanding of the clinical data presented. While the PDC does not explicitly address each aspect of Intarcia's claims that CDER misled or misrepresented the evidence or data to the EMDAC, the record before her establishes that Intarcia's arguments along those lines reflect disagreement with CDER's interpretation of the data and do not show that the CDER's presentation to the EMDAC or its briefing materials were misleading or inaccurate. Further, as previously discussed, Intarcia had ample opportunity to challenge CDER's interpretation of the data and frame the scientific issues for the EMDAC.

After reviewing the information presented by Intarcia on appeal and documents contained in the public record, the PDC finds that CDER's presentation, while at odds with Intarcia's own interpretation of the underlying data, contained appropriate conclusions. As to the allegedly inaccurate statements by the EMDAC Chair, a review of the evidence and the meeting transcript supports that the EMDAC's overall assessment was amply reasoned and supported based on the underlying record. In short, the PDC finds that the data presented and evaluated by the EMDAC regarding the safety of ITCA 650 precludes a finding that the drug is safe for use under the proposed conditions.

Intarcia urges FDA to consider ITCA 650's NDA based on a comparison to approved drug products, rather than on its own standalone merits. The PDC finds that the benefit-risk profile of ITCA 650, as reflected in the data and other information presented at the hearing, is inadequate to support approval. In so finding, the PDC is aligned with the conclusions of the EMDAC, whose stated views on the safety of ITCA did not, to any meaningful degree, hinge on comparisons to the benefit-risk profile of other therapies. The evidence presented to the EMDAC highlights serious safety concerns that have not been adequately addressed by the information contained in ITCA 650's NDA. Based on the multiple safety concerns addressed below, the NDA in its present form does not support a determination that ITCA 650 is safe within the meaning of section 505(d)(2) of the FD&C Act. As discussed in more detail below the PDC has further concluded, based on the data, information, and arguments presented to the EMDAC, that Intarcia has failed to show that the benefit-risk profile of ITCA 650 compares favorably to drug products currently on the market.

The PDC now addresses each area of concern identified by Intarcia with respect to EMDAC's conclusions regarding the clinical data offered to support approval of ITCA 650, namely issues related to concerns expressed by CDER with respect to AKI and cardiovascular events and variability in the dosing provided by the product.

[1] After the EMDAC meeting, the PDC received comments from former Intarcia employees who claimed that CDER made misleading claims during the EMDAC meeting. These documents are available on the docket at *https://www.regulations.gov,* docket numbers FDA–2021–N–0874–0081 and FDA–2021–N–0874–0082. Specifically, the individuals challenged hypothetical information that CDER provided the EMDAC related to device performance and CDER's failure to address certain analysis related to the IVR data. Consistent with the analysis included in this section, the PDC has considered the claims and, after reviewing information contained the public record, the PDC finds that CDER did not mislead the EMDAC by presenting to the EMDAC hypothetical information. CDER explicitly stated that the information provided was based on a hypothetical. Nor does the PDC find it problematic that CDER failed to address aspects of the IVR data submitted in support of the NDA for ITCA 650. CDER need not address all aspects of an NDA file to support its position; rather, CDER may determine what it feels are the key aspects underlying its determination and present on those topics accordingly.

1. AKI Events

As described above, the EMDAC highlighted concerns related to AKI events reflected in the data, including the number of AKI events observed in the clinical data and the likelihood that the AKI risk would increase if the patient were also taking common T2DM therapies while using ITCA 650. The EMDAC also expressed concerns about the number of reported AKI events in the clinical data even with a low proportion of participants with significant chronic kidney disease. The EMDAC expressed concerns about how the AKI rates would translate in a real world setting when the indicated population would likely have higher, or more serious, rates of chronic kidney disease.

CDER has stated that, based on the evidence included in the NDA, clinical trial subjects who received ITCA 650 had more AKI events than the control group. CDER, relying on individual and pooled analyses of the three ITCA 650 phase 3 clinical trials and the resulting analyses, found a numeric imbalance in serious AKI events:

> Baseline eGFR category was coded as mild renal impairment (baseline eGFR 60 to 89 mL/min/1.73m2) for 9 subjects and moderate renal impairment (baseline eGFR 30 to 59 mL/min/1.73m2) for 5 subjects who had AKI SAEs in the ITCA 650 treatment arm. As shown in Table 30 (Section 5.2) among these 5 subjects categorized as 48 moderately renally impaired at baseline, two subjects had baseline eGFRs of 57 and 58 mL/min/1.73m2, respectively, and no subject had baseline eGFR. . . . Only a limited number of subjects with chronic kidney disease (CKD) stage 3 or worse were enrolled in any of the trials, including FREEDOM: as previously noted, only one subject in CLP–103 had a baseline eGFR under 60 mL/min/1.73m2, fewer than 5% of subjects in CLP–105 had a baseline eGFR under 60 mL/min/1.73m2, and fewer than 10% of subjects in CLP–107 had a baseline eGFR under 60 mL/min/1.73m2 at baseline. The AKI signal in FREEDOM was observed in a population less susceptible to AKI I, whereas no AKI signal was observed in the other [GLP–1 RA] CVOTs which studied populations more susceptible to AKI . . . further indicating that the risk of AKI associated with use of ITCA 650 is greater than the risk of AKI associated with currently marketed [GLP–1 RAs].

The crux of Intarcia's argument related to the AKI events reflected in the clinical data for ITCA 650 is that AKI concerns expressed by both CDER and the EMDAC are a drug-class risk and no worse for ITCA 650. Intarcia points to data from various other drug products to support its assertions. Intarcia also disputes the number of AKI events presented by CDER, claiming that there are 11 AKI events instead of the 14 counted by CDER.

In its presentation to the EMDAC, CDER discussed a key concern contained within the data—namely, an increase in AKI events in trial subjects who received the drug, particularly in Intarcia's largest study, FREEDOM, which had a relatively low proportion of subjects with significant chronic kidney disease:

> All but one serious AKI event and all but 4 nonserious AKI events occurred in Study CLP–107 (FREEDOM), the largest study with the longest median follow up time. Baseline eGFR is associated with risk of AKI events (Grams et al. 2010); *e.g.,* patients with eGFR below 60 mL/min/1.73m2 have greater risk than patients with higher eGFR. Only a limited number of subjects with chronic kidney disease (CKD) stage 3 or worse were enrolled in any of the trials, including FREEDOM: as previously noted, only one subject in CLP–103 had a baseline eGFR under 60 mL/min/1.73m2, fewer than 5% of subjects in CLP–105 had a baseline eGFR under 60 mL/min/1.73m2, and fewer than 10% of subjects in CLP–107 had a baseline eGFR under 60 mL/min/1.73m2 at baseline. The AKI signal in FREEDOM was observed in a population less susceptible to AKI, whereas no AKI signal was observed in the other [GLP–1 RA] CVOTs which studied populations more susceptible to AKI (see Table 21)—further indicating that the risk of AKI associated with use of ITCA 650 is greater than the risk of AKI associated with currently marketed [GLP–1 RAs].

The EMDAC appears to have agreed with this analysis.

Having a low proportion of participants with significant chronic kidney disease would lead to the expectation that there is a lower baseline risk for AKI events. Renal impairment is common for those with T2DM. Therefore, if an AKI safety concern is present for those who do not have significant renal concerns, it raises serious questions regarding the potential AKI risk to those in the patient population for ITCA 650 that Intarcia has proposed. The indicated population would generally have underlying renal impairment concerns. The higher risk observed in the clinical data for ITCA 650 raises issues about the potentially greater risk in the postapproval setting. In the monitored setting of a clinical trial, some AKI events may be prevented or mitigated, but doing so is more difficult in the real world. As explained in CDER's proposed order, ''sufficient risk mitigation approaches could not be identified for the AKI risk, particularly because serious AKI events occurred in participants who did not have known risk factors, could occur at unpredictable times, and were observed with both the initial (20 mcg/day) and maintenance dose (60 mcg/day) of ITCA 650'':

> [T]here is no evidence to support Intarcia's assertion that the AKI events occurred in ''well-defined windows'' of treatment initiation and dose escalation. Although some of the AKI events in the treatment group occurred proximate to implantation and dose escalation, others occurred at unpredictable time points thereafter. The unpredictable timing of these events makes it impossible to adequately warn providers as to when patients may be most likely to experience serious AKI. Accordingly, the clinical trial data support CDER's conclusion that the AKI risk cannot be adequately mitigated through labeling.

The PDC further finds that, if serious AKI events are occurring in individuals without significant renal concerns and at variable times, there is insufficient reason to believe that the potential for AKI events stemming from ITCA 650 can be addressed through risk mitigation measures, such as labeling or patient monitoring, because healthcare providers would not have adequate information to identify patients requiring additional monitoring or education.

Additionally, throughout the process, CDER also responded to Intarcia's contentions that the increase in AKI events was observed in those in the study who were also using metformin. As CDER and the EMDAC correctly noted, metformin usage is a first line treatment for patients with T2DM, and therefore this signal would apply to the majority of the intended patient population for ITCA 650. Given that metformin is not believed to be associated with an increased AKI risk, the increase in AKI events for ITCA 650 for those patients being treated with metformin simply reinforces the conclusion that ITCA 650 poses an increased AKI risk, especially for those in the intended patient population. Indeed, as CDER explained in its briefing materials for the EMDAC, study subjects in both the control and test groups were often taking metformin:

> Study CLP–105 was a multicenter, randomized, double-blind (subjects randomized to ITCA 650 and placebo pill or to sitagliptin and placebo ITCA 650 device), active comparator trial that compared efficacy, safety, and tolerability of ITCA 650 to sitagliptin, both as add-on to metformin.

Regardless of the AKI risk associated with approved products whose active ingredient is a GLP–1 RA, the evidence underlying the NDA for ITCA 650 highlights a concerning AKI risk arising in subjects that did not have significant renal impairment. The PDC notes that neither in its recommendations nor its underlying reasoning, did the EMDAC

address the risk comparisons that Intarcia included in its presentation. The EMDAC's focus in those recommendations on the data for ITCA 650—as opposed to comparisons of the data underlying ITCA to that for GLP–1 RA-containing products—effectively conveys the EMDAC's view that it is not necessary to reach such comparisons to conclude that ITCA 650 is not safe for its intended use. Indeed, the PDC agrees with the EMDAC's overall conclusions that the AKI events observed in the clinical data are a significant safety concern regardless of comparisons to other available therapies.

Additionally, even if the PDC was to view Intarcia's arguments regarding the number of AKI events in its favor and find that there were only 11 AKI events for subjects being treated with ITCA 650, it would still not address the overriding concern of the AKI risk appearing in a subject population with low significant chronic kidney disease. Regardless of which count is used, although the number of AKI events in the ITCA 650 Phase 3 trials was small, there is an overall, and serious, increase in AKI events for ITCA 650.

Separately, despite the concerns just described, were the PDC to consider Intarcia's arguments regarding ITCA 650's risk relative to the risk of similar products with an analogous indication, the evidence presented to the EMDAC supports that ITCA 650 in fact presents a higher risk than approved drug products containing GLP–1 RA as an active ingredient. After analyzing the CVOTs for other products in the class, CDER summarized its findings in its EMDAC briefing materials:

> CDER interrogated the CVOTs of the approved [GLP–1 RA] products with the same censoring schemes, [standardized MedDRA queries] (SMQs), and [FDA MedDRA queries] (FMQs) as were applied to FREEDOM. . . . CDER notes that the imbalance in AKI seen in FREEDOM (labeled ITCA in Figure 12) was not observed in other CVOTs in the [GLP–1 RA] class. This imbalance in AKI was observed despite FREEDOM enrolling a lower proportion of subjects with baseline moderate-to-severe renal impairment compared with other CVOTs in the [GLP–1 RA] drug class, such that the FREEDOM population would be expected to have lower baseline risk for AKI events (Table 21).

CDER concluded:

> The higher risk observed in the preapproval database for ITCA 650 raises concern about the potentially greater risk versus other [GLP–1 RA] products in the postapproval setting: in the monitored setting of a clinical trial, some AKI may be prevented or mitigated, while this may not consistently occur in clinical practice. Moreover, the number of patients exposed to the ITCA 650 product would be much higher postapproval, and both of these factors differentiate the preapproval from the postapproval setting.

CDER reiterated in its presentation to the EMDAC that ''no approved [GLP–1 RA-containing] product had an AKI imbalance in their premarket or postmarket clinical trials.'' In response, Intarcia points to the AKI warning included in Wegovy's labeling, which it claims refutes the notion that no AKI imbalances occurred in the clinical trials for GLP–1 RA products. Intarcia's argument conflates AKI occurrence with an AKI imbalance. CDER does not claim that AKI events never occurred in GLP 1- RA related clinical trials, but rather that the number of events that occurred in FREEDOM led to an imbalance that was not seen for any other GLP–1 RA products in a randomized clinical trial. The relative number that occurred in FREEDOM distinguishes ITCA 650 from the other clinical trials for approved products containing a similar active ingredient, which may have had instances of AKI events but in a smaller proportion than ITCA 650 in the preapproval setting.

Intarcia specifically points to Wegovy as an example of another GLP–1 RA product that had an AKI imbalance in its randomized clinical trials and still received approval; however, that argument is not borne out by the data. As explained in CDER's proposed order:

> Intarcia asserts that there was an imbalance in serious AKI events during titration in both Wegovy arms (1.0 mg and 2.4 mg) in Trial 4374 (STEP 2). Intarcia states that the percentage of participants with serious AKI for each arm in STEP 2, and in STEP 2 overall, was ''identical'' to the percentage of treatment-emergent serious AKI in [FREEDOM]. The STEP 2 trial demonstrated a rate of serious AKI adverse events of 0.5% for both the 2.4 mg and 1 mg arms (2 participants with serious AKI events per arm), and 0.2% for the placebo arm (1 participant with serious AKI events). Although Intarcia claims these percentages are comparable to the AKI risk demonstrated in [FREEDOM], there are too few events (*i.e.,* just two versus one event) for a meaningful analysis, in contrast to the larger serious AKI imbalance observed in the ITCA 650 development program.

The PDC agrees with CDER's analysis. Indeed, considering that ITCA 650 showed an AKI imbalance in a preapproval trial, where no others in the class presented similar concerns, the PDC finds that ITCA 650 presents a higher risk than approved products containing a GLP–1 RA.

GI-related issues. Intarcia makes additional arguments on appeal relating to the incidence of GI events in the study subjects using ITCA 650 and again focuses on how the GI events are a drug-class risk and whether the GI events observed for ITCA 650 in the clinical data are comparable to those observed for other products in the class in the clinical data or otherwise. Intarcia includes arguments surrounding the GI events and dose titration and contends that, after dose escalation, the number of GI events decreased. As stated, the pivotal question here is whether the data offered in support of the NDA for ITCA 650 yields a positive benefit-risk profile adequate for a finding of safety.

CDER described the connection between GI events to AKI occurrence in its briefing materials, stating that ''CDER's review of the narratives of serious AKI events that occurred in the ITCA 650 treatment arms revealed 11of 14 events described GI symptoms (*e.g.,* nausea and vomiting) and dehydration that preceded development of AKI.'' Intarcia does not contest CDER's findings that serious AKI events in FREEDOM were preceded by GI symptoms. Given the concerns outlined in the AKI discussion, the PDC finds that these GI events and the connection to the AKI risk are yet another indication that ITCA 650's NDA has not provided enough evidence and data to show a benefit-risk profile that would support a finding that ITCA 650 is safe within the meaning of section 505(d)(2) of the FD&C Act. Regarding the relationship between dose titration and GI events, as the PDC will discuss in the IVR-related section, the PDC finds that the wide variability in dose accuracy does not support that the GI issues would necessarily be adequately controlled after the initial titration period.[2]

2. Cardiovascular-Related Issues and the Necessity of a Pre-Approval CVOT

Both CDER, and later the EMDAC, expressed concerns regarding cardiovascular safety. Specifically, the EMDAC felt that, after looking at the various data analyses, the CVOT did not adequately exclude the possibility that ITCA 650 is associated with an excess risk of cardiovascular harm. The EMDAC disagreed with Intarcia's view that, because its CVOT met the primary end point requirements and conformed to FDA guidance, those findings are sufficient alone to support approval of ITCA 650. The EMDAC concluded that,

[2] Insofar as Intarcia argues that the GI issues associated with ITCA 650 compare favorably to approved products containing a GLP–1 RA, Intarcia ties those arguments to the occurrence of AKI and cardiovascular events in the clinical data for the products at issue (including ITCA 650). Thus, the PDC finds that the analysis in the previous and next sections adequately addresses those arguments.

given the MACE point estimate was above one, the cardiovascular safety signal should be further investigated before ITCA 650 receive approval. Some members of the EMDAC found that, regardless of point estimates or HRs, a concerning cardiovascular signal in a preapproval trial is itself enough to warrant further investigation before approval. Further, in addressing the discussion question on the cardiovascular risks, the EMDAC found that the current data, as a whole, did not establish that ITCA 650 was sufficiently safe to warrant approval and recommended that Intarcia perform another pre-approval CVOT.

On appeal, Intarcia contests both the need for another pre-approval CVOT, stating that its original pre-approval CVOT meta-analysis met CDER's primary end point requirements, and the comparison of its CVOT results to post-approval CVOTs for other products. Intarcia also contends that CDER's current analysis conflicts with previous statements. Lastly, Intarcia states that a ''larger, longer, *post-approval* CVOT is warranted and would be performed.''

Intarcia does not, however, dispute that the CVOT showed an HR estimate of 1.12, with a 95 percent confidence interval. Moreover, Intarcia does not challenge the number of MACE incidents or contend that collecting additional CVOT data is warranted. But the fundamental question is whether the data submitted with the NDA show a benefit-risk profile sufficient to establish the safety of ITCA 650 for approval. Whether, if ITCA 650 were approved, FDA would require a postmarketing CVOT is a separate issue. In the PDC's view, the cardiovascular data for ITCA 650 are troubling and do not characterize the risks associated with the product, including the cardiovascular risk, in a manner adequate to support the finding of safety necessary for approval.

Additionally, were the PDC to consider Intarcia's CVOT comparisons to other GLP–1 RA products, the PDC still finds that the ITCA 650 data does not adequately characterize the cardiovascular risks associated with ITCA 650. CDER analyzed FREEDOM in its EMDAC briefing materials and summarized its findings:

> Notably, Table 21 [,which compared baseline subject characteristics across CVOTs in the GLP–1 RA class,] demonstrates that at baseline, a smaller proportion of subjects enrolled in FREEDOM had moderate or severe renal impairment than the trial populations of any other CVOT in the class, and the proportion of subjects with baseline [cardiovascular] disease was lower relative to most of the other [GLP–1 RA] CVOTs. This observation is reflected in the lower incidence of MACE in the placebo arm of the trial compared to the placebo arms of the other trials (Table 22). As noted above, imbalances in MACE events unfavorable to ITCA 650 were most pronounced in susceptible subgroups (*i.e.,* subjects ≥65 years of age, and subjects with baseline moderate to-severe renal impairment), as interventions that increase risk of MACE cause the greatest harm among the highest-risk populations.

CDER concluded:

> The primary and secondary endpoint analyses and all other prespecified analyses of CV risk, regardless of pooling or censoring strategy utilized, support the same conclusion: the results of FREEDOM, a dedicated CVOT which enrolled patients with T2DM at high CV risk, do not adequately exclude the possibility that ITCA 650 is associated with excess risk of CV harm.

On appeal, Intarcia merely dismisses CDER's analyses as scientifically unsound and reiterates that a postapproval CVOT is warranted because the preapproval CVOT met the primary endpoint requirements. However, the PDC agrees with CDER's analysis regarding comparisons between the preapproval clinical data offered in support of approved GLP–1 RA products and the data presented in support of ITCA 650 in this proceeding.

Diabetes is associated with an elevated risk of cardiovascular disease. The PDC finds that, while the original CVOT met the primary end point requirements, the PDC agrees with CDER's and EMDAC's concerns that the HR, especially in light of the other findings, does not provide adequate assurance that ITCA 650 is not associated with an increase in cardiovascular risk. Contrary to Intarcia's assertions, meeting the primary endpoints in the original CVOT is not sufficient, standing alone, to show that the existing clinical data adequately characterizes the cardiovascular risks associated with ITCA 650 to conclude that the product is safe. Meeting the primary endpoints is merely one data point in the overall assessment of the overall benefit-risk assessment of a medical product. As described by CDER in the briefing materials to the EMDAC and highlighted through tables 20–22 in those materials, the primary and secondary endpoint analyses, regardless of pooling strategy, supports that the data generated by FREEDOM, the only CVOT conducted thus far, do not adequately exclude the possibility that ITCA 650 is associated with excess risk of cardiovascular harm. As described in CDER's briefing materials to the EMDAC, ''imbalances in MACE events unfavorable to ITCA 650 were most pronounced in susceptible subgroups (*i.e.,* subjects ≥65 years of age, and subjects with baseline moderate to-severe renal impairment), as interventions that increase risk of MACE cause the greatest harm among the highest-risk populations.'' Intarcia's concession that a postmarket CVOT is warranted aligns with the PDC's view that more data is necessary to adequately characterize the cardiovascular risk associated with ITCA 650 for a full assessment of the product's benefit-risk profile and a determination of safety. The question is when that CVOT should occur, and the PDC agrees with CDER and the EMDAC that the data available for ITCA 650 does not satisfy the requisite threshold for safety under section 505(d)(2) of the FD&C Act. Therefore, discussion of a postmarket study is premature.

3. IVR-Related Concerns

Finally, in considering whether the benefits outweigh the risks for ITCA 650, the EMDAC also expressed concerns about the variability in drug delivery and the device itself. CDER's review of the data found that the IVR ranges for ITCA 650 are unacceptably wide, leading to concerns with dose accuracy. On appeal, Intarcia's states that its daily IVR testing meets the acceptance criteria and necessary confidence intervals and offers comparisons to other products on pharmacokinetic variability. Focusing on the issue of variability, the PDC finds that Intarcia has not presented adequate information to ensure that ITCA 650 would be safe for the proposed indication.

In its previous submissions, and in its appeal, Intarcia lists its proposed IVR range for each dosage target: for the 20 mcg/day device, from days 0 to 14, the proposed IVR range is 2 to 40 mcg/day, which represents 10 percent to 200 percent of the target dose. From days 14 to 91, the IVR range is 10 to 36 mcg/day, which represents 50 percent to 180 percent of the target dose. For the 60 mcg/day device, the IVR range for days 0 to 28 is 2 to 120 mcg/day, which represents 3.3 percent to 200 percent of the target dose. The IVR range for days 28 to 182 is 25 to 110 mcg/day, which represents 50 percent to 180 percent of the target dose. Intarcia states that these ranges are within a 95 percent confidence interval with 80–90 percent reliability, but they nonetheless reflect very wide acceptance criteria. For both the 20 mcg/day device and the 60 mcg/day device, after day 14, a patient could receive anywhere from 50 percent to 180 percent of the exenatide dose, which could also result in rapid shifts

between either end of the spectrum on a daily basis. A device that might deliver 3.3 percent, 10 percent, or 200 percent of the target dose would be expected to cause clinical adverse events related to irregular daily dosing when administering exenatide. As noted by CDER in its proposed order,

> Such wide acceptance criteria would allow for daily exenatide release that is not controlled sufficiently by the ITCA 650 device to safely meet clinical needs for the proposed indication. For example, because in steady state both ITCA 650 devices can deliver on a daily basis anywhere from 50% to 180% of the target dose of exenatide, rapid shifts in exenatide exposure could result. Increasing exposures to exenatide are known to result in gastrointestinal adverse reactions such as vomiting and diarrhea leading to dehydration, decreased intravascular volume, and AKI.

Intarcia argues that the GI concerns lessen after dose titration and escalation, but such a wide dosing range undermines that position. If patients are never assured of how much exenatide they are receiving, if they receive too little or too much, there is always an elevated risk of GI events with ITCA 650 in its present form.

In general, applicants propose acceptance criteria, and FDA may agree or disagree with the proposal, depending on the data. The data submitted by Intarcia are intended to show that the device meets the proposed acceptance criteria to a specific confidence interval. Even if the specific ITCA 650 performance data submitted are within a tighter range than the acceptance criteria proposed by Intarcia, those acceptance criteria are inappropriate because they would allow for manufacture of the device with unacceptably wide criteria. As stated in CDER's proposed order, ''[t]he wide acceptance criteria specifications for both the 20 mcg/day and the 60 mcg/day devices would allow for drug release that is unreliable and not controlled sufficiently by the device to meet clinical needs.'' The IVR acceptance criteria proposed by Intarcia are very wide and thus indicate that drug release is not well controlled by the device.

Additionally, given that the IVR ranges are so wide, the confidence interval and reliability percentages are low for ITCA 650. As CDER described in its proposed order,

> CDER typically recommends that dose accuracy requirements are met with 95% confidence and 95% reliability. In this context, reliability is the probability that the device will perform satisfactorily for a specified period of time for the intended use. Because ITCA 650 is an implantable device that does not communicate device failures to the end user (*e.g.,* device occlusion, free flow, etc.), an even higher level of reliability is expected (>99%).

It is even more imperative that ITCA 650 doses reliably because it does not communicate device failures to the user. As explained by CDER in its briefing materials,

> A patient may only discover that a device failure occurred during use due to the onset of symptoms related to the device failure. This lack of user awareness regarding the status of drug delivery necessitates a high degree of device reliability to ensure that use of the device is safe in patients.

Intarcia's analysis does not support its claims related to dose accuracy, given the low reliability percentages as well as the wide IVR specification ranges. The wide acceptance criteria specifications for both the 20 mcg/day and the 60 mcg/day devices would allow for drug release that is unreliable and not controlled sufficiently by the device to meet clinical needs. Given the rates of adverse events in the clinical trials for ITCA 650, as discussed above, it is reasonable to interpret those safety signals as potentially flowing from dosing variability. In short, the data do not support that the intended patient population would receive an accurate dose of exenatide each day, thereby leading to adverse health events.

Intarcia on appeal compares ITCA 650's IVR data to other products' data. The PDC does not find Intarcia's arguments regarding such comparisons to be persuasive. On appeal, Intarcia references another exenatide product, Byetta, which it says, ''is known to have large swings in pharmacokinetic variability.'' As noted in the proposed order, however, ''Byetta is not an implanted device. Byetta (exenatide) is a twice daily injection indicated as an adjunct to diet and exercise to improve glycemic control in adults with type 2 diabetes mellitus.'' CDER, in the proposed order, further explained, ''The timing of the injections is specific and clearly outlined in the prescribing information. In contrast, as discussed in detail above, Intarcia's proposed IVR acceptance criteria are very wide and as such would allow for drug release that is not sufficiently controlled by the device.'' Similarly, Bydureon, which Intarcia points to as an example of an exenatide product with comparable pharmacokinetic variability, is also not an implantable device but instead is a weekly injectable. CDER compared ITCA 650 and Bydureon's variability in its briefing materials and summarized the findings:

> Quantification and comparison of within-subject variability (WSV) in pharmacokinetics is challenging for a few reasons. First, clinical trials do not typically collect frequent pharmacokinetic samples, particularly in time periods relevant to detect rapid concentration excursions. Secondly, the estimate of variability is sensitive to the nature of the chosen time window (duration of window, time between samples). Lastly, even if ideal data were available, within-subject variability does not quantify infrequent but dramatic spikes, but rather average variability (*e.g.,* the ''spread'' of the data over a specified sampling window). In other words, WSV reflects usual variability, but is insensitive to infrequent abrupt concentration increases. Nonetheless, CDER reanalyzed the PK data from Study CLP–109 and CLP–103SS and estimated the WSV in individual exenatide concentrations collected over 24 hours (*i.e.,* within-day WSV) as well as the between-day WSV in individual exenatide concentrations data collected across multiple days proximal to each other [*i.e.,* within 72-hours of each other and compared to the WSV of Bydureon (from Studies 104 and 105)]. The results of the within-day WSV and between-day WSV are summarized below in Table 5. These values reported in Table 5 for ITCA 650 are similar to the WSV of 65% (using individual concentrations over 24 hours in Study CLP–109) reported by the Applicant in their Summary of Clinical Pharmacology Studies. In comparison, Bydureon showed a lower estimated within-day and between-day WSV of 20% and 30%, respectively.

Even if the PDC was to consider these other products, which are not implantable devices like ITCA 650, the PDC agrees with CDER and the EMDAC that the evidence and data presented in this proceeding suggests that ITCA 650 raises concerns with drug delivery variability that compare unfavorably to approved products with a similar or identical active ingredient.

The studies supporting ITCA 650's NDA, which were conducted in a controlled environment to measure drug delivery rates, demonstrated that the ITCA 650 does not provide an accurate and predictable release of exenatide. Given the information discussed above, the PDC finds that Intarcia's IVR data does not support the safety of the product given the wide IVR acceptance ranges and lower reliability percentages.

4. Potential Benefits of ITCA 650

Having already addressed the safety-related concerns, the PDC will turn briefly to the benefits of ITCA 650. Intarcia states that the benefits of ITCA 650 include (1) an extended maintenance therapy option, (2) a dosing option with ''unequivocal sustained efficacy with 6-month dosing,'' and (3) safety in-line with other GLP–1s. Intarcia presented a letter signed by 12 experts in support of its arguments related to the benefits of ITCA 650.

The main benefits that Intarcia highlights relate to its position that ITCA 650 is a valuable new dosing option because it may increase medication adherence. Intarcia has not provided data in support of its argument but instead bases this assertion on the fact that ITCA–650 is an implantable device that lasts for 3 or 6 months. However, the evidence offered in support of approval undermines Intarcia's position. As previously discussed, ITCA 650 has dose reliability and variability issues. As previously outlined in the EMDAC discussion summary, multiple EMDAC members expressed concern that the drug delivery variability issue could lead to patients receiving less reliable drug doses than if they were using an analogous drug regimen that was not delivered via an implanted osmotic pump. Therefore, if ITCA 650 does not provide the proper dose, a patient would become nonadherent to their medication, regardless of the patient's intentions. The PDC therefore disagrees with Intarcia and its experts that the mode of drug delivery inherently equates to medication adherence. Furthermore, as found by CDER in its proposed order, ''Intarcia has provided no evidence that demonstrates patients prescribed ITCA 650 are more likely to continue the treatment than patients prescribed other approved treatments for type 2 diabetes.'' Given the lack of concrete information to support its theoretical argument, the PDC gives little weight to this benefit in the overall assessment of whether the benefit-risk assessment supports approval of ITCA 650 in its present form.

D. Conclusion

While Intarcia correctly points out in its appeal that more therapies are needed for patients with T2DM, FDA will only approve NDAs when the data shows that the benefits outweigh the risks. After reviewing the information contained in the public record, the PDC finds that the benefits of ITCA 650 do not outweigh its risks. The PDC agrees with the EMDAC's conclusions and find that there are too many unanswered questions regarding risks associated with ITCA 650 to find that it has a positive benefit-risk profile and is safe under section 505(d)(2) of the FD&C Act. For the reasons described above, Intarcia has not presented adequate evidence to show that the drug is safe for use under the proposed conditions; therefore, the PDC cannot approve the NDA for ITCA 650.

IV. Findings and Order

For the reasons described above, FDA finds that the record shows that the approval criteria set forth in section 505(d)(2) of the FD&C Act have not been met, as ITCA 650's risks outweigh its benefits; therefore, Intarcia has not demonstrated that ITCA 650 is safe for its intended use. Therefore, under section 505(d) of the FD&C Act, FDA hereby denies approval to Intarcia's NDA in its current form.

Dated: August 16, 2024.

Namandjé N. Bumpus,

Principal Deputy Commissioner.

[FR Doc. 2024–18898 Filed 8–22–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–N–1584]

Authorization of Emergency Use of Certain Medical Devices During COVID–19; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the issuance of Emergency Use Authorizations (EUAs) (the Authorizations) for certain medical devices related to Coronavirus Disease 2019 (COVID–19). FDA has issued the Authorizations listed in this document under the Federal Food, Drug, and Cosmetic Act (FD&C Act). These Authorizations contain, among other things, conditions on the emergency use of the authorized products. The Authorization follows the February 4, 2020, determination by the Secretary of Health and Human Services (HHS), as amended on March 15, 2023, that there is a public health emergency, or a significant potential for a public health emergency, that affects, or has a significant potential to affect, national security or the health and security of U.S. citizens living abroad and that involves the virus that causes COVID–19, and the subsequent declarations on February 4, 2020, March 2, 2020, and March 24, 2020, that circumstances exist justifying the authorization of emergency use of in vitro diagnostics for detection and/or diagnosis of the virus that causes COVID–19, personal respiratory protective devices, and medical devices, including alternative products used as medical devices, respectively, subject to the terms of any authorization issued under the FD&C Act. These Authorizations, which include an explanation of the reasons for issuance, are listed in this document, and can be accessed on FDA's website from the links indicated.

DATES: These Authorizations are effective on their date of issuance.

ADDRESSES: Submit written requests for single copies of an EUA to the Office of Policy, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request or include a fax number to which the Authorization may be sent. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the Authorization.

FOR FURTHER INFORMATION CONTACT: Kim Sapsford-Medintz, Office of Product Evaluation and Quality, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3216, Silver Spring, MD 20993–0002, 301–796–0311 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

Section 564 of the FD&C Act (21 U.S.C. 360bbb–3) allows FDA to strengthen the public health protections against biological, chemical, radiological, or nuclear agent or agents. Among other things, section 564 of the FD&C Act allows FDA to authorize the use of an unapproved medical product or an unapproved use of an approved medical product in certain situations. With this EUA authority, FDA can help ensure that medical countermeasures may be used in emergencies to diagnose, treat, or prevent serious or life-threatening diseases or conditions caused by a biological, chemical, radiological, or nuclear agent or agents when there are no adequate, approved, and available alternatives.

Section 564(b)(1) of the FD&C Act provides that, before an EUA may be issued, the Secretary of HHS must declare that circumstances exist justifying the authorization based on one of the following grounds: (1) a determination by the Secretary of Homeland Security that there is a domestic emergency, or a significant potential for a domestic emergency, involving a heightened risk of attack with a biological, chemical, radiological, or nuclear agent or agents; (2) a determination by the Secretary of Defense that there is a military emergency, or a significant potential for

a military emergency, involving a heightened risk to U.S. military forces, including personnel operating under the authority of title 10 or title 50 of the U.S. Code, of attack with (A) a biological, chemical, radiological, or nuclear agent or agents; or (B) an agent or agents that may cause, or are otherwise associated with, an imminently life-threatening and specific risk to U.S. military forces; [1] (3) a determination by the Secretary of HHS that there is a public health emergency, or a significant potential for a public health emergency, that affects, or has a significant potential to affect, national security or the health and security of U.S. citizens living abroad, and that involves a biological, chemical, radiological, or nuclear agent or agents, or a disease or condition that may be attributable to such agent or agents; or (4) the identification of a material threat by the Secretary of Homeland Security pursuant to section 319F–2 of the Public Health Service (PHS) Act (42 U.S.C. 247d–6b) sufficient to affect national security or the health and security of U.S. citizens living abroad.

Once the Secretary of HHS has declared that circumstances exist justifying an authorization under section 564 of the FD&C Act, FDA may authorize the emergency use of a drug, device, or biological product if the Agency concludes that the statutory criteria are satisfied. Under section 564(h)(1) of the FD&C Act, FDA is required to publish in the **Federal Register** a notice of each authorization, and each termination or revocation of an authorization, and an explanation of the reasons for the action. Under section 564(h)(1) of the FD&C Act, revisions to an authorization shall be made available on the internet website of FDA. Section 564 of the FD&C Act permits FDA to authorize the introduction into interstate commerce of a drug, device, or biological product intended for use when the Secretary of HHS has declared that circumstances exist justifying the authorization of emergency use. Products appropriate for emergency use may include products and uses that are not approved, cleared, or licensed under section 505, 510(k), 512, or 515 of the FD&C Act (21 U.S.C. 355, 360(k), 360b, or 360e) or section 351 of the PHS Act (42 U.S.C. 262), or conditionally approved under section 571 of the FD&C Act (21 U.S.C. 360ccc). FDA may issue an EUA only if, after consultation with the HHS Assistant Secretary for Preparedness and Response, the Director of the National Institutes of Health, and the Director of the Centers for Disease Control and Prevention (to the extent feasible and appropriate given the applicable circumstances), FDA [2] concludes: (1) that an agent referred to in a declaration of emergency or threat can cause a serious or life-threatening disease or condition; (2) that, based on the totality of scientific evidence available to FDA, including data from adequate and well-controlled clinical trials, if available, it is reasonable to believe that (A) the product may be effective in diagnosing, treating, or preventing (i) such disease or condition; or (ii) a serious or life-threatening disease or condition caused by a product authorized under section 564, approved or cleared under the FD&C Act, or licensed under section 351 of the PHS Act, for diagnosing, treating, or preventing such a disease or condition caused by such an agent; and (B) the known and potential benefits of the product, when used to diagnose, prevent, or treat such disease or condition, outweigh the known and potential risks of the product, taking into consideration the material threat posed by the agent or agents identified in a declaration under section 564(b)(1)(D) of the FD&C Act, if applicable; (3) that there is no adequate, approved, and available alternative to the product for diagnosing, preventing, or treating such disease or condition; (4) in the case of a determination described in section 564(b)(1)(B)(ii), that the request for emergency use is made by the Secretary of Defense; and (5) that such other criteria as may be prescribed by regulation are satisfied. No other criteria for issuance have been prescribed by regulation under section 564(c)(4) of the FD&C Act.

II. Electronic Access

An electronic version of this document and the full text of the Authorizations are available on the internet and can be accessed from *https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization.*

III. The Authorizations

Having concluded that the criteria for the issuance of the following Authorizations under section 564(c) of the FD&C Act are met, FDA has authorized the emergency use of the following products for diagnosing, treating, or preventing COVID–19 subject to the terms of each Authorization. The Authorizations in their entirety, including any authorized fact sheets and other written materials, can be accessed from FDA's web page entitled ''Emergency Use Authorization,'' available at *https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization.* The lists that follow include Authorizations issued from July 8, 2024, through July 23, 2024, and we have included explanations of the reasons for their issuance, as required by section 564(h)(1) of the FD&C Act. In addition, the EUAs that have been reissued can be accessed from FDA's web page: *https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization.*

FDA is hereby announcing the following Authorizations for multianalyte tests:

- Nano-Ditech Corporation's Nano-Check Influenza+COVID–19 Dual Test, issued on July 08, 2024.[3]
- ACON Laboratories, Inc.'s Flowflex Plus COVID–19 and Flu A/B Home Test, issued on July 23, 2024.[4]

Dated: August 20, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–18973 Filed 8–22–24; 8:45 am]

BILLING CODE 4164–01–P

[1] In the case of a determination by the Secretary of Defense, the Secretary of HHS shall determine within 45 calendar days of such determination, whether to make a declaration under section 564(b)(1) of the FD&C Act, and, if appropriate, shall promptly make such a declaration.

[2] The Secretary of HHS has delegated the authority to issue an EUA under section 564 of the FD&C Act to the Commissioner of Food and Drugs.

[3] As set forth in the EUA for this product, FDA has concluded that: (1) SARS–CoV–2 can cause a serious or life-threatening disease or condition, including severe respiratory illness, to humans infected by this virus; (2) based on the totality of scientific evidence available to FDA, it is reasonable to believe that the product may be effective in diagnosing COVID–19 through the simultaneous detection and differentiation of SARS–CoV–2, influenza A virus, and/or influenza B virus protein antigens, and that the known and potential benefits of the product when used for diagnosing COVID–19, outweigh the known and potential risks of such product; and (3) there is no adequate, approved, and available alternative to the emergency use of the product.

[4] As set forth in the EUA for this product, FDA has concluded that: (1) SARS–CoV–2 can cause a serious or life-threatening disease or condition, including severe respiratory illness, to humans infected by this virus; (2) based on the totality of scientific evidence available to FDA, it is reasonable to believe that the product may be effective in diagnosing COVID–19 through the simultaneous detection and differentiation of SARS–CoV–2, influenza A virus and/or influenza B virus protein antigens, and that the known and potential benefits of the product when used for diagnosing COVID–19, outweigh the known and potential risks of such product; and (3) there is no adequate, approved, and available alternative to the emergency use of the product.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of the Sixth Meeting of the 2025 Dietary Guidelines Advisory Committee

AGENCY: Department of Health and Human Services (HHS), Office of the Assistant Secretary for Health (OASH), Office of Disease Prevention and Health Promotion; Department of Agriculture (USDA), Food, Nutrition, and Consumer Services (FNCS).

ACTION: Notice.

SUMMARY: The Departments of Health and Human Services and Agriculture announce the sixth meeting of the 2025 Dietary Guidelines Advisory Committee (Committee). This meeting will be open to the public virtually.

DATES: The sixth Committee meeting will be held on September 25, 2024, from 9:00 a.m. to 4:30 p.m. Eastern Time and on September 26, 2024, from 8:30 a.m. to 3:00 p.m. Eastern Time. Registration is required for the livestream and opens to the public on August 26, 2024, at *DietaryGuidelines.gov.*

ADDRESSES: The meeting will be accessible online via livestream and recorded for later viewing. Registrants will receive the livestream information prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Designated Federal Officer, 2025 Dietary Guidelines Advisory Committee, Janet M. de Jesus, MS, RD; Office of Disease Prevention and Health Promotion, 1101 Wootton Parkway, Suite 420, Rockville, MD 20852; Phone: 240–453–8266; Email *DietaryGuidelines@hhs.gov.* Additional information is at *DietaryGuidelines.gov.*

SUPPLEMENTARY INFORMATION:

Authority and Purpose: Under Section 301 of Public Law 101–445 (7 U.S.C. 5341, the National Nutrition Monitoring and Related Research Act of 1990, Title III), the Secretaries of HHS and USDA are directed to publish the *Dietary Guidelines for Americans* jointly at least every five years. See 88 FR 3423, January 19, 2023, for notice of the first meeting of the 2025 Dietary Guidelines Advisory Committee, the complete Authority and Purpose, and the Committee's Task. The 2025 Dietary Guidelines Advisory Committee is formed and governed under the provisions of the Federal Advisory Committee Act (FACA), Public Law 92–463, as amended (5 U.S.C., App).

Purpose of the Meeting: The Committee will meet to provide subcommittee updates, including presentations by each subcommittee and deliberation by the full Committee regarding progress made since the fifth public meeting, including evidence review and synthesis, draft conclusion statements, draft Scientific Report, and plans for future Committee work.

Meeting Agendas: The agenda will be announced in advance of the meeting on *DietaryGuidelines.gov.*

Meeting Registration: This Committee meeting is open to the public. The meeting will be accessible online via livestream and recorded for later viewing. To register, go to *DietaryGuidelines.gov* and click on the link for ''Meeting Registration.'' Meeting materials for each meeting will be accessible at *DietaryGuidelines.gov*. Materials may be requested by email at *DietaryGuidelines@hhs.gov.*

Public Comments: A call for written public comment to the Committee opened on January 19, 2023, and will remain open throughout the Committee's deliberations. Written comments may be submitted at *Regulations.gov* (Document ID: HHS–OASH–2022–0021–0001).

Dated: August 20, 2024.

Paul Reed,

Deputy Assistant Secretary for Health, Office of Disease Prevention and Health Promotion.

[FR Doc. 2024–18988 Filed 8–22–24; 8:45 am]

BILLING CODE 4150–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Eunice Kennedy Shriver National Institute of Child Health and Human Development Initial Review Group; Reproduction, Andrology, and Gynecology Study Section.

Date: October 31, 2024.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Canopy by Hilton, 940 Rose Avenue, North Bethesda, MD 20852.

Contact Person: Jagpreet Singh Nanda, Ph.D., Scientific Review Branch, *Eunice Kennedy Shriver* National Institute of Child Health and Human Development, NIH, 6710B Rockledge Drive, Room 2125D, Bethesda, MD 20892, (301) 451–4454, *jagpreet.nanda@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: August 19, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–18902 Filed 8–22–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Advisory Committee to the Deputy Director for Intramural Research, National Institutes of Health.

The meeting will be held as a virtual meeting and will be open to the public as indicated below. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Advisory Committee to the Deputy Director for Intramural Research, National Institutes of Health.

Date: October 1, 2024.

Time: 1:00 p.m.–4:00 p.m. EST.

Agenda: Discuss research initiatives and collaborations within the Intramural Research Program (IRP). Topics will include existing IRP-wide efforts and shared resources subcommittee process; strengths of the current IRP; and potential future IRP-wide initiatives.

Place: National Institutes of Health, Building 1, 1 Center Drive, Room 160, Bethesda, MD 20892 (Virtual Meeting).

Meeting Access Information:

https://nih.zoomgov.com/j/1612741598?pwd=Ll1HeBUL3En7ytdwOtUXKbfDhQLEwf.1

Meeting ID: 161 274 1598

Passcode: 942784

One tap mobile

+16692545252,,1612741598#,,,,*942784# US (San Jose)
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+1 646 964 1167 US (US Spanish Line)
+1 551 285 1373 US (New Jersey)
+1 669 216 1590 US (San Jose)
+1 415 449 4000 US (US Spanish Line)

Contact Person: Roland A Owens, Ph.D., Acting Principal Deputy Director, Office of Intramural Research, Office of the Director, National Institutes of Health, 1 Center Drive, Room 160, Bethesda, MD 20892, (301) 594–7471, *owensrol@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: August 20, 2024.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–19006 Filed 8–22–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; NST–1 Member Conflict SEP.

Date: September 23, 2024.

Time: 4:30 p.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314 (Hybrid Meeting).

Contact Person: William C. Benzing, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/DHHS, NSC, 6001 Executive Boulevard, Rockville, MD 20852, 301–496–0660, *benzingw@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS).

Dated: August 19, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–18936 Filed 8–22–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group; Fellowships in Kidney, Urology, and Hematology DDK–G Fellowships in Kidney, Urology, and Hematology.

Date: October 10, 2024.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015 (In-person Meeting).

Contact Person: Xiaodu Guo, M.D., Ph.D., Scientific Review Officer, National Institute of Diabetes and Digestive and Kidney, National Institute of Health, 6707 Democracy Boulevard, Rm. 7023, Bethesda, MD 20892–5452, (301) 594–4719, *guox@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: August 20, 2024

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–19042 Filed 8–22–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2024–0609]

National Offshore Safety Advisory Committee; September 2024 Meeting

AGENCY: United States Coast Guard, Department of Homeland Security.

ACTION: Notice of open Federal advisory committee meetings.

SUMMARY: The National Offshore Safety Advisory Committee (Committee) will meet in-person along with the SEACOR POWER and Dynamic Positioning subcommittees over two days in Spring, Texas to discuss matters relating to activities directly involved with, or in support of, the exploration of offshore mineral and non-mineral energy resources, to the extent that such matters are within the jurisdiction of the United States Coast Guard. These three meetings will be open to the public.

DATES:

Meetings: The National Offshore Safety Advisory Committee's subcommittees will meet on Tuesday, September 17, 2024. The SEACOR POWER subcommittee, from 12:30 p.m. to 2 p.m. (CDT); and then the Dynamic Positioning subcommittee from 2 p.m. to 3:30 p.m. (CDT).

The full Committee will meet on Wednesday, September 18, 2024, from 8 a.m. to 5:30 p.m. (CDT). Please note these meetings may end early if the subcommittees or the full Committee have completed their business.

Comments and supporting documents: To ensure your comments are reviewed by Committee and subcommittee members before the meetings, submit your written comments no later than September 4, 2024.

ADDRESSES: The three meetings will be held at American Bureau of Shipping Global Headquarters, 1701 City Place Drive, Spring, TX 77389.

Pre-registration Information: Pre-registration is not required to attend the Committee or subcommittee meetings. Please ensure you arrive at least 15 minutes prior to the meetings, we will provide you with the appropriate handouts that the Committee and subcommittee members have in their possession.

The National Offshore Safety Advisory Committee is committed to ensuring all participants have equal access regardless of disability status. If you require reasonable accommodations due to a disability to fully participate, please email Mr. Patrick Clark at *patrick.w.clark@uscg.mil* or telephone at 571–607–8236 as soon as possible.

Instructions: You are free to submit comments at any time, including orally at the meetings as time permits, but if you want Committee and subcommittee members to review your comment before the meetings, please submit your comments no later than September 4, 2024. We are particularly interested in comments on the topics in the ''Agenda'' section below. We encourage you to submit comments through the Federal Decision Making Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2024–0609 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If your material cannot be submitted using *https://www.regulations.gov,* email the individual in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. You must include the docket number USCG–2024–0609. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. You may wish to review the Privacy and Security Notice, found via link on the homepage *https://www.regulations.gov.* and DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). If you encounter technical difficulties with comment submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Docket Search: Documents mentioned in this notice as being available in the docket, and all public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions.

Additionally, if you go to the online docket and sign-up for email alerts, you will be notified when comments are posted.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick W. Clark, Designated Federal Officer of the National Offshore Safety Advisory Committee, telephone 571–607–8236 or email *patrick.w.clark@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of these three meetings is given pursuant to the *Federal Advisory Committee Act,* (Pub. L. 117–286, 5 U.S.C. ch. 10). The National Offshore Safety Advisory Committee was authorized on December 4, 2018, by section 601 of the *Frank LoBiondo Coast Guard Authorization Act of 2018* (Pub. L. 115–282, 132 Stat. 4192), and amended by section 8331 of the *Elijah E. Cummings Coast Guard Authorization Act of 2022* (Pub. L. 116–283) and is codified in 46 U.S.C. 15106.

The Committee operates under the provisions of the *Federal Advisory Committee Act,* and 46 U.S.C. 15109. The Committee provides advice and recommendations to the Secretary of Homeland Security on matters relating to activities directly involved with, or in support of, the exploration of offshore mineral and non-mineral energy resources, to the extent that such matters are within the jurisdiction of the United States Coast Guard.

Agenda

Tuesday, September 17, 2024

Two subcommittees will meet to discuss the following task statements.

(1) Task Statement 01–2023: SEACOR POWER—Review National Transportation Safety Board (NTSB) report concerning the capsizing of the U.S. flagged liftboat SEACOR POWER.

(2) Task Statement 01–2024: Dynamic Positioning—Review the industry standards that may enhance safety of Dynamic Positioning vessels and operations on the Outer Continental Shelf (OCS).

The task statements and other subcommittee information are located at *https://homeportr.uscg.mil/missions/federal-advisory-committees/national-offshore-safety-advisory-committee-(nosac)/subcommittee-working-groups*

The agenda of each subcommittee meeting will include the following:

(1) Call to order by subcommittee Chair.

(2) Introduction and review subcommittee task statement.

Subcommittee discussion and preparation of draft recommendations for the full Committee meeting on September 18, 2024.

(3) Public comment period.

(4) Subcommittee members approve final draft recommendations to send to the full

Committee.

(5) Adjournment of meeting.

Wednesday, September 18, 2024

The agenda for the September 18, 2024 Committee meeting is as follows:

(1) Call to order.

(2) Roll call and determination of quorum.

(3) Adoption of previous meeting minutes and agenda.

(4) Opening remarks.

(5) SEACOR POWER Subcommittee Chair briefs the Final Draft Report to the Committee.

(6) Committee deliberation.

(7) Committee voting.

(8) Update from the Dynamic Positioning subcommittee.

(9) New business—Issuance of three task statements on Sexual Assault and Sexual

Harassment.

(10) Public comment period.

(11) Closing remarks and plans for next meeting.

(12) Adjournment of meeting.

A copy of all pre-meeting documentation will be available at: *https://homeportr.uscg.mil/missions/federal-advisory-committees/national-offshore-safety-advisory-committee-(nosac)/committe-meetings* no later than September 4, 2024. Alternatively, you may contact Mr. Patrick Clark as noted in the **FOR FURTHER INFORMATION CONTACT** section above. Please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section if you wish to make a public comment. All public comments will be no longer than 3 minutes.

Dated: August 19, 2024

Jeffrey G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2024–18934 Filed 8–22–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2024–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood

Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *https://msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65. The currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Nicholas A. Shufro,

Assistant Administrator (Acting) for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Arizona:					
Maricopa (FEMA Docket No.: B–2429).	City of Glendale (23–09–1262P).	The Honorable Jerry Weiers, Mayor, City of Glendale, 9494 West Maryland Avenue, Glendale, AZ 85305.	City Hall, 5850 West Glendale Avenue, Glendale, AZ 85301.	Jul. 12, 2024	040045
Maricopa (FEMA Docket No.: B–2429).	City of Goodyear (23–09–1262P).	The Honorable Joe Pizzillo, Mayor, City of Goodyear, 1900 North Civic Square, Goodyear, AZ 85395.	Engineering and Development Services, 14455 West Van Buren Street, Suite D101, Goodyear, AZ 85338.	Jul. 12, 2024	040046
Maricopa (FEMA Docket No.: B–2429).	City of Surprise (23–09–0697P).	The Honorable Skip Hall, Mayor, City of Surprise, 16000 North Civic Center Plaza, Surprise, AZ 85374.	Public Works Department, Engineering Development Services, 16000 North Civic Center Plaza, Surprise, AZ 85374.	Jun. 28, 2024	040053
Maricopa (FEMA Docket No.: B–2429).	Unincorporated Areas of Maricopa County, (23–09–1262P).	The Honorable Jack Sellers, Chair, Board of Supervisors, Maricopa County, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	Jul. 12, 2024	040037
Pima (FEMA Docket No.: B–2429).	Unincorporated Areas of Pima County (23–09–1217P).	The Honorable Adelita Grijalva, Chair, Board of Supervisors, Pima County, 33 North Stone Avenue 11th Floor, Tucson, AZ 85701.	Pima County Flood Control District, 201 North Stone Avenue, 9th Floor, Tucson, AZ 85701.	Jul. 11, 2024	040073
Pinal (FEMA Docket No.: B–2417).	City of Maricopa (23–09–0166P).	The Honorable Nancy Smith, Mayor, City of Maricopa, 39700 West Civic Center Plaza, Maricopa, AZ 85138.	City Hall, 39700 West Civic Center Plaza, Maricopa, AZ 85138.	Jun. 14, 2024	040052
Pinal (FEMA Docket No.: B–2429).	Town of Superior (23–09–0243P).	The Honorable Mila Besich, Mayor, Town of Superior, P.O. Box 218, Superior, AZ 85173.	Town Hall, 199 North Lobb Avenue, Superior, AZ 85173.	Jun. 27, 2024	040119
California:					
Contra Costa (FEMA Docket No.: B–2429).	City of Oakley (23–09–1104P).	The Honorable Anissa Williams, Mayor, City of Oakley, 3231 Main Street, Oakley, CA 94561.	Public Works and Engineering Department, 3231 Main Street, Oakley, CA 94561.	Jul. 24, 2024	060766
Fresno (FEMA Docket No.: B–2417).	City of Clovis (22–09–1501P).	The Honorable Lynne Ashbeck, Mayor, City of Clovis, 1033 5th Street, Clovis, CA 93612.	City Clerk's Office, Civic Center, 1033 5th Street, Clovis, CA 93612.	May 20, 2024	060044
Napa (FEMA Docket No.: B–2429).	Unincorporated Areas of Napa County (22–09–0692P).	The Honorable Belia Ramos, Chair, Board of Supervisors, Napa County, 1195 3rd Street, Suite 310, Napa, CA 94559.	Napa County, Public Works Department, 1195 3rd Street, Suite 101, Napa, CA 94559.	Jun. 26, 2024	060205
Riverside (FEMA Docket No.: B–2417).	City of Jurupa Valley (22–09–1654P).	The Honorable Chris Barajas, Mayor, City of Jurupa Valley, 8930 Limonite Avenue, Jurupa Valley, CA 92509.	City Hall, 8930 Limonite Avenue, Jurupa Valley, CA 92509.	Jun. 12, 2024	060286

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Riverside (FEMA Docket No.: B–2417).	City of Perris (23–09–0343P).	The Honorable Michael Vargas, Mayor, City of Perris, 101 North D Street, Perris, CA 92570.	Engineering Department, 24 South D Street, Suite 100, Perris, CA 92570.	May 20, 2024	060258
Riverside (FEMA Docket No.: B–2429).	Unincorporated Areas of Riverside County (22–09–1288P).	The Honorable Chuck Washington, Chair, Board of Supervisors, Riverside County, 4080 Lemon Street, 5th Floor, Riverside, CA 92501.	Riverside County, Flood Control and Water Conservation District, 1995 Market Street, Riverside, CA 92501.	Jul. 10, 2024	060245
Sacramento (FEMA Docket No.: B–2417).	Unincorporated Areas of Sacramento County (23–09–0304P).	The Honorable Patrick Kennedy, Chair, Board of Supervisors, Sacramento County, 700 H Street, Suite 2450, Sacramento, CA 95814.	Sacramento County, Department of Water Resources, 827 7th Street, Suite 301, Sacramento, CA 95814.	Jun. 19, 2024	060262
San Diego (FEMA Docket No.: B–2417).	City of Santee (22–09–1269P).	The Honorable John Minto, Mayor, City of Santee, 10601 Magnolia Avenue, Santee, CA 92071.	City Hall, 10601 Magnolia Drive, Santee, CA 92071.	Jun. 10, 2024	060703
San Diego (FEMA Docket No.: B–2429).	Unincorporated Areas of San Diego County (23–09–0964P).	The Honorable Nora Vargas, Chair, Board of Supervisors, San Diego County, 1600 Pacific Highway Room 335, San Diego, CA 92101.	San Diego County Flood Control District, Department of Public Works, 5510 Overland Avenue, Suite 410, San Diego, CA 92123.	Jun. 28, 2024	060284
San Luis Obispo (FEMA Docket No.: B–2417).	City of San Luis Obispo (22–09–0998P).	The Honorable Erica A. Stewart, Mayor, City of San Luis Obispo, 990 Palm Street, San Luis Obispo, CA 93401.	Community Development, Public Works Department, 990 Palm Street, San Luis Obispo, CA 93401.	Jun. 24, 2024	060310
Yuba (FEMA Docket No.: B–2417).	Unincorporated Areas of Yuba County (23–09–0313P).	The Honorable Don Blaser, Chair, Board of Supervisors, Yuba County, 915 8th Street, Suite 109, Marysville, CA 95901.	Yuba County, Public Works Department, 915 8th Street, Suite 125, Marysville, CA 95901.	Jun. 6, 2024	060427
Hawaii: Maui (FEMA Docket No.: B–2429)	Maui County (22–09–1030P).	The Honorable Richard T. Bissen, Jr., Mayor, County of Maui, 200 South High Street, Kalana O Maui Building, 9th Floor, Wailuku, HI 96793.	County of Maui Planning Department, One Main Plaza, 2200 Main Street, Suite 315, Wailuku, HI 96793.	Jun. 17, 2024	150003
Nevada:					
Clark (FEMA Docket No.: B–2417).	City of Henderson (23–09–1206P).	The Honorable Michelle Romero, Mayor, City of Henderson, City Hall, 240 South Water Street, Henderson, NV 89015.	Public Works Department, 240 South Water Street, Henderson, NV 89015.	Jun. 10, 2024	320005
Washoe (FEMA Docket No.: B–2429).	City of Reno (23–09–0241P).	The Honorable Hillary L. Schieve, Mayor, City of Reno, P.O. Box 1900, Reno, NV 89505.	City Hall, 1 East 1st Street, Reno, NV 89501.	Jul. 18, 2024	320020

[FR Doc. 2024–18880 Filed 8–22–24; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Revision of Agency Information Collection Activity Under OMB Review: TSA PreCheck® Application Program

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-Day notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0059, abstracted below to OMB for review and approval of a revision of the currently approved collection under the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection involves the submission of biographic and biometric information by individuals seeking to enroll in the TSA PreCheck® (also known as TSA Pre✓®) Application Program, as well as optional surveys related to customer service and enrollment processes.

DATES: Send your comments by September 23, 2024. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' and by using the find function.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh, TSA PRA Officer, Information Technology (IT), TSA–11, Transportation Security Administration, 6595 Springfield Center Drive, VA 22150; telephone (571) 227–2062; email *TSAPRA@tsa.dhs.gov.*

SUPPLEMENTARY INFORMATION: TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on February 22, 2024, 89 FR 13356.

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be available at *https://www.reginfo.gov* upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to:

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

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

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

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

Information Collection Requirement

Title: TSA PreCheck® Application Program, 49 U.S.C. 114.

Type of Request: Revision of a previously approved collection.

OMB Control Number: 1652–0059.

Forms(s): N/A.

Affected Public: Individuals.

Abstract: Pursuant to the statutory authorities explained below, TSA has implemented a voluntary enrollment program for individuals to apply for the TSA PreCheck® Application Program. Section 109(a)(3) of the Aviation and Transportation Security Act, Public Law 107–71 (115 Stat. 597, 613, Nov. 19, 2001, codified at 49 U.S.C. 114 note) provides TSA with the authority to ''establish requirements to implement trusted programs and use available technologies to expedite security screening of passengers who participate in such programs, thereby allowing security screening personnel to focus on those passengers who should be subject to more extensive screening.'' In addition, TSA has express, statutory authority to establish and collect a fee for any registered traveler program by publication of a notice in the **Federal Register**, as outlined in the Department of Homeland Security Appropriations Act, 2006, Public Law 109–90 (119 Stat. 2064, 2088–89, Oct. 18, 2005).

Although participation in the TSA PreCheck® Application Program is voluntary, individuals must submit biographic, biometric,[1] and biometric information directly to TSA, which TSA uses to conduct identity verification and a Security Threat Assessment (STA) of criminal, immigration, intelligence, and regulatory violation databases. Interested applicants must provide certain minimum required data elements, including, but not limited to, name, date of birth, gender, address, contact information, country of birth, images of identity documents, proof of citizenship or immigration status, and biometrics via a secure interface. TSA uses this information to verify identity at enrollment, conduct an STA, make a final eligibility determination for the TSA PreCheck® Application Program, and verify the identities of TSA PreCheck®-enrolled and approved individuals when they are traveling.

As part of this process, TSA sends the applicants' fingerprints and associated information to the Federal Bureau of Investigation (FBI) for the purpose of comparing their fingerprints to other fingerprints in the FBI's Next Generation Identification (NGI) system or its successor systems including civil, criminal, and latent fingerprint repositories. The FBI may retain applicants' fingerprints and associated information in NGI after the completion of their application and, while retained, their fingerprints may continue to be compared against other fingerprints submitted to or retained by NGI as part of the FBI's Rap Back program.[2] In retaining applicants' fingerprints, the FBI conducts recurrent vetting of applicants' criminal history until the expiration date of the applicant's STA. TSA also transmits applicants' biometrics for enrollment into the Department of Homeland Security Automated Biometrics Identification System and its successor systems for recurrent vetting of applicants' criminal history, lawful presence, and ties to terrorism and for future support of TSA's biometric-based identification at airport checkpoints.

TSA uses the STA results to decide if an individual poses a low risk to transportation or national security. TSA issues approved applicants a known traveler number (KTN) that they may use when making travel reservations. Airline passengers who submit a KTN when making airline reservations are eligible for expedited screening on flights originating from U.S. airports and select international locations including Nassau, Bahamas.[3] TSA uses the traveler's KTN and other information during passenger prescreening to verify that the individual traveling matches the information on TSA's list of known travelers and to confirm TSA PreCheck® expedited screening eligibility.

When the STA is complete, TSA makes a final determination on eligibility for the TSA PreCheck® Application Program and notifies applicants of its decision. Most applicants generally should expect to receive notification from TSA within three to five days and up to 60 days from the submission of their completed applications. If initially deemed ineligible by TSA, applicants will have an opportunity to correct cases of misidentification or inaccurate criminal records. Applicants must submit a correction of any information they believe to be inaccurate within 60 days of issuance of TSA's letter. If a corrected record is not received by TSA within the specified amount of time, the agency may make a final determination to deny eligibility. Individuals who TSA determines are ineligible for the TSA PreCheck® Application Program will undergo standard or other screening at airport security checkpoints.

The TSA PreCheck® Application Program enhances aviation security by permitting TSA to better focus its limited security resources on passengers who are unknown to TSA and whose level of risk is undetermined, while also facilitating and improving the commercial aviation travel experience for the public. Travelers who choose not to enroll in this initiative are not subject to any limitations on their travel because of their choice; they will be processed through normal TSA screening before entering the sterile areas of airports. TSA also retains the authority to perform standard or other screening on a random basis on TSA PreCheck® Application Program participants and any other travelers authorized to receive expedited physical screening.

TSA PreCheck® Enrollment and Renewal Enhancements

The introduction of additional enrollment providers, as discussed in the previous ICR revision, allows enrollment providers to offer multiple price points for TSA PreCheck® enrollment and renewal as well as additional enrollment locations, which will allow the public to select the best option for their needs. TSA plans to explore new enrollment capabilities to include remote proctored enrollment[4] to further expand TSA's ability to service the public. This revision also addresses TSA's plan to accept Mobile Drivers Licenses and other TSA approved Digital Identities for identity verification at enrollment upon TSA approval. Lastly, TSA intends to continue to collect information from TSA PreCheck® members after enrollment through voluntary customer experience surveys to better serve the public.

Average Annual Number of Respondents: An estimated 6,005,854 average annual respondents. This estimate is based on current and projected enrollments with TSA's existing program.

[1] Unless otherwise specified, for the purpose of this document, ''biometrics'' refers to fingerprints and/or facial imagery.

[2] The FBI's Rap Back service allows authorized agencies to receive on-going status notifications of any criminal history reported to the FBI after the initial processing and retention of criminal or civil transactions using fingerprint identification.

[3] Passengers who are eligible for expedited screening typically will receive more limited physical screening; *e.g.,* will be able to leave on their shoes, light outerwear, and belt; to keep their laptop in its case; and to keep their ''3–1–1'' compliant liquids/gels bag in a carry-on.

[4] Remote Proctored Enrollment refers to enrollments conducted in-person by the applicant and monitored remotely by a trusted agent via real-time video stream. The remote trusted agent maintains the integrity of the enrollment by monitoring the entire process from start-to-finish including the collection of identity documents and the traditional capture of contact fingerprints.

Average Annual Number of Responses: An estimated 8,384,125 average annual responses. There could be multiple responses per respondent depending on the requested information.

Estimated Annual Burden Hours: An estimated 4,069,167 average annual hours. This estimate includes time to fill out the enrollment or renewal application, round trip travel time to an enrollment center (as needed), providing biographic and biometric information to TSA (via an enrollment center or pre-enrollment options), the time burden for any records correction for the applicant, and time for surveys.

Estimated Annual Cost Burden: An estimated $461,115,379 annual average cost burden. The applicant fee per respondent for those who apply for the program directly with TSA will average $80 for initial enrollments, $70 for online renewals, and $75 for in-person renewals, which covers TSA's program costs, TSA's enrollment vendor's costs, and the FBI fee for the criminal history records check.

Dated: August 20, 2024.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Information Technology.

[FR Doc. 2024–19001 Filed 8–22–24; 8:45 am]

BILLING CODE 9110–05–P

INTER-AMERICAN FOUNDATION

Submission for OMB Review; Comments Request

AGENCY: Inter-American Foundation.

ACTION: Notice of information collection; request for comment.

SUMMARY: Under the provisions of the Paperwork Reduction Act, agencies are required to publish a Notice in the **Federal Register** notifying the public that the agency is modifying an existing information collection and creating a new information collection for OMB review and approval and requests public review and comment on the submission. The agency received one comment in response to the sixty (60) day notice and have not made changes to the information collection in response to that comments. Comments are being solicited on the need for the information; the accuracy of the burden estimate; the quality, practical utility, and clarity of the information to be collected; and ways to minimize reporting the burden, including automated collected techniques and uses of other forms of technology.

DATES: Comments must be received by September 23, 2024.

ADDRESSES: Comments and requests for copies of the subject information collection may be sent by any of the following methods:

- *Mail:* Nicole Stinson, Associate General Counsel, Inter-American Foundation, 1331 Pennsylvania Ave. NW, Suite 1200 North, Washington, DC 20004.
- *Email: nstinson@iaf.gov.*

Instructions: All submissions received must include the agency name and agency form name or OMB control number for this information collection. Electronic submissions must include the agency form name in the subject line to ensure proper routing. Please note that all written comments received in response to this notice will be considered public records.

FOR FURTHER INFORMATION CONTACT: Associate General Counsel: Nicole Stinson, (202) 683–7117.

SUPPLEMENTARY INFORMATION: The agency received a comment in response to the sixty (60) day notice published in **Federal Register** volume 89, page 51546 on June 18, 2024. Upon publication of this notice, IAF will submit to OMB a request for approval of the following information collection.

Summary Form Under Review

Title of Collection: Awardee Certifications and Disclosures, IAF–06.

Type of Review: Revision of a currently approved information collection.

OMB Control Number: 0417–0501.

Type of Respondent/Affected Public: Private Sector, Businesses or other for profits, Not-for profit institutions.

Frequency: Once.

Estimated Number of Respondents per Year: 450.

Estimated Time per Respondent: 0.2 hours.

Estimated Total Annual Burden Hours: 90.

Abstract: The IAF works to promote sustainable development in Latin America and the Caribbean by directly supporting civil society organizations through funding actions, such as grants and cooperative agreements. The IAF is soliciting comments concerning the information collection of grantee certifications, assurances, and representations for the purpose of obtaining an IAF Award. The purpose of this form is to ensure that grantees are complying with the necessary federal laws and regulations to receive federal funds and give grantees an opportunity to disclose any personal or organizational conflicts of interest, or potential for conflicts of interest.

Summary Form Under Review

Title of Collection: Key Individuals Narcotics Offenses and Drug trafficking certification, IAF–07.

Type of Review: New information collection.

OMB Control Number: Not assigned, new information collection.

Type of Respondent/Affected Public: Private Sector, Businesses or other for profits, Not-for profit institutions.

Frequency: Once.

Estimated Number of Respondents per Year: 450.

Estimated Time per Respondent: 0.2 hours.

Estimated Total Annual Burden Hours: 90.

Abstract: The IAF works to promote sustainable development in Latin America and the Caribbean by directly supporting civil society organizations through funding actions, such as grants and cooperative agreements. The IAF is soliciting comments concerning the collection of information to meet the drug-trafficking prohibition requirements in Section 487 of the Foreign Assistance Act and 22 CFR 140. The purpose of this form is to ensure that key individuals and covered participants affiliated with IAF grants are not participating in narcotics offenses or drug trafficking.

Dated: August 20, 2024.

Natalia Mandrus,

Associate General Counsel, Office of the General Counsel.

[FR Doc. 2024–18992 Filed 8–22–24; 8:45 am]

BILLING CODE 7025–01–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GR.24.NC00.UMR10.NB; OMB Control Number 1028–NEW]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; 1028–NEW Wildlife Morbidity-Mortality or Disease Surveillance Event Reporting

AGENCY: Geological Survey, Department of the Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the U.S. Geological Survey (USGS) National Wildlife Health Center (NWHC) is proposing a new information collection in use without OMB approval.

DATES: Interested persons are invited to submit comments on or before September 23, 2024.

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. Please provide a copy of your comments by mail to U.S. Geological Survey, Information Collections Officer, 12201 Sunrise Valley Drive MS 159, Reston, VA 20192; or by email to *gs-info_collections@usgs.gov.* Please reference OMB Control Number 1028–NEW Wildlife Morbidity in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this information collection request (ICR), contact Katherine Richgels by email at *krichgels@usgs.gov* or by telephone at 608–381–2492. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the PRA (44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on April 19, 2022 (87 FR 23228). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

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

(4) How the agency might minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personally identifiable information (PII) in your comment, you should be aware that your entire comment—including your PII—may be made publicly available at any time. While you can ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so.

Abstract: The USGS NWHC collects information on the presence of highly consequential wildlife diseases and the occurrence of wildlife morbidity/mortality events nationwide to aid in outbreak investigations conducted by land-management agencies and as part of their mission-critical activities associated with response to animal health emergencies (Emergency Support Function 11). The collected information is used in the diagnostic evaluation of specimens submitted to the NWHC and to provide situational awareness of wildlife health issues, including potential zoonotic disease threats of interest to human- and agricultural-health agencies, and species/population impacts to assist management agencies with management decisions. The NWHC requests that State, Federal, and Tribal natural-resource managers report wildlife morbidity and mortality events and collaborate on national-scale surveillance. Reported information includes the location, land ownership, and date(s) where the event occurred; where the carcass was collected or sample was taken; capture methods and sample type; species sampled; individual characteristics such as sex, age, and size; any clinical signs or other event history observed; habitat characteristics known to affect the suspected disease process, such as habitat type, habitat cover, temperature, precipitation, or others; laboratory confirmed or suspected diagnoses; and contact information of the person reporting the event or submitting the sample. The NWHC reports back the results of diagnostic testing and cause of death (if applicable) to the submitter and other parties, such as the U.S. Fish and Wildlife Service Migratory Bird Coordinators, as applicable and provides generalized information to all users through our WHISPers platform where users can search and download current and historical trends in wildlife diseases (in accordance with the open data policy and FAIR standards).

Wildlife health information is shared in international health monitoring efforts through the NWHC's role (along with the Canadian Wildlife Health Cooperative) as a Collaborating Centre for Research, Diagnosis, and Surveillance of Wildlife Pathogens within the World Organization for Animal Health. The NWHC is also a Reference Center for Wildlife Health and Wildlife Disease, a member of the U.S. Department of Agriculture National Animal Health Laboratory Network, and a Food and Agriculture Organization of the United Nations Reference Center for Wildlife Health and Wildlife Disease Diagnostics.

Title of Collection: Wildlife Morbidity/Mortality or Disease Surveillance Event Reporting.

OMB Control Number: 1028–NEW.

Form Number: None.

Type of Review: An existing collection without an OMB approval.

Respondents/Affected Public: Employees of State, Federal, or Tribal agencies, often but not limited to, those with land management authority. Other organizations such as universities or non-government entities often working in partnership or under permit with management agencies.

Total Estimated Number of Annual Respondents: 539.

Total Estimated Number of Annual Responses: 1723.

Estimated Completion Time per Response: Approximately 2–285 min. May vary depending on activity and data provided.

Total Estimated Number of Annual Burden Hours: 1101.

Respondent's Obligation: Voluntary.

Frequency of Collection: Per wildlife health event, or surveillance sampling effort, frequency depends on the number of events experienced by an agency/management unit and specimen collection effort.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the PRA of 1995 (44 U.S.C. 3501 *et seq.*).

Katherine Richgels,

Chief, Ecology and Epidemiology Branch.

[FR Doc. 2024–18907 Filed 8–22–24; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_MT_FRN_MO4500181171]

Notice of Public Meeting of the Western Montana Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management's (BLM) Western Montana Resource Advisory Council (RAC) will meet as follows.

DATES: The RAC will hold a meeting on September 24, 2024, from 9 a.m. to 4 p.m. Mountain Time (MT). A virtual participation option will be available to the public. Individuals who want to participate virtually must register at least 1 week in advance of the meeting to allow the BLM time to plan for the number of individuals who wish to participate.

ADDRESSES: The meeting will be held at the BLM Butte Field Office, 106 North Parkmont, Butte, MT 59701. The final agenda and virtual participation instructions will be confirmed for the public via BLM online announcement, social media, on the RAC's web page at *https://www.blm.gov/get-involved/resource-advisory-council/near-you/montana-dakotas/western-montana-rac,* and through personal contact at least 2 weeks prior to the meeting.

Written comments for the RAC may be sent electronically in advance of the scheduled meeting to Ann Boucher, *aboucher@blm.gov,* or in writing to BLM Western Montana District/Public Affairs, 106 N. Parkmont, Butte, MT 59701.

FOR FURTHER INFORMATION CONTACT: Ann Boucher, BLM Montana/Dakotas State Office, telephone: (406) 896–5255, email: *aboucher@blm.gov.* Individuals in the United States who are deaf, blind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

Please make requests in advance for sign language interpreter services, language translation services, assistive listening devices, or other reasonable accommodations. We ask that you contact the person listed above at least 14 business days prior to the meeting to give the Department of the Interior sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis.

SUPPLEMENTARY INFORMATION: The RAC provides recommendations to the Secretary of the Interior concerning the planning and management of the public land resources located within the BLM's Western Montana District. Agenda topics for the September 24, 2024, meeting include a discussion about the Madison River Fee Proposal, updates from field managers, and other resource management issues the RAC may raise. While the meeting is scheduled to conclude at 4 p.m. MT, it may end earlier or later depending on the needs of RAC members. Therefore, members of the public interested in a specific agenda item or discussion should schedule their arrival accordingly.

The meeting is open to the public and a 30-minute public comment period will be offered at 3:30 p.m. MT. Depending on the number of persons wishing to speak and the time available, the amount of time for oral comments may be limited. Before including your address, phone number, email address, or other personal identifying information in written comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Detailed minutes for RAC meetings are maintained in the BLM Western Montana District Office. Minutes will also be posted to the RAC's web page at: *https://www.blm.gov/get-involved/resource-advisory-council/near-you/montana-dakotas/western-montana-rac.*

(Authority: 43 CFR 1784.4–2)

Carrie H. Cecil,

Acting Western Montana BLM District Manager.

[FR Doc. 2024–18987 Filed 8–22–24; 8:45 am]

BILLING CODE 4331–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_WY_FRN_MO4500180980]

Notice of Availability of the Proposed Resource Management Plan and Final Environmental Impact Statement for the Rock Springs Field Office, Wyoming

AGENCY: Bureau of Land Management.

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) has prepared a Proposed Resource Management Plan (RMP) and Final Environmental Impact Statement (EIS) for the Rock Springs Field Office and by this notice is announcing the start of a 30-day protest period of the Proposed RMP.

DATES: This notice announces a 30-day protest period to the BLM on the Proposed RMP beginning with the date of the Environmental Protection Agency's (EPA) publication of its Notice of Availability (NOA) of the Proposed RMP/Final EIS in the **Federal Register**. The EPA usually publishes its NOAs on Fridays. Protests must be postmarked or electronically submitted on the BLM's ePlanning site during the 30-day protest period.

ADDRESSES: The Proposed RMP and Final EIS is available on the BLM ePlanning project website at *https://eplanning.blm.gov/eplanning-ui/project/13853/510.* Documents pertinent to this proposal may be examined online at *https://eplanning.blm.gov/eplanning-ui/project/13853/510* and at the Rock Springs Field Office.

Instructions for filing a protest with the BLM for the Rock Springs Field Office RMP Revision can be found at: *https://www.blm.gov/programs/planning-and-nepa/public-participation/filing-a-plan-protest* and at 43 CFR 1610.5–2.

FOR FURTHER INFORMATION CONTACT: Kimberlee Foster, Field Manager, telephone 307–352–0201; address 280 HWY 191 N, Rock Springs, WY 82901; email *BLM_WY_RockSpringsRMP@blm.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Ms. Foster. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The planning area is located in portions of Lincoln, Sweetwater, Uinta, Sublette, and Fremont counties in southwestern Wyoming and encompasses approximately 3.6 million acres of public land.

Resources on lands administered by the BLM within the planning area are currently managed under the Green River RMP (1997) and Jack Morrow Hills Coordinated Activity Plan (2006), as amended. The Green River RMP encompasses multiple Areas of Critical Environmental Concern, Special Management Areas, and Wilderness Study Areas.

Proposed RMP

This Final EIS documents the comprehensive analysis of alternatives for the planning and management of public lands and resources administered by the Rock Springs Field Office. The Field Office administers various programs, including mineral exploration and development, renewable energy, wildlife habitat, outdoor recreation, wild horses, livestock grazing, and historic trails. The Final EIS provides analysis of potential management direction for important resource values and resource uses within the planning area and allocates the use of public lands for multiple uses. The Final EIS also provides management direction for the protection of certain resources while allowing for leasing and development of mineral resources, livestock grazing, and other activities at appropriate levels.

The Proposed RMP was developed in response to public comment on the Draft EIS (published in August 2023) and is a mix of the other four alternatives analyzed. The Proposed RMP alternative provides for conservation of resource values with appropriate constraints on other resource uses, while addressing public concerns regarding flexibility for development, especially in areas most likely to yield energy and mineral resources.

The Proposed RMP provides for the improvement and protection of habitat for wildlife and sensitive plant and animal species, improvement of riparian areas, and implementation of management actions that improve water quality and enhance protection of cultural resources, as well as ensuring opportunities for recreation and responsible energy development.

Protest of the Proposed RMP

The BLM planning regulations state that any person who participated in the preparation of the RMP and has an interest that will or might be adversely affected by approval of the Proposed RMP may protest its approval to the BLM Director. Protest of the Proposed RMP constitutes the final opportunity for administrative review of the proposed land use planning decisions prior to the BLM adopting an approved RMP. Instructions for filing a protest regarding the Proposed RMP with the BLM Director may be found online at *https://www.blm.gov/programs/planning-and-nepa/public-participation/filing-a-plan-protest* and at 43 CFR 1610.5–2. All protests must be in writing and mailed to the appropriate address, as set forth in the **ADDRESSES** section earlier or submitted electronically through the BLM ePlanning project website as described previously. Protests submitted electronically by any means other than the ePlanning project website or by fax will be invalid unless a protest is also submitted as a hard copy. The BLM Director will render a written decision on each protest. The Director's decision shall be the final decision of the Department of the Interior. Responses to valid protest issues will be compiled and documented in a Protest Resolution Report made available following the protest resolution online at: *https://www.blm.gov/programs/planning-and-nepa/public-participation/protest-resolution-reports.* Upon resolution of protests, the BLM will issue a Record of Decision (ROD) and Approved RMP.

(Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2, 43 CFR 1610.5)

Andrew Archuleta,

State Director.

[FR Doc. 2024–18912 Filed 8–22–24; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038562; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: California Department of Parks and Recreation, Sacramento, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the California Department of Parks and Recreation intends to repatriate certain cultural items that meet the definition of objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after September 23, 2024.

ADDRESSES: Dr. Leslie L. Hartzell, NAGPRA Coordinator, California Department of Parks and Recreation, P.O. Box 942896, Sacramento, CA 94296–0001, telephone (916) 653–5910, email *Leslie.Hartzell@parks.ca.gov.*

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 California Department of Parks and Recreation, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 54 lots of cultural items have been requested for repatriation. The objects of cultural patrimony are modified bone, modified shell, modified stone, and unmodified bone.

CA–PLA–158

In 1975–76, one lot of an object of cultural patrimony was removed from CA–PLA–158 (ACCN.P159), Placer County, CA. The object was removed as part of a surface survey to determine the feasibility and impact of day-use facilities. This survey was overseen by the California Department of Parks and Recreation. The object of cultural patrimony is modified stone.

CA–PLA–243 and CA–PLA–244

In 1977, 22 lots of cultural items were removed from CA–PLA–243 and CA–PLA–244 (ACCN.P228), Placer County,

CA. The California Department of Parks and Recreation removed the objects during a surface survey. The items of cultural patrimony are modified stone.

CA–PLA–254

In 1977, one lot of cultural items was removed from CA–PLA–254 (ACCN.P228) Placer County, CA. The California Department of Parks and Recreation removed the objects during a surface survey. The items of cultural patrimony are modified stone.

CA–PLA–259

In 1977, two lots of cultural items was removed from CA–PLA–259 (ACCN.P228), Placer County, CA. The California Department of Parks and Recreation removed the objects during a surface survey. The items of cultural patrimony are modified stone.

CA–SUT–57

The 23 lots of cultural items were removed from CA–SUT–57 (ACCN.P388), Sutter County, CA, which was accessioned into California Department of Parks and Recreation in or before 1982. The objects of cultural patrimony are modified bone, modified shell, modified stone, and unmodified bone.

CA–SUT–167/H

From 2004–05, two lots of objects of cultural patrimony were removed from CA–SUT–167/H (ACCN.P1420) Sutter County, CA. The objects were found during a surface survey. The object of cultural patrimony is modified stone.

CA–SUT–212/H

From 2004–05, one lot of an object of cultural patrimony was removed from Sutter County, CA. The object was found during a surface survey. The cultural items are modified stone.

Sutter County Isolate (SUT–ISO)

From 2004–05, one lot of an object of cultural patrimony was removed from SUT–ISO (ACCN.1420), Sutter County, CA. The object was found during a surface survey. The cultural items are modified stone.

CA–YUB–13

In December 1959, one lot of cultural items was removed from CA–YUB–13 (ACCN.230), Yuba County, CA. The excavation was directed by the California Department of State Parks. The objects of cultural patrimony are unmodified bone.

Determinations

The California Department of Parks and Recreation has determined that:

- The 54 lots of objects of cultural patrimony described in this notice have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.
- There is a reasonable connection between the cultural items described in this notice and the Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria, California; Enterprise Rancheria of Maidu Indians of California; Ione Band of Miwok Indians of California; Mooretown Rancheria of Maidu Indians of California; Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California; United Auburn Indian Community of the Auburn Rancheria of California; Wilton Rancheria, California; and the Yocha DeHe Wintun Nation, California.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by 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 cultural items in this notice to a requestor may occur on or after September 23, 2024. If competing requests for repatriation are received, the California Department of Parks and Recreation must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The California Department of Parks and Recreation is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: August 20, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–18963 Filed 8–22–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038577; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: San Francisco State University NAGPRA Program, San Francisco, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the San Francisco State University (SF State) NAGPRA Program intends to repatriate certain cultural items that meet the definition of objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after September 23, 2024.

ADDRESSES: Elise Green, San Francisco State University NAGPRA Program, 1600 Holloway Avenue, San Francisco, CA 94132, telephone (415) 338–1381, email *egreen@sfsu.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 SF State NAGPRA Program and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of three cultural items have been requested for repatriation. The three objects of cultural patrimony are a grass bundle coiled flat basket, a coiled basket, and a fiber sandal. Two baskets were donated to the Treganza Anthropology Museum (TAM) at San Francisco State University in the 1960s and 1970s. When the TAM closed in 2012, all the Native American items were transferred to the SF State NAGPRA Program. Both baskets are from the Southwest Collection and there are no records of the donors at SF State. The site where the fiber sandal was discovered (Kingman, AZ) is located on the aboriginal lands of the Hualapai Tribe. The fiber sandal was found by SF State Professor Gary Paul and brought back to campus.

It was once common practice by museums to use chemicals on cultural

items to prevent deterioration by mold, insects, and moisture. To date, the SF State NAGPRA Program has no records documenting use of chemicals at our facilities, and we currently do not use chemicals on any cultural items. A former SF State professor, Dr. Michael Moratto, stated that staff used glues, polyvinyl acetate, and a solution called Glyptol to mend and stabilize cultural objects in the past. Prior non-invasive and non-destructive hazardous chemical tests conducted at the SF State NAGPRA Program repositories show arsenic, mercury, and/or lead in some storage containers, surfaces, and certain cultural items.

Determinations

The SF State NAGPRA Program has determined that:

- The three objects of cultural patrimony described in this notice have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.
- There is a reasonable connection between the cultural items described in this notice and the Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by 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 cultural items in this notice to a requestor may occur on or after September 23, 2024. If competing requests for repatriation are received, the SF State NAGPRA Program must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The SF State NAGPRA Program is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: August 15, 2024.

Mariah Soriano,

Acting Manager, National NAGPRA Program.

[FR Doc. 2024–18959 Filed 8–22–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038578; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: American Museum of Natural History, New York, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the American Museum of Natural History (AMNH) intends to repatriate certain cultural items that meet the definition of objects of cultural patrimony and that have a cultural affiliation with the Indian Tribe in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after September 23, 2024.

ADDRESSES: Nell Murphy, American Museum of Natural History, Central Park West at 79th Street, New York, NY 10024, telephone (212) 769–5837, email *nmurphy@amnh.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 AMNH, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 66 cultural items have been requested for repatriation. The 66 objects of cultural patrimony comprise a Thunder Medicine Pipe Bundle. The cultural items were accessioned by the Museum in 1904 and 1905 and were acquired from Dr. Clark Wissler through a Museum expedition to the Blackfeet community in Montana.

Determinations

The American Museum of Natural History has determined that:

- The 66 objects of cultural patrimony described in this notice are objects that have ongoing historical, traditional, or cultural importance central to a Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.
- There is a reasonable connection between the cultural items described in this notice and the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant 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 Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after September 23, 2024. If competing requests for repatriation are received, the AMNH must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The AMNH 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. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: August 15, 2024.

Mariah Soriano,

Acting Manager, National NAGPRA Program.

[FR Doc. 2024–18960 Filed 8–22–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038566; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: Oberlin College, Oberlin, OH

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Allen Memorial Art Museum at Oberlin

College intends to repatriate a certain cultural item that meets the definition of an unassociated funerary object that has a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural item in this notice may occur on or after September 23, 2024.

ADDRESSES: Dr. Amy Margaris, Oberlin College, Department of Anthropology, King Building, 10 N Professor Street, Oberlin, OH 44074, telephone (440) 775–5173, email *amy.margaris@oberlin.edu* and Dr. Andria Derstine, John G.W. Cowles Director, Allen Memorial Art Museum, Oberlin College, 87 N Main Street, Oberlin, OH 44074, telephone (440) 775–6872, email *andria.derstine@oberlin.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 Oberlin College, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of one cultural item has been requested for repatriation. The one unassociated funerary object is a ceramic vessel. The vessel (object number 1920.8, ''Water Bottle in the Shape of a Bird'') is housed in the Allen Memorial Art Museum (AMAM) on the campus of Oberlin College and was attributed in some AMAM records as Peruvian (Chimú) in origin. However, other AMAM records describe it as ''American Indian, 1100–1400, Gift of Mrs. H.H. Wright, 1920'' which accords with a paper label on the vessel bottom that reads ''This Water Jar was taken from a [. . .] grave in Prehistoric gravey [. . ., presumably ''graveyard''] S of Nashville—Aug. 1885. H.'' [. . ., presumably H.H. Wright]. Herbert H. Wright was an 1873 graduate of Oberlin College who served as professor of mathematics and music at Fisk University in Nashville, TN, and is described in *Antiquities of Tennessee* (Gates P. Thruston, 1897) as having discovered a bird-shaped vessel in the Noel Cemetery. Noel Cemetery (40DV3) in Davidson County, TN, is a well-documented Native American burial site dating to the Mississippian period. It is not known if any potentially hazardous substances were used to treat this cultural item.

Determinations

Oberlin College has determined that:

- The one unassociated funerary object described in this notice is reasonably believed to have been placed intentionally with or near human remains, and is connected, either at the time of death or later as part of the death rite or ceremony of a Native American culture according to the Native American traditional knowledge of an Indian Tribe. The unassociated funerary object has been identified by a preponderance of the evidence as removed from a specific burial site with cultural affiliation to an Indian Tribe.
- There is a reasonable connection between the cultural item described in this notice and the Cherokee Nation; Eastern Band of Cherokee Indians; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by 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 cultural items in this notice to a requestor may occur on or after September 23, 2024. If competing requests for repatriation are received, Oberlin College must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. Oberlin College is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: August 20, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–18964 Filed 8–22–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038576; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: Culver-Stockton College, Canton, MO

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Culver-Stockton College intends to repatriate certain cultural items that meet the definition of objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after September 23, 2024.

ADDRESSES: C. Patrick Hotle, Culver-Stockton College, No. 1 College Hill, Canton, MO 63435, telephone (217) 592–2300, email *photle@culver.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 Culver-Stockton College, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of two cultural items have been requested for repatriation. The two objects of cultural patrimony are ceremonial clubs. The first object, part of the Paul Corey collection given to the college in 1977, is a ceremonial club from Skamania Co. Washington. It is fourteen by five inches long, of grayish brown color. The geographical location is written on a label attached to the club. Nothing more is known about the object. The second ceremonial club is also from the Paul Corey collection given to the college in 1977. It is from Sherman Co., Oregon. It is eleven and one-half by three and one-half inches and grayish brown in color. The geographical location is written on a label attached to the club. Nothing more is known about the object.

Determinations

The Culver-Stockton College has determined that:

• The two objects of cultural patrimony described in this notice have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.

• There is a reasonable connection between the cultural items described in this notice and the Confederated Tribes and Bands of the Yakama Nation; Confederated Tribes of the Umatilla Indian Reservation; and the Confederated Tribes of the Warm Springs Reservation of Oregon.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by 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 cultural items in this notice to a requestor may occur on or after September 23, 2024. If competing requests for repatriation are received, the Culver-Stockton College must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The Culver-Stockton College is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: August 15, 2024.

Mariah Soriano,

Acting Manager, National NAGPRA Program.

[FR Doc. 2024–18958 Filed 8–22–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038575; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: Stamford Museum & Nature Center, Stamford, CT

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Stamford Museum & Nature Center intends to repatriate certain cultural items that meet the definition of unassociated funerary objects and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after September 23, 2024.

ADDRESSES: Roanne Wilcox, Stamford Museum & Nature Center, 39 Scofieldtown Road, Stamford, CT 06903, telephone (203) 977–6543, email *RWilcox@stamfordmuseum.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 Stamford Museum & Nature Center, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of two cultural items have been requested for repatriation. The two unassociated funerary objects are clay elbow pipes. One pipe is labeled ''Grave,'' Miss.'', the other pipe is labeled ''Grave, Jefferson Co., Ark. 1938.''

Determinations

The Stamford Museum & Nature Center has determined that:

• The two unassociated funerary objects described in this notice are reasonably believed to have been placed intentionally with or near human remains, and are connected, either at the time of death or later as part of the death rite or ceremony of a Native American culture according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization. The unassociated funerary objects have been identified by a preponderance of the evidence as related to human remains, specific individuals, or families, or removed from a specific burial site or burial area of an individual or individuals with cultural affiliation to an Indian Tribe or Native Hawaiian organization.

• There is a reasonable connection between the cultural items described in this notice and The Osage Nation.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by 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 cultural items in this notice to a requestor may occur on or after September 23, 2024. If competing requests for repatriation are received, the Stamford Museum & Nature Center must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The Stamford Museum & Nature Center is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: August 15, 2024.

Mariah Soriano,

Acting Manager, National NAGPRA Program.

[FR Doc. 2024–18957 Filed 8–22–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038567; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: Office of the State Archaeologist Bioarchaeology Program, University of Iowa, Iowa City, IA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and

Repatriation Act (NAGPRA), the Office of the State Archaeologist Bioarchaeology Program (OSA–BP) intends to repatriate a certain cultural item that meets the definition of a sacred object and that has a known lineal descendant.

DATES: Repatriation of the cultural item in this notice may occur on or after September 23, 2024.

ADDRESSES: Dr. Lara Noldner, Office of the State Archaeologist Bioarchaeology Program, University of Iowa, 700 S Clinton Street, Iowa City, IA 52242, telephone (319) 384–0740, email *lara-noldner@uiowa.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 OSA–BP, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of one cultural item has been requested for repatriation. The sacred object is an elkhorn beaded necklace. This item was acquired by James West at an unknown time; a note with the necklace indicates it originated from an estate sale in southwestern Minnesota with ''L. Sioux'' in parentheses. The necklace was donated along with several other unprovenienced artifacts to the University of Iowa Office of the State Archaeologist (OSA Catalogue # 2021–3–1) by James' wife Jeanne in October of 2021. In consultation with the representatives of the Flandreau Santee Sioux Tribe of South Dakota, Upper Sioux Community, Minnesota, and Wahpekute Dakota the necklace was identified as belonging to lineal descendants of Inyangmani. No potentially hazardous materials are present on the item.

Determinations

The OSA–BP has determined that:

- The one sacred object described in this notice is a specific ceremonial object needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization.
- Dr. Chris Mato Nunpa, Dr. Waziyatawin, Inyan Mani Hoksida (''Running Walker Boy'', John Roberts), Annie Roberts Adams, Eliza Roberts Cavender, Elsie Two Bear Cavendar, and Carrie Cavender Schommer are connected to the cultural item described in this notice.

Requests for Repatriation

Additional, written requests for repatriation of the cultural item in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by 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 cultural item in this notice to a requestor may occur on or after September 23, 2024. If competing requests for repatriation are received, the OSA–BP must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural item are considered a single request and not competing requests. The OSA–BP is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: August 15, 2024

Mariah Soriano,

Acting Manager, National NAGPRA Program.

[FR Doc. 2024–18951 Filed 8–22–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038564; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Western Washington University, Department of Anthropology, Bellingham, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Western Washington University (WWU) 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 45–SJ–215, San Juan County, WA.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after September 23, 2024.

ADDRESSES: Dr. Judith Pine, Western Washington University, Department of Anthropology, Arntzen Hall 340, 516 High Street, Bellingham, WA 98225, telephone (360) 650–4783, email *pinej@wwu.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 WWU, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at minimum, two individuals were removed from 45–SJ–215, Hunter Bay, Lopez Island in San Juan County, WA. Associated with the human remains, are 15 newly identified funerary objects, consisting of stone, bone and antler tools and a modified clay concretion.

In August of 1952, Dr. Herbert Taylor excavated in the Hunter Bay area with the Western Washington State College (now WWU) field school. In the field notes it was referred to as ''The Village Site.'' No Smithsonian trinomial was provided at the time, but subsequent research indicates the collection is from 45–SJ–215.

The description provided in the original WWU NAGPRA Inventory has been updated to include an MNI, as well as the Smithsonian trinomial. In addition, no Associated Funerary Objects were reported in the original WWU NAGPRA Inventory, however, during the WWU 2018–2020 Repatriation and Rehousing Project, 15 items were identified as associated funerary objects by Lummi Cultural Specialist, R. Tom. No known individuals were identified. No hazardous chemicals are known to have been used to treat the human remains or associated funerary objects while in the custody of WWU.

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 information, archaeological information, geographical information, historical information, and oral tradition.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the human remains and associated funerary objects described in this notice.

Determinations

The WWU has determined that:

- The human remains described in this notice represent the physical remains of at least two individuals of Native American ancestry.
- The 15 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Lummi Tribe of the Lummi Reservation; Samish Indian Nation; and the Swinomish Indian Tribal Community.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **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 an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after September 23, 2024. If competing requests for repatriation are received, the WWU 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. The WWU is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: August 15, 2024.

Mariah Soriano,

Acting Manager, National NAGPRA Program.

[FR Doc. 2024–18949 Filed 8–22–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038580; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Museum of the Rockies, Bozeman, MT

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Museum of the Rockies has completed an inventory of associated funerary objects and has determined that there is a cultural affiliation between the associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the associated funerary objects in this notice may occur on or after September 23, 2024.

ADDRESSES: Eric Metz, Paleontology Collections Manager-Registrar, Museum of the Rockies, P.O. Box 172720, 600 W Kagy Boulevard, Bozeman, MT 59717, telephone (406) 994–6578, email *eric.metz@montana.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 Museum of the Rockies, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Six associated funerary objects have been identified. The six associated funerary objects are six lithics including one point blank, four diagnostic points, and one broken obsidian point. In 1951, human remains representing, at minimum, one individual were removed from a mesa in Carbon County, MT, by Joseph L. Cramer. The mesa, located 1.5 miles southeast of Joliet Town, is the divide between Rock Creek & Elbow Creek. In 1991, Cramer donated these human remains and associated funerary objects to Museum of the Rockies. The human remains associated with these objects have been listed in a Notice of Inventory Completion published in the **Federal Register** on May 18, 2023 (88 FR 31819–31820).

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the associated funerary objects described in this notice.

Determinations

The Museum of the Rockies has determined that:

- The six objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Crow Tribe of Montana.

Requests for Repatriation

Written requests for repatriation of the associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **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 an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the associated funerary objects described in this notice to a requestor may occur on or after September 23, 2024. If competing requests for repatriation are received, the Museum of the Rockies must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the associated funerary objects are considered a single request and not competing requests. The Museum of the Rockies is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: August 15, 2024.

Mariah Soriano,

Acting Manager, National NAGPRA Program.

[FR Doc. 2024–18962 Filed 8–22–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038565; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC, and the University of Tennessee, Knoxville, Department of Anthropology, Knoxville, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of the Interior, Bureau of Indian Affairs (BIA), and the University of Tennessee, Knoxville, Department of Anthropology (UTK), have completed an inventory of human remains and associated funerary objects and have 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.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after September 23, 2024.

ADDRESSES: Tamara Billie, U.S. Department of the Interior, Bureau of Indian Affairs, 1001 Indian School Road NW, Mailbox 44, Albuquerque, NM 87104, telephone (505) 879–9711, email *tamara.billie@bia.gov.*

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 BIA, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, four individuals have been reasonably identified. The 10 associated funerary objects are three lots of lithics, four lots of ceramics, and three lots of faunal remains.

These remains and objects were removed from 25RH1, the Leary site, in Richardson County, Nebraska. There have been numerous excavations of this site, but these remains and objects were likely removed in 1968, under the direction of Alfred E. Johnson of the University of Kansas (KU). Bulldozer cutting along the terrace of the Nemaha River exposed burials which were ''salvaged'' by Johnson in 1968. Based on the information available, it is highly likely that William Bass brought these remains and two of the funerary objects (one lot of ceramics and one lot of faunal remains) from KU to UTK when he began working in the Department of Anthropology in 1971. However, some of the associated funerary objects remained at KU, including three lots of lithics, three lots of ceramics, and two lots of faunal remains. Some of the human remains appear to have been treated with an unknown preservative and some have glue present.

25RH1 has been documented as an Oneota culture site. This is supported by anthropological, archeological, linguistic, oral tradition, and other relevant information or expert opinion, including Native American traditional knowledge. The Iowa Tribe of Kansas and Nebraska is among the present-day representatives of the Oneota culture. This site is also located on the Iowa Tribe of Kansas and Nebraska's reservation.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is clearly identified by the information available about the human remains and associated funerary objects described in this notice.

Determinations

BIA has determined that:

- The human remains described in this notice represent the physical remains of four individuals of Native American ancestry.
- The 10 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Iowa Tribe of Kansas and Nebraska.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **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 an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after September 23, 2024. If competing requests for repatriation are received, the BIA 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. The BIA is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: August 15, 2024.

Mariah Soriano,

Acting Manager, National NAGPRA Program.

[FR Doc. 2024–18950 Filed 8–22–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–MWR–INDU–36591; PS.SMWLA0016.00.1]

Minor Boundary Revision at Indiana Dunes National Park

AGENCY: National Park Service, Interior.

ACTION: Notification of boundary revision.

SUMMARY: The boundary of Indiana Dunes National Park (Park) is modified to include 32.24 acres of donated land located in Porter County, Indiana, immediately adjoining the Park boundary. The National Park Service (NPS) has accepted the land donation from Canonie IDNL Acquisition, LLC, an Indiana Limited Liability Company, in care of the National Park Trust, a nonprofit organization dedicated to preserving parks.

DATES: The effective date of this boundary revision is August 23, 2024.

ADDRESSES: The map depicting this boundary revision is available for inspection at the following locations: National Park Service, Land Resources

Program Center, Interior Regions 3, 4, 5, 601 Riverfront Drive, Omaha, NE 68102, and National Park Service, Department of the Interior, 1849 C Street NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Acting Chief Eric Giusti, *eric_giusti@nps.gov,* National Park Service, Land Resources Program Center, Interior Regions 3, 4, 5, 601 Riverfront Drive, Omaha, NE 68102, telephone (304) 350–2560.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to 16 U.S.C. 460u through 460u–26, the boundary of Indiana Dunes National Park is modified to include an adjoining tract identified as Tract 116–01, containing 32.24 acres. The boundary revision is depicted on Map No. 626/122887, dated August 2015.

16 U.S.C. 460u–19 specifically provides that, after notifying the House Committee on Natural Resources and the Senate Committee on Energy and Natural Resources, the Secretary of the Interior is authorized to accept the donation of Tract 116–01 and revise the Park boundary to include the tract upon publication of Notice in the **Federal Register**. The Committees have been notified of this donation and boundary revision. The inclusion of this donated tract will enable NPS to preserve significant wetlands and habitat and to prevent incompatible development of this land located between the present Park boundary and the Park's visitor center.

Herbert Frost,

Regional Director, Interior Regions 3, 4, 5.

[FR Doc. 2024–18928 Filed 8–22–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038563; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Disposition: U.S. Department of the Interior, Bureau of Land Management, Arizona State Office, Tucson Field Office, Tucson, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice of Intended Disposition.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of the Interior, Bureau of Land Management, Arizona State Office, Tucson Field Office, intends to carry out the disposition of human remains removed from Federal or Tribal lands to the lineal descendants or Indian Tribe with priority for disposition in this notice.

DATES: Disposition of the human remains in this notice may occur on or after September 23, 2024. If no claim for disposition is received by May 15, 2025, the human remains in this notice will become unclaimed human remains or cultural items.

ADDRESSES: Colleen J. Dingman, Field Manager, Bureau of Land Management, Tucson Field Office, 3201 E Universal Way, Tucson, AZ 85756, telephone (520) 258–7200, email *cjdingman@blm.gov.*

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 Bureau of Land Management, Arizona State Office, Tucson Field Office, and additional information on the human remains or cultural items in this notice, including the results of consultation, can be found in the related records. The National Park Service is not responsible for the identifications in this notice.

Abstract of Information Available

Based on the information available, human remains representing at least one individual have been reasonably identified. No associated funerary objects are present. The discovery reported to the Tucson Field Office on January 30, 2023, consisted of approximately 50+/−cremated bone fragments averaging two centimeters in size. These remains were discovered in Cochise County, AZ.

Determinations

The Bureau of Land Management, Arizona State Office, Tucson Field Office, has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- The Tohono O'odham Nation of Arizona has priority for disposition of the human remains described in this notice.

Claims for Disposition

Written claims for disposition of the human remains in this notice must be sent to the appropriate official identified in this notice under **ADDRESSES**. If no claim for disposition is received by August 25, 2025, the human remains in this notice will become unclaimed human remains. Claims for disposition may be submitted by:

1. Any lineal descendant or Indian Tribe identified in this notice.

2. Any lineal descendant or Indian Tribe not identified in this notice who shows, by a preponderance of the evidence, that they have priority for disposition.

Disposition of the human remains in this notice may occur on or after September 23, 2024. If competing claims for disposition are received, the Bureau of Land Management, Arizona State Office, Tucson Field Office, must determine the most appropriate claimant prior to disposition. Requests for joint disposition of the human remains are considered a single request and not competing requests. The Bureau of Land Management, Arizona State Office, Tucson Field Office, is responsible for sending a copy of this notice to the lineal descendants and Indian Tribes identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3002, and the implementing regulations, 43 CFR 10.7.

Dated: August 15, 2024.

Mariah Soriano,

Acting Manager, National NAGPRA Program.

[FR Doc. 2024–18948 Filed 8–22–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038570; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Mercyhurst University, Erie, PA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Mercyhurst University 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.

DATES: Repatriation of the human remains in this notice may occur on or after September 23, 2024.

ADDRESSES: Anne Marjenin, Mercyhurst University, 501 E 38th Street, Erie, PA 16546, telephone (814) 824–2012, email *nagpra@mercyhurst.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 Mercyhurst University, and additional information

on the determinations in this notice, including the results of consultation, can be found in the inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Based on the information available, human remains representing, at least, one individual have been reasonably identified. No associated funerary objects are present. On an unknown date, the individual (IN–CL/PR–TIN–0001) was removed from a location likely near Clarksville, Clark County, Indiana, in proximity to Silver Creek and its confluence with the Ohio River. On an unknown date, the individual was obtained by Raymond C. Vietzen (1907–1995). Vietzen, an avocational archaeologist, collector, and author, established the Indian Ridge Museum in Elyria, Ohio, and the Archaeological Society of Ohio (formerly the Ohio Indian Relic Collectors Society). The Indian Ridge Museum, founded in the 1930s, served as Vietzen's laboratory and repository, and it remained in operation until the mid-1990s. After Vietzen's death, the facility fell into disrepair, and most of the items he had acquired and housed at the museum were sold. In 1998, the Ohio Historical Society (presently the Ohio History Connection) removed ancestral human remains and some of the remaining items from the facility and temporarily housed them at the Ohio Historical Society. In October of 2003, these remains were transferred from the Ohio Historical Society to Mercyhurst College (presently Mercyhurst University).

There is no record regarding potentially hazardous substances having been used to treat the human remains.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains described in this notice.

Determinations

Mercyhurst University has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- There is a reasonable connection between the human remains described in this notice and the Absentee-Shawnee Tribe of Indians of Oklahoma; Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Cayuga Nation; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana; Citizen Potawatomi Nation, Oklahoma; Delaware Nation, Oklahoma; Delaware Tribe of Indians; Eastern Shawnee Tribe of Oklahoma; Forest County Potawatomi Community, Wisconsin; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Little Shell Tribe of Chippewa Indians of Montana; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Miami Tribe of Oklahoma; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band); Nottawaseppi Huron Band of the Potawatomi, Michigan; Oneida Indian Nation; Oneida Nation; Onondaga Nation; Ottawa Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Prairie Band Potawatomi Nation; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Saginaw Chippewa Indian Tribe of Michigan; Saint Regis Mohawk Tribe; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Seneca Nation of Indians; Seneca-Cayuga Nation; Shawnee Tribe; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; The Osage Nation; Tonawanda Band of Seneca; Turtle Mountain Band of Chippewa Indians of North Dakota; Tuscarora Nation; United Keetoowah Band of Cherokee Indians in Oklahoma; and the Wyandotte Nation.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under **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 September 23, 2024. If competing requests for repatriation are received, Mercyhurst University 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. Mercyhurst University is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: August 15, 2024.

Mariah Soriano,

Acting Manager, National NAGPRA Program.

[FR Doc. 2024–18955 Filed 8–22–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038579; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Kansas State University, Manhattan, KS

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Kansas State University 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.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after September 23, 2024.

ADDRESSES: Megan Williamson, Department of Sociology, Anthropology, and Social Work, Kansas State University, 204 Waters Hall, 1603 Old Claflin Place, Manhattan, KS 66506–4003, telephone (785) 532–6005, email *mwillia1@ksu.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 Kansas State University, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, one individual have been identified. The 42 associated funerary objects are one unmodified shell, two ceramic body sherds, five unmodified stones, and 34 chipped stone debris. This assemblage was transferred to Kansas State University from University of Kansas in the early 1970s. No known provenience or known background other than a note stating 'Liberal' is with the remains. Liberal, Kansas is in Seward County, Kansas. There are no known potentially hazardous substances used to treat any of the human remains or associated funerary objects.

Human remains representing, at least, one individual has been identified. There are no associated funerary objects present. The human remains in this Notice were transferred to Kansas State University from a physician in Hill City, KS in the 1970s. The name of the physician is unknown however a site number 14GH601 had been assigned. No Hazardous materials have been used in the treatment of the human remain.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

Kansas State University has determined that:

- The human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- The 42 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Cheyenne and Arapaho Tribes, Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **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 an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after September 23, 2024. If competing requests for repatriation are received, Kansas State University 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. Kansas State University is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: August 15, 2024.

Mariah Soriano,

Acting Manager, National NAGPRA Program.

[FR Doc. 2024–18961 Filed 8–22–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NERO–CEBE–38323; PPNECEBE00, PPMPSPD1Z.Y00000]

Request for Nominations for the Cedar Creek and Belle Grove National Historical Park Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Request for nominations.

SUMMARY: The National Park Service (NPS), U.S. Department of the Interior, is requesting nominations for qualified persons to serve as members on the Cedar Creek and Belle Grove National Historical Park Advisory Commission (Commission).

DATES: Written nominations must be received by September 23, 2024.

ADDRESSES: Nominations or requests for further information should be sent to Karen Beck-Herzog, Site Manager, Cedar Creek and Belle Grove National Historical Park, P.O. Box 700, Middletown, Virginia 22645, or via email *karen_beck-herzog@nps.gov.*

FOR FURTHER INFORMATION CONTACT: Karen Beck-Herzog, via telephone (540) 868–0938.

SUPPLEMENTARY INFORMATION: The Commission was established in accordance with the Cedar Creek and Belle Grove National Historical Park Act of 2002 (16 U.S.C. 410iii–7). The Commission was designated by Congress to provide advice to the Secretary of the Interior on the preparation and implementation of the park's general management plan and in the identification of sites of significance outside the park boundary.

The Commission consists of 15 members appointed by the Secretary, as follows:

(a) 1 representative from the Commonwealth of Virginia; (b) 1 representative each from the local governments of Strasburg, Middletown, Frederick County, Shenandoah County, and Warren County; (c) 2 representatives of private landowners within the Park; (d) 1 representative from a citizen interest group; (e) 1 representative from the Cedar Creek Battlefield Foundation; (f) 1 representative from the Belle Grove, Incorporated;

(g) 1 representative from the National Trust for Historic Preservation; (h) 1 representative from the Shenandoah Valley Battlefields Foundation; (i) 1 ex-officio representative from the National Park Service; and (j) 1 ex-officio representative from the United States Forest Service. Alternate members may be appointed to the Commission.

We are currently seeking primary and alternate members to represent Belle Grove, Inc., the Cedar Creek Battlefield Foundation, the Shenandoah Valley Battlefields Foundation, the Town of Strasburg, and Warren County.

Each member shall be appointed for a term of three years and may be reappointed for not more than two successive terms. A member may serve after the expiration of that member's term until a successor has been appointed. The Chairperson of the Commission shall be elected by the members to serve a term of one-year renewable for one additional year.

Nominations should be typed and should include a resume providing an adequate description of the nominee's

qualifications, including information that would enable the Department of the Interior to make an informed decision regarding meeting the membership requirements of the Commission and permit the Department to contact a potential member.

Members of the Commission serve without compensation. However, while away from their homes or regular places of business in the performance of services for the Commission as approved by the NPS, members may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed such expenses under 5 U.S.C. 5703.

(Authority: 5 U.S.C. Ch. 10)

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2024–18989 Filed 8–22–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038569; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: San Bernardino County Museum, Redlands, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), San Bernardino County Museum 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.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after September 23, 2024.

ADDRESSES: Tamara Serrao-Leiva, San Bernardino County Museum, 2024 Orange Tree Lane, Redlands, CA 92374, telephone (909) 435–5359, email *tserrao-leiva@sbcm.sbcounty.gov.*

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 San Bernardino County Museum, and additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Based on the information available, human remains representing, at least, one individual have been reasonably identified. The eight associated funerary objects are petrified wood, flaked stone, shell, plant material, ground stone, historic objects, ceramics, and faunal. On November 19, 1939, land surveyor Benjamin McCown collected items from Pinyon Wash in Davis Valley and Dry Lake, Imperial County, California. These were brought to San Bernardino County Museum once Archaeological Survey Association of Southern California disbanded in 2008.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The San Bernardino County Museum has determined that:

- The human remains described in this notice represent the physical remains of one individuals of Native American ancestry.
- The eight lots of objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a reasonable connection between the human remains and associated funerary objects described in this notice and the Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Capitan Grande Band of Diegueno Mission Indians of California (Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California); Ewiiaapaayp Band of Kumeyaay Indians, California; Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **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 September 23, 2024. If competing requests for repatriation are received, San Bernardino County Museum 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. The San Bernardino County Museum is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: August 15, 2024.

Mariah Soriano,

Acting Manager, National NAGPRA Program.

[FR Doc. 2024–18954 Filed 8–22–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038568; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, Bureau of Land Management, Alaska State Office, Anchorage, AK

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of the Interior, Bureau of Land Management, Alaska State Office (BLM Alaska) 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.

DATES: Repatriation of the human remains in this notice may occur on or after September 23, 2024.

ADDRESSES: Robin O. Mills, Bureau of Land Management, 222 W 7th Avenue #13, Anchorage, AK 99513, telephone (907) 474–2359, email *rmills@blm.gov.*

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 BLM Alaska, and additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Based on the information available, human remains representing at least four individuals have been reasonably identified. No associated funerary objects are present. The human remains include 15 skeletal elements representing minimally four individuals, secured during the 1958–1961 archaeological excavations at Cape Krusenstern, Alaska, by Louis Giddings. Previous repatriations from this site and others nearby occurred in 2000 to the Tribe identified in this notice. The new identified remains were discovered by specifically searching for human remains in excavation bags containing animal faunal elements, in August-November 2023. The new remains were found from three archaeological proveniences: (1) 10 ribs (MNI one individual; adult) from House 8, (2) two vertebrae & one metacarpal (MNI one individual; adult) from a seal fauna feature near House 30, and (3) one metatarsal and one clavicle (MNI two individuals; one teenager, one child) from House 41.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains described in this notice.

Determinations

The BLM Alaska has determined that:

- The human remains described in this notice represent the physical remains of four individuals of Native American ancestry.
- There is a reasonable connection between the human remains in this notice and the Native Village of Kotzebue.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under **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 September 23, 2024. If competing requests for repatriation are received, the BLM Alaska 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 BLM Alaska is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: August 15, 2024.

Mariah Soriano,

Acting Manager, National NAGPRA Program.

[FR Doc. 2024–18952 Filed 8–22–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038572; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Mercyhurst University, Erie, PA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Mercyhurst University 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.

DATES: Repatriation of the human remains in this notice may occur on or after September 23, 2024.

ADDRESSES: Anne Marjenin, Mercyhurst University, 501 E 38th Street, Erie, PA 16546, telephone (814) 824–2012, email *nagpra@mercyhurst.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 Mercyhurst University, and additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Based on the information available, human remains representing, at least, one individual have been reasonably identified. No associated funerary objects are present. On an unknown date, the individual (IN-zUNK–TIN–0001) was removed from an unknown geographic location in Indiana. On an unknown date, the individual was obtained by Raymond C. Vietzen (1907–1995). Vietzen, an avocational archaeologist, collector, and author, established the Indian Ridge Museum in Elyria, Ohio, and the Archaeological Society of Ohio (formerly the Ohio Indian Relic Collectors Society). The Indian Ridge Museum, founded in the 1930s, served as Vietzen's laboratory and repository, and it remained in operation until the mid-1990s. After Vietzen's death, the facility fell into disrepair, and most of the items he had acquired and housed at the museum were sold. In 1998, the Ohio Historical Society (presently the Ohio History Connection) removed ancestral human remains and some of the remaining items from the facility and temporarily housed them at the Ohio Historical Society. In October of 2003, these remains were transferred from the Ohio Historical Society to Mercyhurst College (presently Mercyhurst University).

While there is no record regarding potentially hazardous substances having been used to treat the human remains, an unidentified adhesive or lacquer is present. It is unknown when the substance was applied.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains described in this notice.

Determinations

Mercyhurst University has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- There is a reasonable connection between the human remains described in this notice and the Absentee-Shawnee Tribe of Indians of Oklahoma; Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Cayuga Nation; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana; Citizen Potawatomi Nation, Oklahoma; Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota; Delaware Nation, Oklahoma; Delaware Tribe of Indians; Eastern Shawnee Tribe of Oklahoma; Flandreau Santee Sioux Tribe of South Dakota; Forest County Potawatomi Community, Wisconsin; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Kaw Nation, Oklahoma; Keweenaw Bay Indian Community, Michigan; Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Little Shell Tribe of Chippewa Indians of Montana; Little Traverse Bay Bands of Odawa Indians, Michigan; Lower Sioux Indian Community in the State of Minnesota; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Miami Tribe of Oklahoma; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band); Nottawaseppi Huron Band of the Potawatomi, Michigan; Omaha Tribe of Nebraska; Oneida Indian Nation; Oneida Nation; Onondaga Nation; Ottawa Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Ponca Tribe of Indians of Oklahoma; Ponca Tribe of Nebraska; Prairie Band Potawatomi Nation; Prairie Island Indian Community in the State of Minnesota; Quapaw Nation; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Saginaw Chippewa Indian Tribe of Michigan; Saint Regis Mohawk Tribe; Santee Sioux Nation, Nebraska; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Seneca Nation of Indians; Seneca-Cayuga Nation; Shakopee Mdewakanton Sioux Community of Minnesota; Shawnee Tribe; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; Stockbridge Munsee Community, Wisconsin; The Osage Nation; Tonawanda Band of Seneca; Turtle Mountain Band of Chippewa Indians of North Dakota; Tuscarora Nation; United Keetoowah Band of Cherokee Indians in Oklahoma; Upper Sioux Community, Minnesota; Wyandotte Nation; and the Yankton Sioux Tribe of South Dakota.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under **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 September 23, 2024. If competing requests for repatriation are received, Mercyhurst University 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. Mercyhurst University is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: August 15, 2024.

Mariah Soriano,

Acting Manager, National NAGPRA Program.

[FR Doc. 2024–18956 Filed 8–22–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038573; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intended Repatriation: U.S. Department of the Interior, Bureau of Land Management, Alaska State Office, Anchorage, AK

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of the Interior, Bureau of Land Management, Alaska State Office (BLM Alaska) intends to repatriate certain cultural items that meet the definition of unassociated funerary objects and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after September 23, 2024.

ADDRESSES: Robin O. Mills, Bureau of Land Management, 222 W 7th Avenue #13, Anchorage, AK 99513, telephone (907) 474–2359, email *rmills@blm.gov.*

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 BLM Alaska, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 69 unassociated funerary objects have been requested for repatriation. The 69 unassociated funerary objects are lance and arrow blades and shafts, game pieces, different types of projectile points, other hunting tools and accessories, wood shavings, dolls, stone tools, a carving, an effigy, bowls, dishes, cups, and scoop pieces, and wrapping material.

Based on the information available, Native American unassociated funerary objects have been identified at the University of Pennsylvania Museum of Archaeology and Anthropology (Penn Museum). These objects were collected by William Van Valin when he was hired by the Penn Museum to lead the John Wanamaker Expedition to Alaska, in 1917–1919. The 69 unassociated funerary objects derive from the

Kugusugaruk site (49–BAR–00003) located 6.6 miles southwest of present-day Utqiagvik, Alaska; available records are unable to link these items to specific human remains from northern Alaska at the Penn Museum, the Smithsonian Institute (SI), National Museum of Natural History (NMNH), or any other museum.

Determinations

The BLM Alaska has determined that:

- The 69 unassociated funerary objects described above are reasonably believed to have been placed intentionally with or near individual human remains, and are connected, either at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of an individual or individuals with cultural affiliation to an Indian Tribe or Native Hawaiian organization.
- There is a reasonable connection between the human remains and funerary objects described in this notice and the Native Village of Barrow Inupiat Traditional Government.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by 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 cultural items in this notice to a requestor may occur on or after September 23, 2024. If competing requests for repatriation are received, the BLM Alaska must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The BLM Alaska is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: August 15, 2024.

Mariah Soriano,

Acting Manager, National NAGPRA Program.

[FR Doc. 2024–18953 Filed 8–22–24; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–597 and 731–TA–1407 (Review)]

Cast Iron Soil Pipe From China; Scheduling of Expedited Five-Year Reviews

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of expedited reviews pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping duty order and countervailing duty order on cast iron soil pipe from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: July 5, 2024.

FOR FURTHER INFORMATION CONTACT: Alexis Yim (202–708–1446), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On July 5, 2024, the Commission determined that the domestic interested party group response to its notice of institution (89 FR 22448, April 1, 2024) of the subject five-year reviews was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews.[1] Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act (19 U.S.C. 1675(c)(3)).

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Staff report.—A staff report containing information concerning the subject matter of the reviews has been placed in the nonpublic record, and will be made available to persons on the Administrative Protective Order service list for these reviews on September 18, 2024. A public version will be issued thereafter, pursuant to § 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in § 207.62(d) of the Commission's rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the reviews may file written comments with the Secretary on what determination the Commission should reach in the reviews. Comments are due on or before 5:15 p.m. on September 26, 2024 and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by September 26, 2024. However, should the Department of Commerce (''Commerce'') extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's website.

[2] The Commission has found the responses submitted on behalf of Cast Iron Soil Pipe Institute, Charlotte Pipe & Foundry, and McWane, Inc. to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

by a party to these reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination.—The Commission has determined these reviews are extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: These reviews are being conducted under authority of title VII of the Act; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: August 19, 2024.

Sharon Bellamy,

Supervisory Hearings and Information Officer.

[FR Doc. 2024–18924 Filed 8–22–24; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1232 (Enforcement)]

Certain Chocolate Milk Powder and Packaging Thereof; Notice of Request for Submissions on the Public Interest

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that on August 16, 2024, the presiding administrative law judge (''ALJ'') issued an Initial Determination (''ID'') Granting Complainant's Motion for Summary Determination of Violation of the General Exclusion Order (''GEO''), combined with a Recommended Determination (''RD'') to issue cease and desist orders (''CDOs'') against four defaulting enforcement respondents. The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation of the GEO. This notice is soliciting comments from the public and interested government agencies only.

FOR FURTHER INFORMATION CONTACT: Paul Lall, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2043. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: On November 9, 2023, the Commission determined to institute an enforcement proceeding under Commission Rule 210.75 on behalf of complainant Meenaxi Enterprise Inc. (''Meenaxi'') to investigate alleged violations of the GEO by four respondents: (1) Bharat Bazar Inc. of Union City, California (''Bharat Bazaar''); (2) Coconut Hill Inc. d/b/a Coconut Hill of Sunnyvale, California (''Coconut Hill''); (3) Organic Ingredients Inc. d/b/a Namaste Plaza Indian Super Market (''Organic Ingredients'') of San Diego, California; and (4) New India Bazar Inc. d/b/a New India Bazar of San Jose, California (''New India'') (collectively the ''Enforcement Respondents''). *See* Comm'n Notice (Nov. 9, 2023); *see also* 88 FR 78786–87 (Nov. 16, 2023); 89 FR 15220 (Mar. 1, 2024).

On January 10, 2024, the presiding ALJ issued an order directing the Enforcement Respondents to show cause why they should not be found in default and why judgment should not be rendered against them for failing to respond to the enforcement complaint and notice of investigation. *See* Order No. 6 (Jan. 10, 2024). Order No. 6 directed the Enforcement Respondents to make any showing of good cause by no later than February 2, 2024. *Id.* at 3. No party responded to Order No. 6. *See* Order No. 8 at 1 (Feb. 13, 2024).

On March 14, 2024, the Commission determined that the four Enforcement Respondents are in default. *See* Order No. 8 (Feb. 13, 2024), *unreviewed by* Comm'n Notice (Mar. 14, 2024). On March 15, 2024, Meenaxi filed a motion requesting summary determination of violation of the GEO and the issuance of CDOs against the four Enforcement Respondents. *See* ID at 5. On August 16, 2024, the presiding ALJ issued the ID and RD granting Meenaxi's motion and recommending issuance of the requested CDOs.

Section 337 of the Tariff Act of 1930 provides that, if the Commission finds a violation, it shall exclude the articles concerned from the United States unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry. (19 U.S.C. 1337(d)(1)). A similar provision applies to cease and desist orders. (19 U.S.C. 1337(f)(1)).

The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation of the GEO, specifically: CDOs against the four Enforcement Respondents: (1) Bharat Bazaar; (2) Coconut Hill; (3) Organic Ingredients; and (4) New India. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public and interested government agencies are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the ALJ's Recommended Determination. Comments should address whether issuance of the recommended CDOs in this investigation, should the Commission find a violation of the GEO, would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the recommended CDOs are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended CDOs;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they are subject to CDOs;

(iv) indicate whether complainant, complainant's licensees, and/or third-party suppliers have the capacity to replace the volume of articles potentially subject to the recommended CDOs within a commercially reasonable time; and

(v) explain how the recommended CDOs would impact consumers in the United States.

Written submissions must be filed no later than by close of business on September 9, 2024.

Persons filing written submissions must file the original document

electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (Mar. 19, 2020). Submissions should refer to the investigation number (''Inv. No. 337–TA–1232 Enforcement'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *https://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. Any non-party wishing to submit comments containing confidential information must serve those comments on the parties to the investigation pursuant to the applicable Administrative Protective Order. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing and must be served in accordance with Commission Rule 210.4(f)(7)(ii)(A) (19 CFR 210.4(f)(7)(ii)(A)). All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: August 19, 2024.

Sharon Bellamy,

Supervisory Hearings and Information Officer.

[FR Doc. 2024–18913 Filed 8–22–24; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0NEW]

Agency Information Collection Activities Proposed eCollection eComments Requested; New Collection; Optional Flexible Financial Assistance Survey

AGENCY: Office on Violence Against Women, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Office on Violence Against Women will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until October 22, 2024.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Catherine Poston, Office on Violence Against Women, at 202–514–5430 or *Catherine.poston@usdoj.gov* or United States Department of Justice, Office on Violence Against Women, 145 N Street NE, 4W–218, Washington, DC 20530.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Abstract: The Office on Violence Against Women (OVW)'s Congressional Appropriations for FYs 2023 and 2024 include a combined $88,000,000 for ''an initiative to provide financial assistance to victims, including evaluating the effectiveness of funded projects.'' OVW anticipates issuing grant awards under this initiative in FY 2024, supporting flexible financial assistance programming. The planned data collection is a short, optional survey that grant recipients under the Financial Assistance Program will make available to victims who receive flexible financial assistance. Grantees will include aggregated survey results in their twice-annual performance reports submitted to OVW. These data will be used to inform future programming and share information to stakeholders, including Congress, about the effectiveness of OVW-funded financial assistance for victims.

Overview of This Information Collection

1. *Type of Information Collection:* New collection.

2. *The Title of the Form/Collection:* Optional Flexible Financial Assistance Survey.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form Number: 1122–XXXX. U.S. Department of Justice, Office on Violence Against Women.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Affected Public—The affected public includes grantees under OVW's Financial Assistance Program and recipients of flexible financial assistance distributed by those grantees. The survey is optional.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that it will take the approximately 7,500 respondents approximately 10 minutes to complete the optional survey.

6. *An estimate of the total annual burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is

1,250 hours. OVW anticipates that is 15 grantees will administer this survey to an annual average of 500 people who receive flexible financial assistance. Five-hundred participants each at 15 sites totals 7,500 people completing the survey each year. If it takes 10 minutes to complete the survey, then that is 75,000 minutes annually, which is 1,250 hours.

7. *An estimate of the total annual cost burden associated with the collection, if applicable:*

Activity	Estimated number of respondents	Frequency	Total annual responses	Time per response (minutes)	Total annual burden (hours)
Flexible Financial Assistance Survey	7,500	1 time per recipient	7,500	10	1,250
Unduplicated Totals	7,500	1 time	1 time	10	1,250

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC 20530.

Dated: August 19, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024–18899 Filed 8–22–24; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

[OMB Number 1117–0058]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Previously Approved Collection; Exempt Chemical Preparations Under the Controlled Substance Act

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Drug Enforcement Administration (DEA), Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until October 22, 2024.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Scott A Brinks, Regulatory Drafting and Policy Support Section, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (571) 362–3261; Email: *PRA@dea.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Abstract: Pursuant to 21 U.S.C. 811(g)(3)(B), DEA (by delegation of authority from the Attorney General) may, by regulation, exempt from specific provisions of the Controlled Substances Act (CSA) any compound, mixture, or preparation containing any controlled substance, which is not for administration to a human being or animal, and which is packaged in a certain manner, so that as packaged it does not present any significant potential for abuse. In accordance with 21 CFR 1308.23(f), the Administrator (or the Deputy Assistant Administrator), at any time, may revoke or modify any exemption granted pursuant to 21 CFR 1308.23; modify or revoke the criteria by which exemptions are granted; and modify the scope of exemptions.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a previously approved collection.

2. *The Title of the Form/Collection:* Exempt Chemical Preparations under the Controlled Substance Act.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* No form number is associated with this collection. The applicable component within the Department of Justice is the Drug Enforcement Administration, Diversion Control Division.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Affected Public: Business or other for-profit.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The DEA estimates that 131 registrants participate in this information collection. The time per response is 1 hr for Exempt Chemical Preparations under the Controlled Substance Act.

6. *An estimate of the total annual burden (in hours) associated with the collection:* DEA estimates that this collection takes 2,093 annual burden hours.

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* $3,558.

TOTAL BURDEN HOURS

Activity	Number of respondents	Total annual responses	Time per response (hours)	Total annual burden (hours)
Exempt Chemical Preparations	131	2,093	1	2,093
Unduplicated Totals	*131*	*2,093*	*1*	*2,093*

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC 20530.

Dated: August 20, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024–18998 Filed 8–22–24; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0NEW]

Agency Information Collection Activities; Proposed eCollection eComments; Requested; New Collection; Data Collection for OVW Demonstration Program on Trauma-Informed, Victim-Centered Training for Law Enforcement on Domestic Violence, Dating Violence, Sexual Assault, and Stalking (Abby Honold) Program

AGENCY: Office on Violence Against Women, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Office on Violence Against Women will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until October 22, 2024.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Cathy Poston, Office on Violence Against Women, at 202–514–5430 or *Catherine.poston@usdoj.gov* or United States Department of Justice, Office on Violence Against Women, 145 N Street NE, 4W–218, Washington, DC 20530.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Abstract: The Office on Violence Against Women Demonstration Program on Trauma-informed, Victim-centered Training for Law Enforcement on Domestic Violence, Dating Violence, Sexual Assault, and Stalking (Abby Honold Program) is authorized by 34 U.S.C § 12513. The program supports efforts to improve law enforcement's response to domestic violence, dating violence, sexual assault, and stalking by awarding grants to law enforcement agencies to train officers to conduct trauma-informed and victim-centered investigations. The planned information collection is a short survey about law enforcement officers' knowledge and skills. Grantees under the Abby Honold Program will be expected to offer the survey to training participants to take before and after training as a way to gauge whether, and the extent to which, the training increases participants' knowledge and skills related to conducting trauma-informed and victim centered investigations.

Overview of This Information Collection

1. *Type of Information Collection:* New collection.

2. *The Title of the Form/Collection:* Data Collection for OVW Demonstration Program on Trauma-informed, Victim-centered Training for Law Enforcement on Domestic Violence, Dating Violence, Sexual Assault, and Stalking (Abby Honold) Program.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form Number: 1122–XXXX. U.S. Department of Justice, Office on Violence Against Women.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Affected Public—The affected public includes law enforcement officers trained by OVW grantees awarded OVW Demonstration Program on Trauma-informed, Victim-centered Training for Law Enforcement on Domestic Violence, Dating Violence, Sexual Assault, and Stalking (Abby Honold) Program grants.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that it will take the approximately 900 respondents, which includes law enforcement officers who are participating in OVW grantee-led training, approximately 10 minutes to complete a survey, and they will take the survey twice.

6. *An estimate of the total annual burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 300 hours, that is 900 law enforcement officer participants taking a 10-minute survey twice (once before the training and once after).

7. *An estimate of the total annual cost burden associated with the collection, if applicable:*

Activity	Estimated number of respondents	Frequency	Total annual responses	Time per response (min.)	Total annual burden (hours)
Officer Training Pre and Post Survey	900	Twice per training session	1,800	10	300

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC 20530.

Dated: August 19, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024–18901 Filed 8–22–24; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0NEW]

Agency Information Collection Activities; Proposed eCollection eComments; Requested; New Collection; Semi-Annual and Annual Performance Reporting Data Catalog for Formula and Discretionary Grant Programs

AGENCY: Office on Violence Against Women, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Office on Violence Against Women will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until October 22, 2024.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Cathy Poston, Office on Violence Against Women, at 202–514–5430 or *Catherine.poston@usdoj.gov* or United States Department of Justice, Office on Violence Against Women, 145 N Street NE, 4W–218, Washington, DC 20530.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Abstract: The Office on Violence Against Women (OVW)'s formula and discretionary grant programs were authorized through the Violence Against Women Act of 1994 (VAWA) and subsequent legislation, including VAWA reauthorizations in 2000, 2005, 2013 and 2022. Funding under OVW's two largest formula grant programs—the STOP Violence Against Women Formula Grant Program and the Sexual Assault Services Formula Program—is distributed to states and territories according to a statutory formula and the states and territories then make subgrants. OVW determines data reporting requirements for each grant program based on what is required by statute and what is necessary for monitoring the awards. OVW must collect performance data from grantees in order to comply with statutory reporting requirements and monitor the grants, among other purposes.

This is a request to consolidate existing previously approved information collections under a new collection—a new consolidated OMB number. This collection is currently covered by a series of approved collections with different OMB numbers that correspond to grant program-specific progress reporting forms. The purpose of obtaining a new, omnibus OMB number for OVW's performance reporting data catalog is to align approval for this information collection with the mechanism through which OVW plans to collect the data, *i.e.,* all grant performance data elements will be maintained in a data catalog that will be used to build web-based collection instruments for each grant program. OVW intends to phase out its use of fillable forms and move to a web-based system for collecting data.

The information obtained through this collection is used in reports to Congress on the effectiveness and use of grant funding, monitoring grant funded activities, and to assess the extent to which grant program goals are being achieved. There are three sets of respondents: formula grant program state administrators, formula program subgrantees, and discretionary program grantees.

Overview of This Information Collection

1. *Type of Information Collection:* New collection.

2. *The Title of the Form/Collection:* Semi-annual and Annual Performance Reporting Data Catalog for Formula and Discretionary Grant Programs.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form Number: 1122–XXXX. U.S. Department of Justice, Office on Violence Against Women.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Affected Public—The affected public includes grantees and subgrantees of federal grant programs authorized by the Violence Against Women Act of 1994 (as amended) and as administered by the Office on Violence Against Women. These include formula grant program administrators/grantees and subgrantees and discretionary grant program grantees.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that it will take the approximately 6,112 respondents, which includes grantees and subgrantees under programs authorized by the Violence Against Women Act of 1994 (as amended) and administered by the Office on Violence Against Women, approximately 60 minutes to complete a performance reporting form.

6. *An estimate of the total annual burden (in hours) associated with the collection:* It is estimated that it will take the approximately 6,112 respondents, which includes grantees and subgrantees under programs authorized by the Violence Against Women Act of 1994 (as amended) and administered by the Office on Violence Against Women, approximately 60 minutes to complete a performance reporting form.

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* N/A.

Activity	Estimated number of respondents	Frequency	Total annual responses	Time per response (min)	Total annual burden (hours)
Formula Administrator Progress Reporting Form	112	Annually	1 time	60	112
Formula Subgrantee Progress Reporting Form	3,000	Annually	1 time	60	3,000
Discretionary Progress Reporting Form	3,000	Semi-annually	2 times	60	6,000
Total					9,112

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC 20530.

Dated: August 19, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024–18900 Filed 8–22–24; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Servicing Multi-Piece and Single Piece Rim Wheels Standard

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Occupational Safety & Health Administration (OSHA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before September 23, 2024.

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: Nicole Bouchet by telephone at 202–693–0213, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the requirement is to reduce workers' risk of death or serious injury by ensuring that restraining devices used by them during the servicing of multi-piece rim wheels are in safe operating condition. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 13, 2024 (89 FR 41473).

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) 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.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OSHA.

Title of Collection: Servicing Multi-Piece and Single Piece Rim Wheels Standard.

OMB Control Number: 1218–0219.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 85.

Total Estimated Number of Responses: 9.

Total Estimated Annual Time Burden: 1 hour.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2024–18922 Filed 8–22–24; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Affirmative Decisions on Petitions for Modification Granted in Whole or in Part

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice.

SUMMARY: The Federal Mine Safety and Health Act of 1977 governs the application, processing, and disposition of petitions for modification of mandatory safety standards. Any mine operator or representative of miners may petition for an alternative method of complying with an existing safety standard. MSHA reviews the content of each submitted petition, assesses the mine in question, and ultimately issues a decision on the petition. This notice includes a list of petitions for modification that were granted after MSHA's review and investigation,

between January 1, 2024, and June 30, 2024.

ADDRESSES: Copies of the final decisions are posted on MSHA's website at *https://www.msha.gov/regulations/rulemaking/petitions-modification.* The public may inspect the petitions and final decisions in person at MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Arlington, Virginia, between 9:00 a.m. and 5:00 p.m. Monday through Friday, except federal holidays. Before visiting MSHA in person, call 202–693–9455 to make an appointment, in keeping with the Department of Labor's COVID–19 policy. Special health precautions may be required.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Noe.Song-Ae.A@dol.gov* (email), or 202–693–9441 (facsimile). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Introduction

Under section 101(c) of the Federal Mine Safety and Health Act of 1977, any mine operator or representative of miners may petition to use an alternative approach to comply with a mandatory safety standard. In response, the Secretary of Labor (Secretary) or his or her designee may modify the application of a mandatory safety standard to that mine if the Secretary determines that: (1) An alternative method exists that will guarantee no less protection for the miners affected than that provided by the standard; or (2) the application of the standard will result in a diminution of safety to the affected miners.

MSHA bases the final decision on the petitioner's statements, any comments and information submitted by interested persons, and a field investigation of the conditions at the mine. In some instances, MSHA may approve a petition for modification on the condition that the mine operator complies with other requirements noted in the decision. In other instances, MSHA may deny, dismiss, or revoke a petition for modification. In accordance with 30 CFR 44.5, MSHA publishes every final action granting a petition for modification.

II. Granted Petitions for Modification

On the basis of the findings of MSHA's investigation, and as designee of the Secretary, MSHA granted or partially granted the petitions for modification below. Since the previous **Federal Register** notice (89 FR 6553) included petitions granted through December 31, 2023, the following are petitions granted between January 1, 2024, and June 30, 2024. The granted petitions are shown in the order that MSHA received them.

- *Docket Number:* M–2022–002–M.
FR Notice: 87 FR 13005 (03/08/2022).
Petitioner: Nevada Gold Mines, LLC, 1655 Mountain City Hwy., Elko, NV 89801.
Mine: Exodus Mine, MSHA ID No. 26–02661, located in Eureka County, Nevada.
Regulation Affected: 30 CFR 57.11052(d) (Refuge areas).

- *Docket Number:* M–2022–003–M.
FR Notice: 87 FR 13007 (03/08/2022).
Petitioner: Nevada Gold Mines, LLC, 1655 Mountain City Hwy., Elko, NV 89801.
Mine: Pete Bajo Mine, MSHA ID No. 26–02689, located in Eureka County, Nevada.
Regulation Affected: 30 CFR 57.11052(d) (Refuge areas).

- *Docket Number:* M–2022–004–M.
FR Notice: 87 FR 13006 (03/08/2022).
Petitioner: Nevada Gold Mines, LLC, 1655 Mountain City Hwy., Elko, NV 89801.
Mine: Leeville Mine, MSHA ID No. 26–02512, located in Eureka County, Nevada.
Regulation Affected: 30 CFR 57.11052(d) (Refuge areas).

- *Docket Number:* M–2022–007–M.
FR Notice: 87 FR 18821 (03/31/2022).
Petitioner: Nevada Gold Mines, LLC, 1655 Mountain City Hwy., Elko, NV 89801.
Mine: Twin Underground Mine, MSHA ID No. 26–02693, located in Humboldt County, Nevada.
Regulation Affected: 30 CFR 57.11052(d) (Refuge areas).

- *Docket Number:* M–2022–008–M.
FR Notice: 87 FR 18822 (03/31/2022).
Petitioner: Nevada Gold Mines, LLC, 1655 Mountain City Hwy., Elko, NV 89801.
Mine: Meikle Mine, MSHA ID No. 26–02246, located in Eureka County, Nevada.
Regulation Affected: 30 CFR 57.11052(d) (Refuge areas).

- *Docket Number:* M–2022–010–M.
FR Notice: 87 FR 28843 (05/11/2022).
Petitioner: Nevada Gold Mines, LLC, 1655 Mountain City Hwy., Elko, NV 89801.
Mine: Cortez District-Underground Mine, MSHA ID No. 26–02573, located in Lander County, Nevada.
Regulation Affected: 30 CFR 57.11052(d) (Refuge areas).

- *Docket Number:* M–2022–011–M.
FR Notice: 87 FR 28842 (05/11/2022).
Petitioner: Nevada Gold Mines, LLC, 1655 Mountain City Hwy., Elko, NV 89801.
Mine: Goldrush Mine, MSHA ID No. 26–02822, located in Eureka County, Nevada.
Regulation Affected: 30 CFR 57.11052(d) (Refuge areas).

- *Docket Number:* M–2022–012–C.
FR Notice: 87 FR 50888 (08/18/2022).
Petitioner: UC Mining, LLC, 835 State Route 1179, Waverly, Kentucky 42462.
Mine: UC Mining, LLC Mine, MSHA ID No. 15–02709, located in Union County, Kentucky.
Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

- *Docket Number:* M–2022–013–C.
FR Notice: 87 FR 53016 (08/30/2022).
Petitioner: Harrison County Coal Resources, Inc., 464 North Portal Road, Wallace, West Virginia 26448.
Mines: Harrison County Mine, MSHA ID No. 46–01318, located in Wetzel County, West Virginia.
Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

- *Docket Number:* M–2022–021–C.
FR Notice: 87 FR 64252 (10/24/2022).
Petitioner: M&D Anthracite Coal Company, 71 Hill Road, Hegins, Pennsylvania, 17938.
Mine: Slope #1, MSHA ID No. 36–09976, located in Schuylkill County, Pennsylvania. *Regulation Affected:* 30 CFR 75.1400 (Hoisting equipment; general).

- *Docket Number:* M–2022–022–C.
FR Notice: 87 FR 64255 (10/24/2022).
Petitioner: M&D Anthracite Coal Company, 71 Hill Road, Hegins, Pennsylvania 17938.
Mine: Slope #1, MSHA ID No. 36–09976, located in Schuylkill County, Pennsylvania. *Regulation Affected:* 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

- *Docket Number:* M–2022–013–M.
FR Notice: 88 FR 10548 (02/21/2023).
Petitioner: Genesis Alkali, LLC, 580 Westvaco Road, Green River, Wyoming 82935.
Mine: Westvaco Mine, MSHA ID No. 48–00152, located in Sweetwater County, Wyoming.
Regulation Affected: 30 CFR 57.22305 (Approved equipment (III mines)).

- *Docket Number:* M–2022–035–C.
FR Notice: 88 FR 17872 (03/24/2023).
Petitioner: Ramaco Resources, LLC., P.O. Box 219, Verner, West Virginia 25650.
Mines: Michael Powellton Deep Mine, MSHA ID No. 46–09602, located in Logan County, West Virginia; Crucible Deep Mine, MSHA ID No. 46–09614, located in Logan County, West Virginia; Berwind Deep Mine, MSHA ID No. 46–09533, located in McDowell County, West Virginia; Triad No. 2, MSHA ID No. 46–09628, located in McDowell County, West Virginia.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

• *Docket Number:* M–2022–036–C.
FR Notice: 88 FR 17876 (03/24/2023).
Petitioner: Ramaco Resources, LLC., P.O. Box 219, Verner, West Virginia 25650.
Mines: Michael Powellton Deep Mine, MSHA ID No. 46–09602, located in Logan County, West Virginia; Crucible Deep Mine, MSHA ID No. 46–09614, located in Logan County, West Virginia; Berwind Deep Mine, MSHA ID No. 46–09533, located in McDowell County, West Virginia; Triad No. 2, MSHA ID No. 46–09628, located in McDowell County, West Virginia.
Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

• *Docket Number:* M–2022–037–C.
FR Notice: 88 FR 17874 (03/24/2023).
Petitioner: Ramaco Resources, LLC., P.O. Box 219, Verner, West Virginia 25650.
Mines: Michael Powellton Deep Mine, MSHA ID No. 46–09602, located in Logan County, West Virginia; Crucible Deep Mine, MSHA ID No. 46–09614, located in Logan County, West Virginia; Berwind Deep Mine, MSHA ID No. 46–09533, located in McDowell County, West Virginia; Triad No. 2, MSHA ID No. 46–09628, located in McDowell County, West Virginia.
Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

• *Docket Number:* M–2023–002–C.
FR Notice: 88 FR 20559 (04/06/2023).
Petitioner: Rosebud Mining, LLC, 301 Market Street, Kittanning, PA 16201.
Mine: Cherry Tree Mine, MSHA ID No. 36–09224, located in Clearfield County, Pennsylvania.
Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

• *Docket Number:* M–2023–003–C.
FR Notice: 88 FR 23101 (04/14/2023).
Petitioner: Marion County Coal Resources, Inc., 151 Johnnycake Road, Metz, West Virginia 26585.
Mine: Marion County Mine, MSHA ID No. 46–01433, located in Marion County, West Virginia.
Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

• *Docket Number:* M–2023–013–C.[1]
FR Notice: 88 FR 33649.
Petitioner: Mach Mining, LLC, P.O. Box 300, Johnston City, IL 62951.
Mine: Mach #1 Mine, MSHA ID No. 11–03141, located in Williamson County, Illinois.
Regulation Affected: 30 CFR 75.1909(b)(6), Nonpermissible diesel-powered equipment; design and performance requirements.

• *Docket Number:* M–2023–002–M.
FR Notice: 88 FR 34547 (05/30/2023).
Petitioner: U.S. Silica Company, 4800 Oklahoma Hwy 1 North, Mill Creek, Oklahoma 74856.
Mine: Mill Creek Plant #37, MSHA ID No. 34–00377, located in Johnston County, Oklahoma.
Regulation Affected: 30 CFR 56.13020 (Use of compressed air).

• *Docket Number:* M–2023–018–C.
FR Notice: 88 FR 61618 (09/07/2023).
Petitioner: The Coteau Properties Company, 204 county Rd 15, Beulah, ND 58523.
Mine: Freedom Mine, MSHA ID No. 32–00595, located in Mercer County, North Dakota.
Regulation Affected: 30 CFR 77.1607(u) (Loading and haulage equipment; operation).

Song-ae Aromie Noe,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2024–18923 Filed 8–22–24; 8:45 am]

BILLING CODE 4520–43–P

[1] This granted petition is based on an amended Proposed Decision and Order issued on February 16, 2024. The original Proposed Decision and Order was issued on December 11, 2023.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NASA Document Number: 24–055; NASA Docket Number: NASA–2024–0009]

Name of Information Collection: Reports Requested for Contracts With an Estimated Value Greater Than $500,000

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of a reinstatement of information collection.

SUMMARY: NASA, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (PRA).

DATES: Comments are due by October 22, 2024.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 60 days of publication of this notice at *http://www.regulations.gov* and search for NASA Docket NASA–2024–0009.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to NASA PRA Clearance Officer, Stayce Hoult, NASA Headquarters, 300 E Street SW, JC0000, Washington, DC 20546, phone 256–714–8575, or email *hq-ocio-pra-program@mail.nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Information collection is for reports, other than financial, property, or patent, data or copyrights reports (covered under separate OMB Control numbers), required for effective management and administration of contracts with an estimated value of more than $500,000, in support of NASA's mission.

NASA is committed to effectively performing the Agency's communication function in accordance with the Space Act Section 203 (a)(3) to ''provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof,'' and to enhance public understanding of, and participation in, the nation's aeronautical and space program in accordance with the NASA Strategic Plan.

II. Methods of Collection

NASA collects this information electronically where feasible. NASA encourages recipients to use the latest computer technology in preparing documentation, but information may also be collected by mail or fax.

III. Data

Title: Reports requested for contracts with an estimated value greater than $500,000.
OMB Number: 2700–0089.
Type of review: Reinstatement of collection.
Affected Public: Businesses or other for-profit institutions.
Estimated Annual Number of Activities: 218.
Estimated Number of Respondents per Activity: 2.
Annual Responses: 436.
Estimated Time per Response: 7 hours.
Estimated Total Annual Burden Hours: 3,052 hours.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the

proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Stayce Hoult,

PRA Clearance Officer, National Aeronautics and Space Administration.

[FR Doc. 2024–18980 Filed 8–22–24; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NASA Document Number: 24–053]

Name of Information Collection: Generic Clearance for the NASA Office of STEM Engagement Performance Measurement and Evaluation (Testing)

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: NASA, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (PRA).

DATES: Comments are due by September 23, 2024.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice at *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection request by selecting ''Office of Personnel Management'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to NASA PRA Clearance Officer, Stayce Hoult, NASA Headquarters, 300 E Street SW, JC0000, Washington, DC 20546, phone 256–714–8575, or email *hq-ocio-pra-program@mail.nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

NASA is committed to effectively performing the Agency's communication function in accordance with the Space Act Section 203 (a)(3) to ''provide for the widest practicable and appropriate dissemination of information concerning its activities and the results thereof,'' and to enhance public understanding of, and participation in, the nation's aeronautical and space program in accordance with the NASA Strategic Plan. The NASA Office of STEM Engagement (OSTEM) administers the agency's national stem engagement and education activities in support of the Space Act, including the performance assessment and evaluation of OSTEM projects, programs and NASA STEM engagement investments. This generic clearance will allow the NASA OSTEM to continue to test and pilot with subject matter experts, secondary students, higher education students, educators, and interested parties new and existing information collection forms and assessment instruments for the purposes of improvement and establishing validity and reliability characteristics of the forms and instruments. Existing information collections include the NASA Student STEM Inventory (Grades 4–12), NASA OSTEM Educator Professional Development (EPD) Pre- and Post-Workshop Learning Assessment (Surveys), NASA Internship Program Evaluation (Internship Retrospective Survey, Internship Experience Survey, and Semi-Structured Focus Group Protocol), NASA CONNECTS Evaluation Survey and Focus Group Protocol, MUREP Outcome Student Participant and Principal Investigator Focus Group Protocols. Forms and instruments to be tested include program application forms, customer satisfaction questionnaires, focus group protocols, and project activity survey instruments. Methodological testing will include focus group discussions, pilot surveys to test new individual question items as well as the complete form and instrument. In addition, test-retest and similar protocols will be used to determine reliability characteristics of the forms and instruments. Methodological testing will assure that forms and instruments accurately and consistently collect and measure what they are intended to measure and that data collection items are interpreted precisely and consistently, all towards the goal of accurate Agency reporting while improving the execution of NASA STEM Engagement activities.

II. Methods of Collection

Electronic, paper, and focus group interviews.

III. Data

Title: Generic Clearance for the NASA Office of Education Performance Measurement and Evaluation (Testing).

OMB Number: 2700–0159.

Type of review: Renewal of an existing collection.

Affected Public: Individuals and Households.

Estimated Annual Number of Activities: 10.

Estimated Number of Respondents per Activity: 2,800.

Annual Responses: 1.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 7,000.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Stayce Hoult,

PRA Clearance Officer, National Aeronautics and Space Administration.

[FR Doc. 2024–18979 Filed 8–22–24; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–24–0018; NARA–2024–052]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA)

publishes notice of certain Federal agency requests for records disposition authority (records schedules). We publish notice in the **Federal Register** and on *regulations.gov* for records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on such records schedules.

DATES: We must receive responses on the schedules listed in this notice by October 8, 2024.

ADDRESSES: To view a records schedule in this notice, or submit a comment on one, use the following address: *https://www.regulations.gov/docket/NARA-24-0018/document.* This is a direct link to the schedules posted in the docket for this notice on *regulations.gov*. You may submit comments by the following method:

- *Federal eRulemaking Portal: https://www.regulations.gov.* On the website, enter either of the numbers cited at the top of this notice into the search field. This will bring you to the docket for this notice, in which we have posted the records schedules open for comment. Each schedule has a 'comment' button so you can comment on that specific schedule. For more information on *regulations.gov* and on submitting comments, see their FAQs at *https://www.regulations.gov/faq.*

If you are unable to comment via *regulations.gov*, you may email us at *request.schedule@nara.gov* for instructions on submitting your comment. You must cite the control number of the schedule you wish to comment on. You can find the control number for each schedule in parentheses at the end of each schedule's entry in the list at the end of this notice.

FOR FURTHER INFORMATION CONTACT: Eddie Germino, Strategy and Performance Division, by email at *regulation_comments@nara.gov* or at 301–837–3758. For information about records schedules, contact Records Management Operations by email at *request.schedule@nara.gov* or by phone at 301–837–1799.

SUPPLEMENTARY INFORMATION:

Public Comment Procedures

We are publishing notice of records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on these records schedules, as required by 44 U.S.C. 3303a(a) and list the schedules at the end of this notice by agency and subdivision requesting disposition authority.

In addition, this notice lists the organizational unit(s) accumulating the records or states that the schedule has agency-wide applicability. It also provides the control number assigned to each schedule, which you will need if you submit comments on that schedule.

We have uploaded the records schedules and accompanying appraisal memoranda to the *regulations.gov* docket for this notice as ''other'' documents. Each records schedule contains a full description of the records at the file unit level as well as their proposed disposition. The appraisal memorandum for the schedule includes information about the records.

We will post comments, including any personal information and attachments, to the public docket unchanged. Because comments are public, you are responsible for ensuring that you do not include any confidential or other information that you or a third party may not wish to be publicly posted. If you want to submit a comment with confidential information or cannot otherwise use the *regulations.gov* portal, you may contact *request.schedule@nara.gov* for instructions on submitting your comment.

We will consider all comments submitted by the posted deadline and consult as needed with the Federal agency seeking the disposition authority. After considering comments, we may or may not make changes to the proposed records schedule. The schedule is then sent for final approval by the Archivist of the United States. After the schedule is approved, we will post on *regulations.gov* a ''Consolidated Reply'' summarizing the comments, responding to them, and noting any changes we made to the proposed schedule. You may elect at *regulations.gov* to receive updates on the docket, including an alert when we post the Consolidated Reply, whether or not you submit a comment. If you have a question, you can submit it as a comment, and can also submit any concerns or comments you would have to a possible response to the question. We will address these items in consolidated replies along with any other comments submitted on that schedule.

We will post schedules on our website in the Records Control Schedule (RCS) Repository, at *https://www.archives.gov/records-mgmt/rcs,* after the Archivist approves them. The RCS contains all schedules approved since 1973.

Background

Each year, Federal agencies create billions of records. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives or to destroy, after a specified period, records lacking continuing administrative, legal, research, or other value. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

Agencies may not destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after thorough consideration of the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value. Public review and comment on these records schedules is part of the Archivist's consideration process.

Schedules Pending

1. Department of Agriculture, Animal and Plant Health Inspection Service, Records of the Diagnostic Services Section (DAA–0463–2024–0004).

2. Department of Agriculture, Animal and Plant Health Inspection Service, Records of the Proficiency and Validation Services Section (DAA–0463–2024–0003).

3. Department of Agriculture, Animal and Plant Health Inspection Service, Records of the Reagents and Vaccine Services Section (DAA–0463–2024–0002).

4. Department of Agriculture, Animal and Plant Health Inspection Service, Records of the Scientific Liaison Services Section (DAA–0463–2024–0001).

5. Department of Health and Human Services, Administration for Strategic Preparedness and Response, ASPR Technical Resources, Assistance Center, and Information Exchange System (DAA–0611–2023–0012).

6. Department of Health and Human Services, Health Resources and Services

Administration, Provider Relief Fund DocuSign (DAA–0512–2023–0002).

7. Department of Health and Human Services, Records of the Office of Investigations (OI) of the Inspector General (IG) of Health and Human Services (DAA–0468–2024–0004).

8. Department of Justice, Federal Bureau of Investigation, Safeguard Assessment Records (DAA–0065–2024–0001).

9. Department of Transportation, Federal Aviation Administration, Aviation Safety Records (DAA–0237–2023–0017).

10. Consumer Product Safety Commission, Agency-wide, Small Business Ombudsman (DAA–0424–2022–0001).

11. Federal Energy Regulatory Commission, Agency-wide, MG Dockets (DAA–0138–2024–0012).

12. Library of Congress, Agency-wide, Congressional Relations—2024 updates (DAA–0297–2024–0012).

13. Library of Congress, Agency-wide, Facilities and Safety—2024 updates (DAA–0297–2024–0006).

14. Pretrial Services Agency for the District of Columbia, Agency-wide, Disclosure of Relationship and or Association with a Supervised Person (DAA–0562–2024–0003).

15. Social Security Administration, Agency-wide, Leadership Records (DAA–0047–2024–0001).

16. Social Security Administration, Agency-wide, Legal Records (DAA–0047–2022–0003).

William P. Fischer,

Acting Chief Records Officer for the U.S. Government.

[FR Doc. 2024–18965 Filed 8–22–24; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meetings

TIME AND DATE: 1:00 p.m., Tuesday, August 27, 2024.

PLACE: Board Room, 7th Floor, Room 7B, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Board Appeal. Closed pursuant to Exemption (8).

CONTACT PERSON FOR MORE INFORMATION: Melane Conyers-Ausbrooks, Secretary of the Board, Telephone: 703–518–6304.

Melane Conyers-Ausbrooks,

Secretary of the Board.

[FR Doc. 2024–19029 Filed 8–21–24; 11:15 am]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2024–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of August 26, and September 2, 9, 16, 23, and 30 2024. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at *Betty.Thweatt@nrc.gov* or *Samantha.Miklaszewski@nrc.gov.*

MATTERS TO BE CONSIDERED:

Week of August 26, 2024

There are no meetings scheduled for the week of August 26, 2024.

Week of September 2, 2024—Tentative

Wednesday, September 4, 2024

1:45 p.m. Affirmation Session (Public Meeting) (Tentative) Final Rule: Non-Power Production or Utilization Facility License Renewal (Contact: Sarah Turner: 301–287–9058)

Thursday, September 5, 2024

10:00 a.m. All Employees Meeting (Public Meeting) (Contact: Sarah Turner 301–287–9058)

Additional Information: The meeting will be held in the Two White Flint North auditorium, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting live by webcast at the Web address—*https://video.nrc.gov/*

Week of September 9, 2024—Tentative

There are no meetings scheduled for the week of September 9, 2024.

Week of September 16, 2024—Tentative

There are no meetings scheduled for the week of September 16, 2024.

Week of September 23, 2024—Tentative

There are no meetings scheduled for the week of September 23, 2024

Week of September 30, 2024—Tentative

There are no meetings scheduled for the week of August 19, 2024.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Sarah Turner at 301–287–9058 or via email at *Sarah.Turner@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: August 21, 2024.

For the Nuclear Regulatory Commission.

Monika G. Coflin,

Technical Coordinator, Office of the Secretary.

[FR Doc. 2024–19110 Filed 8–21–24; 4:15 pm]

BILLING CODE 7590–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 30 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

DATES: Submit comments on or before September 23, 2024.

ADDRESSES: Comments should be addressed to James Olin, FOIA/Privacy Act Officer. James Olin can be contacted by email at *pcfr@peacecorps.gov* or by telephone at (202) 692–2507. Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: James Olin, Peace Corps, at *pcfr@peacecorps.gov* or by telephone at (202) 692–2507.

SUPPLEMENTARY INFORMATION:

Title: Peace Corps Report of Physical Examination (PC 1790S).

OMB Control Number: 0420–0549.

Type of Request: Renewal.

Affected Public: Individuals/Physicians.

Respondents Obligation to Reply: Voluntary.

Burden to the Public:

Estimated burden (hours) of the collection of information:

a. *Number of respondents:* 5,100/5,100.

b. *Frequency of response:* One time.

c. *Completion time:* 90 minutes/45 minutes.

d. *Annual burden hours:* 7,650/3,825.

General Description of Collection: The information in this form will be used by the Peace Corps Office of Medical Services to determine whether an Applicant will, with reasonable accommodation, be able to perform the essential functions of a Peace Corps Volunteer assignment and complete a tour of service without unreasonable disruption due to health problems and, if so, to establish the level of medical and other support, if any, that may be required to reasonably accommodate the Applicant. The information in this form is also used as a baseline assessment for the Peace Corps Medical Officers overseas who are responsible for the Volunteer's medical care. Finally, the Peace Corps may use the information in this form as a point of reference in the event that, after completion of the Applicant's service as a Volunteer, he or she makes a worker's compensation claim under the Federal Employee Compensation Act (FECA).

Request for Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity 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 automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC on August 20, 2024.

James Olin,

FOIA/Privacy Act Officer.

[FR Doc. 2024–18932 Filed 8–22–24; 8:45 am]

BILLING CODE 6051–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 30 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

DATES: Submit comments on or before September 23, 2024.

ADDRESSES: Comments should be addressed to James Olin, FOIA/Privacy Act Officer. James Olin can be contacted by email at *pcfr@peacecorps.gov* or by telephone at (202) 692–2507. Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: James Olin, Peace Corps, at *pcfr@peacecorps.gov* or by telephone at (202) 692–2507.

SUPPLEMENTARY INFORMATION:

Title: Health History Form.

OMB Control Number: 0420–0510.

Type of Request: Reapproval.

Affected Public: Individuals.

Respondents Obligation to Reply: Voluntary.

Burden to the Public:

Estimated burden (hours) of the collection of information:

a. *Number of respondents:* 13,350.

b. *Frequency of response:* One time.

c. *Completion time:* 45 minutes.

d. *Annual burden hours:* 10,013.

General Description of Collection: The information collected is required for consideration for Peace Corps Volunteer service. The information in the Health History Form, will be used by the Peace Corps Office of Medical Services to determine whether an Applicant will, with reasonable accommodation, be able to perform the essential functions of a Peace Corps Volunteer and complete a tour of service without undue disruption due to health problems and, if so, to establish the level of medical and programmatic support, if any, that may be required to reasonably accommodate the Applicant.

Request for Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity 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 automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC, on August 20, 2024.

James Olin,

FOIA/Privacy Act Officer.

[FR Doc. 2024–18931 Filed 8–22–24; 8:45 am]

BILLING CODE 6051–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 30 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

DATES: Submit comments on or before September 23, 2024.

ADDRESSES: Comments should be addressed to James Olin, FOIA/Privacy Act Officer. James Olin can be contacted by email at *pcfr@peacecorps.gov* or by telephone at (202) 692–2507. Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: James Olin, Peace Corps, at *pcfr@peacecorps.gov* or by telephone at (202) 692–2507.

SUPPLEMENTARY INFORMATION:

Title: Durable Medical Equipment (DME).

OMB Control Number: 0420–0559.

Type of Request: Reapproval.

Affected Public: Individuals/Physicians.

Respondents Obligation to Reply: Voluntary.

Burden to the Public:

a. *Number of respondents:* 77/77.

b. *Frequency of response:* One time.

c. *Completion time:* 15 minutes/10 minutes.

d. *Annual burden hours:* 19/13.

General Description of Collection: Durable Medical Equipment (DME) is any equipment that provides therapeutic benefits to a patient in need because of certain medical conditions and/or illness. They consist of items that are primarily and customarily used to serve a medical purpose; are not useful to a person in the absence of illness or injury; are ordered or prescribed by a physician; are reusable; can stand repeated use, and are appropriate for use in the home. Other devices covered in this guidance include prosthetic equipment (cardiac pacemakers), hearing aids, orthotic items (artificial devices such as braces and splints), and prostheses (artificial body parts). The information collected will assist in the determination of Peace Corps eligibility. If eligible, it will assist with ongoing care during service. All applicants to the Peace Corps must have a medical clearance that will determine their ability to serve in a particular country.

Request for Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity 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 automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC, on August 20, 2024.

James Olin,

FOIA/Privacy Act Officer.

[FR Doc. 2024–18930 Filed 8–22–24; 8:45 am]

BILLING CODE 6051–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 30 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

DATES: Submit comments on or before September 23, 2024.

ADDRESSES: Comments should be addressed to James Olin, FOIA/Privacy Act Officer. James Olin can be contacted by email at *pcfr@peacecorps.gov* or by telephone at (202) 692–2507. Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: James Olin, Peace Corps, at *pcfr@peacecorps.gov* or by telephone at (202) 692–2507.

SUPPLEMENTARY INFORMATION:

Title: Report of Dental Examination.

OMB Control Number: 0420–0546.

Type of Request: Reapproval.

Affected Public: Individuals/Physicians.

Respondents Obligation to Reply: Voluntary.

Burden to the Public:

Estimated burden (hours) of the collection of information:

a. *Number of respondents:* 7,000/7,000.

b. *Frequency of response:* One time.

c. *Completion time:* 90 minutes/45 minutes.

d. *Annual burden hours:* 10,500/5,250.

General Description of Collection: The Peace Corps Office of Medical Services is responsible for the collection of Applicant dental information, using the Report of Dental Exam ''Dental Exam'' form. The Dental Exam form is completed by the Applicant's examining dentist. The results of the examinations are used to ensure that Applicants for Volunteer service will, with reasonable accommodation, be able to serve in the Peace Corps without jeopardizing their health.

Request for Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity 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 automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC, on August 20, 2024.

James Olin,

FOIA/Privacy Act Officer.

[FR Doc. 2024–18929 Filed 8–22–24; 8:45 am]

BILLING CODE 6051–01–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee Virtual Public Meeting

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: According to the provisions of section 10 of the Federal Advisory Committee Act, notice is hereby given that a virtual meeting of the Federal Prevailing Rate Advisory Committee will be held on Thursday, September 19, 2024. There will be no in-person gathering for this meeting.

DATES: The virtual meeting will be held on September 19, 2024, beginning at 10:00 a.m. (ET).

ADDRESSES: The meeting will convene virtually.

FOR FURTHER INFORMATION CONTACT: Ana Paunoiu, 202–606–2858, or email *pay policy@opm.gov.*

SUPPLEMENTARY INFORMATION: The Federal Prevailing Rate Advisory Committee is composed of a Chair, five representatives from labor unions holding exclusive bargaining rights for Federal prevailing rate employees, and five representatives from Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

Annually, the Chair compiles a report of pay issues discussed and concluded recommendations. These reports are available to the public. Reports for calendar years 2008 to 2023 are posted at *http://www.opm.gov/fprac.* Previous reports are also available, upon written request to the Committee.

The public is invited to submit material in writing to the Chair on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on

these meetings may be obtained by contacting the Committee at Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 7H31, 1900 E Street NW, Washington, DC 20415, (202) 606–2858.

This meeting is open to the public, with an audio option for listening. This notice sets forth the participation guidelines for the meeting.

Meeting Agenda. The committee meets to discuss various agenda items related to the determination of prevailing wage rates for the Federal Wage System. The committee's agenda is approved one week prior to the public meeting and will be available upon request at that time.

Public Participation: The September 19, 2024, meeting of the Federal Prevailing Rate Advisory Committee is open to the public through advance registration. Public participation is available for the meeting. All individuals who plan to attend the virtual public meeting to listen must register by sending an email to *paypolicy@opm.gov* with the subject line ''September 19, 2024'' no later than Tuesday, September 17, 2024.

The following information must be provided when registering:

- Name.
- Agency and duty station.
- Email address.
- Your topic of interest.

Members of the press, in addition to registering for this event, must also RSVP to *media@opm.gov* by September 17, 2024.

A confirmation email will be sent upon receipt of the registration. Audio teleconference information for participation will be sent to registrants the morning of the virtual meeting. Office of Personnel Management.

Kayyonne Marston,

Federal Register Liaison.

[FR Doc. 2024–18982 Filed 8–22–24; 8:45 am]

BILLING CODE 6325–39–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–264, OMB Control No. 3235–0341]

Proposed Collection; Comment Request; Extension: Rule 17Ad–4(b) & (c)

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'') is soliciting comments on the existing collection of information provided for in the following rule: Rule 17Ad–4(b) & (c) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act''). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17Ad–4(b) & (c) (17 CFR 240.17Ad–4) is used to document when transfer agents are exempt, or no longer exempt, from the minimum performance standards and certain recordkeeping provisions of the Commission's transfer agent rules. Pursuant to Rule 17Ad–4(b), if the Commission or the Office of the Comptroller of the Currency (''OCC'') is the appropriate regulatory authority (''ARA'') for an exempt transfer agent, that transfer agent is required to prepare and maintain in its possession a notice certifying that it is exempt from certain performance standards and recordkeeping and record retention provisions of the Commission's transfer agent rules. This notice need not be filed with the Commission or OCC. If the Board of Governors of the Federal Reserve System (''Fed'') or the Federal Deposit Insurance Corporation (''FDIC'') is the transfer agent's ARA, that transfer agent must prepare a notice and file it with the Fed or FDIC.

Rule 17Ad–4(c) sets forth the conditions under which a registered transfer agent loses its exempt status. Once the conditions for exemption no longer exist, the transfer agent, to keep the appropriate ARA apprised of its current status, must prepare, and file if the ARA for the transfer agent is the Fed or the FDIC, a notice of loss of exempt status under paragraph (c). The transfer agent then cannot claim exempt status under Rule 17Ad–4(b) again until it remains subject to the minimum performance standards for non-exempt transfer agents for six consecutive months.

ARAs use the information contained in the notices required by Rules 17Ad–4(b) and 17Ad–4(c) to determine whether a registered transfer agent qualifies for the exemption, to determine when a registered transfer agent no longer qualifies for the exemption, and to determine the extent to which that transfer agent is subject to regulation.

The Commission estimates that approximately 10 registered transfer agents each year prepare or file notices in compliance with Rules 17Ad–4(b) and 17Ad–4(c). The Commission estimates that each such registered transfer agent spends approximately 1.5 hours to prepare or file such notices for an aggregate total annual burden of 15 hours (based on approximately 1.5 burden hours per year for the approximately 10 transfer agents). The Commission also estimates the aggregate annual internal cost of compliance for the 10 registered transfer agents is approximately $4.785 (based on 1.5 hours annual burden × $319 hourly wage × 10 respondents). This reflects an increase in aggregate annual internal cost of compliance of $540 due to the increase in the hourly wage of transfer agents from $283 to $319.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by October 22, 2024.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Austin Gerig, Director/Chief Information Officer, Securities and Exchange Commission, c/o Oluwaseun Ajayi, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: August 19, 2024.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–18918 Filed 8–22–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100773; File No. PCAOB–2024–01]

Public Company Accounting Oversight Board; Order Granting Approval of Auditing Standard 1000, General Responsibilities of the Auditor in Conducting an Audit, and Amendments to PCAOB Standards

August 20, 2024.

I. Introduction

On May 24, 2024, the Public Company Accounting Oversight Board (the ''Board'' or the ''PCAOB'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 107(b)[1] of the Sarbanes-Oxley Act of 2002 (''SOX'') and Section 19(b)[2] of the Securities Exchange Act of 1934 (the ''Exchange Act''), a proposal to adopt Auditing Standard (''AS'') 1000, *General Responsibilities of the Auditor in Conducting an Audit;* rescind AS 1001, *Responsibilities and Functions of the Independent Auditor,* AS 1005, *Independence,* AS 1010, *Training and Proficiency of the Independent Auditor,* AS 1015, *Due Professional Care in the Performance of Work,* and AS 2815, *The Meaning of ''Present Fairly in Conformity with Generally Accepted Accounting Principles;''* and amend several other related existing PCAOB standards (collectively, the ''Amendments''). The Amendments were published for comment in the **Federal Register** on June 11, 2024.[3] On July 1, 2024, the Commission extended the public comment period until July 16, 2024, and extended the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the Amendments to August 25, 2024.[4] We received eleven (11) comment letters in response to the Notice of Filing of Proposed Rules.[5] This order approves the Amendments, which we find to be consistent with the requirements of Title I of SOX and the rules and regulations issued thereunder and necessary or appropriate in the public interest or for the protection of investors.

II. Description of the Amendments

On May 13, 2024, the Board unanimously adopted the Amendments.[6] The Amendments are intended to modernize, clarify, and streamline the general principles and responsibilities of the auditor and provide a more logical presentation, which should enhance the useability of the standards by making them easier to read, understand, and apply. This should promote investor protection by enhancing the quality of audits. The requirements contained within the Amendments are discussed further below.

A. Changes to PCAOB Standards

Among other things, the Amendments enhance the existing general principles and responsibilities of an auditor by:

- Including introductory language that reaffirms the auditor's fundamental obligation to protect investors through the preparation and issuance of independent auditor's reports;[7]
- Including objectives related to the audit of the effectiveness of a company's internal control over financial reporting;[8]
- Retaining and clarifying the general principles and responsibilities that are foundational for an audit, including reasonable assurance,[9] due professional care,[10] professional skepticism,[11] and professional judgment;[12]
- Aligning the engagement partner's supervisory responsibilities under AS 1201, *Supervision of the Audit Engagement,* with due professional care;[13]
- Retaining the requirement for the auditor to be independent but expressing the obligation more directly by referring to PCAOB independence rules and standards and SEC independence rules and regulations;[14]
- Describing the auditor's obligations to (i) comply with ethics requirements,[15] (ii) obtain and maintain competence,[16] and (iii) prepare audit documentation;[17]
- Expressing the auditor's responsibilities by using the terms set forth in PCAOB Rule 3101, *Certain Terms Used in Auditing and Related Professional Practice Standards;*[18] and
- Removing language that is outdated, inconsistent, and not relevant to audits conducted under the standards of the PCAOB.

The Amendments also improve other PCAOB auditing standards that address responsibilities fundamental to the conduct of an audit, including by:

- Clarifying the engagement partner's existing responsibilities for supervision and review by providing more specificity related to such activities;[19]
- Clarifying the requirements for audit documentation in AS 1215 to identify who performed the work, who reviewed the work, and the date of such review;[20]
- Accelerating the period in AS 1215 to assemble a complete and final set of audit documentation for retention from 45 days to 14 days (''documentation completion date'');[21] and

[1] 15 U.S.C. 7217(b).

[2] 15 U.S.C. 78s(b).

[3] *See Public Company Accounting Oversight Board; Notice of Filing of Proposed Rules on General Responsibilities of the Auditor in Conducting an Audit and Amendments to PCAOB Standards,* Release No. 34–100276 (June 5, 2024) [89 FR 49730 (June 11, 2024)] (''Notice of Filing of Proposed Rules''), *available at https://www.sec.gov/files/rules/pcaob/2024/34-100276.pdf.*

[4] *See Public Company Accounting Oversight Board; Extension of Comment and Approval Periods for Proposed Rules on General Responsibilities of the Auditor in Conducting an Audit and Amendments to PCAOB Standards and A Firm's System of Quality Control and Related Amendments to PCAOB Standards,* Release No. 34–100451 (July 1, 2024) [89 FR 55993], *available at https://www.sec.gov/files/rules/pcaob/2024/34-100451.pdf.*

[5] We received comment letters from Stephen W. Hall, Legal Director and Securities Specialist and Brady Williams, Legal Counsel, Better Markets, Inc. (July 2, 2024) (''Better Markets''), Dennis McGowan, Vice President, Professional Practice, Center for Audit Quality (July 2, 2024) (''CAQ''), Jack T. Ciesielski, CPA, CFA (July 2, 2024) (''Ciesielski''), Brandon J. Rees, Deputy Director, Corporations and Capital Markets, American Federation of Labor and Congress of Industrial Organizations (July 1, 2024) (''AFLCIO''), Sandra J. Peters, CPA, CFA, Senior Head, Global Financial Reporting Policy Advocacy, and Matthew P. Winters, CPA, CFA, Senior Director, Global Financial Reporting Policy Advocacy, CFA Institute (July 1, 2024) (''CFAI''), Micah Hauptman, Director of Investor Protection, Consumer Federation of America (July 1, 2024) (''Consumer Federation of America''), PricewaterhouseCoopers LLP (June 28, 2024) (''PwC''), Members of the Investor Advisory Group (June 28, 2024) (''MIAG''), Deloitte & Touche LLP (June 28, 2024) (''Deloitte''), Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors (June 27, 2024) (''CII''), and Robert A. Conway, CPA (June 26, 2024) (''Conway''). Comment letters received by the Commission on the Amendments are available on the Commission's website *at https://www.sec.gov/comments/pcaob-2024-01/pcaob202401.htm.*

[6] *See General Responsibilities of the Auditor in Conducting an Audit and Amendments to PCAOB Standards,* PCAOB Release No. 2024–004 (May 13, 2024) (''Adopting Release''), *available at https://assets.pcaobus.org/pcaob-dev/docs/default-source/rulemaking/docket-049/2024-004-as1000.pdf?sfvrsn=3ba6358a_2.*

[7] *See* AS 1000.01.

[8] *See* AS 1000.03.

[9] *See* AS 1000.13 and .14.

[10] *See* AS 1000.09 and .10.

[11] *See* AS 1000.11.

[12] *See* AS 1000.12.

[13] *See* AS 1000.10 and AS 1201.03 and .04, as amended.

[14] *See* AS 1000.04 and .05.

[15] *See* AS 1000.06.

[16] *See* AS 1000.07 and .08.

[17] *See* AS 1000.16.

[18] *See* AS 1000.17 through .20.

[19] *See* AS 1201.05, AS 1215.02 and .15, and AS 2101.03, as amended.

[20] *See* AS 1215.06, as amended.

[21] *See* AS 1215.15, as amended.

• Updating [22] and incorporating the underlying requirements of AS 2815 into AS 2810, *Evaluating Audit Results,* and rescinding AS 2815, while preserving the meaning of ''presents fairly'' and streamlining the requirements to provide a more logical presentation.[23]

B. Applicability and Effective Date

The Amendments will be effective for audits of financial statements for fiscal years beginning on or after December 15, 2024, except that, for registered public accounting firms that provide audit opinions for 100 or fewer issuers during the calendar year ending December 31, 2024, the amendment relating to the documentation completion date will take effect for audits of financial statements for fiscal years beginning on or after December 15, 2025. The PCAOB has proposed application of the Amendments to include audits of emerging growth companies (''EGCs''),[24] as discussed in Section IV below.

III. Comment Letters

As noted above, to date the Commission has received eleven (11) comment letters on the Amendments.[25] Commenters were generally supportive of the Amendments.[26]

Some commenters suggested that the Commission encourage the PCAOB to provide implementation support and to undertake a post-implementation review of the Amendments to assess whether they have met their stated objectives. [27] The Board has a historical practice of post-implementation review [28] as well as issuing appropriate implementation guidance for new standard and rule amendments when needed. We acknowledge the importance of monitoring the implementation of the Amendments and the Commission staff works closely with the PCAOB as part of the Commission's general oversight mandate.[29] As part of that oversight, Commission staff will keep itself apprised of the PCAOB's activities for monitoring and supporting the implementation of the Amendments and update the Commission, as necessary.

Some commenters stated that because the Amendments extend the concept of due professional care, specifically professional skepticism, beyond a critical assessment of audit evidence to a critical assessment of other information related to the audit, the Amendments will result in increased focus on the preparation of Form AP, *Audit Participants,* among other things.[30] We acknowledge this comment and, because due professional care and professional skepticism are foundational elements of auditing, we agree with the Board's assessment that it is appropriate to apply the concept of due professional care to all aspects of the audit, including aspects of the audit that extend beyond the issuance of the auditor's report, such as the completion of audit documentation and the public reporting requirements in Form AP.[31]

The same commenters observed that the effective date of the Amendments related to the 14-day documentation completion date requirement does not reference interim reviews or stub periods and requested clarification.[32] We note that existing AS 1215 applies to documentation completion and specifies that, for reviews of interim financial information, the standard takes effect beginning with the first quarter ending after the first financial statement audit covered by the standard. For audits, the application of the effective date is explicit in the Adopting Release. For audits of stub periods, we believe the effective date of the document completion requirement is clear. Nevertheless, we encourage the PCAOB staff to consider the need to provide additional guidance which could be useful to firms.

SOX requires us to determine whether the Amendments are consistent with the requirements of Title I of SOX and the rules and regulations thereunder or are necessary or appropriate in the public interest or for the protection of investors.[33] In making this determination, we have considered the comments we received, as well as the feedback received, and modifications made, by the PCAOB throughout its rulemaking process.

IV. Effect on Emerging Growth Companies

In the Notice of Filing of Proposed Rules, the Board recommended that the Commission determine that the Amendments apply to audits of EGCs.[34] Section 103(a)(3)(C) of SOX requires that any rules of the Board requiring mandatory audit firm rotation or a supplement to the auditor's report in which the auditor would be required to provide additional information about the audit and the financial statements of the issuer (auditor discussion and analysis) shall not apply to an audit of an EGC. The provisions of the Amendments do not fall into these categories.

Section 103(a)(3)(C) further provides that ''[a]ny additional rules'' adopted by the PCAOB do not apply to audits of EGCs ''unless the Commission determines that the application of such additional requirements is necessary or appropriate in the public interest, after considering the protection of investors and whether the action will promote efficiency, competition, and capital formation.'' The Amendments fall within this category. Having considered those statutory factors, we find that applying the Amendments to the audits of EGCs is necessary or appropriate in the public interest.

With respect to the Commission's determination of whether the Amendments will apply to audits of EGCs, the PCAOB explained why it believes the Amendments should apply to audits of EGCs. The Board sought public input on the application of the Amendments to the audits of EGCs, and those that responded to the Board generally agreed the Amendments should apply to the audits of EGCs.[35]

We agree with the Board's assessment and believe that applying the

[22] *See e.g., supra* note 6 at 54 (''The requirements of the SEC for the company under audit are included in SEC Rule 4–01(a), which we reference in a new footnote to paragraph .30A, to remind auditors of the company's obligation regarding additional information that may need to be disclosed in the financial statements so that the financial statements are not misleading.'').

[23] *See* AS 2810.17 and .30 through .31, as amended.

[24] The term ''emerging growth company'' is defined in Section 3(a)(80) of the Exchange Act (15 U.S.C. 78c(a)(80)). *See also Inflation Adjustments under Titles I and III of the JOBS Act,* Release No. 33–11098 (Sept. 9, 2022) [87 FR 57394 (Sept. 20, 2022)], *available at https://www.sec.gov/files/rules/final/2022/33-11098.pdf.*

[25] *See supra* note 5.

[26] *See, e.g.,* letters from Conway; Deloitte; CAQ; and MIAG.

[27] *See, e.g.,* letters from CAQ (regarding implementation support) and MIAG and CII (regarding post-implementation review).

[28] *See, e.g., Interim Analysis Report—Evidence of the Initial Impact of New Requirements for Auditing Accounting Estimates and the Auditor's Use of the Work of Specialists,* Release No. 2022–008 (Dec. 8, 2022), *available at https://assets.pcaobus.org/pcaob-dev/docs/default-source/economicandriskanalysis/pir/documents/estimates-specialists-interim-analysis-report.pdf?sfvrsn=e1b0eb15_4.*

[29] *See* Section 107 of SOX.

[30] *See* letters from PwC and CAQ.

[31] *See* Notice of Filing of Proposed Rules, at Section III.B.4.i.

[32] *See* letters from PwC and CAQ.

[33] *See* Section 107(b)(3) of SOX. SOX also specifies that the provisions of Section 19(b) of the Exchange Act shall govern the proposed rules of the Board. *See* Section 107(b)(4) of SOX. Section 19 of the Exchange Act covers the registration, responsibilities, and oversight of self-regulatory organizations. Under the procedures prescribed by SOX and Section 19(b)(2) of the Exchange Act, the Commission must either approve or disapprove, or institute proceedings to determine whether the proposed rules of the Board should be disapproved; and these procedures do not expressly permit the Commission to amend or supplement the proposed rules of the Board.

[34] *See* Notice of Filing of Proposed Rules.

[35] *See* Adopting Release, *supra* note 6 at 93 to 95.

Amendments to the audits of EGCs is necessary or appropriate in the public interest, after considering the protection of investors and whether the Amendments will promote efficiency, competition, and capital formation. Overall, the Amendments are expected to enhance audit quality and contribute to an increase in the credibility of financial reporting for all issuers, including EGCs, whose financial statements are audited by a registered public accounting firm. We also note the secondary benefits that flow from higher audit quality, including improved efficiency of capital allocation and lower cost of capital and enhanced capital formation with respect to EGCs and other issuers.

The PCAOB explained how associated costs may be relatively higher for EGC audits in large part due to the amendment accelerating the documentation completion date.[36] We acknowledge the potential for higher costs, but agree with the PCAOB's assessment that these costs may be mitigated based on certain characteristics of EGCs. For example, as the PCAOB observed in its analysis, to the extent EGCs are smaller than non-EGCs, EGC audits may be less complex, which potentially facilitates a more expeditious assembly of the final workpapers.[37] Additionally, to the extent that EGCs are audited by firms that issued audit reports with respect to 100 or fewer issuers during the calendar year ending December 31, 2024, the extended effective date of the amendment to accelerate the documentation completion date will allow those firms more time to implement systems, processes, and procedures to meet the accelerated documentation completion date.[38]

We also concur with the PCAOB's conclusion that while the costs to update references within firm methodologies and related guidance for the amendments made to the general principles and responsibilities of the auditor could also be relatively higher for firms which are more likely to serve as EGC auditors, in general, the alternative of not applying the same standard and related amendments to audits of EGCs and non-EGCs creates the potential for confusion, or even potential additional costs and inefficiencies to maintain separate methodologies.[39]

As the PCAOB explained in its analysis, the amendment to accelerate the documentation completion date could improve efficiency and capital formation for EGCs to the extent that the amendment reduces uncertainty about the reliability of an EGC's financial statements via enhanced audit quality.[40] Investors who are uncertain about the reliability of an EGC's financial statements may require a larger risk premium that reduces the efficient allocation of capital or increases the cost of capital. Additionally, while the Amendments could impact the ability of EGCs to compete if the indirect costs to audited companies disproportionately impact EGCs relative to their competitors, as the costs associated with the Amendments are expected to be relatively modest, any impact on competition is likely to be relatively small.

Accordingly, after considering the protection of investors and whether the action will promote efficiency, competition, and capital formation, we believe there is a sufficient basis to determine that applying the Amendments to the audits of EGCs is necessary or appropriate in the public interest.

V. Conclusion

The Commission has reviewed and considered the Amendments, the information submitted therewith by the PCAOB, and the comment letters received, and the recommendation of the Commission's staff. The Commission concludes that the determinations made by the PCAOB as described in the Adopting Release are reasonable. The Amendments will reaffirm and modernize the foundational audit standards, clarify engagement partner responsibilities, and accelerate the documentation completion date, which should improve audit quality. In particular, the Amendments make the following important changes, among others, to the existing standards, which will advance the Board's investor protection mandate under SOX: reaffirm the auditor's fundamental obligation to protect investors;[41] extend the requirement of due professional care to other areas of audit practice, such as public reporting and documentation, which will help to ensure that auditors fulfill their professional responsibilities with appropriate rigor and diligence; clarify an auditor's responsibilities by focusing on affirmative responsibilities rather than discussing the limitations of an audit and the limits of an auditor's responsibility; and ensure consistency of the PCAOB standards with the requirements of Regulation S–X Rule 4–01(a),[42] which states that compliance with the applicable financial reporting framework is ''a minimum requirement to which shall be added such further material information as is necessary to make the required statements, in the light of the circumstances under which they are made, not misleading.'' Therefore, in connection with the PCAOB's filing and the Commission's review,

A. The Commission finds that the Amendments are consistent with the requirements of Title I of SOX and the rules and regulations thereunder and are necessary or appropriate in the public interest or for the protection of investors; and

B. Separately, the Commission finds that the application of the Amendments to the audits of EGCs is necessary or appropriate in the public interest, after considering the protection of investors and whether the action will promote efficiency, competition, and capital formation.

It is therefore ordered, pursuant to Section 107 of SOX and Section 19(b)(2) of the Exchange Act, that the Amendments (File No. PCAOB–2024–01) be and hereby are approved.

By the Commission.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–18985 Filed 8–22–24; 8:45 am]

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[36] *See* Adopting Release, *supra* note 6 at 94.

[37] *Id.*

[38] *Id.*

[39] *Id.* at 95.

[40] *Id.*

[41] AS 1000 is consistent with *United States* v. *Arthur Young & Co.,* 465 U.S. 805, 818 (1984) (''[t]he independent public accountant performing this special function [auditing] owes ultimate allegiance to the corporation's creditors and stockholders, as well as to investment public. This 'public watchdog' function demands that the accountant maintain total independence from the client at all times and requires complete fidelity to the public trust.'').

[42] See Rule 4–01 under Regulation S–X, 17 CFR 210.4–01(a).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100774; File No. PCAOB–2024–03]

Public Company Accounting Oversight Board; Order Granting Approval of Amendments Related to Aspects of Designing and Performing Audit Procedures That Involve Technology-Assisted Analysis of Information in Electronic Form

August 20, 2024.

I. Introduction

On June 20, 2024, the Public Company Accounting Oversight Board (the ''Board'' or the ''PCAOB'') filed

with the Securities and Exchange Commission (the ''Commission''), pursuant to section 107(b)[1] of the Sarbanes-Oxley Act of 2002 (''SOX'') and section 19(b)[2] of the Securities Exchange Act of 1934 (the ''Exchange Act''), a proposal to adopt amendments to auditing standard (''AS'') 1105, *Audit Evidence,* and AS 2301, *The Auditor's Responses to the Risks of Material Misstatement,* and conforming amendments to AS 2501, *Auditing Accounting Estimates, Including Fair Value Measurements* (collectively, the ''Amendments''). The Amendments were published for comment in the **Federal Register** on July 2, 2024.[3] We received six (6) comment letters in response to the Notice of Filing of Proposed Rules.[4] This order approves the Amendments, which we find to be consistent with the requirements of Title I of SOX and the rules and regulations issued thereunder and necessary or appropriate in the public interest or for the protection of investors.

II. Description of the Amendments

On June 12, 2024, the Board unanimously adopted the Amendments.[5] The Amendments are intended to more specifically address certain aspects of designing and performing audit procedures that involve analyzing information in electronic form with technology-based tools (*i.e.,* technology-assisted analysis). The Amendments should promote investor protection by enhancing the quality of audits. The requirements contained within the Amendments are discussed further below.

A. Changes to PCAOB Standards

The Amendments are principles-based in how they further specify and clarify certain existing auditor responsibilities and are therefore intended to be adaptable to the evolving nature of the use of technology in the audit. In particular, the Amendments:

- Clarify the description of what constitutes a *test of details;*[6]
- Specify auditor responsibilities when identifying items that require further investigation when performing tests of details;[7]
- Specify that if the auditor uses an audit procedure for more than one purpose (*e.g.,* risk assessment, test of controls, or substantive procedure), the auditor should achieve each objective of the procedure;[8]
- Specify auditor responsibilities for evaluating the reliability of external information provided by the company under audit;[9]
- Emphasize the importance of controls over information technology;[10]
- Emphasize the importance of appropriate disaggregation or detail of information to the relevance of audit evidence;[11] and
- Make conforming changes to AS 2501.[12]

B. Applicability and Effective Date

The Amendments will be effective for audits of financial statements for fiscal years beginning on or after December 15, 2025. The PCAOB has proposed application of the Amendments to include audits of emerging growth companies (''EGCs''),[13] as discussed in section IV below.

III. Comment Letters

As noted above, to date the Commission has received six (6) comment letters in response to the Notice of Filing of Proposed Rules.[14] Commenters generally supported the Board's efforts to modernize the requirements related to certain aspects of designing and performing audit procedures that involve technology-assisted analysis to support the objective of improving audit quality. A number of commenters, while generally supportive of the Amendments, sought clarification of specific issues raised, which are detailed below.[15]

A number of commenters identified the requirements in new paragraph .10A(b) of AS 1105 as requiring further clarity or modification.[16] Commenters stated their view that the requirements could be read as not allowing the auditor to apply a risk-based approach, but instead requiring the auditor, in all circumstances, to either test each piece of external information obtained from the company to determine if it was modified before it was provided to the auditor, or test controls over receiving, maintaining, and, if applicable, processing the information.[17] Commenters stated that this reading of the requirements appeared to be in conflict with language included in the Adopting Release that indicated that a risk-based approach could be taken[18] as well as with AS 1105.09, which states that the auditor is not expected to be an expert in documentation authentication.[19] Commenters also stated that if the requirements were not risk-based, they would likely result in significant additional costs, without a commensurate benefit, that have not been accounted for in the Board's economic analysis.[20] Commenters also stated that, in some cases, an entity may not have identified the risk of modification as one that represents a reasonable possibility of a material misstatement, and thus such controls would not likely be currently part of the entity's internal control over financial reporting.[21] Some of these commenters stated that, in such circumstances, they

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[1] 15 U.S.C. 7217(b).

[2] 15 U.S.C. 78s(b).

[3] *See Public Company Accounting Oversight Board; Notice of Filing of Proposed Rules on Amendments Related to Aspects of Designing and Performing Audit Procedures that Involve Technology-Assisted Analysis of Information in Electronic Form,* Release No. 34–100430 (June 26, 2024) [89 FR 54922 (July 2, 2024)] (''Notice of Filing of Proposed Rules''), available at *https://www.sec.gov/files/rules/pcaob/2024/34-100276.pdf.*

[4] The Commission received comment letters from Deloitte & Touche LLP (July 18, 2024) (''Deloitte''); KPMG LLP (July 23, 2024) (''KPMG''); PricewaterhouseCoopers LLP (July 23, 2024) (''PWC''); RSM US LLP (July 23, 2024) (''RSM''); Center for Audit Quality (July 23, 2024) (''CAQ''); and Ernst & Young LLP (Aug. 12, 2024) (''EY''). Comment letters received by the Commission on the Amendments are available on the Commission's website at *https://www.sec.gov/comments/pcaob-2024-003/pcaob2024003.htm.*

[5] *See Amendments Related to Aspects of Designing and Performing Audit Procedures that Involve Technology-Assisted Analysis of Information in Electronic Form,* PCAOB Release No. 2024–007 (June 12, 2024) (''Adopting Release''), available at *https://assets.pcaobus.org/pcaob-dev/docs/default-source/rulemaking/docket-052/2024-007-adoptingrelease.pdf?sfvrsn=28f44e9e_2.*

[6] *See* AS 2301.48.

[7] *See* AS 2301.10, .49 and .50.

[8] *See* AS 1105.14.

[9] *See* AS 1105.10A.

[10] *See* AS 1105.08, .10, and .15.

[11] *See* AS 1105.07.

[12] *See* AS 2501.12 and footnote 14 to paragraph .13.

[13] The term ''emerging growth company'' is defined in section 3(a)(80) of the Exchange Act (15 U.S.C. 78c(a)(80)). *See also Inflation Adjustments under Titles I and III of the JOBS Act,* Release No. 33–11098 (Sept. 9, 2022) [87 FR 57394 (Sept. 20, 2022)], available at *https://www.sec.gov/files/rules/final/2022/33-11098.pdf.*

[14] *See supra* note 4.

[15] *See* letters from KPMG; PWC; RSM; CAQ; and EY. PWC expressed support for the overall goal of the rulemaking but indicated that it could not support the Amendments ''without further amendment or contemporaneous interpretive guidance'' to address its concerns.

[16] *See* letters from KPMG; PWC; RSM; CAQ; and EY.

[17] *See, e.g.,* letter from PWC.

[18] *See* letters from PWC; RSM; and CAQ.

[19] *See* letters from KPMG; PWC; CAQ; and EY (Expressing its concerns in the context of the interaction between AS 1105.10A(b) and the PCAOB's proposed paragraph AS 2301.40A, which is part of the Substantive Analytical Procedures Proposal. *Infra* note 25. We believe EY's concern with respect to the Amendments is addressed by the risk-based considerations discussed herein, and, with respect to concerns about the Substantive Analytical Procedures Proposal currently under consideration by the Board, we intend to encourage the Board to consider the comments in that proposal.).

[20] *See* letters from PWC and EY.

[21] *See* letters from KPMG; PWC; CAQ; and EY.

believe the Amendments may require the company to establish controls solely to satisfy the requirements of its auditors.[22] Commenters raised concerns about auditors' ability to compare electronic information to source records as many companies do not have physical copies or original paper records because the information is obtained and maintained only in electronic form.[23] According to these commenters, this potential limitation on the ability to compare electronic information to source records would result in the auditor being required to test management's controls over receiving, maintaining, and processing the electronic information, which would not be possible if the controls do not exist or were not operating effectively.[24]

All commenters stated that either interpretive or other implementation guidance was warranted to facilitate implementation of the Amendments. One commenter recommended the Commission delay the effective date of the Amendments to align with the effective date of the recently proposed amendments to AS 2305.[25]

As discussed above, a number of commenters were of the view that new paragraph AS1105.10A(b) requires the auditor, in all circumstances, to test whether each piece of information provided to the auditor by the company, which the company received from external sources, has been modified by the company. Although we understand the concerns raised by such commenters, we believe these concerns may be misplaced, particularly in light of the guidance provided by the Board in the Adopting Release. For example, in the Adopting Release, the Board stated that ''[it was] not prescribing the nature, timing, or extent of the auditor's procedures to evaluate the reliability of the external information.'' [26] Instead, as the Board explained, ''[a]n auditor would design the procedures considering the wide variety of types of external information received by companies and differences in the processes for receiving, maintaining and, where applicable, processing such information.'' [27] Therefore, our understanding of the Amendments, when read in the overall context of the PCAOB auditing standards, is that they do not preclude a risk-based approach to testing external information. Nevertheless, given the concerns raised by commenters, we encourage the PCAOB to provide further implementation guidance on this point. Given our understanding of the risk-based nature of the standards, we believe the commenters' concern that the costs of this requirement were not appropriately considered in the Board's economic analysis reflects a misunderstanding of the nature of the requirement and that the Board adequately considered the costs related to the Amendments.[28]

Regarding commenter concerns about the availability of source records, we do not believe that having source records only available in electronic form would inhibit procedures to compare information to source records. Source records are not defined in the PCAOB's auditing standards and may exist in many forms, including in electronic form. We note that, when considering the reliability of such a record, AS 1105.10A and AS 1105.09 require the auditor to consider, among other things, the means by which it was obtained, including any processing by the company and whether there are indications that it may not be authentic.

We also do not believe that the Amendments would require management to establish new controls solely for purposes of satisfying the requirements of the auditor as raised by commenters. The PCAOB addressed this concern in the Adopting Release by explicitly stating that the Amendments do not require testing of controls to establish reliability.[29]

One commenter stated that aspects of revised AS 2301.48 ''impact auditors' ability to consistently determine whether a particular audit procedure qualifies as a test of details.'' [30] This comment appears to be based on a misunderstanding of the amendment. AS 2301.48 provides examples of items in an account or disclosure for which audit procedures are performed, but does not specify at what level audit procedures should be applied. In the Adopting Release, the Board was explicit that the Amendments are not intended to define ''items included in an account or disclosure'' because a definition is impractical, and the Board explained that the auditor will determine the level of disaggregation or detail based on the facts and circumstances of the individual audit engagement.[31] We believe the approach to allow the auditor to determine what level of disaggregation is most appropriate in light of the specific circumstances of the engagement is appropriate.

Regarding the comment recommending the Commission delay the effective date to align with the Substantive Analytical Procedures Proposal, the effective date was addressed by the Board in the Adopting Release, and the Board specifically highlighted that they considered ''the effective dates for other Board rulemaking projects.'' [32] We agree with the Board's assessment and support the conclusion reached.

We acknowledge commenters' concerns about the need for implementation guidance and we note that the Board has a historical practice of performing a post-implementation review [33] as well as issuing appropriate implementation guidance for new standards and rule amendments when needed.[34] We encourage the Board to do the same with respect to the Amendments. We also acknowledge the importance of monitoring the implementation of the Amendments and the Commission staff works closely with the PCAOB as part of our general oversight mandate.[35] As part of that oversight, Commission staff will keep itself apprised of the PCAOB's activities for monitoring the implementation of the Amendments and update the Commission, as necessary.

IV. Effect on Emerging Growth Companies

In the Notice of Filing of Proposed Rules, the Board recommended that the Commission determine that the Amendments apply to audits of EGCs.[36]

[22] *See* letters from KPMG; PWC; and CAQ.

[23] *See* letters from KPMG; PWC; RSM; CAQ; and EY.

[24] *Id.*

[25] *See* letter from KPMG. *See Proposed Auditing Standard—Designing and Performing Substantive Analytical Procedures and Amendments to Other PCAOB Standards,* PCAOB Release No. 2024–005 (June 12, 2024) (''Substantive Analytical Procedures Proposal''), available at *https://assets.pcaobus.org/pcaob-dev/docs/default-source/rulemaking/docket-056/2024-006-as-2305-proposal.pdf?sfvrsn=d174cacf_2.*

[26] Adopting Release, *supra* note 5 at 26–32.

[27] *Id. See also* AS 2110 *Identifying and Assessing Risks of Material Misstatement;* AS 1105.08; AS 1105.09; and new AS 1105.10A(a).

[28] *See* letters from PWC and EY.

[29] *See* Adopting Release, *supra* note 5 at 30.

[30] *See* letter from KPMG.

[31] *See* Adopting Release, *supra* note 5 at 18.

[32] *See* Adopting Release, *supra* note 5 at 61.

[33] *See, e.g., Interim Analysis Report—Evidence of the Initial Impact of New Requirements for Auditing Accounting Estimates and the Auditor's Use of the Work of Specialists,* Release No. 2022–008 (Dec. 8, 2022), available at *https://assets.pcaobus.org/pcaob-dev/docs/default-source/economicandriskanalysis/pir/documents/estimates-specialists-interim-analysis-report.pdf?sfvrsn=e1b0eb15_4.*

[34] *See, e.g., Staff Guidance—Auditing Accounting Estimates* (Aug. 22, 2019), available at *https://assets.pcaobus.org/pcaob-dev/docs/default-source/standards/documents/staff-guidance-auditing-accounting-estimates.pdf?sfvrsn=80016a49_0.*

[35] *See* section 107 of SOX.

[36] *See* Notice of Filing of Proposed Rules.

Section 103(a)(3)(C) of SOX requires that any rules of the Board requiring mandatory audit firm rotation or a supplement to the auditor's report in which the auditor would be required to provide additional information about the audit and the financial statements of the issuer (auditor discussion and analysis) shall not apply to an audit of an EGC. The provisions of the Amendments do not fall into these categories.

Section 103(a)(3)(C) further provides that ''[a]ny additional rules'' adopted by the PCAOB do not apply to audits of EGCs ''unless the Commission determines that the application of such additional requirements is necessary or appropriate in the public interest, after considering the protection of investors and whether the action will promote efficiency, competition, and capital formation.'' The Amendments fall within this category. Having considered those statutory factors, we find that applying the Amendments to the audits of EGCs is necessary or appropriate in the public interest.

With respect to the Commission's determination of whether the Amendments will apply to audits of EGCs, the PCAOB provided information, including data and analysis of EGCs that sets forth its views as to why it believes the Amendments should apply to audits of EGCs.[37] In addition, the Board sought public input on the application of the Amendments to the audits of EGCs. Commenters who responded to the Board agreed the Amendments should apply to the audits of EGCs.[38]

The Board indicated in its assessment that for all audits performed pursuant to PCAOB standards, including audits of EGCs, the Amendments may lead to higher audit quality, more efficient audits, lower audit fees, or some combination of the three.[39] These benefits may apply both to audit engagements where auditors currently incorporate technology-assisted analysis into their audit approach and engagements where auditors have been previously reluctant to use technology-assisted analysis because of the risk of noncompliance.[40] As the Board noted in its assessment, the use of technology-assisted analysis appears to be less prevalent among U.S. non-affiliated firms (''NAFs'') than U.S. global network firms (''GNFs'').[41] Therefore, since EGCs are more likely than non-EGCs to be audited by NAFs,[42] and to the extent NAFs are not more likely than other firms to newly implement technology-assisted analysis in response to the Amendments, the impacts of the Amendments on EGC audits may be less than on non-EGC audits.[43] Nevertheless, the Board stated that it expects the Amendments to enhance the efficiency and quality of EGC audits that implement technology-assisted analysis and contribute to an increase in the credibility of financial reporting by those EGCs.[44] An improvement in EGCs' financial reporting quality, may also improve the efficiency of capital allocation and enhance capital formation.[45]

The Board noted that the Amendments could impact the ability of EGCs to compete if the costs of the Amendments to audited companies (as a result of any increase in costs to their auditors) disproportionately impact EGCs relative to their competitors.[46] However, as the direct costs associated with the Amendments are expected to be relatively modest, the Board concluded that the impact of the Amendments on competition, if any, is likewise expected to be limited.[47]

We agree with the Board's findings and further emphasize the benefits of the Amendments for EGCs. The Amendments may promote higher audit quality for EGC audits employing technology-assisted analysis, and thus a higher reliability of financial reporting for the affected EGCs. An increased reliability of financial reporting may enhance investor protection and lead to an improved efficiency of capital allocation and enhanced capital formation with respect to EGCs. These benefits may be moderated relative to the effects on other issuers, because, for example, the auditors of EGCs are currently less likely to employ technology-assisted analysis. However, any potential costs passed down to EGCs may be similarly moderated.

We note that the Amendments could also impact competition for capital or in product markets in which EGCs compete. For example, if non-EGCs are more likely to be the subject of audits using technology-assisted analysis, these issuers may experience greater improvements in the reliability of their financial reporting and thereby attract more capital than EGCs. Alternatively, if any incremental costs or savings passed down to audited companies by auditors as a result of the Amendments are disproportionately directed to either EGCs or their competitors, competition may be affected. However, given that the direct benefits and costs of the rule (including effects on audit quality and audit fees) are expected to be relatively modest, any resulting impact on competition is likely to be relatively limited. While there may be additional effects if the Amendments result in a larger number of auditors newly incorporating or expanding the use of technology-assisted analysis in their audits, and it is difficult to predict which auditors and which engagements would most likely be the subject of such changes, it is not clear that such effects would disproportionately favor the competitors of EGCs. Further, many of the potential effects on competition are unlikely to be mitigated by applying the Amendments only to audits of non-EGCs.

Accordingly, after considering the protection of investors and whether the action will promote efficiency, competition, and capital formation, we believe there is a sufficient basis to determine that applying the Amendments to the audits of EGCs is necessary or appropriate in the public interest.

V. Conclusion

The Commission has reviewed and considered the Amendments, the information submitted therewith by the PCAOB, the comment letters received, and the recommendation of the Commission's staff. The Commission concludes that the determinations made by the PCAOB as described in the Adopting Release are reasonable. In particular, the Amendments address challenges with the rapidly evolving use of technology-based analytical tools that may not be sufficiently addressed under current professional audit standards. Addressing these challenges will advance the Board's investor protection mandate under SOX given that (1) the use of technology-based analytical tools is substantially increasing and is expected to continue to do so; (2) technology-based analytical tools have the potential to enhance the effectiveness of audit procedures by, for example, increasing the amount of data an auditor is able to analyze or

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[37] *See* Adopting Release, *supra* note 5 at 58–61.

[38] *Id.*

[39] *Id.* at 45.

[40] *Id.* at 46–47.

[41] *See* Adopting Release, *supra* note 5 at 36. The U.S. GNFs are BDO USA P.C., Deloitte & Touche LLP, Ernst & Young LLP, Grant Thornton LLP, KPMG LLP, and PricewaterhouseCoopers LLP. The U.S. NAF firms include registered public accounting firms that are not members of global network firms.

[42] *See* Adopting Release, *supra* note 5 at 60. PCAOB staff analysis indicates that, compared to exchange-listed non-EGCs, exchange-listed EGCs are approximately 2.6 times more likely to be audited by an NAF and approximately 1.3 times more likely to be audited by a triennially inspected firm.

[43] *See* Adopting Release, *supra* note 5 at 60.

[44] *Id.*

[45] *Id.*

[46] *Id.* at 54.

[47] *Id.* at 60.

otherwise validate, allowing the auditor to perform more robust analysis or analyze more complex relationships, or by allowing the auditor to focus their procedures on the transactions with the most risk; and (3) PCAOB research indicates that some auditors may be reluctant to implement new technologies due to perceived regulatory uncertainty, which can be addressed through the clarity provided in the Amendments.[48] Therefore, in connection with the PCAOB's filing and the Commission's review,

A. The Commission finds that the Amendments are consistent with the requirements of Title I of SOX and the rules and regulations thereunder and are necessary or appropriate in the public interest or for the protection of investors; and

B. Separately, the Commission finds that the application of the Amendments to the audits of EGCs is necessary or appropriate in the public interest, after considering the protection of investors and whether the action will promote efficiency, competition, and capital formation.

It is therefore ordered, pursuant to section 107 of SOX and section 19(b)(2) of the Exchange Act, that the Amendments (File No. PCAOB–2024–03) be and hereby are approved.

By the Commission.

Vanessa A. Countryman,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100772; File No. PCAOB–2024–04]

Public Company Accounting Oversight Board; Order Granting Approval of Amendment to PCAOB Rule 3502 Governing Contributory Liability

August 20, 2024.

I. Introduction

On June 20, 2024, the Public Company Accounting Oversight Board (the ''Board'' or the ''PCAOB'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to section 107(b)[1] of the Sarbanes-Oxley Act of 2002 (''SOX'') and section 19(b)[2] of the Securities Exchange Act of 1934 (the ''Exchange Act''), a proposal to adopt an amendment to PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations,* the Board's ethics rule governing the liability of associated persons who directly and substantially contribute to a registered public accounting firm's primary violation (the ''Amendment''). The Amendment was published for comment in the **Federal Register** on July 2, 2024.[3] The Commission received one comment letter in response to the Notice of Filing of Proposed Rules.[4] This order approves the Amendment, which we find to be consistent with the requirements of Title I of SOX and the rules and regulations thereunder and is necessary or appropriate in the public interest or for the protection of investors.

II. Description of the Amendment

Existing PCAOB Rule 3502 codifies associated persons' ethical obligation not to contribute to a registered firm's violations of the laws, rules, and standards that the Board is charged with enforcing.[5] The rule provides grounds for secondary liability when an associated person of a registered firm acts at least recklessly to directly and substantially contribute to such a violation. On June 12, 2024, the Board unanimously adopted the Amendment,[6] which changes from recklessness to negligence the liability standard for actionable contributory conduct by associated persons under Rule 3502. Whereas negligence is ''the failure to exercise reasonable care or competence,''[7] recklessness requires ''extreme departure from the standard of ordinary care'' that ''presents a danger to investors or to the markets that is either known to the (actor) or is so obvious that the actor must have been aware of it.''[8]

Following notice and comment, and based on its experience with Rule 3502 since the Commission approved the ethics rule in 2006,[9] the PCAOB determined that the Amendment would better align Rule 3502 with the scope of the PCAOB's enforcement authority under SOX, thus further advancing the PCAOB's mission of investor protection.

The PCAOB determined that under the current formulation of Rule 3502, an incongruity exists between the respective requisite mental states for liability of a registered firm resulting from an associated person's conduct and for liability of the associated person. Specifically, a firm, which acts through its associated persons, can commit a primary violation of certain laws, rules, or standards by acting *negligently,* but an associated person who directly and substantially contributed to that violation must have acted at least *recklessly* to be secondarily liable. The PCAOB determined that this incongruity means that associated persons may have weaker incentives to exercise the appropriate level of care in their audit work, and that the modification to Rule 3502's liability standard from recklessness to negligence would incentivize associated persons to be more deliberate and careful in their actions.

The PCAOB also determined that the current version of Rule 3502 prevents the Board from executing its investor-protection mandate to the fullest extent that Congress authorized in SOX. According to the PCAOB, in the instances in which the Board has instituted proceedings against firms for negligence-based violations, the Board has not been able to charge individuals who negligently, directly, and substantially contributed to the firms' violations. The Amendment would allow the Board to do so.

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[48] *See* Adopting Release, *supra* note 5 at 12. (''The [Data and Technology] research [project] further suggests that clarifications to PCAOB standards could more specifically address certain aspects of designing and performing audit procedures that involve technology-assisted analysis. The Board's Investor Advisory Group has also noted that auditors' use of technology-assisted analysis is an area of concern due to auditors' potential overreliance on company-produced information, and that addressing the use of such analysis in the standards could be beneficial.'').

[1] 15 U.S.C. 7217(b).

[2] 15 U.S.C. 78s(b).

[3] *See Public Company Accounting Oversight Board; Notice of Filing of Proposed Rules on Amendment to PCAOB Rule 3502 Governing Contributory Liability,* Release No. 34–100429 (June 26, 2024 [89 FR 54895 (July 2, 2024)] (''Notice of Filing of Proposed Rules''), *available at https://www.sec.gov/files/rules/pcaob/2024/34-100429.pdf.*

[4] The Commission received a comment letter from the Pennsylvania Institute of Certified Public Accountants (July 22, 2024). This comment letter is available on the Commission's website at *https://www.sec.gov/comments/pcaob-2024-04/pcaob202404.htm.*

[5] Section 103(a) of SOX directs the Board, by rule, to establish ''ethics standards . . . to be used by registered public accounting firms in the preparation and issuance of audit reports, as required by [SOX] or the rules of the Commission, or as may be necessary or appropriate in the public interest or for the protection of investors.''

[6] *See Amendment to PCAOB Rule 3502 Governing Contributory Liability,* PCAOB Release No. 2024–008 (June 12, 2024) (''Adopting Release''), *available at https://assets.pcaobus.org/pcaob-dev/docs/default-source/rulemaking/053/2024-008-rule-3502-adoption.pdf?sfvrsn=9819bcd3_2.*

[7] *In re S.W. Hatfield, C.P.A.,* SEC Release No. 34–69930, at 35 n.169 (July 3, 2013) (describing the standards for recklessness and negligence) (citation and quotation marks omitted).

[8] *Id.* at 29 (citation and quotation marks omitted).

[9] *See Public Company Accounting Oversight Board; Order Approving Proposed Ethics and Independence Rules Concerning Independence, Tax Services, and Contingent Fees and Notice of Filing and Order Granting Accelerated Approval of the Amendment Delaying Implementation of Certain of these Rules,* Release No. 34–53677 (Apr. 19, 2006), *available at https://www.sec.gov/files/rules/pcaob/2006/34-53677.pdf.*

III. Effective Date

The Amendment will be effective 60 days from the date of this order.

IV. Comment Letters

The comment period on the Amendment ended on July 23, 2024. The Commission received one comment letter.[10] That comment letter reiterated comments that had been submitted to the PCAOB on its proposing release and that were addressed by the Board in its Adopting Release. The commenter questioned whether the PCAOB had legal authority for the Amendment, and was generally critical about the need for the Amendment and the economic and investor-protection rationales put forth by the Board. For example, the commenter argued that any benefit from additional enforcement actions does not justify the costs, potential negative effects on the talent pool, and anticompetitive outcomes, and urged the Commission to conduct a comprehensive impact assessment of the Amendment on the accounting and auditing sectors. The commenter also argued that the Amendment may cause some firms to exit the market for audit services and result in greater market concentration for auditors.

We have considered the concerns raised by the commenter, all of which were considered by the Board prior to finalizing the Amendment, and believe that the Amendment is consistent with the requirements of Title I of SOX and the rules and regulations thereunder and necessary or appropriate in the public interest or for the protection of investors.

With respect to the Board's authority, in its 2006 order approving Rule 3502, the Commission stated that ''the rule is within the scope of the PCAOB's authority, particularly its authority to establish ethical standards.'' [11] The Amendment, which changes the standard for actionable contributory conduct but not the rule's basic ethical obligation, does not alter that conclusion. Section 103(a)(1) of SOX expressly authorizes the Board to establish or adopt ethics standards to be used by registered public accounting firms in the preparation and issuance of audit reports. As the Board observed when proposing the existing rule, an associated person has an ethical obligation not to cause any violations by the firm, and Rule 3502 codifies that obligation.[12] We view that obligation as fundamental given that a firm can only act through its associated persons and believe that it is reasonable to conclude, as the Board did, that such an obligation should extend to situations in which an associated person fails to exercise sufficient care to avoid negligently causing a violation rather than being limited to reckless conduct. In this regard, we note that a contributory liability rule based on negligence is consistent with other longstanding ethical obligations that apply to associated persons when conducting audits.[13]

In addition, section 105 of SOX permits the Board to impose liability for single acts of negligence. Specifically, section 105(c)(4) authorizes the Board to impose an array of sanctions—listed in subparagraphs (A) through (G)—upon finding that a registered firm or associated person engaged in violative conduct, without reference to the level of culpability required but ''subject to applicable limitations'' in section 105(c)(5). Section 105(c)(5), in turn, provides that ''[t]he sanctions and penalties described in subparagraphs (A) through (C) and (D)(ii) of [Section 105(c)(4)] shall only apply to [ ] intentional or knowing conduct, including reckless conduct,'' or ''repeated instances of negligent conduct each resulting in a violation of the applicable statutory, regulatory, or professional standard.'' Section 105(c)(5) thus does not restrict the Board's authority to impose for single acts of negligence certain sanctions—those in subparagraphs (D)(i) and (E) through (G) of section 105(c)(4).

With respect to the Amendment's potential adverse effects, we acknowledge (as the PCAOB did) that the Amendment could result in some incremental legal costs and operational adjustments for firms, individuals, and issuers. However, for the reasons discussed below, we agree with the Board's conclusion that any unintended consequences of the Amendments are likely to be limited and that, on balance, the Amendment will enhance audit quality, not diminish it, for the benefit of investors.[14]

As a threshold matter, the Amendment does not establish a novel burden on individuals to refrain from acting negligently and thereby contributing to a firm's violation: the Commission already has the ability to bring cases against associated persons for negligently contributing to registered firms' violations of numerous laws and rules governing the preparation and issuance of audit reports.[15] Rather, the Amendment merely provides a mechanism for the PCAOB to discipline individuals who fail to act reasonably. And while we appreciate that complex audit engagements can involve a wide range of judgments, we concur with the Board's observation from the Adopting Release that the Amendment does not target mere errors in judgment, but rather *unreasonable* conduct.[16] With respect to market concentration, although the Amendment could lead some firms to exit the issuer audit market, it is unclear that this effect would necessarily detract from the provision of associated persons' services. For example, such exit might involve low-quality auditors and lead to a higher concentration of more capable and compliant audit firms. At the same time, the Amendment is likely to result in significant benefits in the form of more efficient enforcement, while encouraging individuals to exercise the appropriate level of care, thereby raising audit quality.

SOX requires us to determine whether the Amendment is consistent with the requirements of Title I of SOX and the rules and regulations thereunder and is necessary or appropriate in the public interest or for the protection of investors. In making this determination, we have considered the comments received, as well as the feedback received and modifications made by the PCAOB throughout its rulemaking process.

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[10] *See supra* note 4.

[11] *See supra* note 9 at 9.

[12] *See Proposed Ethics and Independence Rules Concerning Independence, Tax Services, and Contingent Fees,* PCAOB Release 2004–015 (Dec. 14, 2004) at 18, *available at https://assets.pcaobus.org/pcaob-dev/docs/default-source/rulemaking/docket017/2004-12-14_release_2004-015.pdf?sfvrsn=b15567fb_0.*

[13] Indeed, the American Institute of Certified Public Accountants (''AICPA'') Code of Professional Conduct at the time that SOX was enacted (and still today) makes it an ''act discreditable to the profession''—and therefore a violation of its ethics rules—for a member accountant to ''permit[ ] or direct[ ] another to make[ ] materially false and misleading entries in the financial statements or records of an entity'' ''by virtue of his or her negligence.'' AICPA Code of Professional Conduct, ET Section 501.05(a), *Negligence in the Preparation of Financial Statements or Records,* recodified at Section 1.400.040.01. That is also the case if a member were to ''permit[ ] or direct[ ] another to sign[ ] a document containing materially false and misleading information'' ''by virtue of his or her negligence.'' *Id.* Section 501.05(c).

[14] *See* Adopting Release, *supra* note 6 at 57–63.

[15] Section 21C of the Exchange Act authorizes the Commission to institute cease-and-desist proceedings against any ''person that is, was, or would be a cause of [a] violation [of the Exchange Act or any rule or regulation thereunder], due to an act or omission the person knew or should have known would contribute to such violation,'' and Section 21B further authorizes the Commission to ''impose a civil penalty'' upon finding that such person ''is or was a cause of [such] violation.''

[16] *See* Adopting Release, *supra* note 6 at 10.

V. Effect on Emerging Growth Companies

Section 103(a)(3)(C) of SOX, as amended by section 104 of the Jumpstart Our Business Startups Act of 2012, requires that any rules of the Board requiring mandatory audit firm rotation or a supplement to the auditor's report in which the auditor would be required to provide additional information about the audit and the financial statements of the issuer (auditor discussion and analysis) shall not apply to an audit of an emerging growth company (''EGC'').[17] Section 103(a)(3)(C) further provides that ''[a]ny additional rules'' adopted by the PCAOB do not apply to audits of EGCs ''unless the Commission determines that the application of such additional requirements is necessary or appropriate in the public interest, after considering the protection of investors and whether the action will promote efficiency, competition, and capital formation.''

The Board expressed its view that section 103(a)(3)(C) does not apply to the Amendment because the provisions of the Amendment do not fall into those categories and do not impose additional requirements on the audits of EGCs.[18] To the extent that section 103(a)(3)(C) does apply, however, the Board recommended that the Commission determine that the Amendment apply to audits of EGCs.[19]

With respect to the Commission's determination of whether the Amendment will apply to audits of EGCs, the PCAOB provided information, including data and analysis of EGCs, that sets forth its views as to why it believes the Amendment should apply to audits of EGCs.[20] In addition, the Board sought public input on the application of the Amendment to the audits of EGCs. Some commenters agreed the Amendment should apply to the audits of EGCs, although one commenter suggested that the Amendment would have a greater impact on smaller firms with fewer resources to defend personnel and navigate an uncertain liability environment.[21]

We agree with the Board's assessment and believe that applying the Amendment to the audits of EGCs is necessary or appropriate in the public interest, after considering the protection of investors and whether the Amendment will promote efficiency, competition, and capital formation. Specifically, by applying the Amendment to all associated persons of registered public accounting firms engaged in the audits of issuers and registered broker-dealers, including audits of EGCs, investors will benefit from higher standards of audit quality and enhancements to investor protection brought about by the Amendment. Because EGCs are likely to be newer public companies, investors may place greater importance on external audits' adherence to applicable audit standards, in order to enhance and test the credibility of management disclosures, including whether financial statements are free from material misstatement due to error or fraud. Therefore, all else equal, the benefits of the higher audit quality resulting from the Amendment may be more significant for EGCs than for non-EGCs, including improved efficiency of capital allocation, lower cost of capital, and enhanced capital formation. Because investors who lack confidence in a company's financial statements may require a larger risk premium that increases the cost of capital to companies, the improved audit quality resulting from applying the Amendment to associated persons engaged in EGC audits could reduce the cost of capital to those EGCs.

Also, given the Commission's existing authority to sanction associated persons of accounting firms for single acts of contributory negligence, the costs to EGCs associated with the Amendment are expected to be small. Therefore, the Amendment's impact on competition, if any, is expected to be limited.

Accordingly, after considering the protection of investors and whether the action will promote efficiency, competition, and capital formation, we believe that the application of the Amendment to associated persons engaged in the audits of EGCs is necessary or appropriate in the public interest.[22]

VI. Conclusion

The Commission has reviewed and considered the Amendment, the information submitted therewith by the PCAOB, the comment letter received, and the recommendation of the Commission's staff. The Commission concludes that the determinations made by the PCAOB as described in the Adopting Release are reasonable. In particular, the Amendment will make Rule 3502 both a more effective deterrent against unethical contributory conduct by associated persons and a more effective enforcement tool. The Amendment also should prompt individuals to exercise the appropriate level of care in their audit work and lead firms to allocate resources more efficiently, which will raise audit quality. In doing so, the Amendment will advance the Board's investor protection mandate under SOX. Therefore, in connection with the PCAOB's filing and the Commission's review:

A. The Commission finds that the Amendment is consistent with the requirements of Title I of SOX and the rules and regulations thereunder and is necessary or appropriate in the public interest or for the protection of investors; and

B. Separately, the Commission finds that the application of the Amendment to associated persons engaged in the audits of EGCs is necessary or appropriate in the public interest, after considering the protection of investors and whether the action will promote efficiency, competition, and capital formation.

It is therefore ordered, pursuant to section 107 of SOX and section 19(b)(2) of the Exchange Act, that the Amendment (File No. PCAOB–2024–04) be and hereby is approved.

By the Commission.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–18984 Filed 8–22–24; 8:45 am]

BILLING CODE 8011–01–P

[17] The term ''emerging growth company'' is defined in Section 3(a)(80) of the Exchange Act (15 U.S.C. 78c(a)(80)). *See also Inflation Adjustments under Titles I and III of the JOBS Act,* Release No. 33–11098 (Sept. 9, 2022) [87 FR 57394 (Sept. 20, 2022)], available at *https://www.sec.gov/files/rules/final/2022/33-11098.pdf.*

[18] *See* Adopting Release, *supra* note 6 at 66–68.

[19] *Id.*

[20] *Id.*

[21] *Id.* at 67–68.

[22] Although the Board expressed the view that Section 103(a)(3)(C) does not apply to the Amendment given that it does not impose any additional audit requirements, we note that Section 103(a)(3)(C) refers to ''[a]ny additional rules'' adopted by the PCAOB. Therefore, to avoid any ambiguity regarding the application of the Amendments within the context of EGC audits, we are making the finding required by Section 103(a)(3)(C).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–199, OMB Control No. 3235–0199]

Proposed Collection; Comment Request; Extension: Rule 17a–5(c)

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 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission

(''Commission'') is soliciting comments on the existing collection of information provided for in Rule 17a–5(c) (17 CFR 240.17a–5(c)), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17a–5(c) generally requires broker-dealers who carry customer accounts to provide statements of the broker-dealer's financial condition to their customers. Paragraph (c)(5) of Rule 17a–5 provides a conditional exemption from this requirement. A broker-dealer that elects to take advantage of the exemption must publish its statements on its website in a prescribed manner, and must maintain a toll-free number that customers can call to request a copy of the statements.

The purpose of the Rule is to ensure that customers of broker-dealers are provided with information concerning the financial condition of the firm that may be holding the customers' cash and securities. The Commission, when adopting the Rule in 1972, stated that the goal was to ''directly'' send a customer essential information so that the customer could ''judge whether his broker or dealer is financially sound.'' The Commission adopted the Rule in response to the failure of several broker-dealers holding customer funds and securities in the period between 1968 and 1971.

The Commission estimates that approximately 153 broker-dealer respondents carrying approximately 272 million public customer accounts incur a burden of approximately 327,444 hours per year to comply with the Rule.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by October 22, 2024.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Oluwaseun Ajayi, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: August 19, 2024.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–18917 Filed 8–22–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–034, OMB Control No. 3235–0034]

Proposed Collection; Comment Request; Extension: Rule 17f–2(a)

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 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 17f–2(a) (17 CFR 240.17f–2(a)), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17f–2(a) (Fingerprinting Requirements for Securities Professionals) requires that securities professionals be fingerprinted. This requirement serves to identify security-risk personnel, to allow an employer to make fully informed employment decisions, and to deter possible wrongdoers from seeking employment in the securities industry. Partners, directors, officers, and employees of exchanges, brokers, dealers, transfer agents, and clearing agencies are included.

The Commission staff estimates that approximately 4,480 respondents will submit an aggregate total of 289,780 new fingerprint cards each year or approximately 65 fingerprint cards per year per registrant. The staff estimates that the average number of hours necessary to complete a fingerprint card is one-half hour. Thus, the total estimated annual burden is 144,890 hours for all respondents (289,780 times one-half hour). The average internal cost of compliance per hour is approximately $310. Therefore, the total estimated annual internal cost of compliance for all respondents is $44,915,900 (144,890 times $310).

This rule does not involve the collection of confidential information.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by October 22, 2024.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Oluwaseun Ajayi, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: August 19, 2024.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–18921 Filed 8–22–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100768; File No. SR–NYSEARCA–2024–05]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Withdrawal of a Proposed Rule Change To List and Trade Shares of the COtwo Advisors Physical European Carbon Allowance Trust Under NYSE Arca Rule 8.201–E (Commodity-Based Trust Shares)

August 19, 2024.

On January 10, 2024, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

COtwo Advisors Physical European Carbon Allowance Trust under NYSE Arca Rule 8.201–E (''Proposal'').

The Proposal was published for comment in the **Federal Register** on January 26, 2024.[3] On March 4, 2024, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the Proposal, disapprove the Proposal, or institute proceedings to determine whether to disapprove the Proposal.[5] On April 25, 2024, the Commission instituted proceedings pursuant to Section 19(b)(2)(B) of the Act[6] to determine whether to approve or disapprove the Proposal.[7] On July 15, 2024, the Commission designated a longer time for Commission action on the Proposal.[8] On August 14, 2024, the Exchange withdrew the Proposal (SR–NYSEARCA–2024–05).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–18910 Filed 8–22–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–098, OMB Control No. 3235–0081]

Proposed Collection; Comment Request; Extension: Rule 12d2–1

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 12d2–1(17 CFR 240.12d2–1) under the Securities Exchange Act of 1934 (15 U.S.C. 78b *et seq.*) (''Act''). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

On February 12, 1935, the Commission adopted Rule 12d2–1[1] (''Suspension of Trading'') to establish the procedures by which a national securities exchange may suspend from trading a security that is listed and registered on the exchange under Section 12(d) of the Act.[2] Under Rule 12d2–1, an exchange is permitted to suspend from trading a listed security in accordance with its rules, and must promptly notify the Commission of any such suspension, along with the effective date and the reasons for the suspension.

Any such suspension may be continued until such time as the Commission may determine that the suspension is designed to evade the provisions of Section 12(d) of the Act and Rule 12d2–2 thereunder.[3] During the continuance of such suspension under Rule 12d2–1, the exchange is required to notify the Commission promptly of any change in the reasons for the suspension. Upon the restoration to trading of any security suspended under Rule 12d2–1, the exchange must notify the Commission promptly of the effective date of such restoration.

The trading suspension notices serve a number of purposes. First, they inform the Commission that an exchange has suspended from trading a listed security or reintroduced trading in a previously suspended security. They also provide the Commission with information necessary for it to determine that the suspension has been accomplished in accordance with the rules of the exchange, and to verify that the exchange has not evaded the requirements of Section 12(d) of the Act and Rule 12d2–2 thereunder by improperly employing a trading suspension. Without Rule 12d2–1, the Commission would be unable to fully implement these statutory responsibilities.

There are 24 national securities exchanges[4] that are subject to Rule 12d2–1. The burden of complying with Rule 12d2–1 is not evenly distributed among the exchanges, however, since there are many more securities listed on the New York Stock Exchange, Inc., the NASDAQ Stock Market, and NYSE American LLC than on the other exchanges.[5] There are approximately 658 responses[6] under Rule 12d2–1 for the purpose of suspension of trading from the national securities exchanges each year, and the resultant aggregate annual reporting hour burden would be, assuming on average one-half reporting hour per response, 329 annual burden hours for all exchanges. The related internal compliance costs associated with these burden hours are $79,618 per year.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by October 22, 2024.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Oluwaseun Ajayi, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: August 19, 2024.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–18920 Filed 8–22–24; 8:45 am]

BILLING CODE 8011–01–P

[3] *See* Securities Exchange Act Release No. 99409 (Jan. 22, 2024), 89 FR 5273. Comments on the proposed rule change are available at: *https://www.sec.gov/comments/sr-nysearca-2024-05/srnysearca202405.htm.*

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 99668, 89 FR 16808 (Mar. 8, 2024).

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 100029, 89 FR 35289 (May 1, 2024).

[8] *See* Securities Exchange Act Release No. 100537, 89 FR 58828 (Jul. 19, 2024).

[9] 17 CFR 200.30–3(a)(12).

[1] *See* Securities Exchange Act Release No. 98 (February 12, 1935).

[2] *See* Securities Exchange Act Release No. 7011 (February 5, 1963), 28 FR 1506 (February 16, 1963).

[3] Rule 12d2–2 prescribes the circumstances under which a security may be delisted from an exchange and withdrawn from registration under Section 12(b) of the Act and provides the procedures for taking such action.

[4] The Exchanges are BOX Exchange LLC, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Investors Exchange LLC, Long Term Stock Exchange, Inc., MEMX, LLC, Miami International Securities Exchange, MIAX Emerald, LLC, MIAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, Nasdaq PHLX LLC, The Nasdaq Stock Market, New York Stock Exchange LLC, NYSE Arca, Inc., NYSE Chicago, Inc., NYSE American LLC, NYSE National, Inc.

[5] In fact, some exchanges do not file any trading suspension reports in a given year.

[6] The 658 figure was calculated by averaging the numbers for compliance in 2021, 2022 and 2023, which are 538, 622 and 814, respectively.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100767; File No. SR–NASDAQ–2024–045]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change to Modify the Application of the Minimum Bid Price Compliance Periods and the Delisting Appeals Process for Bid Price Non-Compliance in Listing Rules 5810 and 5815 Under Certain Circumstances

August 19, 2024.

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 August 6, 2024, The Nasdaq Stock Market LLC (''Nasdaq'' 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 modify the delisting process for securities that fail to regain compliance with the bid price requirement following a second compliance period and for securities that have had a reverse stock split over the prior one-year period.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq is proposing to amend Listing Rules 5810 and 5815 to provide that a company will be suspended from trading on Nasdaq if the company has been non-compliant with the $1.00 bid price requirement for more than 360 days. In addition, Nasdaq is proposing to modify the listing standards such that Nasdaq will immediately send a Delisting Determination, as defined in Rule 5805(h), without any compliance period, to any company that becomes non-compliant with the $1.00 minimum bid price requirement if the company effected a reverse stock split within the prior one-year period.

Nasdaq listing standards require a company's equity securities listed on the Nasdaq Global Select, Global and Capital Markets to maintain a closing bid price that is no less than one dollar per share (the ''Bid Price Requirement'').[3] Upon a company's failure to satisfy the applicable Bid Price Requirement, Rule 5810(c)(3)(A) provides for an automatic compliance period of 180 calendar days for the company to achieve compliance with the Bid Price Requirement.[4] Subject to certain requirements,[5] including notifying Nasdaq of the company's intent to cure this deficiency, a company listed on, or that transfers to, the Nasdaq Capital Market may be provided with a second 180-day compliance period. If a company is not eligible for the second compliance period, or the company is eligible but does not resolve the bid price concern during the second compliance period, the company is issued a Delisting Determination under Rule 5810 with respect to that security, which can be appealed to a Nasdaq Listing Qualifications Hearings Panel. The Panel can allow a company up to an additional 180 days from the date of the Delisting Determination for the company to regain compliance.[6]

The bid price rules truncate these compliance periods in two circumstances. First, Listing Rule 5810(c)(3)(A)(iii) provides that if a company's security has a closing bid price of $0.10 or less for 10 consecutive trading days, Nasdaq must issue a Delisting Determination with respect to that security, notwithstanding any otherwise available compliance period. Second, Listing Rule 5810(c)(3)(A)(iv) provides that if a company's security fails to meet the continued listing requirement for minimum bid price and the company has effected one or more reverse stock splits over the prior two-year period with a cumulative ratio of 250 shares or more to one, then the company is not eligible for any compliance periods and Nasdaq must issue a Delisting Determination with respect to that security.

Based on Nasdaq's experience with the rules, Nasdaq is proposing two changes to the bid price requirements for listed companies to better protect investors.

Suspension After 360 Days of Non-Compliance

Nasdaq has observed that some companies do not regain compliance during the second 180-day compliance period notwithstanding the company's notification to Nasdaq of its intent to do so. In these circumstances, Nasdaq issues a Delisting Determination; however, as described above, the company could continue its listing by appealing that decision to a Hearings Panel, which has the discretion to

[3] Each tier of Nasdaq includes a requirement that specified securities maintain a $1.00 minimum bid price. *See,* Rule 5550(a)(2) (Primary Equity Security listed on the Nasdaq Capital Market), Rule 5555(a)(1) (Preferred Stock and Secondary Classes of Common Stock listed on the Nasdaq Capital Market), 5450(a)(1) (Primary Equity Security listed on the Nasdaq Global or Global Select Markets), Rule 5460(a)(3)(Preferred Stock and Secondary Classes of Common Stock listed on the Nasdaq Global or Global Select Markets). The $1.00 minimum bid price requirement does not apply to Other Securities listed pursuant to the Rule 5700 Series, rights, warrants, convertible debt, and subscription receipts.

[4] A failure to meet this requirement occurs when a security's closing bid price is below $1.00 for a period of 30 consecutive trading days. Compliance is achieved by meeting the applicable standard for a minimum of 10 consecutive business days during the applicable compliance period, unless Staff exercises its discretion to extend this 10 day period as discussed in Rule 5810(c)(3)(H). *See* Rule 5810(c)((3)(A).

[5] Listing Rule 5810(c)(3)(A)(ii) states that if a Company listed on the Capital Market is not deemed in compliance before the expiration of the 180 day compliance period, it will be afforded an additional 180 day compliance period, provided that on the 180th day of the first compliance period it meets the applicable market value of publicly held shares requirement for continued listing and all other applicable standards for initial listing on the Capital Market (except the bid price requirement) based on the Company's most recent public filings and market information and notifies Nasdaq of its intent to cure this deficiency. If a Company does not indicate its intent to cure the deficiency, or if it does not appear to Nasdaq that it is possible for the Company to cure the deficiency, the Company will not be eligible for the second grace period. If the Company has publicly announced information (*e.g.,* in an earnings release) indicating that it no longer satisfies the applicable listing criteria, it shall not be eligible for the additional compliance period under this rule.

[6] *See* Rule 5815(c) (Scope of the Hearings Panel's Discretion).

provide up to 180 additional days from the date of the Delisting Determination.[7] Accordingly, a company that failed to regain compliance with the Bid Price Requirement may request a review of a Delisting Determination and seek an exception to the requirements from the Hearings Panel and could remain listed and trading on Nasdaq pursuant to an exception granted by the Panel. As a result, a company may be continuously deficient with the Bid Price Requirement and continue trading on Nasdaq for more than 360 days (but not more than 540 days).

Nasdaq believes that two consecutive compliance periods for a total of 360 days is a sufficient period of time for a company to regain compliance with the Bid Price Requirement, even if the company is required to obtain stockholder approval to effect a reverse stock split by the jurisdiction where the company is incorporated. Nasdaq provides a company with a second bid price compliance period only if the company reviewed its circumstances and notified Nasdaq that it intends to cure the bid price deficiency by effecting a reverse stock split within the second 180-day compliance period. As such, Nasdaq believes that it is not appropriate for a company in these circumstances to continue trading on Nasdaq during the pendency of the Hearings Panel review process. Instead, Nasdaq proposes to amend Rule 5815 to remove the stay provision in these situations so that the company's securities will be suspended from trading on Nasdaq during the pendency of the Hearings Panel's review.[8]

Specifically, Nasdaq proposes to adopt Listing Rule 5815(a)(1)(B)(ii)d. to provide that notwithstanding the general rule that a timely request for a hearing shall ordinarily stay the suspension and delisting action pending the issuance of a written panel decision, a request for a hearing shall not stay the suspension of the securities from trading where the matter relates to a request made by a company that was afforded the second 180-day compliance period described in Rule 5810(c)(3)(A)(ii) and that failed to regain compliance with the minimum bid price requirement during that period. For clarity, Nasdaq proposes to note that pursuant to Rule 5810(c)(3)(A), a company achieves compliance with the minimum bid price requirement by meeting the applicable standard for a minimum of 10 consecutive business days, unless Staff exercises its discretion to extend this 10 day period as discussed in Rule 5810(c)(3)(H).

A company that is suspended under the proposed rule could appeal the Delisting Determination to a Hearings Panel, but its securities would trade in the over-the-counter (OTC) market while that appeal is pending. Pursuant to Listing Rule 5815(c)(1)(A) the Hearings Panel will continue to have discretion, where it deems appropriate, to provide an exception for up to 180 days from the Delisting Determination date for the company to regain compliance with the Bid Price Requirement. Pursuant to Listing Rule 5815(c)(1)(E) the Hearings Panel will also continue to have the authority to find the company in compliance with all applicable listing standards and reinstate the trading of the company's securities on Nasdaq (*e.g.,* if the company effects a reverse stock split and maintains a $1.00 closing bid price for at least 10 consecutive days while trading in the OTC market).

Excessive Reverse Stock Splits

As described above, upon a company's failure to satisfy the applicable Bid Price Requirement, Rule 5810(c)(3)(A) provides for an automatic compliance period of 180 calendar days for the company to achieve compliance with the Bid Price Requirement. The process of providing an automatic 180-day compliance period is designed to allow adequate time for a company facing temporary business issues, a temporary decrease in the market value of its securities, or temporary market conditions to regain compliance with the Bid Price Requirement. However, Nasdaq has observed that some companies, typically those in financial distress or experiencing a prolonged operational downturn, engage in a pattern of repeated reverse stock splits.

Nasdaq believes that such behavior is often indicative of deep financial or operational distress within such companies rendering them inappropriate for trading on Nasdaq for investor protection reasons. In these situations, Nasdaq has observed that the challenges facing such companies, generally, are not temporary and may be so severe that the company is not likely to regain compliance within the prescribed compliance period and will continue oscillating between compliance and non-compliance with the Bid Price Requirement. Moreover, a pattern of recurring bid price non-compliance can be a leading indicator of other listing compliance concerns. As a result, these companies often become subject to delisting for other reasons during the compliance periods.

In 2020, Nasdaq amended the rules to require the issuance of a Delisting Determination if a company falls out of compliance with the Bid Price Requirement after completing one or more reverse stock splits resulting in a cumulative ratio of 250 shares or more to one over the two-year period before such non-compliance (the ''2020 Rule'').[9] As described above, in these cases the company is not afforded an automatic compliance period. Notwithstanding this rule change, Nasdaq continues to observe some companies engaging in a pattern of effecting consecutive reverse stock splits, which are often accompanied by dilutive issuances of securities.

Accordingly, Nasdaq proposes to further enhance investor protections by immediately initiating the delisting process (rather than providing a 180-day compliance period) for any company's security that becomes non-compliant with the Bid Price Requirement if, in the prior one-year period, the company conducted a reverse stock split (regardless of the ratio). The company could appeal that delisting notification to the Hearings Panel, where it could receive up to 180 days to regain compliance, as described above. Specifically, Nasdaq proposes to amend Listing Rule 5810(c)(3)(A)(iv) to provide that if a company's security fails to meet the continued listing requirement for minimum bid price and the company has effected a reverse stock split over the prior one-year period then the company shall not be eligible for any compliance period specified in Rule 5810(c)(3)(A) and the Listing Qualifications Department shall issue a Delisting Determination under Rule 5810 with respect to that security.[10]

The cumulative impact of the proposed rule change and the 2020 Rule would be as follows:

- A company that effected a reverse stock split of any ratio will be subject to delisting if it falls out of compliance with the Bid Price Requirement within one year of the previous reverse stock split.

[7] *See* Rule 5815(c)(1)(A), which provides that the Hearings Panel may, where it deems appropriate grant an exception to the continued listing standards for a period not to exceed 180 days from the date of the Delisting Determination with respect to the deficiency for which the exception is granted.

[8] Nasdaq notes that if a company was not afforded the second 180-day compliance period, the company would not be affected by this proposal and its security would not be suspended from trading on Nasdaq during an appeal to the Hearings Panel, if any.

[9] Securities Exchange Act Release No. 87982 (January 15, 2020), 85 FR 3736 (January 22, 2020) (SR–Nasdaq–2020–001).

[10] For the avoidance of doubt, the proposed rule would apply to a company even if the company was in compliance with the Bid Price Requirement at the time of its prior reverse stock split.

• A company that effected one or more reverse stock split with a cumulative ratio of 1-for-250 or higher will be subject to delisting if it falls out of compliance with the Bid Price Requirement within two years of the reverse stock split(s).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest by enhancing Nasdaq's listing requirements and limiting the time that a security can remain listed while non-compliant with the Bid Price Requirement or becoming non-compliant with the Bid Price Requirement within one year following a reverse stock split. In that regard, Nasdaq has observed that the challenges facing such companies generally are not temporary and may be so severe that the company is not likely to regain compliance within the prescribed compliance period. Moreover, the price concerns with these companies can be a leading indicator of other listing compliance concerns, and these companies often become subject to delisting for other reasons during the compliance periods.

While listed, these securities are exempt from the ''Penny Stock Rules,'' [13] which provide enhanced investor protections to prevent fraud and safeguard against potential market manipulation. In particular, the Penny Stock Rules generally require that broker-dealers provide a disclosure document to their customers describing the risk of investing in Penny Stocks and approve customer accounts for transactions in Penny Stocks. Nasdaq believes that an exemption from these Penny Stock requirements may not be appropriate for consistently low priced stocks and stocks that are trading below $1 after completing a reverse stock splits over the prior year because these securities may have similar characteristics to Penny Stocks. Nasdaq therefore believes it is appropriate to subject these securities to heightened scrutiny given the availability of the exemption to securities listed on Nasdaq.

Nasdaq also believes that the proposal to amend Listing Rule 5815(a)(1)(B)(ii) to provide that a hearing request shall not stay the suspension of the securities from trading when the matter relates to a request made by a company that was afforded the second 180-day compliance period described in Rule 5810(c)(3)(A)(ii) and that failed to regain compliance with the minimum bid price requirement during that period is designed to protect investors and the public interest. In particular, this change will prevent continued trading in such company's securities until an independent Hearings Panel reviews the Delisting Determination and determines that continued trading on Nasdaq is appropriate.

Finally, Nasdaq believes the proposed rule change furthers the objectives of Section 6(b)(7) of the Act in that it continues to provide a fair procedure for companies subject to these enhanced listing requirements. These companies can seek review of a Delisting Determination from a Hearings Panel, which can afford the company additional time to regain compliance, and can appeal the Hearings Panel decision to the Nasdaq Listing and Hearing Review Council.[14] As a result, Nasdaq believes that the proposed rule appropriately balances the need for appropriate listing standards with the statutory requirement to protect investors and the public interest.

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. While Nasdaq does not believe there will be any impact on competition from the proposed change, any impact on competition that does arise will be necessary to better protect investors, in furtherance of a central purpose of the Act.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) by order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

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–NASDAQ–2024–045 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–NASDAQ–2024–045. 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

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] *See* Exchange Act Rules 3a51–1, 17 CFR 240.3a51–1, and 15g–1 to 15g–100, 17 CFR 240.5g–1 *et seq.*

[14] *See* Listing Rules 5815 and 5820, respectively.

submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NASDAQ–2024–045 and should be submitted on or before September 13, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–18911 Filed 8–22–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–517, OMB Control No. 3235–0575]

Proposed Collection; Comment Request; Extension: Regulation AC

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 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Regulation Analyst Certification (''Regulation AC'') (17 CFR 242.500–505, under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*)). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Regulation AC requires that research reports published, circulated, or provided by a broker or dealer or covered person contain a statement attesting that the views expressed in each research report accurately reflect the analyst's personal views and whether or not the research analyst received or will receive any compensation in connection with the views or recommendations expressed in the research report. Regulation AC also requires broker-dealers to, on a quarterly basis, make, keep, and maintain records of research analyst statements regarding whether the views expressed in public appearances accurately reflected the analyst's personal views, and whether any part of the analyst's compensation is related to the specific recommendations or views expressed in the public appearance. Regulation AC also requires that research prepared by foreign persons be presented to U.S. persons pursuant to Securities Exchange Act Rule 15a–6 and that broker-dealers notify associated persons if they would be covered by the regulation. Regulation AC excludes the news media from its coverage.

The Commission estimates that Regulation AC imposes an aggregate annual time burden of approximately 41,384 hours. The Commission estimates that the total annual internal cost of compliance for the 41,384 hours is approximately $22,891,896.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by October 22, 2024.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Oluwaseun Ajayi, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: August 19, 2024.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–18919 Filed 8–22–24; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20415 and #20416; Iowa Disaster Number IA–20005]

Presidential Declaration Amendment of a Major Disaster for the State of Iowa

AGENCY: Small Business Administration.

ACTION: Amendment 7.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Iowa (FEMA–4796–DR), dated 06/24/2024.

Incident: Severe Storms, Flooding, Straight-line Winds, and Tornadoes.

Incident Period: 06/16/2024 through 07/23/2024.

DATES: Issued on 08/16/2024.

Physical Loan Application Deadline Date: 10/22/2024.

Economic Injury (EIDL) Loan Application Deadline Date: 03/24/2025.

ADDRESSES: *Visit the MySBA Loan Portal at https://lending.sba.gov* to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Alan Escobar, Office of Disaster Recovery & Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Iowa, dated 06/24/2024, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 10/22/2024.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Rafaela Monchek,

Acting Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2024–18885 Filed 8–22–24; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20407 and #20408; NEW MEXICO Disaster Number NM–20004]

Presidential Declaration Amendment of a Major Disaster for the State of New Mexico

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of New Mexico (FEMA–4795–DR), dated 06/20/2024.

Incident: South Fork Fire, Salt Fire, and Flooding.

Incident Period: 06/17/2024 and continuing.

DATES: Issued on 08/15/2024.

Physical Loan Application Deadline Date: 10/19/2024.

Economic Injury (EIDL) Loan Application Deadline Date: 03/20/2025.

ADDRESSES: *Visit the MySBA Loan Portal at https://lending.sba.gov* to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Vanessa Morgan, Office of Disaster Recovery & Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster

[15] 17 CFR 200.30–3(a)(12).

declaration for the State of New Mexico, dated 06/20/2024, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 10/19/2024.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Rafaela Monchek,

Acting Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2024–18915 Filed 8–22–24; 8:45 am]

BILLING CODE 8026–09–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2024–0021]

Charging Standard Administrative Fees for Non-Program Information

AGENCY: Social Security Administration (SSA).

ACTION: Notice of updated schedule of standard administrative fees.

SUMMARY: On August 22, 2012, we announced in the **Federal Register** a schedule of standard administrative fees we charge to the public. When authorized, we charge these fees to recover our full costs when we provide information and related services for non-program purposes. We are announcing an update to the previously published schedule of standard administrative fees. The updated standard fee schedule is part of our continued effort to standardize fees for non-program information requests. Standard fees provide consistency and ensure we recover the full cost of supplying information when we receive a request for a purpose not directly related to the administration of a program under the Social Security Act (Act).

DATES: The changes described above are applicable for requests we receive on or after October 1, 2024.

FOR FURTHER INFORMATION CONTACT: Stephen Hull, Social Security Administration, Office of Finance, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 966–1890. For information on eligibility or filing for benefits, visit our website, *www.socialsecurity.gov,* or call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778.

SUPPLEMENTARY INFORMATION: Section 1106 of the Act and the Privacy Act [1] authorize the Commissioner of Social Security to promulgate regulations regarding the fees related to providing information. Our regulations and operating instructions identify when we will charge fees for information.[2] Under section 1106(c) of the Act, whenever we determine a request for information is for any purpose not directly related to the administration of the Social Security programs, we may require the requester to pay the full cost of providing the information.[3] The agency may also charge fees in response to records requests when otherwise authorized by law, such as when authorized for certain program requests under section 1106(b) of the Act. To inform the public of the standard fees we charge to recover our costs, we announced in the **Federal Register** a schedule of standard administrative fees we charge to the public on August 22, 2012.[4] We last updated the schedule of standard fees on September 27, 2022.[5]

New Information: We are required to review and update standard administrative fees at least every two years.[6] Based on the most recent cost analysis, the following table provides the new schedule of standard administrative fees [7] per request:

Copying an Electronic Folder: $82.

Copying a Paper Folder: $122.

Regional Office Certification:[8] $82.

Record Extract:[9] $41.

Third Party Manual SSN Verification: $61.

Office of Central Operations Certification:[10] $35.

W–2/W–3 Requests:[11] $62.

Detailed Social Security Earnings Information Requested Using Form SSA–7050: $61.

Requests for Copy of Original Form SS–5, Application for a Social Security Card: $27.

Requests for Copy of Numident Record (Computer Extract of the SS–5): $26.

A requester can obtain certified and non-certified detailed yearly Social Security earnings information by completing Form SSA–7050, *Request for Social Security Earning Information.* We charge $61 for detailed yearly Social Security earnings information requested using Form SSA–7050. We will certify the detailed earnings information for an additional $35. Detailed earnings information includes the names and addresses of employers. Yearly earnings totals are available in two ways, depending on the requester's need for certification. A requester can continue to obtain non-certified yearly earnings totals using Form SSA–7004, *Request for Social Security Statement,* or through our free online service portal, my Social Security, at *http://socialsecurity.gov/myaccount,* by creating a personal online account for Social Security information and services. Online Social Security Statements display uncertified yearly earnings, free of charge, and do not show any employer information. A requester can obtain certified yearly Social Security earnings totals by completing the Form SSA–7050. As mentioned above, the cost for certified yearly earnings totals is $96 ($61 plus an additional $35 for certification).

We will continue to evaluate all standard fees at least every two years to ensure we capture the full costs associated with providing information for non-program-related purposes. We require nonrefundable advance payment by check, money order, or credit card. We do not accept cash. We will accept only one form of payment in the full amount of the standard fee for each request and will not divide the fee amount between more than one form of payment. If we revise any of the standard fees, we will publish another notice in the **Federal Register**. For other requests for information not addressed here or within the current schedule of standard administrative fees, we will continue to charge fees calculated on a case-by-case basis.

Additional information is available on our Business Services website at *https://www.ssa.gov/thirdparty/business.html* or by written request to: Social Security Administration, Office of Public Inquiries and Communications Support, 1100 West High Rise, 6401 Security Boulevard, Baltimore, MD 21235.

The Commissioner of SSA, Martin O'Malley, having reviewed and approved this document, is delegating the authority to electronically sign this document to Faye Lipsky, who is a Federal Register Liaison for SSA, for

[1] 42 U.S.C. 1306 and 5 U.S.C. 552a(f)(5), respectively.

[2] See 20 CFR 401.95, 402.170, and 402.175; Program Operations Manual System (POMS) GN 03311.005.

[3] See 42 U.S.C. 1306(c) and 20 CFR 402.175.

[4] 77 FR 50757.

[5] 87 FR 58635.

[6] See the Office of Management and Budget Circular No. A–25, *User Charges.*

[7] Fees may differ for processing of records depending on applicable fee authorities and actions needed to respond to a records request, such as whether redactions are necessary and whether special services have been requested.

[8] Requests received in a field office, regional office, or headquarters component.

[9] Requests received and processed in a field office.

[10] Requests received in the Office of Central Operations.

[11] W–2/W–3 Fee is $70 per request, not dependent on the number of years or number of individuals within request.

purposes of publication in the **Federal Register**.

Faye Lipsky,

Federal Register Liaison, Office of Legislation and Congressional Affairs, Social Security Administration.

[FR Doc. 2024–18975 Filed 8–22–24; 8:45 am]

BILLING CODE 4191–02–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36801]

Great Lakes Terminal Railroad, LLC—Lease and Operation Exemption—Norfolk Southern Railway Company

Great Lakes Terminal Railroad, LLC (GLTRR), a Class III carrier, has filed a verified notice of exemption pursuant to 49 CFR 1150.41 to lease and operate 14,215 feet (2.69 miles) of trackage in Chicago, Ill. (the Line), following the acquisition of the Line by Norfolk Southern Railway Company (NSR) from GLTRR's affiliated company, Great Lakes Terminal, LLC (GLT). According to the verified notice, the Line does not have mileposts. GLTRR has operated over the Line since 2018 pursuant to a lease agreement with GLT.[1]

According to the verified notice, GLT has reached an agreement with NSR to sell NSR the Line on or after September 6, 2024. GLTRR states it has entered into a lease agreement with NSR to continue to operate the Line following the close of the sale. GLTRR states that the lease agreement will be effective on or after the effective date of the notice.

GLTRR certifies that its projected annual revenues are less than $5 million and are not expected to exceed those that would qualify it as a Class III carrier. GLTRR states that the transaction does not involve any provision or agreement that may limit future interchange with a third-party connecting carrier, nor is the Line currently subject to any agreement that imposes such an interchange commitment.

The transaction may be consummated on or after September 8, 2024, the effective date of the exemption (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than August 30, 2024 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36801, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on GLTRR's representative, Crystal M. Zorbaugh, Mullins Law Group PLLC, 2001 L Street NW, Suite 720, Washington, DC 20036.

According to GLTRR, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov*.

Decided: August 20, 2024.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2024–18978 Filed 8–22–24; 8:45 am]

BILLING CODE 4915–01–P

[1] The Board recently granted GLTRR after-the-fact authority to lease and operate approximately 22,568 feet of contiguous track in Chicago, which includes the Line. *Great Lakes Terminal R.R.—Acquis. & Operation Exemption—Great Lakes Terminal, LLC,* FD 36764 (Sub-No. 1) (STB served July 31, 2024). That decision addressed GLTRR's inadvertent failure to seek the necessary regulatory approval in 2018.

SURFACE TRANSPORTATION BOARD

[Docket No. NOR 42175]

Complaint and Petition of the National Railroad Passenger Corp.; Substandard Performance of Amtrak's Sunset Limited Trains 1 and 2

AGENCY: Surface Transportation Board.

ACTION: Notice of filing schedule; opportunity for submissions by non-parties.

SUMMARY: The Surface Transportation Board (Board) has issued a decision in its investigation of the causes of substandard on-time performance of Amtrak's Sunset Limited that, among other things, establishes a procedural schedule for the filing of pleadings and provides guidance on subjects to be addressed in those pleadings. Under the procedural schedule, non-parties will be permitted to submit replies to the opening briefs filed by Amtrak and railroad parties' replies.

DATES: Amtrak's opening statement is due by October 7, 2024. Railroad party replies to Amtrak's opening statement are due by December 23, 2024. Non-party replies are due January 22, 2025. Railroad party rebuttals to non-party replies are due February 21, 2025. Amtrak's rebuttal to all replies is due by February 21, 2025.

ADDRESSES: All filings must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. Parties and non-parties submitting filings must reference Docket No. NOR 42175 and comply with the Board's service requirements set forth at 49 CFR 1104.12. Information on the Board's service requirements can be viewed on the Board's website at *https://www.stb.gov/resources/need-assistance/how-to-file/.*

FOR FURTHER INFORMATION CONTACT: Brian O'Boyle (202) 245–0364. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245–0245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision served on August 19, 2024, which is available at *www.stb.gov.*

Authority: 49 U.S.C. 1321, 24308(f).

Decided: August 19, 2024.

By the Board, Board Members Fuchs, Hedlund, Primus, and Schultz.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2024–18905 Filed 8–22–24; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. MCF 21117]

Bus Company Holdings Topco LP and Bus Company Holdings US LLC—Acquisition of Control of Assets—Chenango Valley Bus Lines, Inc.; Community Bus Lines, Inc.; Dillon's Bus Service, Inc.; Elko, Inc.; Hudson Transit Lines, Inc.; Olympia Trails Bus Company, Inc.; Rockland Coaches, Inc.; Sam Van Galder, Inc.; Suburban Transit Corp.; Trentway-Wagar, Inc.; and Wisconsin Coach Lines, Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice Tentatively Approving and Authorizing Finance Transaction.

SUMMARY: On June 21, 2024, Bus Company Holdings Topco LP (Topco) and Bus Company Holdings US LLC (Holdings US) (collectively, Bus Company Holdings), both noncarriers, along with certain of their subsidiaries (collectively, Applicants), filed an application for control over the assets of certain interstate passenger motor carriers controlled by Coach USA, Inc. (Coach USA). The Board is tentatively approving and authorizing the transaction subject to the Renco Group,

Inc. (Renco) filing to join the application. If Renco's filing is satisfactory and no opposing comments are timely filed, this notice will be the final Board action.

DATES: Renco's filing to join the application must be filed by September 6, 2024. Comments must be filed by October 7, 2024. If any comments are filed, Applicants may file a reply by October 22, 2024. If no opposing comments are filed by October 7, 2024, this notice shall be effective on October 8, 2024.

ADDRESSES: Comments, referring to Docket No. MCF 21117, may be filed with the Board either via e-filing on the Board's website or in writing addressed to: Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001. In addition, send one copy of comments to Applicants' representative: Joshua H. Runyan, Steptoe LLP, 1330 Connecticut Avenue NW, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Sarah Fancher at (202) 740–5507. If you require an accommodation under the Americans With Disabilities Act, please call (202) 245–0245.

SUPPLEMENTARY INFORMATION: According to the application,[1] Topco, a noncarrier, is a limited partnership organized under the laws of Delaware and headquartered in New York. (Appl. 5.) Applicants state that Renco owns the limited partnership interests of Topco, that another wholly owned Renco entity will be the general partner of Topco, (Suppl. 2, July 12, 2024; *see also* Appl. 2 n.5), and that Topco owns Holdings US, (Suppl. 2, July 12, 2024). According to Applicants, Holdings US, a noncarrier, is a limited liability company organized under the laws of New Jersey and headquartered in New Jersey. (Appl. 5; Suppl. 2, July 12, 2024.) Applicants state that the acquisition companies—that is, the entities that will directly acquire control of the assets of the various Coach USA passenger carrier subsidiaries—are Rockland Bus Lines, LLC (Rockland Bus Lines); Shortline Transit LLC (Shortline Transit); Wisconsin Transit Lines LLC (Wisconsin Transit); Suburban Transit Lines LLC (Suburban Transit Lines); Dillion's Bus Lines LLC (Dillion's Bus Lines); OBC Lines LLC (OBC Lines); Elko Bus Lines LLC (Elko Bus Lines); Newcan Coach Company ULC (Newcan Coach);[2] and Community Transport Lines LLC (Community Transport Lines) (collectively, Acquisition Companies). Applicants further state Holdings US owns and controls the Acquisition Companies except for Newcan Coach, which is owned by Topco. (Appl. 5, 7; Suppl. 2–3, July 24, 2024.)

On June 11, 2024, Coach USA, on behalf of itself, affiliates, and subsidiaries, filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware. (Appl. 3 (citing *In re Coach USA, Inc.,* Case No. 24–11258–MFW).) On June 12, 2024, Coach USA filed a motion seeking to sell substantially all its assets and effectively to liquidate. (Appl. 3.)

The transaction underlying the application contemplates that the assets and goodwill of certain Coach USA subsidiaries—Rockland Coaches, Inc. (Rockland Coaches); Hudson Transit Lines, Inc. (Hudson); Chenango Valley Bus Lines, Inc. (Chenango); Sam Van Galder, Inc. (Sam Van Galder); Wisconsin Coach Lines, Inc. (Wisconsin Coach Lines); Suburban Transit Corp.; Dillon's Bus Service, Inc. (Dillon's Bus Service); Olympia Trails Bus Company Inc. (Olympia Trails); Elko, Inc.; Trentway-Wagar, Inc. (Trentway-Wagar); and Community Bus Lines, Inc. (Community Bus Lines) (collectively, Coach USA Subsidiaries)—will be purchased separately by the Acquisition Companies. (*Id.* at 1, 2–3.) Applicants state that they entered into an asset purchase agreement (the Agreement) with Coach USA on June 11, 2024. (*Id.* at 1, 3.)

The specific acquisitions of control that are contemplated by the transaction are as follows: Rockland Bus Lines will acquire the assets of Rockland Coaches; Shortline Transit will acquire the assets of Hudson and Chenango; Wisconsin Transit will acquire the assets of Sam Van Galder and Wisconsin Coach; Suburban Transit Lines will acquire the assets of Suburban Transit Corp.; Dillion's Bus Lines will acquire the assets of Dillon's Bus Service; OBC Lines will acquire the assets of Olympia Trails; Elko Bus Lines will acquire the assets of Elko, Inc.; Newcan Coach will acquire the assets of Trentway-Wagar (*id.* at 2); and Community Transport Lines will acquire the assets of Community Bus Lines, (Suppl. 1, 5, July 12, 2024).

The Acquisition Companies are described in the application as follows:[3]

- Rockland Bus Lines is a limited liability company organized under the laws of, and headquartered in, New Jersey. (Appl. at 5.)
- Shortline Transit is a limited liability company organized under the laws of, and headquartered in, New York. (*Id.*)
- Wisconsin Transit is a limited liability company organized under the laws of, and headquartered in, Wisconsin. (*Id.* at 6.)
- Suburban Transit Lines is a limited liability company organized under the laws of, and headquartered in, New Jersey. (*Id.*)
- Dillion's Bus Lines is a limited liability company organized under the laws of, and headquartered in, Maryland. (*Id.*)
- OBC Lines LLC is a limited liability company organized under the laws of, and headquartered in, New Jersey. (*Id.*)
- Elko Bus Lines is a limited liability company organized under the laws of Wyoming and headquartered in Nevada. (*Id.*)
- Community Transport Lines is a limited liability company organized under the laws of, and headquartered in, New Jersey. (*Id.* at 6–7.)
- Newcan Coach is a Canadian unlimited liability company organized under the laws of, and headquartered in, Ontario, Canada. (*Id.* at 7; Suppl. 2–3, July 24, 2024.)

The application describes the Coach USA Subsidiaries[4] as follows:

- Rockland Coaches employs approximately 88 employees, including 63 drivers, and operates approximately 99 buses. (Appl. 7.) It focuses its operations on commuter routes to and from New York City. (*Id.*)
- Together, Hudson and Chenango employ approximately 213 employees, including 127 drivers, and operate approximately 209 buses. (*Id.* at 8.) They focus operations on extensive, daily scheduled service to/from New York City, Catskills, Binghamton, Ithaca, Elmira and Utica, N.Y. (*Id.*) Both hold intrastate authority issued by New York, which allows operations between points in that state. (*Id.*)
- Sam Van Galder employs approximately 214 employees, including 141 drivers, and operates approximately 94 buses. (*Id.*) It focuses

[1] Applicants supplemented their application on July 12, 2024, and July 24, 2024. Therefore, for purposes of determining the procedural schedule and statutory deadlines, the filing date of the application is July 24, 2024. *See* 49 CFR 1182.4(a).

[2] While Newcan Coach is referred to in the application and the July 12 supplement as 1485832 B.C. Unlimited Liability Company, Applicants state in the July 24 supplement that the name has since been changed. (Suppl. 2, July 24, 2024.)

[3] None of the Acquisition Companies currently engage in any operations and each has applied to, or is in the process of applying to, the Federal Motor Carrier Safety Administration (FMCSA) for interstate motor passenger carrier operating authority. (Appl. 4, 5–7.) The applications remain pending for each Acquisition Company as of the date of the application. (*Id.* at 5–7.)

[4] Additional information about the carriers, including U.S. Department of Transportation (USDOT) numbers, motor carrier numbers, and USDOT safety fitness ratings, can be found in the application. (*See* Appl. 7–11, Exs. 1, 2.)

its operations on daily scheduled services between Wisconsin, Chicago airports, and downtown Chicago. (*Id.*) Sam Van Galder also has contracts with a school district to provide school bus service, and it serves as an Amtrak thruway bus service. (*Id.*) In addition, it provides charter and tour bus services. (*Id.*) It holds intrastate authority issued by Wisconsin, which allows operations between points in that state. (*Id.* at 8–9.)

• Wisconsin Coach Lines employs approximately 89 employees, including 49 drivers, and operates approximately 94 buses. (*Id.* at 9.) It focuses its operations on daily scheduled airport services to and from O'Hare International Airport, charter services and contract local commuter/transit services. (*Id.*) It also serves as an Amtrak thruway bus service. (*Id.*) Wisconsin Coach Lines holds intrastate authority issued by Wisconsin, which allows operations between points in that state. (*Id.*)

• Suburban Transit Corp. employs approximately 260 employees, including 186 drivers, and operates approximately 149 buses. (*Id.*) Suburban Transit Corp. focuses its operations on commuter scheduled service routes and charter work in Mercer, Middlesex, and Somerset. (*Id.*) In accordance with its contract with NJ Transit, it also operates local transit bus services in Middlesex County. (*Id.*) Suburban Transit Corp. holds intrastate authority issued by New York and New Jersey, which allows operations between points in those states. (*Id.*)

• Dillon's Bus Service employs approximately 193 employees, including 134 drivers, and operates approximately 169 buses. (*Id.* at 10.) It provides extensive, daily commuter services (under contract) to and from Washington, DC, and the broader Maryland area. (*Id.*) It also provides scheduled service under a contract with the Virginia Department of Transportation, and provides bus services in Towson, Md. under its contract with Baltimore County. (*Id.*) Dillon's Bus Service holds intrastate authority issued by Maryland, which allows operations between points in that state. (*Id.*)

• Olympia Trails employs approximately 49 employees, including 12 drivers and operates approximately 17 buses. (*Id.*) It focuses its operations on airport scheduled service between Newark Airport and Midtown New York City. (*Id.*) Olympia Trails holds intrastate authority issued by New York and New Jersey, which allows operations between points in those states. (*Id.*)

• Elko, Inc. employs approximately 203 employees, including 133 drivers, and operates approximately 146 buses. (*Id.*) It focuses its operations on bus services provided pursuant to mining transportation contracts in Nevada, with some services provided in Utah and California. (*Id.*; Suppl. 1, July 24, 2024.)

• Community Bus Lines employs approximately 244 employees, including 187 drivers, and operates approximately 143 buses. (Appl. 10.) It focuses its operations on contracted transit bus services at the Brooklyn Navy Yard, N.Y. (*Id.*) It also provides commuter bus services to and from Manhattan, as well as charter and event transportation, including to and from sports and entertainment events at Metlife Stadium. (*Id.*)

• Trentway-Wagar employs approximately 300 employees, including 150 drivers, and operates approximately 135 buses. (*Id.*) It operates scheduled services under the Megabus Canada trademark between Toronto-Montreal and Toronto-Niagara Falls. (*Id.*) Trentway-Wagar also maintains a charter bus fleet servicing Ontario, Quebec, and certain trips to the United States. (*Id.*)

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction that it finds consistent with the public interest, taking into consideration at least (1) the effect of the proposed transaction on the adequacy of transportation to the public, (2) the total fixed charges that result from the proposed transaction, and (3) the interest of affected carrier employees. Applicants have submitted the information required by 49 CFR 1182.2, including information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b), *see* 49 CFR 1182.2(a)(7), and a jurisdictional statement under 49 U.S.C. 14303(g) that the aggregate gross operating revenues of the involved carriers exceeded $2 million during the 12-month period immediately preceding the filing of the application, *see* 49 CFR 1182.2(a)(5). (*See* Appl. 11–15; Suppl. 1, 5, July 12, 2024.)

Applicants assert that granting the application would be consistent with the public interest. (Appl. 12.) According to Applicants, the transaction will preserve the value of the Coach USA Subsidiaries' assets and ensure continued efficient and adequate service to the public. (*Id.* at 12.) According to the application, the operation of the assets by the financially healthy Acquisition Companies will allow cost savings that will further support quality service to the public. (*Id.* at 12–13.) Applicants also claim the transaction will not adversely affect competition nor the adequacy of transportation to the public because Applicants do not currently control or operate any motor carriers, and the services currently provided by the Coach USA Subsidiaries will continue, albeit under the control of Bus Company Holdings and the Acquisition Companies. (*Id.* at 13–15; Suppl. 2, July 12, 2024.) According to Applicants, each of the Coach USA Subsidiaries will continue to face competition or potential competition from other bus companies and other transportation modes, and the public will continue to have ample competitive transportation options. (Appl. 14.) Applicants also state the transaction is expected to facilitate the offering of new motorcoach services to the traveling public and thereby increase traveler options for intercity services. (*Id.* at 15.)

Applicants assert that the proposed transaction will have no material adverse impact on the fixed charges of the Coach USA Subsidiaries and that interest charges should decline as a result of the transaction. (*Id.*) Applicants also state that the transaction will not have a materially adverse impact on employment, and that the Agreement provides that, prior to the closing date, the Acquisition Companies will offer employment to materially all of the employees of the Coach USA Subsidiaries, provided that such employees meet certain minimum standards as defined in the Agreement. (*Id.* at 15–16.) Applicants explain that the terms of employment are to be determined by the Acquisition Companies, provided that the terms of employment for employees covered by the collective bargaining agreement will be in accordance with that collective bargaining agreement. (*Id.* at 16.)

Applicants state that Renco ''does not believe that it should be an applicant'' because it ''will not . . . direct or oversee control of any day-to-day bus operations or services of the Acquisition Companies,'' and ''[a]ny 'control' is solely incidental to Renco's direct or indirect ownership interest, like any other sole or majority owner of an entity.'' (Suppl. 2, July 12, 2024; Suppl. 2, July 24, 2024.) ''Control,'' however, is not limited to ''actual control,'' but also encompasses ''legal control'' and the ''power to exercise control,'' including through or by a holding or investment company. 49 U.S.C. 13102(5); *see also Morgan Stanley Grp.—Control Exemption—NCC L.P.,* MCF 20250 (ICC served Feb. 17, 1993) (focusing ''on the ability to control as reflected in the power or authority to manage, direct,

superintend, restrict, regulate, govern, administer, or oversee''). As the sole owner of Topco and of its general partner, and without any evidence in the record suggesting otherwise, Renco will have the ''power or authority'' to exercise control over the Acquisition Companies. Thus, it too requires acquisition authority under 49 U.S.C. 14303.[5] Accordingly, Renco will be required to submit a filing joining the application and including any additional information required of an applicant under the Board's rules. Renco's filing may incorporate the existing application by reference to the extent appropriate, supplementing as necessary with any information specific to Renco required under 49 CFR 1182.2.

Based on Applicants' representations, the Board finds that the acquisition as proposed in the application is consistent with the public interest. In the interest of expedition—particularly in light of the ongoing bankruptcy proceeding—the application will be tentatively approved and authorized, subject to Renco submitting a complete filing, as described above, that is consistent with the Board's public interest finding by September 6, 2024. If any opposing comments are timely filed, these findings will be deemed vacated, and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6. If no opposing comments are filed and the Board does not issue a decision finding Renco's submission unsatisfactory by expiration of the comment period, this notice, including authority for Renco as an applicant, will take effect automatically and will be the final Board action in this proceeding.

This action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available at *www.stb.gov.*

It is ordered:

1. The proposed transaction is approved and authorized, subject to Renco submitting a satisfactory filing to join the application by September 6, 2024, and the filing of opposing comments.

2. If opposing comments are timely filed, the findings made in this notice will be deemed vacated.

3. This notice will be effective October 8, 2024, unless the Board finds Renco's submission unsatisfactory or opposing comments are filed by October 7, 2024. If any comments are filed, Applicants may file a reply by October 22, 2024.

4. A copy of this notice will be served on: (1) the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue NW, Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590.

Decided: August 20, 2024.

By the Board, Board Members Fuchs, Hedlund, Primus, and Schultz.

Regena Smith-Bernard,

Clearance Clerk.

[FR Doc. 2024–18990 Filed 8–22–24; 8:45 am]

BILLING CODE 4915–01–P

[5] The Board notes that motor carrier acquirors have in some past cases applied and received acquisition authority under 49 U.S.C. 14303 without a controlling parent having sought or received, or been directed to seek and receive, such authority from the Board. *See, e.g., El Expreso Grp.—Asset Acquis.—CUSA EE, LLC,* MCF 21048 (STB served Sept. 7, 2012). But in other cases, controlling parents have sought the requisite authority from the Board when they have (as here) an indirect ownership interest in the motor carriers to be acquired. *See, e.g., Variant Equity I, LP—Acquis. of Control—Coach USA Admin., Inc.,* MCF 21084 (STB served Feb. 15, 2019); *Monarch Ventures Inc.—Acquis. of Control—Quick Coach Lines Ltd.,* MCF 21074 (STB served Mar. 29, 2017). The Board appreciates the disclosure of corporate affiliations by Applicants here and clarifies that, where an affiliate will acquire ''control'' of a motor carrier so as to implicate 49 U.S.C. 14303, it too must seek authority from the Board.

TENNESSEE VALLEY AUTHORITY

Sunshine Act Meetings

TIME AND DATE: 9:00 a.m. CT on August 22, 2024.

PLACE: Marriott Shoals Conference Center, 10 Hightower Place, Florence, Alabama.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Meeting No. 24–03

The TVA Board of Directors will hold a public meeting on August 22 at the Marriott Shoals Conference Center, 10 Hightower Place, Florence, Alabama. The meeting will be called to order at 9:00 a.m. CT to consider the agenda items listed below. TVA management will answer questions from the news media following the Board meeting.

On August 21, at the Marriott Shoals Conference Center, the public may comment on any agenda item or subject at a Board-hosted public listening session which begins at 2:00 p.m. CT and will last until 4:00 p.m. Preregistration is required to address the Board.

Agenda

1. Approval of Minutes of the May 9, 2024 Board Meeting
2. Governance Items
   A. TVA's Strategic Elements
3. Report of the Operations and Nuclear Oversight Committee
   A. New Nuclear Program Funding Limit Increase
4. Report of the Finance, Rates, and Portfolio Committee
   A. Rate Adjustment—5.25% Rate Increase Beginning October 2024
   B. FY25 Financial Plan and Budget
5. Report of the People and Governance Committee
   A. TVA Employee Compensation Board Practice Amendments
6. Report of the External Stakeholders and Regulation Committee
7. Report of the Audit, Risk, and Cybersecurity Committee
   A. FY25 External Auditor Selection
8. Information Items
   A. Committee Assignments
   B. Arrangements with Industrial Customers
   C. Confidential Settlement
9. Report from President and CEO

CONTACT PERSON FOR MORE INFORMATION: For more information: Please call TVA Media Relations at (865) 632–6000, Knoxville, Tennessee. Anyone who wishes to comment on any of the agenda in writing may send their comments to: TVA Board of Directors, Board Agenda Comments, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

Dated: August 15, 2024.

Edward C. Meade,

Agency Liaison.

[FR Doc. 2024–19141 Filed 8–21–24; 4:15 pm]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Submission Deadline for Schedule Information for Chicago O'Hare International Airport, John F. Kennedy International Airport, Los Angeles International Airport, Newark Liberty International Airport, and San Francisco International Airport for the Summer 2025 Scheduling Season

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

ACTION: Notice of submission deadline.

SUMMARY: Under this notice, the FAA announces the submission deadline of October 10, 2024, for Summer 2025 flight schedules at Chicago O'Hare International Airport (ORD), John F. Kennedy International Airport (JFK),

Los Angeles International Airport (LAX), Newark Liberty International Airport (EWR), and San Francisco International Airport (SFO).

DATES: Schedules should be submitted by October 10, 2024.

ADDRESSES: Schedules may be submitted to the Slot Administration Office by email to: *7-AWA-slotadmin@faa.gov*.

FOR FURTHER INFORMATION CONTACT: Al Meilus, Manager, Slot Administration and Capacity Analysis, AJR–G, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267–2822; email *Al.Meilus@faa.gov.*

SUPPLEMENTARY INFORMATION: This document provides routine notice to carriers serving capacity-constrained airports in the United States, including ORD, JFK, LAX, EWR, and SFO. In particular, this notice announces the deadline for carriers to submit schedules for the Summer 2025 scheduling season.

General Information for All Airports

The FAA has designated JFK as an IATA Level 3 airport consistent with the Worldwide Slot Guidelines (WSG).[1] The FAA currently limits scheduled operations at JFK by order that expires on October 24, 2026.[2]

The FAA has designated EWR, LAX, ORD, and SFO as IATA Level 2 airports [3] subject to a schedule review process premised upon voluntary cooperation. The Summer 2025 scheduling season is from March 30, 2025, through October 25, 2025, in recognition of the IATA Summer scheduling period.

The FAA is primarily concerned about scheduled and other regularly conducted commercial operations during designated hours, but carriers may submit schedule plans for the entire day. The designated hours for the Summer 2025 scheduling season are: at EWR and JFK from 0600 to 2300 Eastern Time (1000 to 0300 UTC), at LAX and SFO from 0600 to 2300 Pacific Time (1300 to 0600 UTC), and at ORD from 0600 to 2100 Central Time (1100 to 0200 UTC). These hours are unchanged from previous scheduling seasons.

Carriers should submit schedule information in sufficient detail including, at minimum, the marketing or operating carrier, flight number, scheduled time of operation, frequency, aircraft equipment, and effective dates. IATA standard schedule information format and data elements for communications at Level 2 and Level 3 airports in the IATA Standard Schedules Information Manual (SSIM) Chapter 6 may be used. The WSG provides additional information on schedule submissions at Level 2 and Level 3 airports. Some carriers at JFK manage and track slots through FAA-assigned Slot ID numbers corresponding to an arrival or departure slot in a particular half-hour on a particular day of week and date. The FAA has a similar voluntary process for tracking schedules at EWR with Reference IDs, and certain carriers are managing their schedules accordingly. The primary users of IDs are United States and Canadian carriers that have the highest frequencies and considerable schedule changes throughout the season and can benefit from a simplified exchange of information not dependent on full flight details. Carriers are encouraged to submit schedule requests at those airports using Slot or Reference IDs.

As stated in the WSG, schedule facilitation at a Level 2 airport is based on the following: (1) Schedule adjustments are mutually agreed upon between the carriers and the facilitator; (2) the intent is to avoid exceeding the airport's coordination parameters; (3) the concepts of historic precedence and series of slots do not apply at Level 2 airports, although WSG recommends giving priority to approved services that plan to operate unchanged from the previous equivalent season at Level 2 airports; and (4) the facilitator should adjust the smallest number of flights by the least amount of time necessary to avoid exceeding the airport's coordination parameters. Consistent with the WSG, the success of Level 2 in the United States depends on the voluntary cooperation of carriers.

The FAA considers several factors and priorities that are consistent with the WSG as it reviews schedule and slot requests at Level 2 and Level 3 airports, including (1) historic slots or services from the previous equivalent season over new demand for the same timings; (2) services that are unchanged over services that plan to change time or other capacity relevant parameters; (3) introduction of year-round services; (4) effective period of operation; (5) regularly planned operations over *ad hoc* operations; and (6) other operational factors that may limit a carrier's timing flexibility.

The FAA seeks to maintain close communications with carriers and terminal schedule facilitators on potential runway schedule issues or terminal and gate issues that may affect the runway times. In addition to applying these priorities from the WSG, the U.S. Government has adopted a number of measures and procedures to promote competition and new entry at U.S. slot-controlled and schedule-facilitated airports.

Slot management in the United States differs in some respect from procedures in other countries. In the United States, the FAA is responsible for facilitation and coordination of runway access for takeoffs and landings at Level 2 and Level 3 airports; however, the airport authority or its designee is responsible for facilitation and coordination of terminal/gate/airport facility access. The process with the individual airports for terminal access and other airport services is separate from, and in addition to, the FAA schedule review based on runway capacity.

Generally, the FAA uses average hourly runway capacity throughput for airports and performance metrics in conducting its schedule review at Level 2 airports and determining the scheduling limits at Level 3 airports included in FAA rules or orders.[4] The FAA also considers other factors that can affect operations, such as capacity changes due to runway, taxiway, or other airport construction, air traffic control procedural changes, airport surface operations, and historical or projected flight delays and congestion.

Finally, the FAA notes that the schedule information submitted by carriers to the FAA may be subject to disclosure under the Freedom of Information Act (FOIA). The WSG also provides for release of information at certain stages of slot coordination and

[1] The FAA generally applies the WSG to the extent there is no conflict with U.S. law or regulation. The FAA recognizes the WSG has been replaced by the Worldwide Airports Slot Guidelines (WASG) edition 1, effective June 1, 2020, WASG edition 2, effective July 1, 2022, and most recently, WASG edition 3, effective April 1, 2024. The WASG is published jointly by Airports Council International-World, IATA, and the Worldwide Airport Coordinators Group (WWACG). While the FAA is considering whether to implement certain changes to the Guidelines in the United States, it will continue to apply WSG edition 9.

[2] Operating Limitations at John F. Kennedy International Airport, 73 FR 3510 (Jan. 18, 2008), as most recently extended 89 FR 41486 (May 13, 2024). The slot coordination parameters for JFK are set forth in this Order.

[3] These designations remain effective until the FAA announces a change in the **Federal Register**.

[4] The FAA typically determines an airport's average adjusted runway capacity or typical throughput for Level 2 airports by reviewing hourly data on the arrival and departure rates that air traffic control indicates could be accepted for that hour, commonly known as ''called'' rates. The FAA also reviews the actual number of arrivals and departures that operated in the same hour. Generally, the FAA uses the higher of the two numbers, called or actual, for identifying trends and schedule review purposes. Some dates are excluded from analysis, such as during periods when extended airport closures or construction could affect capacity.

schedule facilitation. In general, once it acts on a schedule submission or slot request, the FAA may release information on slot allocation or similar slot transactions, or schedule information reviewed as part of the schedule facilitation process. The FAA does not expect that practice to change, and most slot and schedule information would not be exempt from release under FOIA. The FAA recognizes that some carriers may submit information on schedule plans that is both customarily and actually treated as private. Carriers that submit such confidential schedule information should clearly mark the information, or any relevant portions thereof, as proprietary information (''PROPIN''). The FAA will take the necessary steps to protect properly designated information to the extent allowable by law.

EWR General Information

Consistent with the WSG, carriers are asked for their voluntary cooperation to adjust schedules to meet the targeted scheduling limits in order to minimize potential congestion and delay. For the Summer 2025 scheduling season, the voluntary, targeted hourly scheduling limits remain at 77 operations and 41 operations per half-hour.[5] To help with a balance between arrivals and departures, the targeted maximum number of scheduled arrivals or departures, respectively, is 41 in an hour and 22 in a half-hour. These targets are expected to allow some higher levels of operations in certain periods (not to exceed the hourly limits) and some recovery from lower demand in adjacent periods. Consistent with general established practice at EWR, the FAA will accept flights above the limits if the flights were operated as approved, or treated as operated, by the same carrier on a regular basis in the previous corresponding season (*i.e.,* Summer 2024) and consistent with DOT's 2022 reassignment of 16 peak-hour runway timings.[6] However, the FAA does not intend to approve requests for new flights unless they can be accommodated within the targeted limits. The FAA is seeking carriers' voluntary cooperation to get scheduled operations down to the targeted scheduling limits.

Carriers are reminded that FAA approval for runway times is separate from the approval process for gates or other airport infrastructure and both are essential for the success of Level 2 at EWR. Schedule facilitation at Level 2 airports is designed to engender collaboration and gain mutual agreement between the carriers and the FAA regarding schedules and potential adjustments to stay within the performance goals and capacity limits of the airport and to mitigate delays and congestion that would result in the need for Level 3 slot controls. The FAA expects that all carriers operating at EWR will respect the targeted scheduling limits and work cooperatively with the FAA in order to avoid unacceptable delays and other adverse operational impacts at the airport.

The FAA is aware of runway construction planned at EWR for 2025. At this time, the FAA is evaluating the impact on EWR's runway capacity throughout the projected construction period in 2025. If the FAA concludes that scheduling relief is needed, a separate policy will be issued.

Issued in Washington, DC, on August 20, 2024.

Daniel J. Murphy,

Vice President, System Operations Services.

[FR Doc. 2024–19034 Filed 8–21–24; 4:15 pm]

BILLING CODE 4910–13–P

[5] See 88 FR 64964 (September 20, 2023).

[6] See Department of Transportation Order 2022–7–1, Docket DOT–OST–2021–0103, served July 5, 2022, ''Reassignment of Schedules at Newark-Liberty International Airport.''

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2024–0040]

NHTSA Safety Research Portfolio Public Meeting: Fall 2024

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of a public meeting.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) will hold a public meeting from October 28 to October 30, 2024, as a joint effort between the Agency's Vehicle Safety Research and Behavioral Safety Research offices to share information on activities within the Agency's research programs. The meeting will be held in a virtual format with representatives from across the two research offices presenting the information in panels.

Questions from the audience will be addressed following presentations. Each presentation will include visual slides that will be available in a public docket after the public meeting. A recording of the panels will also be available on the NHTSA website.

DATES: NHTSA will hold the public meeting on October 28 to October 30, 2024, with times to be established as the agenda is further refined. The meeting will be held virtually, via Zoom. Registration to attend the meeting must be received no later than October 23, 2024. There is no cost to register. Registration can be completed at *https://www.nhtsa.gov/events/nhtsa-safety-research-portfolio-public-meeting-fall-2024.* The public docket will remain open for 90 days following the public meeting.

ADDRESSES: The meeting will be held virtually via Zoom. The virtual meeting's online access link(s) will be available upon registration. Details regarding the agenda and speakers will be added to the Public Meeting website, *https://www.nhtsa.gov/events/nhtsa-safety-research-portfolio-public-meeting-fall-2024,* regularly prior to the event. The meeting will also be recorded and made available after the event for offline viewing at *https://www.nhtsa.gov/events/nhtsa-safety-research-portfolio-public-meeting-fall-2024.*

FOR FURTHER INFORMATION CONTACT: If you have questions about the public meeting, please contact Jennifer Oxenham at 202–366–2827 or by email at *jennifer.oxenham@dot.gov.*

SUPPLEMENTARY INFORMATION: For reference, NHTSA's previous Safety Research Portfolio public meeting, held in Fall 2022, is available for viewing at *https://www.nhtsa.gov/events/research-public-meeting-2022.*

Registration is recommended for all attendees. Attendees should register at *https://www.nhtsa.gov/events/nhtsa-safety-research-portfolio-public-meeting-fall-2024* by October 23, 2024. Follow the designated registration instructions at the registration site and please indicate whether special accommodation is needed.

NHTSA is committed to providing equal access to this event for all participants. People with disabilities can submit an accommodation request, and people with limited English proficiency can submit a language access request. Please submit any request to Jennifer Oxenham at 202–366–2827 or via email at *jennifer.oxenham@dot.gov* with your request as soon as possible. A sign language interpreter will be provided, and closed captioning services will be available.

Should it be necessary to cancel or reschedule the meeting due to an unforeseen circumstance, NHTSA will take all available measures to notify registered participants as soon as possible. NHTSA will conduct the public meeting informally, and

technical rules of evidence will not apply. The meeting will be recorded, and a recording will be made available after the event.

Comments: Comments may be submitted electronically or in hard copy during the 90-day comment period. Please submit all comments no later than January 31, 2025, by any of the following methods:

- *Federal Rulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays. To be sure someone is there to help you, please call 202–366–9826 before coming.
- *Fax:* 202–366–1767.

Instructions: All submissions must include the agency name and docket number. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act discussion below.

Docket: For access to the docket go to *http://www.regulations.gov* at any time or to 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Telephone: 202–366–9826.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://www.regulations.gov/privacy.html.*

Confidential Business Information: If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at 1200 New Jersey Avenue SE, Washington, DC 20590. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above. When you send a comment containing information claimed to be confidential business information, you should submit a cover letter setting forth the information specified in our confidential business information regulation (49 CFR part 512).

Background: Each year, NHTSA executes a broad array of research programs in support of Administration, DOT, and agency priorities. The Agency's research portfolio covers a diverse range of program areas pertaining to vehicle safety, including the safety consequences of novel automotive technologies that aim to improve the crash avoidance and/or occupant protection characteristics of motor vehicles; and behavioral safety, which includes safety countermeasures that pertain to the behavior and actions of drivers, occupants, and other road users, including vulnerable populations.

This public meeting is intended to provide public and stakeholder outreach regarding research activities at NHTSA for both vehicle and behavioral safety, including expected near-term deliverables. NHTSA technical research staff will discuss projects recently concluded or underway and may also introduce early-stage projects. As time allows, there will be an opportunity for session attendees to submit questions via the chat feature in the broadcast medium.

Presentations will be displayed during the panel sessions and will be posted to the docket (*regulations.gov*) after the meeting. Updates on this event will be available at *https://www.nhtsa.gov/events/nhtsa-safety-research-portfolio-public-meeting-fall-2024* and NHTSA recommends checking back periodically for updates or potential schedule changes.

Discussion of research projects will occur in the form of technical panel presentations. Participants will be able to register for any or all of the days and be able to join the Zoom webinar in parts or for full sessions throughout each day.

The Agency invites comments on the information presented as well as on the Agency's research priorities, research goals, and additional research gaps/needs the public may believe NHTSA should be addressing. Select project work may be posted to the docket for which comments are also welcome. Slides presented at the public meeting will be posted to the docket subsequently for public access and a recording of the meeting will be made available after the event for offline viewing.

Cem Hatipoglu,

Associate Administrator, Vehicle Safety Research.

[FR Doc. 2024–18994 Filed 8–22–24; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Open Meeting: Community Development Advisory Board

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Community Development Advisory Board (the Advisory Board), which provides advice to the Director of the Community Development Financial Institutions Fund (CDFI Fund). The meeting will be open to the public who may either attend the meeting in-person or view it as a live webcast. The meeting will be held at the U.S. Department of the Treasury in a room that will accommodate up to 50 members of the public on a first-come, first-served basis. The Advisory Board page on the CDFI Fund website is located at *www.cdfifund.gov/cdab.* On that page you will find a list of prior meeting dates as well as the date of the upcoming September 2024 meeting. The link to view the live webcast for the upcoming meeting is posted under the September 2024 meeting date.

DATES: The meeting will be held from 9:30 a.m. to 4:00 p.m. Eastern Time on Thursday, September 19, 2024.

ADDRESSES: The Advisory Board meeting will be held in the Cash Room at the U.S. Department of the Treasury located at 1500 Pennsylvania Avenue NW, Washington, DC 20220.

Submission of Written Statements: Participation in the discussions at the meeting will be limited to Advisory Board members, Department of the Treasury staff, and certain invited guests. Anyone who would like to have the Advisory Board consider a written statement must submit it by 5:00 p.m. Eastern Time on Wednesday, September 11, 2024. Send statements electronically to *AdvisoryBoard@cdfi.treas.gov.* All written statements submitted by the deadline will be responded to with a simple acknowledgement of receipt.

In general, the CDFI Fund will make all statements available in their original format, including any business or personal information provided such as

names, addresses, email addresses, or telephone numbers, for virtual public inspection and copying. The CDFI Fund is open on official business days between the hours of 9:00 a.m. and 5:00 p.m. Eastern Time. You can make arrangements to virtually inspect statements by emailing *AdvisoryBoard@cdfi.treas.gov.* All statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should only submit information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Bill Luecht, Senior Advisor, Office of Legislative and External Affairs, CDFI Fund; (202) 653–0322 (this is not a toll-free number); or *AdvisoryBoard@cdfi.treas.gov.* Other information regarding the CDFI Fund and its programs may be obtained through the CDFI Fund's website at *http://www.cdfifund.gov.*

SUPPLEMENTARY INFORMATION: Section 104(d) of the Riegle Community Development and Regulatory Improvement Act of 1994 (Pub. L. 103–325), which created the CDFI Fund, established the Advisory Board. The charter for the Advisory Board has been filed in accordance with the Federal Advisory Committee Act, as amended (5 U.S.C. 1001 *et seq.*), and with the approval of the Secretary of the Treasury.

The function of the Advisory Board is to advise the Director of the CDFI Fund (who has been delegated the authority to administer the CDFI Fund) on the policies regarding the activities of the CDFI Fund. The Advisory Board is not a governing board, and it does not advise the CDFI Fund on approving or declining any particular application for monetary or non-monetary awards.

In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. 1009 and the regulations thereunder, Bill Luecht, Designated Federal Officer of the Advisory Board, has ordered publication of this notice that the Advisory Board will convene an open meeting, which will be held in the Cash Room at the U.S. Department of the Treasury located at 1500 Pennsylvania Avenue NW, Washington, DC 20220, from 9:30 a.m. to 4:00 p.m. Eastern Time on Thursday. September 19, 2024. The room will accommodate up to 50 members of the public on a first-come, first-served basis.

Because the meeting will be held in a secure federal building, members of the public who wish to attend the meeting must register in advance. The link to the online registration system is also posted under the date of the meeting at *www.cdfifund.gov/cdab.* The registration deadline is 11:59 p.m. Eastern Time on Monday, September 16, 2024. For entry into the building on the date of the meeting, each attendee must present his or her government issued ID, such as a driver's license or passport, which includes a photo.

Members of the public who wish to view the live webcast can access the link which will be posted under the date of the meeting at *www.cdfifund.gov/cdab.*

The Advisory Board meeting will include a report from the CDFI Fund Director on the activities of the CDFI Fund and panel discussions related to the Advisory Board's subcommittees. This meeting is being convened to commemorate the 30th anniversary of the establishment of the CDFI Fund.

Authority: 12 U.S.C. 4703.

Pravina Raghavan,

Director, Community Development Financial Institutions Fund.

[FR Doc. 2024–18995 Filed 8–22–24; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; International Regulation—Part 28

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning the renewal of its information collection titled, ''International Regulation—Part 28.''

DATES: Comments must be received by October 22, 2024.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557–0102, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 293–4835.

Instructions: You must include ''OCC'' as the agency name and ''1557–0102'' 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.

Following the close of this notice's 60-day comment period, the OCC will publish a second notice with a 30-day comment period. You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection by the method set forth in the next bullet.

- *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Hover over the ''Information Collection Review'' tab and click on ''Information Collection Review'' from the drop-down menu. From the ''Currently under Review'' drop-down menu, select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching OMB control number ''1557–0102'' or ''International Regulation—Part 28.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.
- For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649–5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of title 44 generally requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the renewal/revision of this collection.

Title: International Regulation—Part 28.

OMB Control No.: 1557–0102.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Description: This submission covers an existing regulation and involves no change to the regulation or to the information collection requirements. The OCC requests only that OMB extend its approval of the information collection.

12 CFR 28.3 Filing Requirements for Foreign Operations of a National Bank—Notice Requirement.

A national bank shall notify the OCC when it (1) files an application, notice, or report with the Board of Governors of the Federal Reserve System (FRB) to establish or open a foreign branch; or acquire or divest of an interest in, or close, an Edge corporation, Agreement corporation, foreign bank, or other foreign organization; or (2) opens a foreign branch, and no application or notice is required by the FRB for such transaction. Pursuant to § 28.3(c), the OCC also has required additional information in the form of an application from a national bank seeking to join a foreign exchange, clearinghouse, or similar type of organization. In lieu of a notice, the OCC may accept a copy of an application, notice, or report submitted to another Federal agency that covers the proposed action and contains substantially the same information required by the OCC. A national bank shall furnish the OCC with any additional information the OCC may require in connection with the national bank's foreign operations.

12 CFR 28.14(c) Limitations Based upon Capital of a Foreign Bank—Aggregation.

A foreign bank shall aggregate business transacted by all Federal branches and agencies with the business transacted by all state branches and agencies controlled by the foreign bank in determining its compliance with limitations based upon the capital of the foreign bank. A foreign bank shall designate one Federal branch or agency office in the United States to maintain consolidated information so that the OCC can monitor compliance.

12 CFR 28.15(d), (d)(1), (d)(2), and (f) Capital Equivalency Deposits.

A foreign bank should require its depository bank to segregate its capital equivalency deposits (CED) on the depository bank's books and records. The instruments making up the CED that are placed in safekeeping at a depository bank to satisfy a foreign bank's CED requirement must be maintained pursuant to an agreement prescribed by the OCC that shall be a written agreement entered into with the OCC. Each Federal branch or agency shall maintain a capital equivalency account and keep records of the amount of liabilities requiring capital equivalency coverage in a manner and form prescribed by the OCC. A foreign bank's CED may not be reduced in value below the minimum required for that branch or agency without the prior approval of the OCC, but in no event may the value fall below the statutory minimum.

12 CFR 28.16(c) Deposit-taking by an Uninsured Federal branch—Application for an Exemption.

A foreign bank may apply to the OCC for an exemption to permit an uninsured Federal branch to accept or maintain deposit accounts that are not listed in § 28.16(b). The request should describe the types, sources, and estimated amount of such deposits and explain why the OCC should grant an exemption, and how the exemption maintains and furthers the policies described in § 28.16(a).

12 CFR 28.16(d) Deposit-Taking by an Uninsured Federal Branch—Aggregation of Deposits.

A foreign bank that has more than one Federal branch in the same state may aggregate deposits in all of its Federal branches in that state, but exclude deposits of other branches, agencies, or wholly owned subsidiaries of the bank. The Federal branch shall compute the average amount by using the sum of deposits as of the close of business of the last 30 calendar days ending with, and including, the last day of the calendar quarter, divided by 30. The Federal branch shall maintain records of the calculation until its next examination by the OCC.

12 CFR 28.18(c)(1) Recordkeeping and Reporting—Maintenance of Accounts, Books, and Records.

Each Federal branch or agency shall maintain a set of accounts and records reflecting its transactions that are separate from those of the foreign bank and any other branch or agency. The Federal branch or agency shall keep a set of accounts and records in English sufficient to permit the OCC to examine the condition of the Federal branch or agency and its compliance with applicable laws and regulations.

12 CFR 28.20(a)(1) Maintenance of Assets—General Rule.

The OCC may require a foreign bank to hold certain assets in the state in which its Federal branch or agency is located.

12 CFR 28.22(e) Voluntary Liquidation—Reports of Examination.

The Federal branch or agency shall send the OCC certification that all of its Reports of Examination have been destroyed or return its Reports of Examination to the OCC.

Estimated Burden: $296,843.60.

Estimated Frequency of Response: On occasion.

Estimated Number of Respondents: 52.

Estimated Total Annual Burden: 2,294 hours.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Patrick T. Tierney,

Assistant Director, Office of the Comptroller of the Currency.

[FR Doc. 2024–18939 Filed 8–22–24; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0266]

Agency Information Collection Activity Under OMB Review: Application for Reimbursement of Headstone or Marker Expense

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by clicking on the following link *www.reginfo.gov/public/do/PRAMain, select* ''Currently under Review—Open for Public Comments'', then search the list for the information collection by Title or ''OMB Control No. 2900–0266.''

FOR FURTHER INFORMATION CONTACT:

VA PRA information: Maribel Aponte, 202–461–8900, *vacopaperworkreduact@va.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Reimbursement of Headstone or Marker Expense, VA Form 21P–8834.

OMB Control Number: 2900–0266 *https://www.reginfo.gov/public/do/PRASearch.*

Type of Review: Reinstatement without change of a previously approved collection.

Abstract: VA Form 21P–8834 is used to gather the necessary information to determine eligibility for reimbursement of expenses for a non-government headstone or marker upon the death of a Veteran under the authority of 38 U.S.C. chapter 2306.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 89 FR 51596, June 18, 2024.

Affected Public: Individuals or Households.

Estimated Annual Burden: 167 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 1,000.

Authority: 44 U.S.C. 3501 *et seq.*

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2024–18896 Filed 8–22–24; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Rehabilitation, Notice of Meeting

Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. Ch. 10, that the Veterans' Advisory Committee on Rehabilitation (hereinafter the Committee) will meet on Monday, September 16, 2024 and Tuesday, September 17, 2024. The meeting sessions will begin and end as follows:

Date	Time	Location	Open session
September 16, 2024	7:45 a.m.–1:30 p.m. Pacific Standard Time (PST).	Seattle VA Medical Center, 1660 S. Columbian Way, Seattle, WA 98108.	Yes.
September 16, 2024	1:30 p.m.–3:00 p.m. PST	Seattle VA Medical Center, 1660 S. Columbian Way, Seattle, WA 98108.	No.
September 17, 2024	8:30 a.m.–12:30 p.m. PST	Seattle Regional Office, Jackson Federal Building, 915 2nd Avenue, Seattle, WA 98174.	Yes.

Sessions are open to the public, except when the Committee is conducting a tour of VA facilities. Tours of VA facilities are closed to protect Veterans' privacy and personal information, by 5 U.S.C. 552b(c)(6).

The purpose of the Committee is to advise the Secretary of VA on the rehabilitation needs of Veterans with disabilities and the administration of VA's rehabilitation programs.

During the open sessions, the Committee will receive briefings on various Veterans Health Administration and Veterans Benefits Administration (VBA) programs designed to enhance the rehabilitative potential of Veterans with disabilities. In the closed session, the Committee will tour the Seattle VA Medical Center located at 1660 S. Columbian Way, Seattle, WA 98108.

Members of the public may submit written statements until Wednesday, September 11, 2024, for the Committee's review to Ms. Latrese Thompson, Designated Federal Officer, VBA (28), 1800 G Street NW, Washington, DC 20006, or at *VACOR.VBACO@va.gov.* In the communication, writers must identify themselves and state the organization, association, or person(s) they represent.

Members of the public may attend in person or virtually using the following Microsoft Teams link by computer or mobile app:

Join the Meeting Now

https://teams.microsoft.com/l/meetup-join/19%3ameeting_Yzc0NDVjZWItNWIxYy00MTk4LWJhMWUtMDAyNmEwMWI0ZmRm%40thread.v2/0?context=%7b%22Tid%22%3a%22e95f1b23-abaf-45ee-821d-b7ab251ab3bf%22%2c%22Oid%22%3a%22c392d3a0-a06e-41a2-bbcd-b0d7bfd785dd%22%7d

Meeting ID: 287 084 852 938

Passcode: fVKULR

Join by phone: 1–205–235–3524

Phone Conference ID: 297032590#

Dated: August 19, 2024.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2024–18914 Filed 8–22–24; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

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Part II

Federal Deposit Insurance Corporation

12 CFR Parts 303 and 337
Unsafe and Unsound Banking Practices: Brokered Deposits Restrictions; Proposed Rule

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 303 and 337

RIN 3064–AF99

Unsafe and Unsound Banking Practices: Brokered Deposits Restrictions

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is inviting comment on proposed revisions to its regulations relating to the brokered deposits restrictions that apply to less than well-capitalized insured depository institutions. The proposed rule would revise the ''deposit broker'' definition and would amend the analysis of the ''primary purpose'' exception to the ''deposit broker'' definition. The proposed rule would also amend two of the designated business relationships under the primary purpose exception and make changes to the notice and application process for the primary purpose exception. In addition, the proposed rule would clarify when an insured depository institution can regain status as an ''agent institution'' under the limited exception for a capped amount of reciprocal deposits.

DATES: Comments must be received by the FDIC no later than October 22, 2024.

ADDRESSES: You may submit comments on this document using any of the following methods:

- *Agency Website: https://www.fdic.gov/resources/regulations/federal-register-publications/.* Follow the instructions for submitting comments on the agency website.
- *Email: comments@fdic.gov.* Include RIN 3064–AF99 in the subject line of the message.
- *Mail:* James P. Sheesley, Assistant Executive Secretary, Attention: Comments—RIN 3064–AF99, 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) on business days between 7 a.m. and 5 p.m.
- *Public Inspection:* Comments received, including any personal information provided, may be posted without change to *https://www.fdic.gov/resources/regulations/federal-register-publications/.* Commenters should submit only information that the commenter wishes to make available publicly. The FDIC may review, redact, or refrain from posting all or any portion of any comment that it may deem to be inappropriate for publication, such as irrelevant or obscene material. The FDIC may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. All comments that have been redacted, as well as those that have not been posted, that contain comments on the merits of the notice will be retained in the public comment file and will be considered as required under all applicable laws. All comments may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT:

Division of Risk Management Supervision: Thomas F. Lyons, Associate Director, 202–898–6850, *TLyons@fdic.gov;* Karen J. Currie, Chief, 202–898–3981, *KCurrie@fdic.gov;* Judy E. Gross, Senior Policy Analyst, 202–898–7047, *JuGross@fdic.gov.*

Legal Division: Vivek Khare, Senior Counsel, 202–898–6847, *VKhare@fdic.gov;* Chantal Hernandez, Counsel, 202–898–7388, *ChHernandez@fdic.gov;* Ryan McCarthy, Counsel, 202–898–7301, *RyMccarthy@fdic.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction and Policy Objectives

The FDIC's mission is to maintain stability and public confidence in the nation's financial system by, among other things, overseeing financial institutions for safety and soundness and insuring deposits. Since the enactment of section 29 of the Federal Deposit Insurance Act (FDI Act),[1] which prohibits less than well-capitalized [2] insured depository institutions [3] (IDIs) from accepting brokered deposits,[4] the FDIC has continued to study the role of brokered deposits in the performance of IDIs, their impact on the safety and soundness of IDIs, and how they affect losses to the Deposit Insurance Fund (DIF) when an IDI fails.

The FDIC has found significant reliance on brokered deposits increases an institution's risk profile, particularly as its financial condition weakens. The FDIC's statistical analyses and other studies have found that an IDI's use of brokered deposits in general is correlated with a higher probability of failure and higher losses to the DIF upon failure.[5]

On December 15, 2020, the FDIC Board adopted a final rule that established a new framework for analyzing whether certain deposit arrangements qualify as brokered deposits (the 2020 Final Rule).[6] After the 2020 Final Rule took effect, the FDIC initially observed a significant decline in reported brokered deposits. IDIs reported a nearly $350 billion, or 31.8 percent, decline in brokered deposits between the first and second quarters of 2021 after the 2020 Final Rule became effective, which is the largest quarterly decline since brokered deposit reporting began in 1983.[7] This significant decline can be interpreted as IDIs reclassifying a considerable amount of deposits from brokered to not brokered, as a result of the 2020 Final Rule.

This is because, in large part, the changes made by the 2020 Final Rule have narrowed the types of deposit-related activities that are considered brokered; in the FDIC's view, this narrowing is problematic because these deposits continue to present the same risks as before the 2020 Final Rule. The 2020 Final Rule also expanded the types of business relationships that are eligible to be excepted from the ''deposit broker'' definition. For instance, the 2020 Final Rule excluded certain factors, such as the payment of fees, from the ''deposit broker'' definition that had historically been viewed as relevant to whether a deposit is brokered. The 2020 Final Rule also expanded the scope of the primary purpose exception to the deposit broker definition, which has allowed for a

[1] 12 U.S.C. 1831f.

[2] For purposes of section 29 of the FDI Act and 12 CFR 337.6 of the FDIC's Rules and Regulations, the terms ''well capitalized,'' ''adequately capitalized,'' and ''undercapitalized'' have the same meaning as to each IDI as provided under the regulations implementing section 38 of the FDI Act issued by the appropriate Federal banking agency for that institution. *See* 12 CFR 337.6(a)(3)(i).

[3] Insured depository institutions include banks and savings associations insured by the FDIC. *See* 12 U.S.C. 1813(c)(2).

[4] The FDIC may, on a case-by-case basis and upon application by an adequately capitalized IDI, waive the restriction. *See* 12 U.S.C. 1831f(c).

[5] *See* FDIC, Study on Core Deposits and Brokered Deposits (July 8, 2011), available at *https://www.fdic.gov/regulations/reform/coredeposit-study.pdf. See also* 84 FR 2366, 2369 (Feb. 6, 2019). The FDIC updated its analysis in the 2011 Study on Core Deposits and Brokered Deposits with data through the end of 2017. *See id.* at 2384–2400 (appendix 2).

[6] *See* FDIC, Press Release: FDIC Board Approves Final rule on Brokered Deposit and Interest Rate Restrictions (Dec. 15, 2020), available at *https://www.fdic.gov/news/press-releases/2020/pr20136.html.* The 2020 Final rule was published in the **Federal Register** on January 22, 2021. *See* Unsafe and Unsound Banking Practices: Brokered Deposits and Interest Rate Restrictions Final Rule, 86 FR 6742 (Jan. 22, 2021). *See also infra* section II.B of this document (discussing the 2020 Final Rule).

[7] *See infra* section II.C of this document. As of December 31, 2023, reported brokered deposit balances have since increased to $1.35 trillion. *See infra* section II.C of this document.

significant number of business lines to be excluded from the deposit broker definition.[8] As a result, this has led to certain deposit arrangements that would have been viewed as brokered prior to the 2020 Final Rule as no longer being classified as brokered, even though such deposits present the same or similar risks as brokered deposits.

Based on the FDIC's experience, the decline in reported brokered deposits is also due, in part, to some IDIs misunderstanding and misreporting deposits under the 2020 Final Rule. Despite the FDIC's efforts in conducting industry outreach and providing clarifying information,[9] the FDIC has observed a number of challenges with entities understanding certain provisions of the 2020 Final Rule, which has resulted in some level of inaccurate and inconsistent application of the rule. Many of these challenges arise from § 337.6(a)(5)(v)(I)(*1*)(*i*) in the rule allowing third parties to provide a notice regarding the 25 percent test primary purpose exception. For example, the FDIC has observed that some IDIs receiving deposits through a sweep arrangement have incorrectly relied upon a third party's 25 percent primary purpose exception notice to not report certain deposits as brokered, without conducting analyses, or without having access to the appropriate documentation to conduct analyses, and despite the involvement of an additional third party that meets the ''deposit broker'' definition.[10] In turn, this has resulted in some deposits that meet the ''brokered deposit'' definition under the 2020 Final Rule not being correctly reported as brokered on IDIs' Consolidated Reports of Condition and Income (Call Reports).[11]

If left unchanged, this underreporting of brokered deposits could have serious consequences for IDIs and the DIF, which is used to protect depositors of insured banks and to resolve failed banks, as such underreporting impedes the ability to evaluate the extent of reliance on brokered deposits and the effects on an IDI's risk profile for supervisory and deposit insurance pricing purposes. Moreover, the FDIC is concerned that these issues expose IDIs individually and the banking system more broadly to the type of risk the brokered deposit restrictions are intended to address—namely that a less than well-capitalized institution could rely on less stable third-party deposits for rapid growth that may weaken the safety and soundness of IDIs and the banking system and expose the FDIC to increased losses.

Additionally, experiences since the 2020 Final Rule have shown that some of the underlying reasons to narrow the coverage of the rule have proved to be problematic. For example, First Republic Bank,[12] which failed in May 2023 after contagion effects from the failure of Silicon Valley Bank, experienced a significant run on affiliated sweep deposits, and in particular uninsured affiliated sweep deposits.[13] This suggests that in the case of First Republic, affiliated sweeps were no more ''sticky'' than unaffiliated sweeps, contrary to the exemption in § 337.6(a)(5)(iii)(C)(*1*) for affiliated entities. Moreover, in the case of the failure of crypto company Voyager,[14] it was not considered a ''deposit broker''—and Voyager deposits were not considered brokered—because it had an exclusive deposit placement arrangement with one IDI. Under the 2020 Final Rule, exclusive deposit placement arrangements are excluded from the definition of a ''deposit broker'' even though Voyager's activities were the same as a ''deposit broker,'' and the failure of Voyager created the same legal, operational, and liquidity risks for its partner IDI as if it had, say two partner banks, and had been classified as a deposit broker. FDIC staff is concerned that less than well-capitalized IDIs may seek these exclusive deposit placement arrangements as their condition is deteriorating without being subject to the limitations on brokered deposits, even though the risk is the same.

To address these concerns and challenges, the FDIC is proposing amendments that would (1) simplify certain definitions of the 2020 Final Rule to reduce operational challenges and reporting burdens on IDIs; (2) help ensure uniform and consistent reporting of brokered deposits by IDIs; and (3) strengthen the safety and soundness of the banking system by ensuring that less than well-capitalized institutions are restricted from relying on brokered deposits to support risky, rapid growth.

II. Background

A. Brokered Deposits—A History of Concerns and Related Research

Brokered and high-rate deposits became a concern among bank regulators and Congress before any statutory restrictions were enacted. This concern arose because (1) such deposits could facilitate a bank's rapid growth in risky assets without adequate controls; (2) once problems arose, a problem bank could use such deposits to fund additional risky assets to attempt to ''grow out'' of its problems, a strategy that ultimately increased the losses to the DIF when the institution failed; and (3) brokered and high-rate deposits were sometimes considered less stable because at that time, deposit brokers (on behalf of customers), or the customers themselves, were often drawn to high rates and prone to leave the bank quickly to obtain a better rate or if they became aware of problems at the bank.[15]

The FDIC has recognized that ''historically, most institutions that use brokered deposits have done so in a prudent manner and appropriately measure, monitor, and control risks associated with brokered deposits.'' [16]

[8] *See e.g.,* FDIC, Public Report of Entities Submitting Notices for a Primary Purpose Exception (PPE). As of March 15, 2024, available at *https://www.fdic.gov/resources/bankers/brokered-deposits/public-report-ppes-notices.pdf.*

[9] For example, the FDIC maintains a dedicated brokered deposits web page that includes ''Questions and Answers Related to Brokered Deposits Rule'' and a ''Statement of the [FDIC] Regarding Reporting of Sweep Deposits on Call Reports,'' among other resources. *See* FDIC, Banker Resource Center Brokered Deposits, available at *https://www.fdic.gov/resources/bankers/brokered-deposits/.*

[10] *See e.g.,* FDIC, Decision of the Supervision Appeals Review Committee, In the Matter of * * *, Case No. 2022–02 (Apr. 26, 2023), available at *https://www.fdic.gov/resources/regulations/appeals-of-material-supervisory-determination/appeals/sarc202202.pdf.*

[11] ''Call Reports'' consist of the Consolidated Reports of Condition and Income for a Bank with Domestic and Foreign Offices (FFIEC 031), the Consolidated Reports of Condition and Income for a Bank with Domestic Offices Only (FFIEC 041), and the Consolidated Reports of Condition and Income for a Bank with Domestic Offices Only and Total Assets Less than $5 Billion (FFIEC 051).

[12] *See* Off. of Inspector Gen., FDIC, Material Loss Review of First Republic Bank, Report No. EVAL–24–03 (Nov. 28, 2023) available at *https://www.fdicoig.gov/sites/default/files/reports/2023-12/EVAL-24-03.pdf.*

[13] During the quarter leading up to failure, First Republic Bank reported a sharp decline in affiliate sweep deposits that were not fully insured, from $8.3 billion to $1.1 billion from December 31, 2022, to March 31, 2023; they also experienced a decline from $1.9 billion to $1.4 billion in insured affiliated sweep deposits. Over the same period, First Republic Bank reported an increase in fully insured non-affiliate sweep deposits, from $7.3 billion to $8.7 billion.

[14] *See In re* Voyager Digital Holdings, Inc. et al., No. 22–10943 (Bankr. S.D.N.Y July 6, 2022).

[15] Brokered deposits are not considered core deposits or a stable funding source due to the brokered status and wholesale characteristics. *See* FDIC RMS Manual of Examination Policies, section 6.1 Liquidity and Funds Management at 6.1–9 (Apr. 2024). Core deposits are not defined by statute. Rather, core deposits are defined for analytical and examination purposes in the Uniform Bank Performance Report (UBPR) as the sum of all transaction accounts, money market deposit accounts (MMDAs), nontransaction other savings deposits (excluding MMDAs), and time deposits of $250,000 and below, less fully insured brokered deposits of $250,000 and less.

[16] *See* Unsafe and Unsound Banking Practices: Brokered Deposits and Interest Rate Restrictions Advance Notice of Proposed Rulemaking, 84 FR 2366 (Feb. 6, 2019).

However, an IDI's use of brokered deposits often raises its risk profile, which has long been a concern among bank regulators [17] and Congress.[18]

Brokered Deposits and Troubled Institutions

As early as the 1970s, the FDIC noted concerns about brokered deposits, as stated in the FDIC's Division of Bank Supervision Manual: ''The use of brokered deposits has been responsible for abuses in banking and has contributed to some bank failures, with consequent losses to the larger depositors, other creditors, and shareholders.'' [19] For example, in 1982, brokered deposits were found to have been a key cause of the largest payout of insured deposits at that time with the failure of Penn Square Bank. Brokered deposits contributed to Penn Square Bank's rapid deposit growth, which were used to fund high risk loans. About $1 billion of these loans were then sold to Continental Illinois Bank, which then suffered significant deposit withdrawals related to problem loans and required open-bank assistance from the FDIC.[20]

Brokered Deposits in Bank Failures 2007–2017

The FDIC and the DIF were significantly affected by the financial crisis between 2007 and 2017. During this time, excluding Washington Mutual, Inc., 530 IDIs failed and were placed in FDIC receivership and, as of March 31, 2024, the estimated loss to the DIF for these institutions is $71.9 billion.[21]

Based on Call and Thrift Financial Report data, 47 institutions that failed relied heavily on brokered deposits and each caused an estimated loss to the DIF [22] of over $100 million as of December 31, 2017. These 47 institutions held total assets representing 20.9 percent of the $396.9 billion in aggregate total assets of the 530 failed institutions, but accounted for $27.3 billion in estimated losses to the DIF, representing 38 percent of the $71.9 billion in all estimated losses to the DIF for that same period.[23] For example, the largest of these 47 institutions was IndyMac Bank, F.S.B. (IndyMac), which failed on July 11, 2008. As of March 31, 2024, the estimated loss to the DIF for IndyMac is $12.0 billion, representing 39 percent of IndyMac's $30.7 billion in total assets at failure and approximately 16.7 percent of the total $71.9 billion in estimated losses to the DIF from bank failures between 2007 and 2017. In its last Thrift Financial Report (TFR) filed prior to failure, as of June 30, 2008, IndyMac reported brokered deposits of $5.5 billion, which represented 29.0 percent of the institution's $18.9 billion in total deposits.[24] In its TFR filed for the third quarter of 2005, approximately 12 quarters before the institution failed, IndyMac reported $1.4 billion in brokered deposits, representing 18.4 percent of its then $7.4 billion in total deposits. This data demonstrates that IndyMac accelerated its use of brokered deposits as its problems mounted.[25]

Another example is ANB Financial National Association (ANB Financial), which failed on May 9, 2008. As of March 31, 2024, the estimated loss to the DIF for ANB Financial was $1.0 billion, representing 54 percent of the institution's $1.9 billion in total assets at failure. In its Call Report filed prior to failure, *i.e.,* as of March 31, 2008, ANB Financial reported brokered deposits of $1.6 billion, which represented 87.0 percent of the institution's $1.8 billion in total deposits. In the Call Report filed for the second quarter of 2005, approximately 12 quarters before the institution failed, ANB Financial reported $257 million in brokered deposits, representing 50.5 percent of its then $508 million in total deposits.[26]

Brokered Deposits—Historical Research and Changes in Law and Regulation

In the aftermath of the financial crisis of 2008 and 2009, section 1506 of the Dodd-Frank Wall Street Reform and Consumer Protection Act directed the FDIC to conduct a study of core and brokered deposits, which the FDIC completed in 2011. In the FDIC's *Study on Core Deposits and Brokered Deposits,*[27] the FDIC found that higher brokered deposit use was associated with higher probability of bank failure and higher DIF losses, and that, on average, brokered deposits were correlated with higher levels of asset growth, higher levels of nonperforming loans, and a lower proportion of core deposit funding.[28] For example, the FDIC's study describes the following characteristics of brokered deposits that have posed risks to the DIF: (1) rapid growth—brokered deposits could be gathered quickly and used imprudently to fund risky assets or investments; and (2) less stable nature (described in the study as ''volatility'')—brokered deposits might flee if the broker (or the underlying customer) moves funds to another IDI, if the IDI holding the deposit becomes troubled, or if rates or terms are more appealing elsewhere.[29]

In December 2017, the FDIC published *Crisis and Response: An FDIC History, 2008–2013,* which showed that failures and CAMELS rating

[17] The FDIC recognizes that institutions sometimes are concerned that the use of brokered deposits can have other regulatory consequences, or may be viewed negatively by investors or other stakeholders.

[18] Congressional hearings regarding brokered deposits were held between 1984 and 1988, and in 1989, as part of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). *See* 84 FR 2368. *See also* ''Problems of the Federal Savings and Loan Insurance Corporation: Hearings Before the Committee on Banking, Housing, and Urban Affairs of the United States Senate,'' (part II) 101st Cong., 1st Sess. 230–231 (1989). *See also, e.g.,* Congressional testimony of Senators Graham and Sarbanes on Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991, Proceedings and Debates of the 102nd Cong., 1st Sess., November 21, 1991, 137 Cong. Rec. S17322–01, 1991 WL 243977 (''One of the lessons from the thrift crisis is their ability to gather deposits through brokered deposits and increase the size of the institution and the funds they had available very rapidly without additional capital and, quite frankly, without additional management. Then, to take these funds out and invest them in what turned out to be very risky matters, is certainly a lesson America has to learn and look at.'') (referring to testimony of the President of the Independent Bankers Association provided in April 1990).

[19] *See* FDIC, Division of Bank Supervision Manual, section L, page 3 (Nov. 1, 1973).

[20] 84 FR 2366, 2367 (Feb. 6, 2019); FDIC, History of the Eighties—Lessons for the Future, Chapters 2 and 9, *passim* (Dec. 1997), available at *https://www.fdic.gov/bank/historical/history/;* Phillip L. Zwieg, Belly Up: The Collapse of the Penn Square Bank, Chapter 9 (1985).

[21] The estimated loss data is available at: *https://banks.data.fdic.gov/bankfind-suite/failures.*

[22] Specifically, these failed institutions reported a ratio of brokered to total deposits greater than 10 percent in their last quarter prior to failure or three years prior to failure, and reported annual average asset growth of at least 30 percent during the three years leading to failure, or during the five years leading to failure, or between three and five years prior to failure, and were estimated to cost the DIF over $100 million as of December 31, 2017.

[23] The estimated loss data is as of March 31, 2024, available at: *https://banks.data.fdic.gov/bankfind-suite/failures.*

[24] Of the $5.5 billion in brokered deposits that IndyMac reported on its TFR for June 30, 2008, 98.4 percent were in brokered certificates of deposits documented as master certificates of deposits issued in the name of CEDE & Co, a subsidiary of DTC, as sub-custodian for deposit brokers.

[25] *See* Off. of Inspector Gen., U.S. Dep't of Treasury, Safety and Soundness: Material Loss Review of IndyMac Bank, FSB (Feb. 26, 2009), available at *https://oig.treasury.gov/sites/oig/files/Documents/oig09032.pdf.*

[26] *See* Off. of Inspector Gen., U.S. Dep't of Treasury, Safety and Soundness: Material Loss Review of ANB Financial National Association (Nov. 28, 2008), available at *https://www.govinfo.gov/content/pkg/GOVPUB-T72-PURL-LPS107594/pdf/GOVPUB-T72-PURL-LPS107594.pdf.*

[27] *See* FDIC, Study on Core Deposits and Brokered Deposits (July 8, 2011), available at *https://www.fdic.gov/regulations/reform/coredeposit-study.pdf.*

[28] *See* 84 FR 2366, 2369 (Feb. 6, 2019).

[29] However, the volatility of brokered deposits tends to be mitigated somewhat by deposit insurance, as insured depositors have less incentive to flee a problem situation. *See* 84 FR 2366, 2369 (Feb. 6, 2019).

downgrades were more concentrated among IDIs that made relatively greater use of wholesale funding sources, which includes brokered deposits. Further, it indicated that significant reliance on wholesale funds could reflect an IDI's decision to pursue aggressive growth, and that if an IDI were under stress, wholesale counterparties may be more inclined to withdraw deposits or demand additional collateral.[30]

Moreover, the Inspectors General of the Federal banking agencies have prepared reports detailing how brokered deposits were sometimes used by failed banks between 2007 and 2017.[31] In these reports, brokered deposits were commonly cited as contributing to problems at troubled and failed institutions, and IDIs that failed were typically subject to the brokered deposit restrictions because their capital levels deteriorated to below well capitalized.[32]

In 2019, the FDIC updated its analysis in the 2011 Study on Core Deposits and Brokered Deposits with data through the end of 2017.[33] As part of that update, statistical analysis found that brokered deposit use is associated with higher probability of an IDI's failure and higher DIF loss rates. Brokered deposits may elevate an IDI's risk profile in part because they are frequently used as a substitute for IDI's core deposits and, less frequently, for equity, and so from the FDIC's perspective, IDIs that use brokered deposits operate with a higher risk liability structure relative to IDIs that do not use brokered deposits.[34]

B. Current Statutory and Regulatory Framework

Section 29 of the FDI Act,[35] imposes restrictions on a less than well-capitalized IDI from accepting funds obtained, directly or indirectly, by or through any deposit broker for deposit into one or more deposit accounts (referred to as brokered deposits).[36]

Section 29 does not directly define the term ''brokered deposit.'' Section 337.6 of the FDIC's Rules and Regulations implements section 29[37] and provides that a ''brokered deposit'' is a deposit obtained, directly or indirectly, from or through the mediation or assistance of a deposit broker.[38] Thus, the meaning of the term ''brokered deposit'' turns upon the definition of ''deposit broker.''

Under section 29, a ''deposit broker'' includes any person engaged in the business of placing third-party deposits, or facilitating the placement of third-party deposits, with IDIs or the business of placing deposits with IDIs for the purpose of selling interests in those deposits to third parties.[39] An agent or trustee also meets the ''deposit broker'' definition when establishing a deposit account to facilitate a business arrangement with an IDI to use the proceeds of the account to fund a prearranged loan.[40]

The ''deposit broker'' definition is subject to the following nine statutory exceptions:[41]

1. An insured depository institution, with respect to funds placed with that depository institution;

2. An employee of an insured depository institution, with respect to funds placed with the employing depository institution;

3. A trust department of an insured depository institution, if the trust in question has not been established for the primary purpose of placing funds with insured depository institutions;

4. The trustee of a pension or other employee benefit plan, with respect to funds of the plan;

5. A person acting as a plan administrator or an investment adviser in connection with a pension plan or other employee benefit plan provided that that person is performing managerial functions with respect to the plan;

6. The trustee of a testamentary account;

7. The trustee of an irrevocable trust (other than one described in 12 U.S.C. 1831f(g)(1)(B)), as long as the trust in question has not been established for the primary purpose of placing funds with insured depository institutions;

8. A trustee or custodian of a pension or profit-sharing plan qualified under section 401(d) or 403(a) of the Internal Revenue Code of 1986; or

9. An agent or nominee whose primary purpose is not the placement of funds with depository institutions (the ''primary purpose exception'').

Section 337.6 includes the statutory exceptions to the ''deposit broker'' definition plus a tenth exception for an IDI acting as an intermediary or agent of a U.S. Government department or agency for a government sponsored minority or women-owned depository institution program.[42]

Deposit Broker Definition in the 2020 Final Rule

In the 2020 Final Rule, the FDIC amended the brokered deposit regulation to further define circumstances under which a third party is a ''deposit broker.'' More specifically, the 2020 Final Rule provides a person is engaged in the business of placing deposits if that person receives third-party funds and deposits those funds at more than one IDI.[43] It also provides that a person is engaged in the business of facilitating the placement of deposits if that person is engaging in any of the following activities with respect to third-party deposits placed at more than one IDI:

- The person has legal authority, contractual or otherwise, to close the account or move the third party's funds to another IDI;
- The person is involved in negotiating or setting rates, fees, terms, or conditions for the deposit account; or
- The person engages in matchmaking activities.[44]

A person is engaged in ''matchmaking activities'' if the person proposes deposit allocations at, or between, more than one IDI based upon both the particular deposit objectives of a specific depositor or depositor's agent, and the particular deposit objectives of specific IDIs.[45] The ''matchmaking activities'' definition further provides that a proposed deposit allocation is based on the particular objectives of:

- A depositor or depositor's agent when the person has access to specific financial information of the depositor or

[30] FDIC, Crisis and Response: An FDIC History, 2008–2013 at 121–22 (2017), available at *https://www.fdic.gov/resources/publications/crisis-response/index.html.*

[31] *See* 84 FR 2366, 2369–70 (Feb. 6, 2019) (citing Safety and Soundness: Analysis of Bank Failures Reviewed by the Department of the Treasury Office of Inspector General, OIG–16–052 (Aug. 15, 2016); Off. of Inspector Gen., FDIC, Follow Up Audit of FDIC Supervision Program Enhancements, Report No. MLR–11–010 (Dec. 2011); Off. of Inspector Gen., Bd. of Governors of the Fed. Rsrv. Sys., Summary Analysis of Failed Bank Reviews (Sept. 2011)).

[32] *See* 84 FR 2366, 2369–70 (Feb. 6, 2019).

[33] *See* 84 FR 2384–2400 (appendix 2).

[34] *See* 84 FR 2366, 2385 (Feb. 6, 2019).

[35] 12 U.S.C 1831f.

[36] 12 U.S.C. 1831f(a). An ''undercapitalized'' depository institution is prohibited from accepting deposits from a deposit broker. An ''adequately capitalized'' insured depository institution may accept deposits from a deposit broker only if it has received a waiver from the FDIC. *See* 12 U.S.C. 1831f(c). A waiver may be granted by the FDIC ''upon a finding that the acceptance of such deposits does not constitute an unsafe or unsound practice'' with respect to that institution. *See id.* Well-capitalized insured depository institutions are not restricted from accepting deposits from a deposit broker. The statute also restricts a less than well-capitalized institution generally from offering interest rates that significantly exceed the market rates offered in an institution's normal market area. *See* 12 U.S.C. 1831f.

[37] 12 CFR 337.7 implements section 29's interest rate restrictions. The proposed rule would not amend these provisions.

[38] 12 CFR 337.6(a)(2).

[39] 12 U.S.C. 1831f(g)(1)(A).

[40] 12 U.S.C. 1831f(g)(1)(B).

[41] 12 U.S.C. 1831f(g)(2).

[42] *See* 12 CFR 337.6(a)(5)(v)(J).

[43] 12 CFR 337.6(a)(5)(ii).

[44] *See* 12 CFR 337.6(a)(5)(iii).

[45] *See* 12 CFR 337.6(a)(5)(iii)(C)(*1*).

depositor's agent and the proposed deposit allocation is based upon this information; and

• An IDI when the person has access to the target deposit-balance objectives of specific IDIs and the proposed deposit allocation is based upon this information.[46]

The ''matchmaking activities'' definition, however, excludes deposits placed by a depositor's agent with an IDI affiliated with the depositor's agent.[47]

Exclusive Deposit Placement Arrangements in the 2020 Final Rule

As noted above, the 2020 Final Rule provides that a person is engaged in the business of placing deposits or facilitating the placement of deposits of third parties if that person receives third-party funds and deposits those funds at more than one IDI or if that person is engaged in certain activities with respect to deposits placed at more than one IDI.[48] The preamble to the 2020 Final Rule specified that any person that has an exclusive deposit placement arrangement with one IDI and is not placing or facilitating the placement of deposits at any other IDI, will not be ''engaged in the business'' of placing, or facilitating the placement of, deposits at IDIs and therefore will not meet the ''deposit broker'' definition.[49]

The Primary Purpose Exception in the 2020 Final Rule

The 2020 Final Rule provides that the primary purpose exception applies when, with respect to a particular business line, the primary purpose of the agent's or nominee's business relationship with its customers is not the placement of funds with depository institutions.[50] Moreover, the 2020 Final Rule identifies the following 14 designated business exceptions as meeting the primary purpose exception where, with respect to a particular business line:

1. Less than 25 percent of the total assets that the agent or nominee has under administration for its customers is placed at depository institutions (25 percent test);

2. 100 percent of depositors' funds that the agent or nominee places, or assists in placing, at depository institutions are placed into transactional accounts that do not pay any fees, interest, or other remuneration to the depositor (enabling transactions test);

3. A property management firm places, or assists in placing, customer funds into deposit accounts for the primary purpose of providing property management services;

4. The agent or nominee places, or assists in placing, customer funds into deposit accounts for the primary purpose of providing cross-border clearing services to its customers;

5. The agent or nominee places, or assists in placing, customer funds into deposit accounts for the primary purpose of providing mortgage servicing;

6. A title company places, or assists in placing, customer funds into deposit accounts for the primary purpose of facilitating real estate transactions;

7. A qualified intermediary places, or assists in placing, customer funds into deposit accounts for the primary purpose of facilitating exchanges of properties under section 1031 of the Internal Revenue Code;

8. A broker dealer or futures commission merchant places, or assists in placing, customer funds into deposit accounts in compliance with 17 CFR 240.15c3 through 3(e) or 17 CFR 1.20(a);

9. The agent or nominee places, or assists in placing, customer funds into deposit accounts for the primary purpose of posting collateral for customers to secure credit-card loans;

10. The agent or nominee places, or assists in placing, customer funds into deposit accounts for the primary purpose of paying for or reimbursing qualified medical expenses under section 223 of the Internal Revenue Code;

11. The agent or nominee places, or assists in placing, customer funds into deposit accounts for the primary purpose of investing in qualified tuition programs under section 529 of the Internal Revenue Code;

12. The agent or nominee places, or assists in placing, customer funds into deposit accounts to enable participation in the following tax-advantaged programs: Individual retirement accounts under section 408(a) of the Internal Revenue Code, Simple individual retirement accounts under section 408(p) of the Internal Revenue Code, or Roth individual retirement accounts under section 408A of the Internal Revenue Code;

13. A Federal, State, or local agency places, or assists in placing, customer funds into deposit accounts to deliver funds to the beneficiaries of government programs; and

14. The agent or nominee places, or assists in placing, customer funds into deposit accounts pursuant to such other relationships as the FDIC specifically identifies as a designated business relationship that meets the primary purpose exception.[51]

As noted, the 2020 Final Rule allows the FDIC to identify additional relationships as designated business exceptions to the primary purpose exception.[52] On January 10, 2022, the FDIC published an additional designated exception for certain non-discretionary custodians engaging in specific arrangements related to the placement of deposits.[53]

For the 25 percent and enabling transactions test exceptions, a third party or an IDI on behalf of a third party must file a notice with the FDIC for a particular business line.[54] Under the current process, the FDIC provides immediate email acknowledgement of receipt of the notice filing and the third party that is the subject of the notice may rely upon the applicable designated exception for the particular business line. Notice filers under the 25 percent test must also satisfy quarterly reporting requirements, while notice filers under the enabling transactions test must provide an annual certification.[55] For the other designated exceptions, no notice, application, or reporting is required.

For agents or nominees that do not meet one of the designated business exceptions, such third parties, or an IDI on behalf of a third party, may apply for a primary purpose exception in accordance with the requirements contained in § 303.243(b).[56] Moreover, the 2020 Final Rule provides a specific application process for a primary purpose exception to enable transactions with fees, interest, or other remuneration provided to the depositor.[57]

The Reciprocal Deposits Limited Exception

In 2018, section 29 of the FDI Act was amended as part of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), to allow ''agent institutions'' to except a capped amount of ''reciprocal deposits''

[46] *See id.*

[47] *See id.*

[48] 12 CFR 337.6(a)(5)(ii) and (iii).

[49] *See* 86 FR 6742, 6745 (Jan. 22, 2021).

[50] *See* 12 CFR 337.6(a)(5)(v)(I).

[51] *See* 12 CFR 337.6(a)(5)(v)(I)(*1*).

[52] *See* 12 CFR 337.6(a)(5)(v)(I)(*1*)(*xiv*).

[53] *See* Unsafe and Unsound Banking Practices: Brokered Deposits, 87 FR 1065 (Jan. 10, 2022).

[54] *See* 12 CFR 303.243(b). Where customer funds placed at depository institutions are placed into transaction accounts, and fees, interest, or other remuneration are provided to the depositor, an applicant can apply for a primary purpose exception, with respect to the particular business line, according to the requirements listed in 12 CFR 303.243(b)(4)(i).

[55] *See* 12 CFR 303.243(b)(3(v).

[56] *See* 12 CFR 337.6(a)(5)(v)(I)(*2*).

[57] *See* 12 CFR 303.243(b)(4)(i).

from treatment as brokered deposits.[58] Section 29 generally provides that reciprocal deposits are excepted when the total amount of reciprocal deposits held by an agent institution does not exceed the lesser of $5 billion or 20 percent of the total liabilities of the agent institution.[59]

Reciprocal deposits are defined by statute to mean deposits received by an agent institution through a deposit placement network with the same maturity (if any) and in the same aggregate amount as covered deposits placed by the agent institution in other network member banks.[60] A ''covered deposit'' is a deposit that is submitted for placement through a deposit placement network by an agent institution and does not consist of funds that were obtained (directly or indirectly) by a deposit broker before their submission for placement in a deposit placement network.[61] A ''deposit placement network'' is a network in which IDIs participate for processing and receipt of reciprocal deposits.[62]

On December 18, 2018, the FDIC adopted a final rule (the 2018 Reciprocal Deposits Rule), to amend its regulations that implement brokered deposits and interest rate restrictions to conform with the changes to section 29 by EGRRCPA.[63] Consistent with section 29, the 2018 Reciprocal Deposits Rule defines ''agent institution'' to mean an IDI that places a covered deposit through a deposit placement network at other IDIs in amounts that are less than or equal to the standard maximum deposit insurance amount, specifying the interest rate to be paid for such amounts, if the IDI:

- As of its most recent annual examination under 12 U.S.C. 1820(d), was found to have a composite condition of outstanding or good and is well capitalized;
- Has obtained a brokered deposit waiver from the FDIC; [64] or
- Does not receive an amount of reciprocal deposits that causes the total amount of reciprocal deposits held by the agent institution to be greater than the average of the total amount of reciprocal deposits held by the agent institution on the last day of each of the four calendar quarters preceding the calendar quarter in which the agent institution was found not to have a composite condition of outstanding or good or was determined to be not well capitalized.[65]

Under the 2018 Reciprocal Deposits Rule, an ''agent institution'' can except reciprocal deposits from being classified as brokered deposits up to its applicable statutory caps—the ''general cap'' or ''special cap.'' Under the ''general cap,'' an agent institution may except reciprocal deposits up to the lesser of the following amounts from being classified as brokered deposits: $5 billion or an amount equal to 20 percent of the agent institution's total liabilities. Reciprocal deposits in excess of the general cap, as well as those reciprocal deposits that do not meet section 29's limited exception, may not take advantage of the limited exception and are to be reported as brokered deposits. The ''special cap'' applies if the IDI either was found to not have a composite condition of outstanding or good when most recently examined under section 10(d) of the FDI Act or is not well capitalized and has not received a waiver from the brokered deposit restrictions under section 29(c). In this case, the IDI may still meet the ''agent institution'' definition if the IDI does not receive reciprocal deposits that result in its total reciprocal deposits to be in excess of the ''special cap.'' The ''special cap'' is the average amount of reciprocal deposits held at the IDI on the last day of each of the four calendar quarters preceding the calendar quarter in which the agent institution was found not to have a composite condition of outstanding or good or was determined to be not well capitalized. If, after the IDI becomes subject to the ''special cap,'' an IDI receives reciprocal deposits that result in its total reciprocal deposits to be in excess of its special cap, it is no longer an agent institution. If an IDI is not an agent institution, it is not eligible to use the limited exception, and all of its reciprocal deposits should be reported as brokered deposits.

As such, the amount of reciprocal deposits excepted from being considered brokered turns on whether the IDI qualifies as an agent institution and if so, whether the IDI is subject to the special cap.

C. Developments Post-2020 Final Rule

Call Report Brokered Deposits Data

As stated above, following the April 1, 2021, effective date of the 2020 Final Rule, IDIs reported a significant decrease in brokered deposits in their Call Report filings. As illustrated in chart 1, from March 31, 2021, to June 30, 2021, brokered deposits declined by nearly $350 billion, or 31.8 percent, the largest decline since brokered deposit reporting began in 1983. Brokered deposit balances continued to decline through March 31, 2022, following the extended compliance date of January 1, 2022. The FDIC notes, however, that as of the fourth quarter of 2023, brokered deposits at all IDIs are 22.5 percent higher than the quarter before the 2020 Final Rule took effect (first quarter 2021), despite the considerable amount of deposits that are no longer considered brokered based on the 2020 Final Rule changes. This increase in reported brokered deposits is due to increases in insured brokered deposit balances, including brokered reciprocal deposits. These increases may be driven in part by higher interest rates, which have exacerbated competition for deposit funding, and depositors seeking additional deposit insurance coverage, particularly following the failures that occurred in the first half of 2023.

[58] 12 U.S.C. 1831f(i)(2)(E).

[59] 12 U.S.C. 1831f(i)(1).

[60] 12 U.S.C. 1828f(i)(2)(E).

[61] 12 U.S.C. 1831f(i)(2)(B).

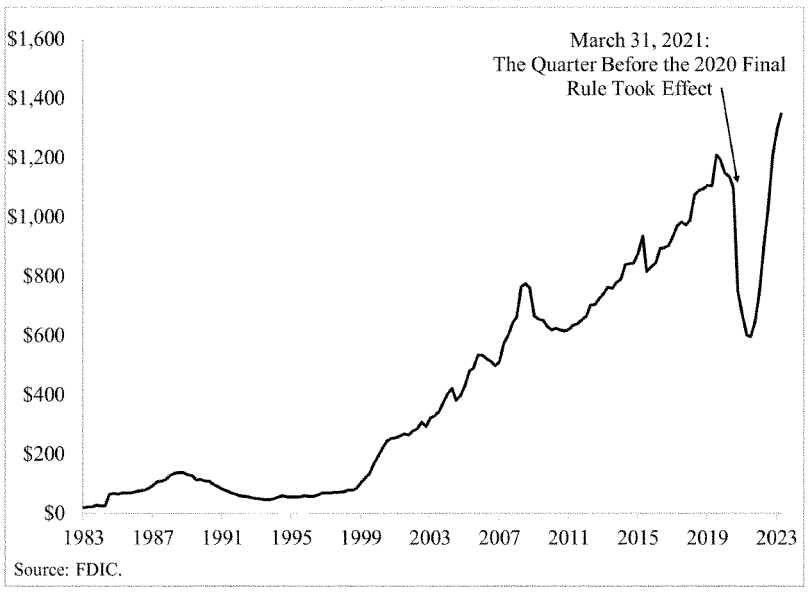
[62] 12 U.S.C. 1831f(ii)(2)(C).

[63] *See* 84 FR 1346 (Feb. 4, 2019). The Reciprocal Deposits Rule was effective March 6, 2019. 12 CFR 337.6(e) implements section 29's limited exception for reciprocal deposits.

[64] The FDIC can only grant brokered deposit waivers for institutions that are classified as adequately capitalized; IDIs that are well capitalized but not well rated or are undercapitalized are not eligible. *See* 12 U.S.C. 1831f; 12 CFR 337.6(c).

[65] 12 CFR 337.6(e)(2)(i).

Chart 1 – Brokered deposits reported by all IDIs from Q3 1983 through Q4 2023



Expansion of Certain Third-Party Arrangements That Deliver Deposits to IDIs

Since the April 1, 2021, effective date of the 2020 Final Rule, the FDIC has observed the continued expansion of IDI arrangements with third parties to deliver deposit products (particularly those with transactional features) for a variety of IDI objectives, including to expand geographic reach, offer innovative products, and raise deposits. In these arrangements, an IDI typically makes deposit products or services available through an arrangement in which a third party, rather than the IDI, markets, distributes, or otherwise provides access to or assists in the placement of customer deposits at particular IDIs. Depending on the services provided by the third party, and the availability of regulatory exceptions to the ''deposit broker'' definition (*e.g.,* the ''enabling transactions'' test under the primary purpose exception or the exclusive placement arrangement exception), the deposits may or may not be considered brokered.

Recent events, however, underscore the precarious nature of these funding arrangements as they can be highly unstable, with either the third party or the underlying customers moving funds based on market conditions or other factors. These arrangements can also be prone to other forms of disruption such as the potential or actual insolvency of the third party, as recently demonstrated by the bankruptcy of Synapse Financial Technologies, Inc. (Synapse).[66] Synapse, sometimes referred to as a fintech ''middleware'' company, was a deposit broker that facilitated the placement of customer deposits for various fintech companies looking for banking services with IDIs. Moreover, the rapid growth with such deposits without corresponding growth in risk management practices can expose IDIs to operational, liquidity, and legal risks.

In certain circumstances, these arrangements are excluded from the brokered deposit definition pursuant to changes implemented by the 2020 Final Rule, even though the arrangements exhibit the same risks as brokered deposits. An example is the failure of Voyager, which was exempted from the brokered deposit definition by virtue of the exclusive deposit placement arrangement exception. Where less than well-capitalized institutions may be able to continue to grow with such deposits, because they are not currently treated as brokered deposits, the FDIC believes that these arrangements have the potential to undermine the safety and soundness of such institutions individually, and financial stability more broadly.

D. Need for Rulemaking

Under the current regulations, less than well-capitalized IDIs have unrestricted access to third-party deposits that are excluded from being classified as brokered because certain provisions in the current rule do not fully consider important safety and soundness considerations. This in turn raises the risk that less than well-capitalized IDIs may rely on less stable third-party deposits for rapid growth that could ultimately expose the DIF to increased losses.

In addition, as discussed above, many IDIs do not correctly apply the definitions in the rule, particularly with respect to the involvement of additional third parties within a deposit placement arrangement. This issue has led to a number of IDIs misreporting brokered deposits as nonbrokered. This is particularly concerning because all IDIs, even well-capitalized IDIs, have an obligation to file Call Reports accurately[67] and are responsible for understanding the regulation and how the involvement of third parties within a deposit placement arrangement may, or may not, result in the deposits being brokered.[68]

With respect to the 2018 Reciprocal Deposits Rule, the rule states how an IDI may meet the ''agent institution''

[66] *See In re* Synapse Fin. Tech., Inc., No. 1:24–bk–10646–MB (Bankr. C.D. Cal. R. Apr. 22, 2024).

[67] Under section 7 of the FDIC Act, 12 U.S.C. 1817, IDIs are responsible for filing accurate Call Reports, including reporting accurately the amount of brokered deposits.

[68] *See* 86 FR 6756 (stating in the preamble to the 2020 Final Rule that ''IDIs that receive deposits from agents or nominees that meet the primary purpose exception should be aware of any other third parties involved in the placement of deposits and whether those other third parties meet the deposit broker definition in order to properly complete their . . . [Call Reports], which require reporting of brokered deposits held by IDIs.'').

definition, but does not address how an IDI that no longer meets the definition may regain its status as ''agent institution'' to qualify for the exception. The FDIC has received several questions from IDIs on this issue since the 2018 Reciprocal Deposits Rule took effect.

III. Discussion of the Proposed Rule

To address the issues raised above, the FDIC is proposing a rule that would strengthen its brokered deposit regulations by revising certain provisions to further support the statutory language and purpose of the brokered deposit restrictions, as well as simplifying certain provisions that pose operational challenges. To achieve these objectives, and as discussed in more detail below, the proposed rule would:

- Revise certain provisions of the ''deposit broker'' definition, including removing the ''matchmaking activities'' prong and replacing it with a deposit allocation provision;
- Eliminate the exclusive deposit placement arrangement exception to restore the regulations' applicability to a third party that otherwise meets the definition of a ''deposit broker,'' when that third party is involved with deposits placed at one or more IDIs;
- Amend the analysis underlying the ''primary purpose'' exception to the ''deposit broker'' definition, including revising the 25 percent test designated exception and eliminating the enabling transactions designated exception; and
- Update the application and notice processes for the primary purpose exception and limit such processes to IDIs.

As part of the proposal, IDIs relying on an existing approved primary purpose exception application, a 25 percent test designated exception notice, or an enabling transactions designated exception notice or application, would no longer be able to rely on such exceptions. Such IDIs would need to submit a new primary purpose exception application based upon updated criteria or, if applicable, rely upon a new designated business exception that meets the primary purpose exception based upon the proposed changes discussed below. If a deposit placement activity, however, meets one of the designated exceptions that are preserved under the proposal, the IDI may continue to rely upon the primary purpose exception without further action.

Finally, as part of this release, the FDIC is also proposing to clarify when an IDI that has lost ''agent status'' because it no longer qualifies for the reciprocal deposit exception, can regain status as an ''agent institution''.

The FDIC invites comments on all aspects of this proposal, as well comments in response to specific questions in section VII of this document.

A. Deposit Broker Definition

The proposed rule would amend the ''deposit broker'' definition by revising the ''engaged in the business of placing deposits'' (''placing'') and ''engaged in the business of facilitating the placement of deposits'' (''facilitating'') prongs. The revised ''deposit broker'' definition would (1) combine the ''placing'' and ''facilitating'' prongs, (2) remove the term ''matchmaking activities'' and replace it with a deposit allocation provision, and (3) add a new factor related to fees. Specifically, the proposed rule would provide that a person is engaged in the business of placing or facilitating the placement of deposits of third parties if that person engages in one or more of the following activities:

- The person receives third-party funds and deposits those funds at one or more IDIs;
- The person has legal authority, contractual or otherwise, to close the account or move the third party's funds to another IDI;
- The person is involved in negotiating or setting rates, fees, terms, or conditions for the deposit account;
- The person proposes or determines deposit allocations at one or more IDIs (including through operating or using an algorithm, or any other program or technology that is functionally similar); or
- The person has a relationship or arrangement with an IDI or customer where the IDI, or the customer, pays the person a fee or provides other remuneration in exchange for or related to the placement of deposits.

Engaged in the Business of Placing and Facilitating

Under the 2020 Final Rule, the ''placing'' and ''facilitating'' prongs are currently separate provisions under the ''deposit broker'' definition. Under section 29, a ''deposit broker'' includes ''any person engaged in the business of placing deposits, or facilitating the placement of deposits, of third parties.'' [69] The proposed rule would combine the ''placing'' and ''facilitating'' parts of the deposit broker definition into a single definition of when a third party is ''engaged in the business of placing, or facilitating the placement of, deposits of third parties'' with a single set of factors. From the FDIC's experience, some IDIs and other stakeholders have been misapplying the current ''deposit broker'' definition by only looking at one of these two parts of the ''deposit broker'' definition in determining whether a particular third party meets the definition. For example, an IDI or other stakeholder may correctly determine that a third party's conduct falls outside the ''placing'' provision under the current rule but may still incorrectly determine that the deposits are not brokered by failing to review whether the same conduct meets the ''facilitating'' provisions. The FDIC believes this proposed change of combining the ''placing'' and ''facilitating'' regulatory provisions would better align the regulatory text with the statutory language, while also making the ''deposit broker'' definition more straightforward for IDIs and other stakeholders to apply because it would require review of a single set of closely related factors rather than a review of multiple provisions.

Deposit Allocation

The proposal would retain the first two prongs of the current facilitation definition; [70] however, it would remove the term ''matchmaking activities'' and provide that a person who proposes or determines deposit allocations would meet the ''deposit broker'' definition.

The FDIC has observed a number of IDIs and other stakeholders incorrectly determining that a third-party deposit allocator is not a ''deposit broker'' by misapplying the current ''matchmaking activities'' definition. The FDIC provided clarifications through the issuance of *Questions and Answers Related to the Brokered Deposits Rule;* [71] however, the industry continues to misconstrue this provision. Additionally, IDIs have informed the FDIC of the difficulties in obtaining necessary information, such as third-party contracts, to effectively evaluate whether any party in a deposit arrangement, including any additional third party, meets the ''matchmaking'' definition and thus the ''deposit broker'' definition. These challenges have resulted in some IDIs misreporting a significant amount of deposits as nonbrokered.

As such, the FDIC believes eliminating the current ''matchmaking activities'' definition and replacing it with the proposed deposit allocation

[69] *See* 12 U.S.C. 1831f(g)(1)(A).

[70] The proposed rule would retain 12 CFR 337.6(a)(5)(iii)(A) through (B).

[71] *See* FDIC, Questions and Answers Related to Brokered Deposits Rule—As of July 15, 2022, available at *https://www.fdic.gov/resources/bankers/brokered-deposits/brokered-deposits-qa.pdf.*

provision would make it more operationally workable for IDIs and other stakeholders while continuing to focus the definition on the specific conduct that indicates a third party is facilitating the placement of customer deposits—proposing or determining deposit allocations of third-party deposits. The proposal would specify that a ''deposit broker'' includes a person who proposes or determines deposit allocations, including through the operation or use of an algorithm or functionally similar program or technology. The FDIC views this conduct as objectively within the ''deposit broker'' definition if the algorithm or functionally similar program or technology proposes or determines deposit allocations among IDIs by directing the flow, or facilitating the flow, of third-party funds to be deposited at a particular IDI.

Moreover, unlike the ''matchmaking activities'' definition under the 2020 Final Rule, the proposed prong related to deposit allocation services would not exclude third parties that provide these services between affiliated entities. As discussed in the preamble to the 2020 Final Rule, the matchmaking activities prong would not include persons that engage in activities that would otherwise satisfy the matchmaking prong if the activities are conducted between an IDI and an affiliated party.[72] Under the proposed rule, the FDIC would no longer view deposit allocation functions of third parties as administrative in nature merely due to the affiliated relationship between the person placing or facilitating the placement of deposits and the IDI. Rather, recent experience has demonstrated that third parties do propose or determine deposit allocations at both unaffiliated and affiliated IDIs and these deposits, when uninsured, do not seem to act in a more ''sticky'' manner just because there is an affiliation between a broker and an IDI. Accordingly, the FDIC would treat affiliated and unaffiliated third parties similarly under the proposed deposit allocation prong of the ''deposit broker'' definition.

Fees

Finally, the proposed rule would add that a person is ''engaged in the business of placing, or facilitating the placement of, deposits of third parties'' if that person has a relationship or arrangement with an IDI or customer where the IDI, or the customer, pays the person a fee or provides other remuneration in exchange for, or related to, the placement of deposits. The statutory definition of ''deposit broker'' includes any third party that is engaged in the business of placing deposits, or facilitating the placement of deposits, on behalf of third parties (*i.e.,* a depositor) with IDIs. As such, the FDIC believes that including fees or other remuneration in determining whether a third party meets the ''deposit broker'' definition is consistent with the statute as the receipt of fees indicates that the third party is engaged in the business of providing deposit placement services or facilitating the placement of deposits. Fees that would be covered under the proposed ''deposit broker'' definition would include fees for administrative services provided in connection with a deposit placement arrangement.

Moreover, the FDIC had, for the more than 30 years since enactment of section 29 up until the adoption of the 2020 Final Rule, considered fees in analyzing deposit broker relationships, including whether a person receives fees from IDIs based upon the number of accounts opened or the volume of deposits placed. In the past, FDIC generally found that the amount, nature, and purpose of fees paid for the placement of third-party deposits were relevant to the analysis of the relationship among the IDI, depositor, and third-party intermediary. This was because fees paid to a third-party intermediary reflected whether the involvement of the third-party intermediary was to earn fees (engaged in the business) through placing or facilitating the placement of third-party deposits to the IDI. For example, the FDIC often found that fees paid to a third-party intermediary would play a key role in incentivizing referral volume of third-party deposits to the IDI. Since the 2020 Final Rule took effect, the FDIC has continued to observe that third-party intermediaries receive fees or other remuneration in exchange for, or related to, the placement of third-party deposits, including volume-based fees, but may not be defined as a ''deposit broker'' under the current regulations. Without a consideration of fees or other remuneration, and assuming the third party does not meet one of the other parts of the ''deposit broker'' definition, a less than well-capitalized IDI could accept third-party deposits that share characteristics with deposits the FDIC has historically observed as constituting a brokered deposit. For example, such third-party deposits may be more likely to leave the IDI if another IDI were to offer more favorable terms or pay a higher fee, putting stress on the IDI to replace the withdrawn funds on reasonable terms in a timely manner.

Accordingly, the FDIC believes that fees and other remuneration are important considerations when determining whether a person is a ''deposit broker'' and explicitly including this factor within the definition would be appropriate to further align the regulation with section 29's statutory purpose of restricting less than well-capitalized IDIs' access to brokered deposits.[73]

Passive Listing Services. Under the proposed rule, it is the FDIC's view that a passive listing service that only advertises information on interest rates offered by IDIs on deposit products would not meet the ''deposit broker'' definition. It is the FDIC's understanding that such passive listing services do not receive or deposit third-party funds at one or more IDIs nor have the legal authority to close a deposit account or move third party's funds to another IDI. Any funds to be invested in deposit accounts are remitted directly by the depositor to the IDI and not, directly or indirectly, by or through the passive listing service. In addition, such passive listing services are not involved in negotiating or setting rates, fees, terms, or conditions for the deposit account. Further, passive listing services do not propose, allocate, facilitate, or determine deposit allocations. Rather, the passive listing services are simply providing information on the interest rates offered by various IDIs but not directing depositors to a particular IDI. Lastly, the FDIC believes that any fees paid to passive listing services are not in exchange for or related to the placement of deposits. Instead, passive listing services receive subscription fees paid by subscribers for information on the rates gathered by the listing service and listing fees paid by IDIs for the opportunity to list or ''post'' the IDIs' rates.

B. Exclusive Deposit Placement Arrangement

Under the FDI Act, the term ''deposit broker'' is defined, in relevant part, to include ''any person engaged in the business of placing deposits, or facilitating the placement of deposits, of third parties *with insured depository institutions*. . . .'' [74] In the 31 years between when Congress adopted the brokered deposit restrictions in 1989,

[72] 86 FR 6742, 6747 (Jan. 22, 2021).

[73] *See* 12 U.S.C. 1831f. Notwithstanding the presence of fees, under the proposed rule, the FDIC could grant a primary purpose exception based on a consideration of factors related to the purpose of placing of deposits. *See infra* section III.C of this document.

[74] 12 U.S.C. 1831f(g)(1) (*emphasis added*).

until the 2020 Final Rule, the FDIC had never construed the reference to ''insured depository institutions'' in the deposit broker definition to exclude deposits to a single IDI. Call Report instructions for reporting brokered deposits had never excluded deposits where a third party was involved with deposits at only one IDI. This prior approach was consistent with the general statutory interpretation rule that provides that words importing the plural include the singular, unless the statutory context indicates otherwise.[75]

The 2020 Final Rule amended the FDIC's regulations so that the brokered deposit restrictions do not apply where a third party that otherwise meets the definition of deposit broker has an exclusive deposit placement arrangement at only one IDI.[76]

Under this change, an IDI can rely for 100 percent of its deposits on an unaffiliated third party without any of those deposits considered brokered. The IDI can fall below well capitalized and still rely on those third-party placed deposits for 100 percent of its funding without any of those deposits being considered brokered, which provides an avenue for less than well-capitalized IDIs to obtain and retain brokered deposits that appears to conflict with intent of the statutory prohibition. An IDI can form multiple ''exclusive'' third party relationships to fund itself without any of those deposits considered brokered. Thus, the current regulation exposes the banking system to the kind of risk the brokered deposit restrictions were intended to address.

Further, there has never been any dispute that the brokered deposit restrictions are intended to apply to brokered certificates of deposit (CDs). While the 2020 Final Rule makes clear that a brokered CD is not eligible for a primary purpose exception, a market participant has pointed out to the FDIC that, because of the exclusion, the plain meaning of the definitions of ''engaged in the business of placing deposits'' and ''engaged in the business of facilitating the placement of deposits'' could be read to exclude a third party that arranges the issuance of a brokered CD for only one IDI.

For these reasons, and to mitigate any unintended effects of the interpretation as related to the statute's purpose and its application to brokered CDs, the FDIC is proposing to revise the brokered deposit regulations to restore their applicability to any third party that meets the definition of deposit broker, including those involved in placing deposits at only one IDI.

C. Primary Purpose Exception Analysis

The proposed rule would revise the analysis for determining when an agent or nominee meets the primary purpose exception to the ''deposit broker'' definition. Currently, the statute and regulation state that the term ''deposit broker'' does not include an agent or nominee whose primary purpose is not the placement of funds with IDIs.[77] In connection with this provision, the preamble to the 2020 Final Rule provided that the primary purpose exception would apply when the agent's or nominee's business relationship with its customers is not the placement of funds with IDIs.[78]

Accordingly, the current regulation focuses the primary purpose exception analysis on the third party's business relationship with its customers. While that is an important part of analyzing the exception, the FDIC believes that the relationship between the IDI and third party is also important in determining the purpose motivating the placement of third-party deposits and if the primary purpose is or is not the placement of funds with IDIs.

The statutory definition of the ''primary purpose exception'' excludes an agent or nominee whose primary purpose is not the placement of third-party funds with IDIs from being considered a ''deposit broker.'' [79] Consistent with the statutory language, the focus of the exception is on the role of the agent or nominee (or third party) and whether that third party places customer deposits at an IDI as a secondary purpose in furtherance of some other ''primary purpose.'' Understanding the intent of the third party in placing those deposits at a particular IDI or IDIs is necessary in determining whether the deposit placement activity is primary. As such, in understanding why the third party is placing deposits on behalf of customers at particular IDIs, consideration should be given to both the customer-third party relationship and the third party-IDI relationship. This is because the primary purpose of a customer's business relationship with a third party may be distinct from the intention of the third party in placing those customer funds at particular IDIs.

For example, a third party that meets the primary purpose exception under the current rule may also be steering its customers to particular IDIs in an effort to maximize its own fees for the placement of customer deposits. The current rule, however, does not consider this latter purpose in analyzing whether the third party meets the primary purpose exception.

Accordingly, the proposal provides that the primary purpose exception to the ''deposit broker'' definition would apply when an agent or nominee whose primary purpose in placing customer deposits at IDIs is for a substantial purpose other than to provide a deposit-placement service or FDIC deposit insurance with respect to particular business lines.[80]

The proposed interpretation of the primary purpose exception would be similar to how the FDIC historically interpreted the exception before 2020. Prior to the 2020 Final Rule, the FDIC through long-standing staff advisory opinions and published FAQs interpreted the primary purpose exception to apply when the intent of the third party, in placing deposits or facilitating the placement of deposits, was to promote some other goal (*i.e.,* other than the goal of placing deposits for others).[81] As part of its analysis, the FDIC considered the relationship between the third party and the IDI, including whether fees were paid to the third party, in determining whether the third party's primary intent, or primary purpose, was the placement of deposits. For instance, the FDIC stated, through the published FAQs, that the primary purpose exception would not apply when the intent of the third party was to earn fees through the placement of deposits.[82]

The FDIC believes that restoring this aspect of the primary purpose exception analysis is necessary to fully consider the intent driving the placement of third-party deposits at an IDI. As detailed below, the proposal would provide additional factors to consider, including fees and other remuneration provided to the third party, in determining whether the intent of the third party in placing deposits at an IDI is for a substantial purpose other than to provide a deposit-placement service or FDIC deposit insurance.

[75] *See* 1 U.S.C. 1.

[76] *See* 12 CFR 337.6(a)(5)(ii) and (iii).

[77] 12 CFR 337.6(a)(5)(v)(I).

[78] *See* 86 FR 6742, 6750 (Jan. 22, 2021).

[79] *See* 12 U.S.C. 1831f(g)(2)(I).

[80] The FDIC would view a third party placing funds for the primary purpose of providing FDIC deposit insurance to third parties as not meeting the statutory exception, as the purpose of providing FDIC insurance coverage is indistinguishable from the placement of deposits.

[81] *See* FDIC, *Frequently Asked Questions Regarding Identifying, Accepting, and Reporting Brokered Deposits,* E7 (Nov. 13, 2015) (inactive) *available at https://www.fdic.gov/sites/default/files/2024-03/fil15051b.pdf.*

[82] *See id.*

Application Process Under the Primary Purpose Exception

1. Eligible Applicants for the Primary Purpose Exception Process

The proposed rule would also update the primary purpose application process under § 303.243(b). The 2020 Final Rule allows a third party or an IDI on behalf of a third party to submit a primary purpose exception application. From the FDIC's experience, some third parties have provided insufficient information for the FDIC to process an application, such as failing to provide required information on all parties within a deposit arrangement, including the receiving IDIs. Moreover, the FDIC has observed some IDIs misunderstand the primary purpose exception application approvals provided to third-party applicants, as the IDI was not the applicant and the approval does not apply to its particular deposit placement activity with the third party; these misunderstandings have contributed to problems with IDIs filing accurate Call Reports.

For these reasons, the FDIC proposes to no longer allow third parties to apply for a primary purpose exception. As proposed, each IDI wishing to rely on a primary purpose exception would be required to submit an application for the specific deposit placement arrangement that it has with the third party involved. This would provide the FDIC the opportunity to review the specific facts and circumstances surrounding the deposit placement activity between the individual IDI applicant and the third party in determining whether a primary purpose exception should be approved.

2. Proposed Additional Factors for Primary Purpose Exception Application

Under the 2020 Final Rule, applicants that seek a primary purpose exception, other than applications for primary purpose exception to enable transactions with fees, interest, or other remuneration, must include, to the extent applicable, the following information:

- A description of the deposit placement arrangements between the third party and IDIs for the particular business line, including the services provided by any relevant third parties;
- A description of the particular business line;
- A description of the primary purpose of the particular business line;
- The total amount of customer assets under management by the third party, with respect to the particular business line;
- The total amount of deposits placed by the third party at all IDIs, including the amounts placed with the applicant, if the applicant is an IDI, with respect to the particular business line;
- Revenue generated from the third party's activities related to the placement, or facilitating the placement, of deposits, with respect to the particular business line;
- Revenue generated from the third party's activities not related to the placement, or facilitating the placement, of deposits, with respect to the particular business line;
- A description of the marketing activities provided by the third party, with respect to the particular business line;
- The reasons the third party meets the primary purpose exception;
- Any other information the applicant deems relevant; and
- Any other information that the FDIC requires to initiate its review and render the application complete.[83]

The proposed rule would add new factors to be considered as part of the primary purpose exception application. Specifically, the proposed rule would amend § 303.243(b)(4)(ii) to include consideration of whether:

- The IDI, or customer, pays fees or other remuneration to the agent or nominee for deposits placed with the IDI and the amount of such fees or other remuneration, including how the amount of fees or other remuneration is calculated;
- The agent or nominee has discretion to choose the IDI(s) at which customer deposits are or will be placed; and
- The agent or nominee is mandated by law to disburse funds to customer deposit accounts.

The proposed rule would also require IDIs to provide copies of contracts relating to the deposit placement arrangement, including all third-party contracts, to supplement the IDI's description of the deposit placement arrangement that is currently required under the 2020 Final Rule. These new factors would supplement the factors that were provided under the 2020 Final Rule.[84] The FDIC believes consideration of these factors, in conjunction with the existing factors, is necessary to fully consider the purpose of the placement of third-party deposits at an IDI and whether the third party is eligible for a primary purpose exception. Below, the FDIC discusses how the new factors would be viewed as part of its analysis, but notes that approval of a primary purpose exception application would be based on the consideration of all applicable factors and any additional information provided by the applicant.

Fees. By including the amount of fees or other remuneration, and how the amount is determined, that an IDI or customer pays to the agent or nominee for deposits placed with the IDI, the FDIC would obtain relevant information to help determine whether the third-party intermediary is placing deposits for a substantial purpose other than to provide a deposit-placement service or FDIC deposit insurance. The FDIC would balance the information on fees with the other factors in determining whether the primary purpose exception should be approved.

Discretion. A third party with discretion to choose the IDI(s) to place customer deposits may base their deposit placement decisions on factors such as interest rate competition or fees generated, and may be more likely to move customer funds to other IDIs in a way that makes the deposits less stable. Whether a third party has discretion, however, would be viewed in conjunction with the other factors in determining whether the primary purpose exception is applicable.

Legal obligation. In contrast, a third party disbursing funds mandated by law is discharging its legal obligation and may be less likely to move customers deposits to other IDIs. For example, a third party disbursing customer funds as part of court-mandated settlements could support a finding that the primary purpose in placing customer deposits at IDIs is for a substantial purpose other than to provide a deposit-placement service or FDIC deposit insurance. The FDIC, however, would balance this consideration with the other factors, such as the payment of fees, in determining the third party's primary purpose in placing deposits.

Accordingly, the FDIC believes consideration of these proposed factors, in conjunction with the existing application factors,[85] would be necessary in analyzing applications under the proposed revised primary purpose exception analysis. Furthermore, under the proposal, primary purpose exception applications previously approved pursuant to the 2020 Final Rule would be revoked. As a result, IDIs and third parties relying on previously approved applications would no longer be able to do so under the proposed rule. IDIs would be required to submit a new application to seek a primary purpose exception and report the associated deposits as brokered,

[83] *See* 12 CFR 303.243(b)(4)(ii).

[84] *See* 12 CFR 303.243(b)(4)(ii).

[85] *See* 12 CFR 303.243(b)(4)(ii).

until and unless an application is approved.

D. Designated Exceptions

The proposed rule would amend the 25 percent test and eliminate the enabling transactions test designated exception. In contrast to the other designated business exceptions, based on the FDIC's experience, these exceptions are overly broad and cover a variety of different business lines rather than a narrow set of business lines intended by the FDIC's bright-line designated exceptions. Further, the FDIC would likely find that the current 25 percent and enabling transactions tests would not meet the primary purpose exception under the proposed analysis in that the primary purpose of these arrangements in placing customer deposits at IDIs would often not be for a substantial purpose other than to provide a deposit-placement service or FDIC deposit insurance. Moreover, the current notice process does not allow the FDIC to review submissions before an entity can invoke the exception, and many of the submissions have been incomplete, inaccurate, or vague. For these reasons, and as discussed in more detail below, the FDIC is amending the 25 percent test and eliminating the enabling transactions test in a manner that aligns with the proposed updated analysis of the primary purpose exception.

1. 25 Percent Test Designated Exception

The 2020 Final Rule provides that the primary purpose of an agent's or nominee's business relationship with its customers will not be considered to be the placement of funds at a depository institution, if less than 25 percent of the total assets that the agent or nominee has under administration for its customers, in a particular business line, is placed at IDIs.[86] Third parties relying on the 25 percent test or an IDI on its behalf must file a notice with the FDIC.[87]

Before 2005, all sweeps from broker-dealers were defined as brokered deposits because the broker-dealer was placing third-party (customer) funds at IDIs. Between 2005 and 2020, FDIC staff interpreted the primary purpose exception to apply to a broker-dealer that swept customer funds to an affiliated IDI if the activity was conducted within certain parameters. Among the parameters were that (1) swept deposits did not exceed 10 percent of the affiliate's assets and (2) related fees paid by the IDI to the broker-dealer were ''flat'' fees (*i.e.,* a ''per account'' or ''per customer'' fee) as payment for recordkeeping or administrative services and not payment for placing deposits.

Under the 2020 Final Rule, a broker-dealer that sweeps customer funds to IDIs meets the ''deposit broker'' definition but is eligible for the primary purpose exception where less than 25 percent of that broker-dealer's total assets under administration for its customers is placed at IDIs.[88] The presence of a broker-dealer operating under a primary purpose exception, regardless of whether or not the broker-dealer is affiliated with the IDI receiving the deposits, will not, in and of itself, permit an IDI to report such deposits as nonbrokered. As described above, the 2020 Final Rule included in the ''deposit broker'' definition a ''matchmaking services'' prong intended to cover third-party deposit allocation service providers when an additional third party is used to place deposits between a broker-dealer and an IDI that is unaffiliated with the broker-dealer.[89]

Since the implementation of the 2020 Final Rule, the FDIC has encountered a number of challenges with notice filings submitted under the 25 percent test and with reporting associated with sweep deposits. The challenges became more apparent since the new reporting items related to sweep deposits were added to the Call Report shortly after the 2020 Final Rule became effective.[90] The FDIC anticipated that most unaffiliated sweep deposits would be classified as brokered deposits because of the understanding that most broker-dealers, even those with valid primary purpose exceptions, outsourced their deposit allocation functions to an intervening third party providing ''matchmaking activities'' and these additional third parties would thus meet the ''deposit broker'' definition. This has resulted in a large number of unaffiliated sweep deposits being misreported as nonbrokered.[91] Approximately 27 percent of all IDIs reported a non-zero amount for total sweep deposits that are not brokered deposits as of December 31, 2023. For additional Call Report information, see the tables in appendix 1 to this document.

Reporting Issues with the 25 percent test. Since the 2020 Final Rule became effective, the FDIC has observed several reasons for this misreporting. An IDI must conduct a detailed analysis to accurately determine the status of all third parties involved in a sweep deposit program. The analysis may include a review of the agreements between the broker-dealer and any additional third party within the deposit placement arrangement, including third parties with which an IDI may not have a direct contractual relationship.[92] The FDIC acknowledges that there may be challenges that IDIs and regulators face in conducting due diligence with respect to these agreements, particularly in situations when the IDI is not a party to the agreements between the broker dealers and the additional third parties. Additionally, as explained above, the FDIC has observed a number of IDIs and other stakeholders misunderstanding the current ''matchmaking activities'' definition. This indicates that the ''matchmaking activities'' definition has not been uniformly understood across the industry. This lack of understanding has likely contributed to IDIs overreporting sweep deposits as not brokered when these deposits should be considered brokered.

Proposed Broker-Dealer Sweep Primary Purpose Exception

The proposed rule would revise the current ''25 percent test'' designated exception and its notice process to (1) align with the proposed analysis of the primary purpose exception and (2) ensure that the FDIC and the IDI can properly determine whether any additional third parties meet the ''deposit broker'' definition before the exception can be invoked. In order to more clearly describe the business arrangements intended to qualify for this primary purpose exception, the proposed rule would revise the ''25 percent test'' and rename it as the ''Broker-Dealer Sweep Exception'' (BDSE).

As proposed, subject to the additional conditions below, the BDSE would be available only to a broker-dealer or investment adviser registered with the Securities and Exchange Commission and only if less than 10 percent of the total assets that the broker-dealer or investment adviser, as agent or nominee, has under management for its customers, in a particular business line, is placed into non-maturity accounts at

[86] *See* 12 CFR 337.6(a)(5)(v)(I)(*1*)(*i*).

[87] *See* 12 CFR 303.243(b).

[88] 12 CFR 337.6(a)(5)(v)(I)(*1*)(*i*). To operate under a PPE based on less than 25 percent of the total assets that the agent or nominee has under administration for its customers is placed at depository institutions, a notice was required to be filed with the FDIC. 12 CFR 303.243(b)(3)(i)(A).

[89] 12 CFR 337.6(a)(5)(iii)(C).

[90] 86 FR 27961 (May 24, 2021).

[91] The FDIC has identified a few IDIs that retain these functions in house and are properly reporting unaffiliated sweep deposits as not brokered.

[92] *See* FDIC, *Statement of the [FDIC] Regarding Reporting of Sweep Deposits on Call Reports* (July 15, 2022), *available at https://www.fdic.gov/resources/bankers/brokered-deposits/statement-sweep-deposits.pdf.*

one or more IDIs, without regard to whether the broker-dealer or investment adviser and depository institutions are affiliated.

The FDIC is proposing the BDSE because a third party that places less than 25 percent of its customer's assets under administration in a bank account does not, by itself, demonstrate that the deposit-placement activity is for a goal other than to provide deposit insurance or a deposit placement service. Rather, placing less than 10 percent of customer funds at IDIs would be more indicative that the primary purpose for broker dealers and investment advisers in placing customer funds at IDIs is to temporarily safe-keep customer free cash balances (*e.g.,* uninvested funds) that are awaiting reinvestment. The FDIC views the 10 percent threshold as evidence that a de-minimis amount of customer funds are placed into deposit accounts for the primary purpose of re-investment rather than to provide a deposit placement service or deposit insurance. Further, lowering the threshold to 10 percent may reduce potential risks to safety and soundness and to the DIF by providing more transparency regarding the characteristics of the deposits so placed. Despite the business relationship between the IDI and the third party placing those deposits, the latter may well have a fiduciary duty and other incentives to transfer those deposits if the IDI is perceived to be weak.

In addition, the proposal would amend one of the key measures used as part of this designated exception from ''customer assets under administration'' to ''customer assets under management.'' From the FDIC's experience with the 2020 Final Rule, ''customer assets under administration'' is a more appropriate measure when including a broader group of business relationships and business lines, whereas ''assets under management'' would be appropriate under the proposed rule to accurately reflect the scope of the types of services provided by broker dealers and investment advisers. The proposed rule would define ''assets under management'' to mean securities portfolios and cash balances with respect to which an investment adviser or broker-dealer provides continuous and regular supervisory or management services.

Prior notice requirement for the BDSE when no additional third parties are involved. In order to ensure accurate and uniform reporting by depository institutions receiving sweep deposits from broker-dealers, the proposed rule would allow an IDI to file a designated exception notice for the BDSE on behalf of broker-dealers that place deposits at the IDI only if no additional third party (including any affiliate) is involved in the sweep program.

Under the proposed rule, an IDI would be required to provide a written notice with the following information:

- A description of the deposit placement arrangement between the IDI and the broker-dealer or investment adviser for the particular business line;
- The registration and contact information for the broker-dealer or investment adviser;
- The total amount of customer assets under management by the broker-dealer or investment adviser;
- The total amount of deposits placed by the broker-dealer or investment adviser on behalf of its customers at all IDIs; and
- A certification that no additional third parties are involved in the deposit placement arrangement.

IDIs would be able to rely on the BDSE if the FDIC has not provided a written disapproval within 90 days from submission. The FDIC, within its discretion, could extend the time period for an additional 90 days to provide a written notice of disapproval to the IDI. Further, the FDIC would be able to request additional information at any time after receipt of a written notice. Submissions that fail to include the required information would be considered incomplete and disapproved. Moreover, notice filers with an effective notice would be required to provide quarterly updates within 30 days of the quarter end, with monthly figures for the quarter, to demonstrate continuous compliance with the exception. Lastly, the proposed rule provides that the FDIC would be able to revoke an effective BDSE notice within 15 days of providing the IDI written notice if:

- The broker-dealer or investment adviser no longer meets the criteria to rely on the BDSE;
- An additional third party is involved in the business line;
- The notice or subsequent reporting is inaccurate; or
- The notice filer fails to submit one or more required reports.

The FDIC believes the BDSE notice requirement would be helpful in ensuring the parties who meet the exception can rely on it. The FDIC also believes this notice process would be more operationally workable than the current 25 percent test notice process as the required information would be tailored to specific information to which the receiving IDI should have access or be able to obtain from the broker-dealer or investment adviser.

Application process for sweep arrangements that use additional third parties. In an effort to ensure that the FDIC has the ability to properly scrutinize the role of additional third parties as part of sweep programs, the proposal would create an application process for IDIs that wish to invoke the BDSE when additional third parties are involved in the arrangement. As provided above, the notice process is not available for sweep programs that use additional third parties. The application process would review whether the broker-dealer or investment adviser meets the criteria under the BDSE and it would review whether any additional third party involved in the deposit placement arrangement meets the ''deposit broker'' definition. If the additional third party meets the ''deposit broker'' definition, then the FDIC would deny the application and the deposits being placed through the sweep program would be brokered notwithstanding the broker-dealer itself qualifying for a primary purpose exception. The proposed rule would require an application regardless of whether the sweep arrangement involves IDI-affiliated parties. The FDIC believes treating affiliated and unaffiliated relationships the same when an additional third party is involved would help ensure consistent and equitable treatment of sweep deposits across the industry.

The proposed rule would amend § 303.243(b) to describe a new primary purpose exception application process for sweep arrangements that use additional third parties. Specifically, an IDI, on behalf of a broker dealer or investment adviser that places less than 10 percent of customer funds under management into IDIs through the use of an additional third party, would be required to provide the following as part of an application:

- A description of the deposit placement arrangement between the IDI, the broker-dealer or investment adviser, and the additional third party, including the services provided by the additional third party, for the particular business line, and copies of contracts relating to the deposit placement arrangement, including all third party contracts;
- The total amount of customer assets under management by the broker-dealer or investment adviser;
- The total amount of deposits placed by the broker-dealer or investment adviser on behalf of its customers at all IDIs;
- Information on whether the additional third party places or facilitates the placement of deposits at IDIs;

• Information on whether the additional third party has legal authority, contractual or otherwise, to close the account or move the third party's funds to another IDI;

• Information on fees and the amount of fees paid from any source to the additional third party with respect to its services provided as part of the deposit placement arrangement;

• Information on whether the additional third party has discretion to choose the IDIs at which customer deposits are or will be placed; and

• Any other information that the FDIC requires to initiate its review and render the application complete.

Moreover, the FDIC would be able to request additional information from the applicant at any time during processing of the application.

The proposed rule provides that within 120 days of receiving a complete application, the FDIC would issue a written determination, but the FDIC could extend its review by 120 additional days, with notice. If necessary, the FDIC could further extend its review period, which is more likely when an application involves complex or novel arrangements or issues. If the FDIC receives an incomplete application, the FDIC would, as soon as possible, notify the applicant and explain what is needed to render the application complete. The FDIC would also be able to request additional information at any time during the processing of the filing.

The FDIC would approve an application under this provision if the FDIC finds that the applicant demonstrates that, with respect to the IDI and the particular business line, the (1) broker-dealer or investment adviser meets the criteria for the BDSE and (2) the additional third party involved in the deposit placement arrangement is not a ''deposit broker'' as defined under the proposed rule.

2. Enabling Transactions Designated Exception

Prior to the 2020 Final Rule, the FDIC did not distinguish between acting with the purpose of placing deposits for other parties and acting with the purpose of enabling other parties to use deposits to make purchases. The 2020 Final Rule distinguished these two purposes and created a primary purpose exception for third parties that place deposits to allow their customers to enable transactions. IDIs receiving deposits from deposit brokers relying on this exception do not report these deposits as brokered; however, as described below, many of these deposits would not satisfy the proposed primary purpose exception analysis.

A third party qualifies for the current enabling transactions primary purpose exception by either submitting an application or submitting a notice. In a deposit placement arrangement where interest, fees, or other remunerations are provided to the depositor, the agent or nominee must receive prior approval before relying on the enabling transactions primary purpose exception by submitting an application to the FDIC.[93] Under the enabling transactions test, where 100 percent of customer funds that have been placed at depository institutions, with respect to a particular business line, are placed into transaction accounts, and no fees, interest, or other remuneration is provided to the depositor, the agent or nominee may file a notice with the FDIC to rely on the enabling transactions designated exception.[94]

The current enabling transactions test would not satisfy the proposed primary purpose exception because placing deposits into accounts with transactional features would not, by itself, prove that the substantial purpose of the deposit placement arrangement is for a purpose other than providing deposit insurance or a deposit-placement service. The FDIC believes that there is no relevant difference between an agent or nominee's purpose in placing deposits to enable transactions and placing deposits to access a deposit account and deposit insurance.

For these reasons, the FDIC is proposing to eliminate the enabling transactions test and the corresponding notice process. As proposed, IDIs that currently rely on a primary purpose of enabling transactions under the notice process could file an application under the general primary purpose exception application process under current § 303.243(b)(4)(ii) (subject to the amendments under the proposed rule), if they believe that the primary purpose in placing customer deposits at IDIs is for a substantial purpose other than to provide a deposit-placement service or FDIC deposit insurance with respect to the particular business line. As discussed above, only IDIs would be permitted to file an application under the proposed rule.

The proposed rule would also eliminate the application process for the enabling transactions exception where interest, fees, or other remuneration is provided to depositors under § 303.243(b)(4)(i). Applications previously approved under this provision would be rescinded. IDIs would be able to submit a new application to seek a primary purpose exception if they believe that the business line may be eligible for the general primary purpose exception.

3. Other Designated Business Exceptions

Under the 2020 Final Rule, the FDIC identified other designated business exceptions that meet the primary purpose exception in addition to the 25 percent and enabling transactions tests discussed above. The proposed rule would retain the remaining designated business exceptions listed in the 2020 Final Rule, as well as the additional designated exception for non-discretionary custodians engaged in the placement of deposits. While the primary purpose interpretation under the proposed rule differs from the interpretation contained in the 2020 Final Rule, the outcome of whether these specific arrangements meet the primary purpose exception would not necessarily change if evaluated under the proposed revised interpretation based on the FDIC's current understanding of these specific arrangements.

The FDIC believes the remaining existing designated business exceptions are narrowly tailored to address specific business lines or functions and would satisfy the proposed primary purpose exception analysis in that the primary purpose of these arrangements in placing customer deposits at IDIs is for a substantial purpose other than to provide a deposit-placement service or FDIC deposit insurance. However, the FDIC will continue to monitor these specific arrangements, and if any changes indicate that the primary purpose of any of these arrangements is to provide a deposit-placement service or FDIC deposit insurance, the FDIC would revise the designated exceptions through the notice and comment process.

E. Agent Institution Status for Reciprocal Deposits

As discussed above, the amount of reciprocal deposits an IDI can except from being considered brokered under the limited exception turns on whether the IDI qualifies as an agent institution and if so, whether the IDI is subject to the special cap. An IDI that meets the agent institution definition can lose its agent institution status due to no longer meeting the qualifying provisions under section 29 and the 2018 Reciprocal Deposits Rule. Section 29 and the 2018 Reciprocal Deposits Rule do not clarify

[93] 12 CFR 303.243(b)(4)(i).

[94] 12 CFR 303.243(b)(3)(i)(B).

how and when an IDI might regain agent institution status after losing such status. As a result, the FDIC has received numerous questions about this issue.

An IDI that is an agent institution may lose that status, and thereby lose the ability to use the exception. For example, if a well-capitalized IDI with a composite condition of outstanding or good has its CAMELS composite condition downgraded below outstanding or good at its most recent examination conducted under section 10(d) for the FDI Act, it becomes subject to a special cap. If the IDI subsequently receives reciprocal deposits that results in its total reciprocal deposits exceeding its special cap, it is no longer an agent institution. Thus, the IDI no longer qualifies for the limited exception and must report all its reciprocal deposits as brokered deposits.

In response to questions raised, and in recognition that the current statute and regulation do not provide clarity on this issue, the FDIC proposes to add a new § 337.6(e)(3) to provide a path for an IDI to regain agent institution status. An IDI that lost its agent institution status would be eligible to regain its agent institution status as follows:

- If the IDI is well capitalized, the date the IDI is notified that its CAMELS composite condition is rated outstanding or good at its most recent examination under 12 U.S.C. 1820(d);
- If the IDI is well-rated, the date the IDI is notified, or is deemed to have notice, that it is well capitalized under regulations implementing section 38 of the FDI Act issued by the appropriate Federal banking agency for that institution;
- The date the FDIC grants a brokered deposit waiver; or
- On the last day of the third consecutive calendar quarter during which the IDI did not at any time receive reciprocal deposits that caused its total reciprocal deposits to exceed its special cap.

To illustrate, if as the result of an examination, a well-capitalized IDI that had had a CAMELS composite rating of ''3'' receives written notice, including, for example, a transmittal letter, informing it that it had received an upgrade to a composite rating of ''2'' the IDI would regain its agent institution status as of the date of the written notice under the proposal. If the FDIC grants a brokered deposit waiver to an adequately capitalized IDI, the IDI would regain agent institution status on the date the FDIC grants the waiver. If the IDI does not fit into either of these categories and lost its agent institution status during the fourth quarter of 2024 but can demonstrate that it did not receive any reciprocal deposits that caused its total reciprocal deposits to exceed its special cap at any time during the first, second, or third quarters of 2025, it would regain agent institution status on the last day of the third quarter of 2025.

IV. Alternatives

As part of this proposal, the FDIC is also inviting comment on the following alternatives that are under consideration.

A. No Designated Exception for Sweep Deposits

As discussed above, the proposed rule would provide a BDSE that would be available to a broker-dealer or investment adviser that places or facilitates the placement of less than 10 percent of the total assets that it has under management for its customers at one or more IDIs, and no additional third parties are involved in the deposit placement arrangement. Further the proposed rule would provide a specific application process for sweep arrangements that involve an additional third party.

The FDIC is considering whether a designated business exception for sweep deposits should instead be rescinded. Under this alternative, IDIs would be required to report all sweep deposits as brokered because the broker-deal or investment adviser would meet the ''deposit broker'' definition since it would be placing or facilitating the placement of the third-party deposits. IDIs receiving sweep deposits, however, could apply for the general primary purpose exception. Whether a broker-dealer or an investment adviser would meet the primary purpose exception under this alternative would not be based on a de-minimis amount of customer funds placed at one or more IDIs. Rather, an IDI would be required to submit the required information listed under the general primary purpose exception application process as described in the proposed rule to demonstrate that the deposit-placement activity of the sweep arrangement, including those with an additional third party, is for a substantial purpose other than to provide deposit insurance or a deposit placement service.

B. Designated Exception for Sweep Deposits to Affiliated IDIs

The FDIC is also considering whether instead to change the BDSE to apply to a broker-dealer or investment adviser that sweeps customer funds to an affiliated IDI and meets other certain parameters. Under this alternative, a broker-dealer or investment adviser would meet the designated business exception if:

- The broker-dealer or investment adviser places or facilitates the placement of swept funds into non-maturity accounts at an affiliated IDI, and the amount of swept funds are less than 10 percent of the total assets that the broker-dealer or investment adviser has under management for its customers; and
- The related fees paid by the IDI to the broker-dealer or investment adviser are ''flat fees'' (*i.e.,* a ''per account'' or ''per customer'' fee) as payment for recordkeeping or administrative services and not payment for placing deposits.

This alternative would be similar to the FDIC's treatment of affiliated sweep deposit arrangements prior to the 2020 Final Rule. Under this alternative, the exception would not apply to deposit arrangements where swept funds are placed at unaffiliated IDIs.

V. Expected Effects

As previously stated, the proposed rule would strengthen the FDIC's brokered deposit regulations by revising certain provisions to further support the statutory language and purpose of the brokered deposit restrictions, and clarifying and streamlining provisions that the FDIC observes have posed interpretive challenges. In summary, the proposed rule would (1) streamline and update certain provisions of the ''deposit broker'' definition; (2) eliminate the exclusive placement arrangement exception and restore the regulations' applicability to cases where a third party, that otherwise meets the definition of deposit broker, is involved with placing deposits at one or more IDIs; (3) amend the ''primary purpose'' exception to the ''deposit broker'' definition, including revising the ''25 percent test'' designated exception to a 10 percent test exception (and narrowing the scope of firms to which the exception may apply) and eliminating the ''enabling transactions'' designated exception; (4) update the primary purpose exception application and notice processes and make it so that only IDIs may submit an application and/or a notice on behalf of a third party; and (5) clarify how an IDI that loses its ''agent institution'' status regains that status.

The proposed rule would apply to all IDIs and affect any IDI that currently holds brokered deposits, or holds deposits that could be reclassified as brokered under the proposed rule, including IDIs that are less than well capitalized. As of March 31, 2024, there are 4,577 FDIC-insured depository

institutions (IDIs) holding approximately $24.06 trillion in assets and $17.60 trillion in total domestic deposits. Additionally, of the 4,577 IDIs, 2,131 report holding $1.34 trillion in brokered deposits. Based on IDIs' reported capital ratios as of the same date, seven IDIs (0.15 percent) were considered less than well capitalized, which is 0.37 percentage points below the average percentage of IDIs considered to be less than well capitalized based on reported capital ratios over the ten-year period ending March 31, 2024 (0.52 percent).[95]

One likely aggregate effect of the proposed changes is that some deposits currently not reported as brokered would be reported as brokered deposits if the proposal is adopted. This may potentially affect IDIs, consumers, and nonbank firms that may be considered ''deposit brokers'' under the proposal.

Potential Effects on IDIs

The proposed rule would revise the ''deposit broker'' definition and would amend the analysis of the ''primary purpose'' exception to the ''deposit broker'' definition. The FDIC believes that under the proposed rule fewer entities are likely to be exempt from the definition of deposit broker than is the case currently. Additionally, to the extent such entities continue to place funds at IDIs, the amount of deposits at IDIs considered brokered under the proposed rule is likely to increase. The FDIC does not have the data necessary to estimate the amount of deposits that would be reclassified as brokered under the proposed rule. However, at the end of the first quarter during which the 2020 Final Rule was in effect—April through June of 2021—IDIs reported almost $350 billion fewer brokered deposits than in the previous quarter, a reduction in reported brokered deposits of more than 30 percent.[96] Therefore the FDIC believes a material amount of deposits could be reclassified as brokered.

The remainder of this subsection considers first the proposed rule's potential effects on less than well-capitalized IDIs specifically, then discusses costs to IDIs more broadly (including those that may be less than well capitalized), and an overview of the proposed rule's expected effects on the number of applications and notices (collectively, filings) sent to the FDIC. This subsection concludes with a discussion of the proposed rule's potential benefits. The subsection ''Reporting Compliance Costs'' of this document provides more detailed estimates on the expected effects of the proposed rule on the number of filings sent to the FDIC, and the expected dollar cost associated with those filings.

Potential Effects on Less Than Well-Capitalized IDIs

The acceptance of brokered deposits is subject to statutory and regulatory restrictions for banks that are not well capitalized. Adequately capitalized banks may not accept brokered deposits without an approved waiver from the FDIC, and banks that are less than adequately capitalized may not accept them at all. As a result, adequately capitalized and undercapitalized banks generally hold fewer brokered deposits. To the extent less than well-capitalized IDIs are able to rely on deposits that share the characteristics of brokered deposits (such as volatility) but are not currently reported as brokered, such IDIs can operate using a riskier liability structure than one reliant on more stable funding sources, thereby potentially increasing the risk of loss to the DIF. By generally increasing the scope of deposits that are considered brokered, the proposed rule limits the ability of less than well-capitalized banks to rely on potentially less stable third-party deposits that are currently reported as nonbrokered but would be reported as brokered under the proposed rule.

Based on IDIs' reported capital ratios as of March 31, 2024, there are seven less than well-capitalized IDIs, one of which reports holding some volume of brokered deposits.[97] These seven IDIs together report $1.1 billion in total assets, $1.0 billion in domestic deposits, and $137.0 million in brokered deposits.[98] Five of the less than well-capitalized IDIs are adequately capitalized as of March 31, 2024, one is undercapitalized, and one is significantly undercapitalized.[99]

As mentioned above, adequately capitalized banks may not accept brokered deposits without an approved waiver from the FDIC, and because the FDIC believes the proposed rule is likely to increase the amount of deposits considered brokered, it may increase the number of waiver applications the FDIC receives from adequately capitalized IDIs. This potential effect of the proposed rule is difficult to estimate because, as mentioned above, not only does the FDIC not possess the data necessary to estimate the amount of deposits that would be reclassified as brokered at specific banks under the proposed rule, but also the number of adequately capitalized banks depends on other factors, such as economic conditions and asset quality.

Potential Costs to IDIs of the Proposed Rule

The FDIC believes that if the proposed rule was adopted affected IDIs, including well-capitalized and less than well-capitalized IDIs, may incur some costs. First, the proposed rule may lead some IDIs to restructure their liabilities. Second, the proposed rule may affect certain regulatory ratios required to be calculated by some large IDIs. Third, affected IDIs may be incentivized to make changes to their organizational structure. Fourth, affected IDIs may need to make changes to internal systems, policies, or procedures that pertain to brokered deposits. Fifth, the proposed rule is expected to affect the number of filings that IDIs send to the FDIC. Finally, the proposed rule may affect some IDIs' FDIC deposit insurance assessments. Each of these potential costs is discussed below in turn.

IDIs affected by the proposed rule may incur costs associated with making changes to the structure of their liabilities. As discussed above, there was a drop in reported brokered deposits immediately after the effective date of the 2020 Final Rule. The FDIC believes that the changes in the proposed rule are likely to result in a greater proportion of nonbrokered deposits being reclassified as brokered. To the extent affected IDIs are currently operating at their desired ratios of brokered deposits to total liabilities and the proposed rule increases the amount of deposits considered brokered, some affected IDIs may find that, at least initially, the proposed rule may cause them to have a greater than desired share of brokered deposits to liabilities. The FDIC does not have the data to

[95] FDIC Call Report data, June 30, 2014, through March 31, 2024. For purposes of the analysis presented in the Expected Effects section, an IDI is considered less than well capitalized based on its reported capital ratios. Less than well-capitalized IDIs do not include any quantitatively well capitalized institutions that may have been administratively classified as less than well capitalized. *See generally* 12 CFR 324.403(d) (FDIC); 12 CFR 208.43(b)(1)(v) (Board of Governors of the Federal Reserve System); 12 CFR 6.4(c)(1)(v) (Office of the Comptroller of the Currency).

[96] FDIC Call Report Data from March 31, 2021, and June 30, 2021.

[97] March 31, 2024 Call Report data. For purposes of estimating the expected effects of the proposed rule, this analysis uses an IDI's reported capital ratios to determine whether that IDI is well capitalized. The determination does not take into account written agreements, orders, capital directives, or prompt corrective action directives issued to specific IDIs. *See generally* 12 CFR 324.403(d) (FDIC); 12 CFR 208.43(b)(1)(v) (Board of Governors of the Federal Reserve System); 12 CFR 6.4(c)(1)(v) (Office of the Comptroller of the Currency).

[98] *Id.*

[99] *Id.*

estimate the amount of deposits that would be reclassified as brokered by the proposed rule at particular IDIs, nor how many IDIs, if any, might make changes to the structure of their liabilities.

For some large IDIs, brokered deposits can affect the calculation of certain regulatory ratios, such as the Liquidity Coverage Ratio (LCR) and Net Stable Funding Ratio (NSFR). The FDIC does not have the data to estimate the amount of deposits that would be reclassified as brokered by the proposed rule at individual IDIs, and thus cannot estimate how many IDIs, if any, may incur costs associated with maintaining compliance with, or maintaining management buffers relative to, these regulatory ratios because of the proposed rule.

It is possible that some IDIs may choose to make changes to the organizational structure of their institutions if the proposed rule is adopted. In particular, IDIs that rely on the current exclusive placement exception to obtain nonbrokered deposits from affiliates may be incentivized to stop using these deposits or perhaps change their organizational structure as a result of the proposed rule. The FDIC does not have the information to estimate any such changes or attendant costs.

The FDIC believes that if the proposed rule was adopted, IDIs affected may incur some costs associated with making changes to their internal systems, policies, and procedures associated with deposit brokering activities and arrangements (especially those involving third parties). The FDIC does not have the data to be able to reliably estimate the costs associated with these changes, but expects that they are likely to be modest. Further, the FDIC believes that some of these costs may be ameliorated because the proposed rule is similar to the regulatory framework that existed prior to the 2020 Final Rule, therefore some affected entities may have experience with some of those policies and procedures.

Several aspects of the proposed rule may impact the number of filings that IDIs submit to the FDIC. First, as mentioned previously, the proposed rule may increase the number of brokered deposit waiver applications the FDIC receives from adequately capitalized IDIs. Second, the proposed rule eliminates the ''enabling transactions'' exception (including its attendant notice), and the FDIC believes that many entities that currently rely on this exception may work with IDIs to file PPE applications. Third, the proposed rule replaces the current ''25 percent test'' notice exception with two similar but distinct exceptions: the BDSE requiring a notice, for arrangements involving only an IDI and broker-dealer, and the BDSE requiring an application, for arrangements involving an IDI, broker-dealer, and additional third-party. The FDIC believes the BDSE notice will be more operationally workable than the current ''25 percent test'' notice process, as the information required to complete the BDSE notice would be tailored to specific information the receiving IDI should have access to or be able to obtain from the broker-dealer. Finally, concurrent with the finalization of the proposed rule, the FDIC would rescind notices and applications approved under the 2020 Final Rule, and would eliminate the ability of non-IDIs to file applications or notices. Therefore, the FDIC expects that the proposed rule could result in a significant increase in PPE applications from IDIs, especially in the period immediately following the effective date if the proposed rule were adopted. IDIs may incur costs associated with such submissions, including costs associated with gathering more information from third parties as part of the application process. See the ''Reporting Compliance Costs'' subsection of this document for a more detailed discussion of the potential effects of the proposed rule on the number and types of filings sent to the FDIC.

The proposed rule could also affect FDIC deposit insurance assessments. Under the FDIC's assessment regulations, IDIs with a significant concentration of brokered deposits may pay higher quarterly assessments, depending on other factors.[100] To the extent that deposits currently considered nonbrokered would be considered brokered deposits under the proposed rule, an IDI's assessment may increase. The FDIC does not have the information necessary to estimate the proposed rule's expected effects on deposit insurance assessments because it does not possess the data necessary to estimate the amount of deposits that would be reclassified as brokered at particular IDIs under the proposed rule.

Potential Benefits of the Proposed Rule

The FDIC believes that the proposed rule would pose two primary benefits. First, the proposed rule would clarify certain concepts for affected IDIs. Second, the FDIC believes the proposed rule would improve the safety and soundness of the banking system. The benefits of improved safety and soundness are difficult to quantify, but such benefits are likely to accrue to the public and to all IDIs, not just those that are less than well capitalized. The FDIC discusses these potential benefits below in turn.

The FDIC believes that the proposed rule would improve the safety and soundness of the banking system, as well as covered IDIs. To the extent the proposed rule's changes would better identify deposits that are currently not reported as brokered but share the risk characteristics of brokered deposits, the FDIC believes that the proposal would enhance the ability of the FDIC to ensure the safety and soundness of the banking system. In particular, the rule would limit the ability for a less than well-capitalized institution to rely on a risky funding source and improve clarity so that reliance on brokered deposits, regardless of capitalization, would be correctly reflected in an institution's regulatory reporting, deposit insurance assessments, and regulatory ratios.

As discussed above, the FDIC has found significant reliance on brokered deposits increases an institution's risk profile, particularly as its financial condition weakens. The FDIC's statistical analyses and other studies have found that the use of brokered deposits by IDIs in general is associated with a higher probability of failure and higher losses to the DIF upon failure. The use of brokered deposits by IDIs is correlated with (1) higher levels of asset growth, (2) higher levels of nonperforming loans, and (3) a lower proportion of core deposit[101] funding.[102] As previously described, 47 institutions that failed between 2007 and 2017 relied heavily on brokered deposits and each caused an estimated loss to the DIF of over $100 million as of December 31, 2017. While these 47 institutions held total assets representing nearly 21 percent of the aggregate total assets of the 530 institutions that failed over this period, their losses represented 38 percent of all estimated losses to the DIF for the same

[100] *See* 12 CFR part 327.

[101] *See* FDIC, Study on Core Deposits and Brokered Deposits (July 8, 2011), available at *https://www.fdic.gov/regulations/reform/coredeposit-study.pdf. See also* 84 FR 2366, 2369 (Feb. 6, 2019). The FDIC updated its analysis in the 2011 Study on Core Deposits and Brokered Deposits with data through the end of 2017 (''Updated Study''). ''Core deposits'' is defined in the updated study as total domestic deposits net of time deposits over the insurance limit and fully insured brokered deposits. *See* Updated Study at 2384. Prior to 2011, the definition of core deposits included fully insured brokered deposits.

[102] *See* Updated Study at 2384–2400 (Appendix 2).

period. More recently, First Republic Bank, which failed in May of 2023, saw rapid growth in reported brokered deposits in the quarters leading up to its failure.[103]

The FDIC also believes that the proposed rule would benefit covered IDIs by clarifying certain practices and concepts. For example, the proposed rule includes a provision to clarify how an IDI may regain its ''agent institution'' status after losing it. The FDIC also believes that the proposed rule would benefit IDIs by promoting accurate reporting and understanding of the regulation and how the involvement of third parties within a deposit placement arrangement may, or may not, result in the deposits being brokered. Based on the FDIC's experience, the initial decline in brokered deposits following the effective date of the 2020 Final Rule was due, in part, to some IDIs misunderstanding and misreporting a significant amount of deposits as nonbrokered. The FDIC believes that increased clarity should reduce costs for affected IDIs and ensure more accurate reporting.

Potential Effects on Consumers

The proposed rule may affect consumers that utilize brokered deposits, deposit placement services or arrangements. To the extent that consumers utilize deposits currently, or in future periods, which are not classified as brokered, but would be as a result of the adoption of the proposed rule, they might experience changes in interest rates on those funds, or costs associated with placing those funds with different entities. The FDIC does not have the information necessary to estimate such changes, and therefore, discusses these effects qualitatively.

If adopted, the proposed rule may pose costs or benefits to consumers by incentivizing them to place their funds with different entities. To the extent that some entities cease offering, or change the terms of, certain services because of a desire to avoid the placement of deposits considered brokered under the proposal, or because IDIs would prefer not to accept deposits considered brokered under the proposal, certain deposit placement arrangements may change. In particular, consumers may change their relationships with certain third-party providers or third-party providers may change their relationships with certain IDIs. Further, to the extent that consumers consider other fund management options, such as money market mutual funds, as substitutes for certain brokered deposits, consumers may change fund placement arrangements. Finally, consumers considering using deposit placement services may also benefit from the increased clarity in the proposed rule on what is and is not considered brokered.

Potential Effects on Third Parties That May or May Not Be Deposit Brokers

The proposed rule may affect third parties directly or indirectly involved in the provision of brokered deposit products. To the extent that third parties are involved in the provision of deposits currently not designated as brokered, but would be if the proposed rule was adopted, such third parties may incur costs associated with making changes to systems, policies, and procedures. To the extent that third parties may have previously relied on exceptions that existed under 2020 Final Rule but no longer will exist under the proposed rule—such as the ''enabling transactions'' exception—they may experience costs associated with transitioning their business models (including potentially revising fees, changing revenue structures, etc.) to reflect the new rule.

Third parties may also incur costs associated with the submission of filings to the FDIC by affiliated IDIs on their behalf for deposit placement arrangements. As mentioned previously, the proposed rule rescinds existing primary purpose exceptions and notices granted under the 2020 Final Rule and restricts the application and notice process to IDIs. Therefore, to the extent that third parties who previously applied and received approval for a primary purpose exception wish to continue offering their services to covered IDIs, they may incur costs associated with providing information to those IDIs to support applications and notices to the FDIC. Finally, as the proposed rule's criteria for determining whether an entity is exempt from being considered a deposit broker are generally stricter than the criteria in the 2020 Final Rule, more third parties are likely to be considered deposit brokers under the proposed rule.

Reporting Compliance Costs

The FDIC believes the proposed rule, if adopted, would likely affect the number of applications and notices (collectively, filings) that IDIs submit to the FDIC for a number of reasons. First, the FDIC believes that the proposed rule may increase the share of filings made up of applications because the proposed rule would eliminate the ''enabling transactions'' notice exception. Based on the FDIC's supervisory experience, many ''enabling transactions'' notice filers will file PPE applications through IDIs, therefore the proposed rule may result in an increase in filings overall as more deposits are likely to be considered brokered under the proposed rule. Second, the proposed rule would replace the current ''25 percent test'' notice exception with two similar but distinct exceptions: the BDSE requiring a notice, for arrangements involving only an IDI and broker-dealer, and the BDSE requiring an application, for arrangements involving an IDI, broker-dealer, and an additional third party. Third, the FDIC believes that the proposed rule is likely to result in an increase in filings, at least initially, because the proposed rule would rescind approved applications and notices filed under the 2020 Final Rule. Finally, because the FDIC believes the proposed rule is likely to increase the amount of deposits classified as brokered, the FDIC believes the proposed rule may increase the likelihood that an adequately capitalized IDI submits a waiver application to accept brokered deposits to the FDIC. The FDIC does not have the information necessary to quantify the potential changes in filings that are likely to occur if the proposed rule was adopted. Therefore, to quantify the effect of the proposed rule on filing activity, the FDIC made certain assumptions it deemed reasonable based on its experience with administering the 2020 Final Rule, described below, and relied on the number of filings it received under the 2020 Final Rule as proxies for the number of filings it would receive under the proposed rule.

The proposed rule would likely increase the number of PPE applications received by the FDIC. As mentioned above, the proposed rule would eliminate the ''enabling transactions'' exception and the FDIC believes that many entities that relied on that exception may work with IDIs that file PPE applications. Thus, in addition to the 12 PPE applications that the FDIC received in the roughly three years since the effective date of the 2020 Final Rule (April 1, 2021, to March 15, 2024),[104] the FDIC believes it may receive an additional 77 PPE applications, based on the number of ''enabling transactions'' notices received over the same time period,[105] for an estimated total of 89 PPE applications. Of the 89 PPE applications, the FDIC estimates 21

[103] First Republic Bank's reported total brokered deposits went from $597 million as of June 30, 2022, to $7.1 billion as of March 31, 2023. *See* First Republic Bank's Call Report data.

[104] FDIC applications data.

[105] *See https://www.fdic.gov/resources/bankers/brokered-deposits/public-report-ppes-notices.pdf.*

unique filers of applications based on the number received during the three-year period since the effective date of the 2020 Final Rule, or 4.238 PPE applications per applicant and 7 applicants [106] per year. FDIC staff estimate that each PPE application requires 10 labor hours to complete, and 15 minutes of labor per quarter to fulfill associated reporting requirements if the application is approved. Therefore, if the FDIC were to approve all estimated PPE applications received each year under the proposed rule, the estimated associated labor hours would be 330, representing 300 hours [107] to complete the applications and 30 hours [108] of annual reporting burden.[109]

The proposed rule would likely change the number of notices received by the FDIC. As mentioned previously, the proposed rule would eliminate the ''enabling transactions'' exception and its attendant notice if adopted. Further, the proposed rule would replace the ''25 percent test'' exception by the BDSE. When only an IDI and broker-dealer are involved, the BDSE requires a notice. The FDIC believes a reasonable proxy for the number of BDSE notices under the proposed rule is the number of ''25 percent test'' exception notices the FDIC received under the 2020 Final Rule for which it did not identify a potential third party,[110] as the information required for each type of notice is similar. Over the roughly three years since the effective date of the 2020 Final Rule, the FDIC received 24 such notices from 22 notificants, or seven notificants per year and 1.091 notices per notificant. FDIC staff estimate that each BDSE notice would take three hours of labor to complete, and 30 minutes of labor per quarter to satisfy reporting requirements. Thus, assuming the FDIC approves of all eight BDSE notices it is estimated to receive each year, the FDIC estimates that entities would incur 40 labor hours; 24 hours [111] to complete the notices and 16 hours [112] for annual reporting.[113]

The proposed rule would adopt a new application process for arrangements between an IDI and a broker-dealer in which a third party is involved in the sweep of funds from the broker-dealer to the IDI (BDSE application). The FDIC believes a reasonable proxy for the number of BDSE applications is the number of ''25 percent test'' exception notices the FDIC received over the roughly three-year period since the effective date of the 2020 Final Rule for which the FDIC believed a third party may be involved, as such arrangements are not eligible for the BDSE notice. The FDIC received 33 ''25 percent test'' exception notices from 29 unique notificants that it identified as potentially involving a third party over the roughly three-year period since the effective date of the 2020 Final Rule,[114] or 10 notificants per year and 1.138 notices per notificant. FDIC staff believe the new BDSE application combines elements of the PPE application with reporting requirements of the BDSE notice, and therefore estimates that each BDSE application would take 10 hours of labor to complete, and 30 minutes of labor per quarter to satisfy reporting requirements. Thus, if the FDIC approved all 10 applications it receives each year, the FDIC estimates that entities would incur 133 labor hours; 110 hours [115] to complete the applications and 23 hours [116] to comply with the annual reporting requirements.[117]

Based on the discussion above, the FDIC estimates that the proposed rule would impose 503 labor hours per year associated with reporting requirements if adopted; 434 labor hours to complete applications and notices and 69 labor hours of to satisfy reporting obligations associated with approved applications and notices.[118] Based on the FDIC's estimation of which occupations are associated with filing applications or notices and fulfilling their associated reporting requirements, the FDIC estimates an hourly cost of compensation of $101.07,[119] and thus estimates $50,838 in total annual reporting costs associated with the proposed rule.

VI. Administrative Law Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency, in connection with a proposed rule, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of the proposed rule on small entities. However, an initial regulatory flexibility analysis is not required if the agency certifies that the proposed rule will not, if promulgated, have a significant economic impact on a substantial

[106] Seven applicants equals the quotient of 21 unique PPE filers over three years.

[107] 300 hours equals the product of 7 applicants per year, 4.238 applications per applicant, and 10 hours per application. The result is 300 hours because the FDIC rounded the product of the first two numbers. Otherwise, the result would be 297 hours.

[108] Applicants must report quarterly for each business line for which an application is approved. Assuming every application is approved, applicants would submit a total number of quarterly reports per year equal to four multiplied by the number of applications per applicant (4 * 4.238 = 16.952). Thus, the annual reporting burden of PPE applications is estimated as 30 hours, which is the product of 7 applicants per year, 16.952 reports per applicant, and 0.25 hours per report.

[109] 330 hours equals 300 hours plus 30 hours.

[110] *See* the 25 percent notices at *https://www.fdic.gov/resources/bankers/brokered-deposits/public-report-ppes-notices.pdf* that are not marked with an asterisk.

[111] 24 hours equals the product of 7 notificants per year, 1.091 notices per notificant, and 3 hours per notice. The result is 24 hours because the FDIC's burden calculator rounds the product of the first two numbers. Otherwise, the result would be 23 hours.

[112] Notificants must report quarterly for each business line for which a notification is approved. Assuming every notice is approved, notificants would submit a total number of quarterly reports per year equal to four multiplied by the number of notices per notificant (4 * 1.091 = 4.364). Thus, the annual reporting burden of BDSE notices is estimated as 16 hours, which equals the product of 7 notificants per year, 4.364 reports per notificant, and 0.5 hours per report. The result is 16 hours because the FDIC rounded the product of the first two numbers. Otherwise, the result would be 15 hours.

[113] 38 hours equals 24 hours plus 14 hours.

[114] *See* the 25 percent notices at *https://www.fdic.gov/resources/bankers/brokered-deposits/public-report-ppes-notices.pdf* that are marked with an asterisk.

[115] 110 hours is the product of 10 applicants per year, 1.138 application per applicant, and 10 hours per application. The result is 110 hours because the FDIC rounded the product of the first two numbers. Otherwise, the result would be 114 hours.

[116] Applicants must report quarterly for each business line for which an application is approved. Assuming every application is approved, applicants would submit a total number of quarterly reports per year equal to four multiplied by the number of applications per applicant (4 * 1.138 = 4.552). Thus, the annual reporting burden of BDSE applications is estimated as 23 hours, which is the product of 10 applicants per year, 4.552 reports per applicant, and 0.5 hours per report.

[117] 133 hours equals 110 hours plus 23 hours.

[118] This estimate is 42 fewer hours than the total hours reported in the Paperwork Reduction Act section of this document because it only includes reporting requirements affected by the proposed rulemaking. See section VI.B of this document.

[119] The FDIC used the following Bureau of Labor Statistics (BLS) data sources to estimate an hourly cost of compensation associated with the reporting requirements in the proposed rule: National Industry-Specific Occupational Employment and Wage Estimates (OEWS): Industry: Credit Intermediation and Related Activities (5221 and 5223 only) (May 2023), Employer Cost of Employee Compensation (ECEC) (March 2023), and Employment Cost Index (March 2023 and March 2024). To estimate the average cost of compensation per hour, the FDIC used the 75th percentile hourly wages reported by the BLS OEWS data for the occupations in the Depository Credit Intermediation sector the FDIC judges would be involved in satisfying the proposed rule's reporting requirements. However, the latest OEWS wage data are as of May 2023 and do not include non-wage compensation. To adjust these wages, the FDIC multiplied the OEWS hourly wages by approximately 1.53 to account for non-wage compensation, using the BLS ECEC data as of March 2023 (the latest published release prior to the OEWS wage data). The FDIC then multiplied the resulting compensation rates by approximately 1.04 to account for the change in the seasonally adjusted Employment Cost Index for the Credit Intermediation and Related Activities sector (NAICS Code 522) between March 2023 and March 2024.

number of small entities.[120] The Small Business Administration (SBA) has defined ''small entities'' to include banking organizations with total assets of less than or equal to $850 million.[121] Generally, the FDIC considers a significant economic impact to be a quantified effect in excess of 5 percent of total annual salaries and benefits or 2.5 percent of total noninterest expenses. The FDIC believes that effects in excess of one or more of these thresholds typically represent significant economic impacts for FDIC-supervised institutions.

The FDIC does not believe that the rule would have a significant economic effect on a substantial number of small entities. However, some expected effects of the rule are difficult to assess or accurately quantify given current information. Therefore, the FDIC has included an initial regulatory flexibility analysis in this section.

Reasons Why This Action Is Being Considered

As stated previously, the FDIC has found significant reliance on brokered deposits increases an institution's risk profile, particularly as its financial condition weakens. Adoption of the 2020 Final Rule led to certain deposit arrangements that were viewed as brokered prior to the 2020 Final Rule as no longer being classified as brokered, even though the FDIC believes such deposits present similar risks as brokered deposits and could pose serious consequences for IDIs and the DIF. Additionally, the FDIC has observed a number of challenges with entities understanding certain provisions of the 2020 Final Rule, which has resulted in inaccurate and inconsistent application of the rule. Finally, the FDIC wishes to better align certain of its brokered deposit regulations with the statutory language and purpose of section 29 of the FDI Act.

Policy Objectives

As mentioned above, the FDIC's proposal would clarify and revise certain of its brokered deposit regulations to better support the statutory language and purpose of the brokered deposit restrictions. Additionally, the FDIC seeks to revise the notice and application processes for certain primary purpose exceptions, and eliminate certain existing exceptions, with the objective of increasing industry safety and soundness and decreasing the frequency of misreporting of brokered deposits as nonbrokered. For further discussion of the policy objectives of the proposed rule please refer to section I of this document.

Legal Basis

The FDIC is proposing to adopt this rule under authorities granted by section 29 of the FDI Act. The law defines key terms such as ''deposit broker'' and, among other things, restricts adequately capitalized IDIs from accepting funds obtained, directly or indirectly, by or through any deposit broker for deposit into one or more deposit accounts (referred to as brokered deposits) without a waiver, and prohibits less than adequately capitalized banks from obtaining such funds altogether. For a more detailed discussion of the proposed rule's legal basis please refer to sections II and III of this document.

Description of the Rule

In summary, the proposed rule would (1) streamline and update certain provisions of the ''deposit broker'' definition; (2) eliminate the exclusive placement arrangement exception and restore the regulations' applicability to cases where a third party, that otherwise meets the definition of deposit broker, is involved with placing deposits at one or more IDIs; (3) amend the ''primary purpose'' exception to the ''deposit broker'' definition, including revising the 25 percent test designated exception to a 10 percent test exception (and narrowing the scope of firms to which the exception may apply) and eliminating the enabling transactions designated exception; (4) update the primary purpose exception application and notice processes and make it so that only IDIs may submit an application and/or a notice on behalf of a third party; and (5) clarify how an IDI that loses its ''agent institution'' status regains that status. For a more detailed description of the proposed rule, please refer to section III of this document.

Small Entities Affected

As of the quarter ending March 31, 2024, the FDIC insures 4,577 depository institutions; of these, 3,259 are ''small entities'' by the terms of the RFA.[122] Additionally, of the 3,259 small, FDIC-insured institutions, 1,237 report holding some volume of brokered deposits. Finally, of the 3,259 small FDIC-insured institutions, 6 are less than well-capitalized based on their reported capital ratios, and none of the 6 report holding brokered deposits.[123]

Expected Effects

There are five categories of effects of the proposed rule on small, FDIC-insured institutions: effects applicable to potentially any small IDI; effects applicable to small, less than well-capitalized institutions; effects applicable to nonbank subsidiaries or affiliates of small institutions that may or may not be deemed deposit brokers under the proposed rule; effects applicable to third parties that may or may not be deemed deposit brokers under the proposed rule; and reporting requirements for small, covered IDIs. Also, the proposed rule may affect certain consumers; however, ''natural persons'' are not small entities for purposes of the RFA. Therefore, these potential effects are not discussed in this initial regulatory flexibility analysis.[124] For a discussion of the proposed rule's potential effects on consumers, see section V of this document, above.

All Small, FDIC-Insured Institutions

If adopted, the proposed rule could directly affect the 1,237 small IDIs that currently report positive amounts of brokered deposits. In addition, the proposed rule could affect all 3,259 small IDIs regarding the types of deposits they choose to accept in the future. The proposed rule would revise the ''deposit broker'' definition and

[120] 5 U.S.C. 601 *et seq.*

[121] The SBA defines a small banking organization as having $850 million or less in assets, where an organization's ''assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.'' *See* 13 CFR 121.201 (as amended by 87 FR 69118, effective December 19, 2022). In its determination, the ''SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates.'' *See* 13 CFR 121.103. Following these regulations, the FDIC uses an insured depository institution's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the insured depository institution is ''small'' for the purposes of RFA.

[122] March 31, 2024, Call Report data.

[123] *Id.* March 31, 2024, Call Report data. For purposes of estimating the expected effects of the proposed rule, this analysis uses an IDI's reported capital ratios to determine whether that IDI is well capitalized. The determination does not take into account written agreements, orders, capital directives, or prompt corrective action directives issued to specific IDIs. *See generally* 12 CFR 324.403(d) (FDIC); 12 CFR 208.43(b)(1)(v) (Board of Governors of the Federal Reserve System); 12 CFR 6.4(c)(1)(v) (Office of the Comptroller of the Currency).

[124] The RFA applies to *small entities,* which is defined in 5 U.S.C. 601(6) as having the same meaning as the terms ''small business'', ''small organization,'' and ''small governmental jurisdiction'' defined in paragraphs (3), (4) and (5) of'' 5 U.S.C. 601. As such, a rule or information collection that affects only natural persons does not affect any small entities.

would amend the analysis of the ''primary purpose'' exception to the ''deposit broker'' definition. The FDIC believes that under the proposed rule fewer entities would likely be exempt from the definition of deposit broker than currently, and to the extent such entities continue to place funds at IDIs, the amount of deposits at IDIs considered brokered under the proposed rule is likely to increase. The FDIC does not have data to be able to reliably estimate the amount of deposits that would be re-classified as brokered under the proposed rule. However, at the end of the first quarter during which the 2020 Final Rule was in effect—April through June of 2021—small IDIs reported only $276 million fewer brokered deposits than in the previous quarter on a merger-adjusted basis, a reduction in reported brokered deposits of less than three percent.[125] Therefore, the FDIC believes the amount of deposits reclassified as brokered at small IDIs under the proposed rule is likely to be modest, at least in the aggregate.

The remainder of the discussion in this subsection is divided into potential costs to small IDIs associated with the proposed rule, followed by potential benefits to small IDIs.

Potential Costs to Small, FDIC-Insured Institutions

Small IDIs affected by the proposed rule may incur costs if they choose to alter the composition of their liabilities as a result of the proposed rule. As discussed above, adoption of the 2020 Final Rule led to certain deposit arrangements that were viewed as brokered prior to the 2020 Final Rule as no longer being classified as brokered. The FDIC believes that the changes in the proposed rule are likely to result in a greater proportion of nonbrokered deposits being reclassified as brokered. To the extent affected IDIs are currently operating at their desired ratios of brokered deposits to total liabilities and the proposed rule increases the amount of deposits considered brokered, some affected IDIs may find that the proposed rule causes them to have a greater than desired share of brokered deposits to liabilities. The FDIC does not have the data to be able to estimate how many institutions might choose to change the composition of their liabilities because of the proposed rule or by how much, in part because the FDIC does not possess the information necessary to estimate for particular banks the amount of deposits, if any, that would be reclassified as brokered by the proposed rule.

If the proposed rule is adopted, it is possible that some small IDIs may choose to make changes to the organizational structure of their institutions. In particular, small IDIs that rely on the current exclusive placement exception to obtain nonbrokered deposits from affiliates may be incentivized to stop using such deposits and perhaps change their organizational structure as a result of the proposed rule.

Small IDIs affected by the proposed rule may also incur some costs associated with changes to their internal systems, policies, and procedures associated with deposit brokering activities and deposit placement arrangements (especially those involving third parties). However, the FDIC believes that some of these costs may be ameliorated because the proposed rule is very similar to the regulatory framework that existed prior to the 2020 Final Rule; therefore, some affected entities may have experience with some of those policies and procedures.

The FDIC also believes the proposed rule may affect the number of applications and notices (collectively, filings) that small IDIs may submit to the FDIC. The effect of the proposed rule on filings submitted by small IDIs is discussed below in the ''Reporting Compliance Costs'' section of this RFA analysis.

Finally, the proposed rule could also affect FDIC deposit insurance assessments at certain small IDIs. Under the FDIC's assessment regulations, IDIs with a significant concentration of brokered deposits may pay higher quarterly assessments, depending on other factors.[126] To the extent that deposits currently defined as nonbrokered would be considered brokered deposits under the proposed rule, a small IDI's assessment may increase. The FDIC does not have the information necessary to estimate the proposed rule's expected effects on deposit insurance assessments because it does not possess the data necessary to estimate the amount of deposits that would be reclassified as brokered at particular small IDIs under the proposed rule.

Potential Benefits to Small, FDIC-Insured Institutions

The FDIC believes a primary benefit of the proposed rule is that it would improve the safety and soundness of the banking system, including covered IDIs. As discussed in more detail in section II.A. of this document, ''Brokered Deposits—A History of Concerns and Related Research,'' and in the ''Expected Effects'' analysis in section V of this document, the FDIC's own analyses as well as other studies have found that IDI use of brokered deposits in general is associated with a higher probability of failure and higher losses to the DIF upon failure. IDI use of brokered deposits is correlated with (1) higher levels of asset growth, (2) higher levels of nonperforming loans, and (3) a lower proportion of core deposit[127] funding.[128] Thus, to the extent the proposed rule's changes would better identify deposits that are currently not reported as brokered but share the characteristics of brokered deposits, the proposal would enhance the ability of the FDIC to ensure the safety and soundness of the banking system by limiting the ability for a less than well-capitalized small institution to rely on a risky funding source and improve clarity so that reliance on brokered deposits, regardless of capitalization, is correctly reflected in an institution's regulatory reporting and deposit insurance assessments.

Another potential benefit to small IDIs of the proposed rule is the clarification of certain concepts and practices, and by promoting accurate reporting and understanding of the regulation and how the involvement of third parties within a deposit placement arrangement may, or may not, result in the deposits being brokered. For example, the proposed rule includes a provision to clarify how an IDI may regain its ''agent institution'' status after losing it. The FDIC believes that increased clarity should reduce costs for covered small IDIs and ensure more accurate reporting. As previously described, based on the FDIC's experience, the initial decline in brokered deposits following the effective date of the 2020 Final Rule was due, in part, to some IDIs

[125] FDIC Call Report Data from March 31, 2021, and June 30, 2021. IDIs reporting during the aforementioned periods were merger-adjusted to March 31, 2024, and categorized as ''small entities'' or not based on the definition of ''small entity'' in effect as of March 31, 2024, in order to facilitate comparison with the small entities that may be affected by the proposed rule.

[126] *See* 12 CFR part 327.

[127] ''Core deposits'' is defined in the updated study as total domestic deposits net of time deposits over the insurance limit and fully insured brokered deposits. *See* Updated Study at 2385. Prior to 2011, the definition of core deposits included insured brokered deposits. *See* Updated Study at 2384.

[128] *See* FDIC, Study on Core Deposits and Brokered Deposits (July 8, 2011), available at *https://www.fdic.gov/regulations/reform/coredeposit-study.pdf. See also* 84 FR 2366, 2369 (Feb. 6, 2019). *See* also Updated Study at 2384–2400 (appendix 2).

misunderstanding and misreporting a significant amount of deposits as nonbrokered.

Less Than Well-Capitalized Institutions

The acceptance of brokered deposits is subject to statutory and regulatory restrictions for banks that are not well capitalized. Adequately capitalized banks may not accept brokered deposits without a waiver from the FDIC, and banks that are less than adequately capitalized may not accept them at all. As a result, adequately capitalized and undercapitalized banks generally hold fewer brokered deposits. To the extent less than well-capitalized IDIs are able to rely on deposits that share the characteristics of brokered deposits (such as volatility) but are not currently reported as brokered, such IDIs can operate using a riskier liability structure than one reliant on more stable funding sources, thereby potentially increasing the risk of loss to the DIF. By generally increasing the scope of deposits that are considered brokered, the proposed rule would limit the ability of less than well-capitalized small banks to rely on potentially less stable third-party deposits that are currently reported as nonbrokered but would be reported as brokered under the proposed rule.

Based on IDIs' reported capital ratios as of March 31, 2024, there are six small, less than well-capitalized IDIs, none of which report holding any brokered deposits.[129] These six IDIs together report $441 million in total assets and $402 million in domestic deposits.[130] Five of the six less than well-capitalized IDIs are adequately capitalized as of March 31, 2024, and one is undercapitalized.[131]

As mentioned above, adequately capitalized banks may not accept brokered deposits without a waiver from the FDIC, and the proposed rule would generally increase the scope of deposits that are considered brokered. Thus, one potential effect of the proposed rule may be to increase the number of brokered deposit waiver applications submitted to the FDIC by adequately capitalized small banks. This potential effect of the proposed rule is difficult to estimate because, as mentioned above, not only does the FDIC not possess the data necessary to estimate the amount of deposits that would be reclassified as brokered at specific small banks under the proposed rule, but also the number of adequately capitalized small banks depends on other factors, such as economic conditions.

Nonbank Subsidiaries of Small, FDIC-Insured Institutions That May or May Not Be Deposit Brokers

The proposed rule could affect nonbank subsidiaries of small IDIs, in particular, nonbank subsidiaries of small IDIs that may not be considered deposit brokers under the 2020 Final Rule, but may be considered deposit brokers under the proposed rule. Additionally, under the 2020 Final Rule nonbanks may avail themselves of the notice or application process in order to seek certain primary purpose exceptions. However, under the proposed rule only IDIs may submit notices or applications with respect to primary purpose exceptions. In addition, to the extent a nonbank subsidiary of a small bank relies on the 2020 Final Rule's exclusive placement arrangement exception to place deposits solely at its parent IDI, the proposed removal of this exception could affect the subsidiary and its parent IDI.

Third Parties That May or May Not Be Deposit Brokers

As discussed in ''Expected Effects,'' section V of this document, the proposed rule may affect third parties directly or indirectly involved with the provision of deposit products. The FDIC does not have information on the number or size of potentially affected third parties; however, the FDIC believes it is likely that some affected third parties may be small entities.

First, concurrent with the finalization of the proposed rule, the FDIC would rescind existing primary purpose exceptions and notices granted under the 2020 Final Rule, and the proposed rule would restrict the application and notice process to IDIs. Therefore, to the extent that small third parties who previously applied and received approval for a primary purpose exception wish to continue offering their services to IDIs, they may incur costs associated with providing information to those IDIs to support applications and notices to the FDIC.

Second, to the extent that small third parties are directly or indirectly involved with the provision of deposits not currently designated as brokered deposits, but that would be if the proposed rule were adopted, such small third parties may incur costs associated with complying with the requirements in the proposed rule. Such costs would include, but would not be limited to (1) costs associated with making changes to systems, policies, and procedures involved in the provision of brokered deposits; (2) costs associated with the submission of filings to the FDIC by affiliated IDIs on their deposit placement arrangements; and (3) other costs associated with transitioning their business models to incorporate the provision of brokered deposits (including potential changes to fees, revenue structures, etc.).

Third, small third parties who are engaged in the provision of deposits that are considered brokered may incur costs associated with making changes to systems, policies, and procedures to comply with the requirements in the proposed rule. Also, such small third parties may experience changes to fee and revenue structures as a result of the requirements in the proposed rule.

Finally, as the proposed rule's criteria for determining whether an entity is a deposit broker are generally stricter than the criteria in the 2020 Final Rule, more small third parties could be considered deposit brokers under the proposed rule.

Reporting Requirements

The FDIC believes the proposed rule would likely affect the number of applications and notices (collectively, filings) that IDIs submit to the FDIC for the reasons discussed in the ''Reporting Compliance Costs'' section of the ''Expected Effects'' analysis in section V of this document, above. Briefly, the FDIC believes the proposed rule would likely affect the number of filings because it eliminates the ''enabling transactions'' exception, and the FDIC's supervisory experience suggests many ''enabling transactions'' notice filers would file PPE applications through IDIs. Second, the proposed rule would replace the current ''25 percent test'' notice exception with two similar but distinct exceptions: the BDSE requiring a notice, for arrangements involving only an IDI and broker-dealer, and the BDSE requiring an application, for arrangements involving an IDI, broker-dealer, and an additional third party. Third, the FDIC believes that the proposed rule would likely result in an increase in filings, at least initially, because the proposed rule would rescind approved applications and notices filed under the 2020 Final Rule. Finally, because the FDIC believes the proposed rule would likely increase the amount of deposits classified as brokered, the FDIC believes the

[129] March 31, 2024, Call Report data. For purposes of estimating the expected effects of the proposed rule, this analysis uses an IDI's reported capital ratios to determine whether that IDI is well capitalized. The determination does not take into account written agreements, orders, capital directives, or prompt corrective action directives issued to specific IDIs. *See generally* 12 CFR 324.403(d) (FDIC); 12 CFR 208.43(b)(1)(v) (Board of Governors of the Federal Reserve System); 12 CFR 6.4(c)(1)(v) (Office of the Comptroller of the Currency).

[130] *Id.*

[131] *Id.*

proposed rule may increase the likelihood that an adequately capitalized IDI submits a waiver application to accept brokered deposits to the FDIC.

While the FDIC does not have the information necessary to quantify the potential changes in filings by small IDIs that are likely to occur if the proposed rule is adopted, based on the number of filings received during the roughly three-year period since the 2020 Final Rule became effective, the FDIC believes the effect is likely to be modest. During the aforementioned period, five small IDIs (out of 29 total IDIs and 46 other entities) submitted a total of only six filings out of 147.

Other Statutes and Federal Rules

The FDIC has not identified any likely duplication, overlap, and/or potential conflict between this proposed rule and any other Federal rule.

The FDIC invites comments on all aspects of the supporting information provided in this RFA section. In particular, would this proposed rule have any significant effects on small entities that the FDIC has not identified?

B. Paperwork Reduction Act

Certain provisions of the proposed rule contain ''collections of information'' within the meaning of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 through 3521). In accordance with the requirements of the PRA, the FDIC 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 information collections contained in the proposed rule have been submitted to OMB for review and approval by the FDIC under section 3507(d) of the PRA (44 U.S.C. 3507(d)) and § 1320.11 of OMB's implementing regulations (5 CFR part 1320). The FDIC proposes to extend for three years, with revision, the following information collection:

Title of Information Collection: Reporting and Recordkeeping Requirements for Brokered Deposits.

OMB Control Number: 3064–0099.

Respondents: Insured state nonmember banks and state savings associations.

Current Actions: The proposed rule revises the currently-approved information collection as follows:

Section 303.243(b)(3), Notice Submission for Primary Purpose Exception Based on Placement of Less Than 10 Percent of Customer Assets Under Management—Implementation. An insured depository institution must notify the FDIC through a written notice that the insured depository institution will rely upon the 10 percent designated business exception described in § 337.6(a)(5)(iv)(I)(*1*)(*i*). See line item two of the table below.

Section 303.243(b)(3)(vii), Notice Submission for Primary Purpose Exception Based on the Placement of Less Than 10 Percent of Customer Assets Under Management—Ongoing. Notice filers that submit a notice under the 10 percent test described in § 337.6(a)(5)(iv)(I)(*1*)(*i*) must provide to the FDIC quarterly updates of the figures that were provided as part of the notice. This is the corresponding ongoing reporting requirement associated with line item two. See line item five of the table below.

Section 12 CFR 303.243(b)(4)(i), Application for Primary Purpose Exception Based on 10 Test With Additional 3rd Party—Implementation. Applicants that seek the primary purpose exception where the broker dealer or investment adviser place less than 10 percent of customer funds into insured depository institutions through the use of an additional third party that does not meet the deposit broker definition must file a primary purpose exception application with the FDIC. See line item three of the table below.

Section 12 CFR 303.243(b)(4)(vi), Reporting for Primary Purpose Exception Based on the Placement of Less Than 10 Percent of Customer Assets Under Management with Additional 3rd Party—Ongoing. Applicants that receive a written approval for the primary purpose exception will provide reporting to the FDIC. This is the corresponding ongoing reporting requirement associated with line item three. See line item six of the table below.

Estimated Annual Burden:

SUMMARY OF ESTIMATED ANNUAL BURDEN
[OMB No. 3064–0099]

Information collection (IC) (obligation to respond)	Type of burden (frequency of response)	Number of respondents	Number of responses per respondent	Time per response (HH:MM)	Annual burden (hours)
1. Application for Waiver of Prohibition on Acceptance of Brokered Deposits, 12 CFR 337.6(c) (Required to Obtain or Retain a Benefit).	Reporting (On Occasion)	3	2.375	06:00	42
2. Notice Submission for Primary Purpose Exception Based on Placement of Less Than 10 Percent of Customer Assets Under Management—Implementation, 12 CFR 303.243(b)(3) (Required to Obtain or Retain a Benefit).	Reporting (On Occasion)	7	1.091	03:00	24
3. Application for Primary Purpose Exception Based on 10 Test With Additional 3rd Party—Implementation, 12 CFR 303.243(b)(4)(i) (Required to Obtain or Retain a Benefit).	Reporting (On Occasion)	10	1.138	10:00	110
4. Application for Primary Purpose Exception Not Based on Business Arrangements that Meets a Designated Exception—Implementation, 12 CFR 303.243(b)(4)(ii) (Required to Obtain or Retain a Benefit).	Reporting (On Occasion)	7	4.238	10:00	300
5. Notice Submission for Primary Purpose Exception Based on the Placement of Less Than 10 Percent of Customer Assets Under Management—Ongoing, 12 CFR 303.243(b)(3)(vii) (Required to Obtain or Retain a Benefit).	Reporting (Quarterly)	7	4.364	00:30	16
6. Reporting for Primary Purpose Exception Based on the Placement of Less Than 10 Percent of Customer Assets Under Management with Additional 3rd Party—Ongoing, 12 CFR 303.243(b)(4)(vi) (Required to Obtain or Retain a Benefit).	Reporting (Quarterly)	10	4.552	00:30	23
7. Reporting for Primary Purpose Exception Not Based on the Business Arrangements that meets a Designated Exception—Ongoing, 12 CFR 303.243(b)(4)(vi) (Required to Obtain or Retain a Benefit).	Reporting (Quarterly)	7	16.952	00:15	30
Total Annual Burden (Hours)	.....	.....	.....	.....	545

Note: The estimated annual time burden for a given collection is the product, rounded to the nearest hour, of the estimated annual number of responses and the estimated time per response. The estimated annual number of responses is the product, rounded to the nearest whole number, of the estimated annual number of respondents and the estimated annual number of responses per respondent. This methodology ensures the estimated annual burdens in the table are consistent with the values recorded in OMB's consolidated information system.

The total estimated annual burden for OMB No. 3064–0099 is 545 hours, an increase of 168 hours from the most recent PRA renewal.[132]

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Comments on aspects of this document that may affect reporting, recordkeeping, or disclosure requirements and burden estimates should be sent to the address listed in the **ADDRESSES** section of this document. Written comments and recommendations for this information collection also should be sent within 30 days of publication of this document 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.

C. Plain Language

Section 722 of the Gramm-Leach-Bliley Act requires the agencies to use plain language in all proposed and final rules published after January 1, 2000. The FDIC invites comment on how to make this proposed rule easier to understand.

For example:

- Have the agencies organized the material to inform your needs? If not, how could the agencies present the proposed rule more clearly?
- Are the requirements in the proposed rule clearly stated? If not, how could the proposal be more clearly stated?
- Does the proposed regulation contain technical language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the proposed regulation easier to understand? If so, what changes would achieve that?
- Is this section format adequate? If not, which of the sections should be changed and how?
- What other changes can the agencies incorporate to make the proposed regulation easier to understand?

D. Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act of 1994[133] (RCDRIA), in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on IDIs, each Federal banking agency must consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on affected depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of the RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.[134] The FDIC invites comments that further will inform its consideration of the RCDRIA.

VII. Request for Comments

The FDIC invites comment from all members of the public regarding all aspects of the proposal. In particular, the FDIC seeks feedback on the scope of the proposed rule and its requirements, and responses to the following specific questions:

Deposit Broker Definition

1. Does the FDIC's proposed amendment to the ''deposit broker'' definition align more closely with the statutory language and purpose of section 29 of the FDI Act? Why or why not?

2. Is the FDIC's proposed change to remove ''matchmaking activities'' from the ''deposit broker'' definition and proposal to add a deposit allocation provision appropriate? Why or why not?

3. Is the consideration of fees appropriate when determining whether a person is a ''deposit broker''? Are there any additional factors the FDIC should consider adding to the ''deposit broker'' definition? Please explain and provide data to support your views.

Primary Purpose Exception Analysis

4. Is the proposed updated primary purpose exception analysis appropriate? Why or why not?

5. Are the proposed changes to the primary purpose exception application process appropriate? Is it appropriate to limit the application process to IDIs? Is the proposed process sufficiently clear to allow IDIs to obtain the required information on all third parties within a deposit placement arrangement?

6. Are there any additional factors the primary purpose exception application process should consider?

Designated Exceptions

7. Should previously approved primary purpose exceptions be added to the regulatory list of ''designated exceptions'' as meeting the primary purpose exception under the proposed rule if they satisfy the proposed primary purpose exception?

8. Should any of the designated exceptions be removed, or new ones added? Please explain.

9. Should the enabling transactions designated exception be amended to include only non-reloadable prepaid card programs, such as gift cards? Please explain.

10. For the proposed BSDE, is the use of ''assets under management'' appropriate? Is the definition of ''assets under management'' sufficiently clear under the proposed rule? Is it appropriate to request the total amount of deposits placed by the broker-dealer or investment adviser on behalf of its customers at all IDIs and the total amount of customer assets under management as of the last quarter and as of the date of the notice filing?

Reciprocal Deposits

11. Given that the limited reciprocal deposits exception is intended for IDIs that are in good condition and well managed, should there be any ability for an IDI to regain ''agent status'' absent a return to being a well-rated and well-capitalized IDI?

12. Can allowance of regaining ''agent status'' potentially run counter to the goals of having an IDI focus on addressing its problems because the exception would potentially allow an IDI that is less than well-capitalized and not well-rated to grow its deposits through this avenue?

13. If an IDI could regain ''agent status'' absent a return to being a well-rated and well-capitalized IDI, is it appropriate to allow the IDI to regain

[132] *See* FDIC Application for Waiver of Prohibition on Acceptance of Brokered Deposits Information Collection Request, OMB No. 3064–0099, *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202308-3064-001*.

[133] 12 U.S.C. 4802(a).

[134] 12 U.S.C. 4802(b).

''agent status'' after the third consecutive calendar quarter during which the IDI did not at any time receive reciprocal deposits that caused its total reciprocal deposits to exceed its special cap? Should it be a shorter or longer time period?

Alternatives

14. Would rescinding a designated exception for sweep deposits be appropriate? Why or why not?

15. Would limiting the BDSE to sweep deposits placed at affiliated IDIs be appropriate? Why or why not?

16. Are there any additional alternatives the FDIC should consider?

Appendix 1: Sweep Deposits and Brokered Deposit Reporting, Call Report, December 31, 2023

PART I—NUMBER OF IDIS REPORTING SWEEP DEPOSITS, AND RELATED DATA—CALL REPORT, SCHEDULE RC–E MEMORANDUM ITEMS 1.h AND 1.i, DECEMBER 31, 2023

	All IDIs	IDIs with TA>$100B	IDIs with TA>$50B<$100B	IDIs with TA>$10B<$50B	IDIs with TA>$5B<$10B	IDIs with TA<$5B
1. Total Number of IDIs	4,587	33	13	112	120	4,309
2. # of IDIs Reporting Non-Zero Sweep Deposits	1,375	31	12	85	86	1,161
3. % of IDIs Reporting Non-Zero Sweep Deposits	29.98%	93.94%	92.31%	75.89%	71.67%	26.94%
4. Sweep Deposits as % of Total Deposits Average Among IDIs Reporting Sweep Deposits	8.15%	11.16%	9.72%	15.88%	9.95%	7.35%
Affiliate Sweep Deposits						
5. # of IDIs Reporting Affiliate Sweep Deposits	132	19	4	17	10	82
6. % of IDIs Reporting Affiliate Sweep Deposits	2.88%	57.58%	30.77%	15.18%	8.33%	1.90%
7. Affiliate Sweeps as % of Total Deposits—Average Among IDIs Reporting Sweeps	12.97%	11.57%	6.97%	34.60%	9.42%	9.53%
8. Largest Reported Affiliate Sweeps as % Total Deposits at an IDI	100.00%	74.17%	18.53%	100.00%	66.49%	100.00%
Non-Affiliate Sweep Deposits						
9. # of IDIs Reporting Non-Affiliate Sweep Deposits	1,308	28	11	80	83	1,106
10. % of IDIs Reporting Non-Affiliate Sweep Deposits	28.52%	84.85%	84.62%	71.43%	69.17%	25.67%
11. # of IDIs With No Affiliate Sweeps That Reporting All Non-Affiliate Sweeps as Not Brokered[i]	895	3	2	28	42	820
12. IDIs From Line 11 as Percentage of IDIs on Line 9	68.4%	10.7%	18.2%	35.0%	50.6%	74.1%
13. Non-Affiliate Sweeps as % of Total Deposits Average Among IDIs Reporting Sweeps	7.26%	4.51%	8.07%	9.52%	9.18%	7.01%
14. Greatest Non-Affiliate Sweeps as % of Total Deposits at an IDI	101.65%	21.87%	21.82%	101.65%	35.26%	57.81%
15. # of IDIs with Non-Affiliate Sweeps ≥50% of Total Deposits	2	0	0	1	0	1
16. # of IDIs with Non-Affiliate Sweeps ≥25% of Total Deposits	47	0	0	6	4	37
17. # of IDIs with Non-Affiliate Sweeps >10% of Total Deposits	336	3	2	24	33	274

PART II—DOLLAR VOLUMES OF SWEEP DEPOSITS—CALL REPORT, SCHEDULE RC–E, MEMORANDUM ITEMS 1.h AND 1.i, DECEMBER 31, 2023

	All IDIs	IDIs with TA>$100B	IDIs with TA>$50B<$100B	IDIs with TA>$10B<$50B	IDIs with TA>$5B<$10B	IDIs with TA<$5B
1. Reported Total Deposits at All IDIs	18,813,298,058	13,232,515,916	740,962,100	1,972,296,250	685,082,045	2,182,441,747
2. Reported Total Sweeps	1,427,142,903	951,624,313	69,540,704	269,437,563	51,281,295	85,259,028
3. Reported Total Affiliated Sweeps	748,878,759	608,077,343	18,375,917	108,835,380	5,776,164	7,813,955
4. Reported Total Non-Affiliate Sweeps	678,264,144	343,546,970	51,164,787	160,602,183	45,505,131	77,445,073

PART III—ESTIMATES OF UNAFFILIATED SWEEP DEPOSITS NOT REPORTED AS BROKERED DEPOSITS, DECEMBER 31, 2023

[Dollar amounts in thousands]

	All IDIs	IDIs with TA>$100B	IDIs with TA>$50B<$100B	IDIs with TA>$10B<$50B	IDIs with TA>$5B<$10B	IDIs with TA<$5B
1. Reported Total Sweeps Not Reported As Brokered	1,130,350,872	748,795,994	47,741,450	224,773,693	40,435,786	68,603,949
2. Reported Total Affiliate Sweeps (From Line 3 in Part II Above)	748,878,759	608,077,343	18,375,917	108,835,380	5,776,164	7,813,955
3. Reported Total Non-Affiliate Sweeps Estimated to Not Be Reported as Brokered (Line 1 minus Line 2 Above)[ii]	381,472,113	140,718,651	29,365,533	115,938,313	34,659,622	60,789,994
4. Reported Total Non-Affiliate Sweeps Confirmed to Be Correctly Reported as Non-Brokered	[iii] 97,479,855	[iv] 66,427,468	0	[v] 31,052,387	0	0
5. Reported Total Non-Affiliate Sweeps Estimated to be Incorrectly Reported as Not Brokered (Line 3 minus Line 4 Above)	283,992,258	74,291,183	29,365,533	84,885,926	34,659,622	60,789,994
6. Reported Total Non-Affiliate Sweeps	678,264,144	343,546,970	51,164,787	160,602,183	45,505,131	77,445,073

PART III—ESTIMATES OF UNAFFILIATED SWEEP DEPOSITS NOT REPORTED AS BROKERED DEPOSITS, DECEMBER 31, 2023—Continued

[Dollar amounts in thousands]

	All IDIs	IDIs with TA>$100B	IDIs with TA>$50B<$100B	IDIs with TA>$10B<$50B	IDIs with TA>$5B<$10B	IDIs with TA<$5B
7. Reported Total Non-Affiliate Sweeps Estimated to be Correctly Reported as Brokered (Line 6 minus Line 3 Above)	296,792,031	202,828,319	21,799,254	44,663,870	10,845,509	16,655,079
8. # of IDIs Reporting All Non-Affiliate Sweeps as Not Brokered [vi]	895	3	2	28	42	820

[i] IDIs reporting: (1) no affiliate sweeps; (2) a non-zero value for non-affiliate sweeps; and (3) total non-affiliated sweeps that equal total sweeps not reported as brokered. The remaining IDIs represent: (1) IDIs that correctly reported all non-affiliated sweeps as brokered; (2) IDIs that correctly reported a portion of unaffiliated sweeps as non-brokered and incorrectly reported a portion of sweeps as non-brokered; (3) and IDIs with a portion of affiliate sweeps and a portion of non-affiliated sweeps that is either reported correctly or incorrectly.

[ii] Assumes all total affiliate sweeps are not reported as brokered. Under current regulations, affiliate sweeps would need to be associated with a ''25 percent test'' PPE through the notice process or the IDI is relying on the Exclusive Placement Arrangement for these deposits to be considered non-brokered.

[iii] This $97,479,855,000 amount is correctly reported as not brokered because it reflects amounts reported by two IDIs, which accept sweep deposits from a non-affiliated clearing broker that has filed a notice with the FDIC indicating that it operates under a primary purpose exception where less than 25 percent of assets under administration are placed at insured depository institutions, and do not use a 3rd party deposit allocation service. A review of other IDIs reporting of non-affiliate sweeps deposits as brokered may reveal other instances of non-affiliate sweeps deposits being correctly reported as non-brokered if the sweep deposits are coming from a broker-dealer or other custodian that has filed a primary purpose exception notice with the FDIC and no other third party is involved that provides matchmaking services or otherwise meets the *deposit broker* definition without an applicable exception.

[iv] This $66,427,468,000 amount is correctly reported as not brokered because it reflects amounts reported by an IDI, which accepts sweep deposits from a non-affiliated clearing broker that has filed a notice with the FDIC indicating that it operates under a primary purpose exception where less than 25 percent of assets under administration are placed at insured depository institutions and does not use a 3rd party deposit allocation service.

[v] This $31,052,387,000 amount is correctly reported as not brokered because it reflects amounts reported by an IDI, which accepts sweep deposits from a non-affiliated clearing broker that has filed a notice with the FDIC indicating that it operates under a primary purpose exception where less than 25 percent of assets under administration are placed at insured depository institutions and does not use a 3rd party deposit allocation service.

[vi] IDIs reporting no affiliate sweeps, a non-zero value for non-affiliate sweeps, and total non-affiliated sweeps that equal total sweeps not reported as brokered.

List of Subjects

12 CFR Part 303

Administrative practice and procedure, Bank deposit insurance, Banks, Banking, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 337

Banks, Banking, Reporting and recordkeeping requirements, Savings associations, Securities.

Authority and Issuance

For the reasons stated in the preamble, the FDIC proposes to amend 12 CFR parts 303 and 337 as follows:

PART 303—FILING PROCEDURES

■ 1. The authority citation for part 303 continues to read as follows:

Authority: 12 U.S.C. 378, 1463, 1467a, 1813, 1815, 1817, 1818, 1819(a) (Seventh and Tenth), 1820, 1823, 1828, 1831i, 1831e, 1831o, 1831p–1, 1831w, 1831z, 1835a, 1843(l), 3104, 3105, 3108, 3207, 5412; 15 U.S.C. 1601–1607.

■ 2. Amend § 303.243 by revising paragraph (b) to read as follows:

§ 303.243 Brokered deposits.

* * * * *

(b) *Primary purpose exception notices and applications*—(1) *Scope.* This section sets forth a process for an insured depository institution to notify the FDIC that it will rely upon the designated exception in § 337.6(a)(5)(iv)(I)(*1*)(*i*) of this chapter and sets forth a process for an insured depository institution to apply for the primary purpose exception, as described in § 337.6(a)(5)(iv)(I)(*2*) of this chapter.

(2) *Definitions.* For purposes of this paragraph (b):

Applicant means an insured depository institution that applies for a primary purpose exception described in § 337.6(a)(5)(iv)(I)(*2*) of this chapter with respect to a particular business line between the insured depository institution and a deposit broker.

Notice filer means an insured depository institution that submits a written notice to the appropriate FDIC regional director indicating that the IDI's relationship with a broker-dealer or an investment adviser registered with the U.S. Securities and Exchange Commission qualifies for the designated business exception in § 337.6(a)(5)(iv)(I)(*1*)(*i*) of this chapter.

(3) *Prior notice requirement for 10 percent of assets under management designated business exception described in § 337.6(a)(5)(iv)(I)(1)(i) of this chapter.* An insured depository institution must notify the FDIC through a written notice that the insured depository institution will rely upon the 10 percent designated business exception described in § 337.6(a)(5)(iv)(I)(*1*)(*i*) of this chapter. An IDI may rely on the exception 90 days after filing a complete notice if the FDIC has not disapproved the notice. The FDIC, within its discretion, may extend the time period for an additional 90 days, with notice, to review and provide disapproval before the IDI may rely on the exception.

(i) *Contents of notice.* The notice must include:

(A) A description of the deposit placement arrangement between the insured depository institution and the broker-dealer or investment adviser for the particular business line;

(B) The registration and contact information for the broker-dealer or investment adviser;

(C) The total amount of customer assets under management (as defined in § 337.6(a)(11) of this chapter) by the broker-dealer or investment adviser as of the last quarter and as of the date of the filing;

(D) The total amount of deposits placed by the broker-dealer or investment adviser on behalf of its customers at all depository institutions as of the last quarter and as of the date of the filing; and

(E) A certification that no additional third parties are involved in the deposit placement arrangement.

(ii) *Request for additional information for notices.* The FDIC may request additional information from the notice filer at any time after receipt of the notice.

(iii) *Notice timing.* Within 90 days of receipt of a submission under paragraph (b)(3)(i) of this section, the FDIC will inform the notice filer whether the submission is disapproved. The FDIC may extend its review period by an additional 90 days, as necessary, with notice.

(iv) *Notice disapproval.* Submissions that do not meet the 10 percent designated business exception (as described in § 337.6(a)(5)(iv)(I)(*1*)(*i*) of this chapter) will be disapproved. Submissions that fail to include the required information described in

paragraph (b)(3)(i) of this section are incomplete and will be disapproved.

(v) *Additional notice filers identified by the FDIC at a later date.* The FDIC may include notice and/or reporting requirements as part of a designated exception identified under § 337.6(a)(5)(iv)(I)(*1*)(*xiv*) of this chapter.

(vi) *Subsequent notices.* A notice filer that previously submitted a notice under this section shall submit a subsequent notice to the FDIC if, at any point, the business line that is the subject of the notice no longer meets the designated business exception that was the subject of its previous notice.

(vii) Ongoing *requirements for notice filers.* Notice filers that submit a notice under the 10 percent test described in § 337.6(a)(5)(iv)(I)(*1*)(*i*) of this chapter must provide to the FDIC quarterly updates of the figures described in paragraph (b)(3)(i) of this section that were provided as part of the notice.

(viii) *Revocation of primary purpose exception.* The FDIC may, with notice, revoke a primary purpose exception under paragraph (b)(3)(iii) of this section, if:

(A) The broker dealer or investment adviser no longer meets the criteria to rely on the designated exception;

(B) The notice or subsequent reporting is inaccurate; or

(C) The notice filer fails to submit one or more required reports.

(4) *Application requirements.* An insured depository institution may submit an application to the FDIC seeking a primary purpose exception for business relationships not designated in § 337.6(a)(5)(iv)(I)(*1*) of this chapter.

(i) *For applications for primary purpose exception to place less than 10 percent of customer funds in insured depository institutions with the use of additional third parties that do not meet the deposit broker definition.* Applicants that seek the primary purpose exception where the broker dealer or investment adviser place less than 10 percent of customer funds into insured depository institutions through the use of an additional third party that does not meet the deposit broker definition (see § 337.6(a)(5) of this chapter) must include the following information:

(A) A description of the deposit placement arrangement between the insured depository institution, the broker-dealer or investment adviser, and the additional third party, including the services provided by the additional third party, for the particular business line, and copies of contracts relating to the deposit placement arrangement, including all third-party contracts;

(B) The total amount of customer assets under management by the broker-dealer or investment adviser;

(C) The total amount of deposits placed by the broker-dealer or investment adviser on behalf of its customers at all depository institutions;

(D) Information on whether the additional third party places or facilitates the placement of deposits at insured depository institutions, including through operating or using an algorithm, or any other program or technology that is functionally similar;

(E) Information on whether the additional third party has legal authority, contractual or otherwise, to close the account or move the third party's funds to another insured depository institution, including through operating or using an algorithm, or any other program or technology that is functionally similar;

(F) Information on the amount of fees paid to the additional third party from any source with respect to its services provided as part of the deposit placement arrangement;

(G) Information on whether the additional third party has discretion to choose the insured depository institution(s) at which customer deposits are or will be placed; and

(H) Any other information that the FDIC requires to initiate its review and render the application complete.

(ii) *Contents of applications for primary purpose exception not covered by paragraph (b)(4)(i) of this section.* Applicants that seek the primary purpose exception, other than applications under paragraph (b)(4)(i) of this section, must include, to the extent applicable:

(A) A description of the deposit placement arrangements between the third party and insured depository institutions for the particular business line, including the services provided by any additional third parties, and copies of contracts relating to the deposit placement arrangement, including all third-party contracts;

(B) A description of the particular business line;

(C) A description of the primary purpose of the particular business line;

(D) The total amount of customer assets under management by the third party, with respect to the particular business line;

(E) The total amount of deposits placed by the third party at all insured depository institutions, including the amounts placed with the applicant, with respect to the particular business line. This includes the total amount of term deposits and transactional deposits placed by the third party, but should be exclusive of the amount of brokered CDs, as defined in § 337.6(a)(5)(iv)(I)(*3*) of this chapter, being placed by that third party;

(F) Information on whether the insured depository institution or customer pays fees or other remuneration to the agent or nominee for deposits placed with the insured depository institution and the amount of such fees or other remuneration, including how the amount of fees or other remuneration is calculated;

(G) Information on whether the agent or nominee has discretion to choose the insured depository institution(s) at which customer deposits are or will be placed;

(H) Information on whether the agent or nominee is mandated by law to disburse funds to customer deposit accounts;

(I) A description of the marketing activities provided by the third party, with respect to the particular business line;

(J) The reasons the third party meets the primary purpose exception;

(K) Any other information the applicant deems relevant; and

(L) Any other information that the FDIC requires to initiate its review and render the application complete.

(iii) *Additional information for applications.* The FDIC may request additional information from the applicant at any time during processing of the application.

(iv) *Application timing.* (A) An applicant that submits a complete application under this section will receive a written determination by the FDIC within 120 days of receipt of a complete application.

(B) If an application is submitted that is not complete, the FDIC will notify the applicant and explain what is needed to render the application complete.

(C) The FDIC may extend the 120-day timeframe to complete its review of a complete application, if necessary, with notice to the applicant, for 120 additional days. If necessary, the FDIC may further extend its review period.

(v) *Application approvals.* The FDIC will approve an application—

(A) Submitted under paragraph (b)(4)(i) of this section if the FDIC finds that the applicant demonstrates that, with respect to the particular business line, the additional third party involved in the deposit placement arrangement is not a *deposit broker,* as defined in § 337.6(a)(5) of this chapter, and the applicant otherwise qualifies for the 10 percent of assets under management designated business exception described in § 337.6(a)(5)(iv)(I)(*1*)(*i*) of this chapter; or

(B) Submitted under paragraph (b)(4)(ii) of this section if the FDIC finds that the applicant demonstrates that, with respect to the particular business line under which the third party places or facilitates the placement of deposits, the primary purpose of the third party's business relationship with the insured depository institution is for a substantial purpose other than to provide a deposit-placement service or FDIC deposit insurance for customer funds placed at the insured depository institution.

(vi) *Ongoing reporting for applications.* (A) The FDIC will describe any reporting requirements, if applicable, as part of its written approval for a primary purpose exception.

(B) Applicants that receive a written approval for the primary purpose exception, will provide reporting to the FDIC and to its primary Federal regulator, if required under this section.

(vii) *Requesting additional information, requiring re-application, imposing additional conditions, and withdrawing approvals.* At any time after approval of an application for the primary purpose exception, the FDIC may at its discretion, with written notice:

(A) Require additional information from an applicant to ensure that the approval is still appropriate, or for purposes of verifying the accuracy and correctness of the information submitted to the FDIC as part of the application under this section;

(B) Require the applicant to reapply for approval;

(C) Impose additional conditions on an approval; or

(D) Withdraw an approval.

PART 337—UNSAFE AND UNSOUND BANKING PRACTICES

■ 3. The authority for part 337 continues to read as follows:

Authority: 12 U.S.C. 375a(4), 375b, 1463, 1464, 1468, 1816, 1818(a), 1818(b), 1819, 1820(d), 1821(f), 1828(j)(2), 1831, 1831f, 1831g, 5412.

■ 4. Amend § 337.6 by revising paragraph (a)(5) and adding paragraphs (a)(9) through (11) and (e)(3) to read as follows:

§ 337.6 Brokered deposits.

(a) * * *

(5) *Deposit broker,* as used in this section and § 337.7:

(i) *Definition.* The term *deposit broker* means:

(A) Any person engaged in the business of placing or facilitating the placement of deposits of third parties with insured depository institutions;

(B) Any person engaged in the business of placing deposits with insured depository institutions for the purpose of selling those deposits or interests in those deposits to third parties; and

(C) An agent or trustee who establishes a deposit account to facilitate a business arrangement with an insured depository institution to use the proceeds of the account to fund a prearranged loan.

(ii) *Engaged in the business of placing or facilitating the placement of deposits.* A person is engaged in the business of placing or facilitating the placement of deposits of third parties if that person engages in one or more of the following activities:

(A) The person receives third-party funds and deposits those funds at one or more insured depository institutions;

(B) The person has legal authority, contractual or otherwise, to close the account or move funds of the third party to another insured depository institution;

(C) The person is involved in negotiating or setting rates, fees, terms, or conditions for the deposit account;

(D) The person proposes or determines deposit allocations at one or more insured depository institutions (including through operating or using an algorithm, or any other program or technology that is functionally similar); or

(E) The person has a relationship or arrangement with an insured depository institution or customer where the insured depository institution or the customer pays the person a fee or provides other remuneration in exchange for deposits being placed at one or more insured depository institution.

(iii) *Anti-evasion.* A person that structures a deposit placement arrangement in a way that evades meeting the *deposit broker* definition in this section, including a structure involving more than one person engaged in activities that result in placing or facilitating the placement of third-party deposits, while still playing an ongoing role in placing or facilitating the placement of third-party deposits or providing any function related to the placement or facilitating the placement of third-party deposits, may, upon a finding by and with written notice from the FDIC, result in the person meeting the *deposit broker* definition.

(iv) *Exceptions to deposit broker definition.* The term *deposit broker* does not include:

(A) An insured depository institution, with respect to funds placed with that depository institution.

(B) An employee of an insured depository institution, with respect to funds placed with the employing depository institution.

(C) A trust department of an insured depository institution, if the trust or other fiduciary relationship in question has not been established for the primary purpose of placing funds with insured depository institutions.

(D) The trustee of a pension or other employee benefit plan, with respect to funds of the plan.

(E) A person acting as a plan administrator or an investment adviser in connection with a pension plan or other employee benefit plan provided that person is performing managerial functions with respect to the plan.

(F) The trustee of a testamentary account.

(G) The trustee of an irrevocable trust (other than one described in paragraph (a)(5)(i)(B) of this section), as long as the trust in question has not been established for the primary purpose of placing funds with insured depository institutions.

(H) A trustee or custodian of a pension or profit-sharing plan qualified under section 401(d) or 403(a) of the Internal Revenue Code of 1986 (26 U.S.C. 401(d) or 403(a)).

(I) An agent or nominee whose primary purpose in placing customer deposits at insured depository institutions is for a substantial purpose other than to provide a deposit-placement service or to obtain FDIC deposit insurance with respect to particular business lines between the individual insured depository institutions and the agent or nominee.

(*1*) *Designated business exceptions that meet the primary purpose exception in this paragraph (a)(5)(iv)(I).* Business relationships are designated as meeting the primary purpose exception, subject to § 303.243(b)(3) of this chapter, where, with respect to a particular business line:

(*i*) A broker-dealer or investment adviser that places or facilitates the placement of less than 10 percent of the total assets that it has under management for its customers is placed at depository institutions, and no additional third parties are involved in the deposit placement arrangement;

(*ii*) A property management firm places, or assists in placing, customer funds into deposit accounts for the primary purpose of providing property management services;

(*iii*) The agent or nominee places, or assists in placing, customer funds into deposit accounts for the primary purpose of providing cross-border clearing services to its customers;

(*iv*) The agent or nominee places, or assists in placing, customer funds into deposit accounts for the primary purpose of providing mortgage servicing;

(*v*) A title company places, or assists in placing, customer funds into deposit accounts for the primary purpose of facilitating real estate transactions;

(*vi*) A qualified intermediary places, or assists in placing, customer funds into deposit accounts for the primary purpose of facilitating exchanges of properties under section 1031 of the Internal Revenue Code;

(*vii*) A broker dealer or futures commission merchant places, or assists in placing, customer funds into deposit accounts in compliance with 17 CFR 240.15c3 through 3(e) or 17 CFR 1.20(a);

(*viii*) The agent or nominee places, or assists in placing, customer funds into deposit accounts for the primary purpose of posting collateral for customers to secure credit-card loans;

(*ix*) The agent or nominee places, or assists in placing, customer funds into deposit accounts for the primary purpose of paying for or reimbursing qualified medical expenses under section 223 of the Internal Revenue Code;

(*x*) The agent or nominee places, or assists in placing, customer funds into deposit accounts for the primary purpose of investing in qualified tuition programs under section 529 of the Internal Revenue Code;

(*xi*) The agent or nominee places, or assists in placing, customer funds into deposit accounts to enable participation in the following tax-advantaged programs: individual retirement accounts under section 408(a) of the Internal Revenue Code, Simple individual retirement accounts under section 408(p) of the Internal Revenue Code, and Roth individual retirement accounts under section 408A of the Internal Revenue Code;

(*xii*) A Federal, State, or local agency places, or assists in placing, customer funds into deposit accounts to deliver funds to the beneficiaries of government programs;

(*xiii*) The agent or nominee places customer funds at insured depository institutions, in a custodial capacity, based upon instructions received from a depositor or depositor's agent specific to each insured depository institution and deposit account, and the agent or nominee neither plays any role in determining at which insured depository institution(s) to place any customers' funds, nor negotiates or set rates, terms, fees, or condition, for the deposit account; and

(*xiv*) The agent or nominee places, or assists in placing, customer funds into deposit accounts pursuant to such other relationships as the FDIC specifically identifies as a designated business relationship that meets the primary purpose exception.

(*2*) *Approval required for business relationships not designated in paragraph (a)(5)(iv)(I)(1) of this section.* An insured depository institution that does not rely on a designated business exception described in this section must receive an approval under the application process in § 303.243(b) of this chapter in order to qualify for the primary purpose exception in this paragraph (a)(5)(iv)(I).

(*3*) *Brokered CD placements not eligible for primary purpose exception under this paragraph (a)(5)(iv)(I).* An agent's or nominee's placement of brokered certificates of deposit as described in 12 U.S.C. 1831f(g)(1)(A) will be considered a discrete and independent business line from other deposit placement businesses in which the agent or nominee may be engaged.

(*4*) *Definition of brokered CD.* The term *brokered CD* means a deposit placement arrangement in which a master certificate of deposit is issued by an insured depository institution in the name of the third party that has organized the funding of the certificate of deposit, or in the name of a custodian or a sub-custodian of the third party, and the certificate is funded by individual investors through the third party, with each individual investor receiving an ownership interest in the certificate of deposit, or a similar deposit placement arrangement that the FDIC determines is arranged for a similar purpose.

(J) An insured depository institution acting as an intermediary or agent of a U.S. Government department or agency for a government sponsored minority or women-owned depository institution deposit program.

(v) *Inclusion of insured depository institutions engaging in certain activities.* Notwithstanding paragraph (a)(5)(iv) of this section, the term *deposit broker* includes any insured depository institution that is not well-capitalized, and any employee of any such insured depository institution, which engages, directly or indirectly, in the solicitation of deposits by offering rates of interest (with respect to such deposits) which are significantly higher than the prevailing rates of interest on deposits offered by other insured depository institutions in such depository institution's normal market area.

* * * * *

(9) *Broker-dealer* means a person that is registered with the United States Securities and Exchange Commission as either a broker, a dealer, or both types of entities.

(10) *Investment adviser* means a person that is registered with the United States Securities and Exchange Commission as an *investment adviser.*

(11) *Assets under management* means securities portfolios and cash balances with respect to which an investment adviser or broker-dealer provides continuous and regular supervisory or management services.

* * * * *

(e) * * *

(3) *Regaining agent institution status.* An insured depository institution that has lost its agent institution status for purposes of the limited exception for reciprocal deposits is eligible to regain its agent institution status as follows:

(i)(A) When most recently examined under section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) was found to have a composite condition of outstanding or good; and

(B) Is well capitalized;

(ii)(A) As of the date the insured depository institution is notified, or is deemed to have notice, that it is well capitalized under regulations implementing section 38 of the FDI Act issued by the appropriate Federal banking agency for that institution; and

(B) Is well-rated;

(iii) Has obtained a waiver pursuant to paragraph (c) of this section; or

(iv)(A) Does not receive an amount of reciprocal deposits that causes the total amount of reciprocal deposits held by the agent institution to be greater than the average of the total amount of reciprocal deposits held by the agent institution on the last day of each of the four calendar quarters preceding the calendar quarter in which the agent institution was found not to have a composite condition of outstanding or good or was determined to be not well capitalized; and

(B) An insured depository institution that is not in compliance with paragraph (e)(2)(i)(C) of this section may regain its status as an agent institution after complying with paragraph (e)(3)(iv)(A) of this section continuously for two successive reporting quarters.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on July 30, 2024.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2024–18214 Filed 8–22–24; 8:45 am]

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Part III

Small Business Administration

13 CFR Parts 121, 124, 125, et al.

HUBZone Program Updates and Clarifications, and Clarifications to Other Small Business Programs; Proposed Rule

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 121, 124, 125, 126, 127, 128, 134

[Docket ID SBA–2024–0007]

RIN 3245–AH68

HUBZone Program Updates and Clarifications, and Clarifications to Other Small Business Programs

AGENCY: U.S. Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The U.S. Small Business Administration (SBA or Agency) proposes to amend its regulations governing the Historically Underutilized Business Zone (HUBZone) Program to clarify certain policies. In 2019, SBA published a comprehensive revision to the HUBZone Program regulations, which implemented changes intended to make the HUBZone Program more efficient and effective. This proposed rule is intended to clarify and improve policies surrounding some of those changes. In particular, the rule proposes to require any certified HUBZone small business to be eligible as of the date of offer for any HUBZone contract. SBA also proposes to make several changes to SBA's size and 8(a) Business Development (BD) regulations, as well as some technical changes to the Women-Owned Small Business (WOSB) and Veteran Small Business Certification (VetCert) programs. Of note, the proposed rule would delete the program specific recertification requirements contained separately in SBA's size, 8(a) BD, HUBZone, WOSB, and VetCert and move them to a new section that would cover all size and status recertification requirements. This should ensure that the size and status requirements will be uniformly applied.

DATES: Comments must be received on or before October 7, 2024.

ADDRESSES: You may submit comments, identified by Docket No. SBA–2024–0007 or RIN 3245–AH68, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov* and follow the instructions for submitting comments.
- *Mail (for paper submissions):* Laura Maas, HUBZone Program, 409 Third Street SW, Washington, DC 20416.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted on *http://www.regulations.gov.* If you wish to submit confidential business information (CBI) as defined in the User Notice at *http://www.regulations.gov,* please submit the comments to Laura Maas and highlight the information that you consider to be CBI and explain why you believe this information should be held confidential. SBA will make a final determination as to whether the comments will be published or not.

FOR FURTHER INFORMATION CONTACT: Laura Maas, Deputy Director, Office of HUBZone, (202) 205–7341, *hubzone@sba.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On November 26, 2019, SBA published the first comprehensive revision of the HUBZone Program regulations since the program's implementation more than 20 years ago. 84 FR 65222. The revisions were intended to clarify current HUBZone Program policies and procedures and implement changes to make the HUBZone Program more efficient and effective. This proposed rule would make additional clarifications to the program regulations to reflect SBA policies established in response to feedback received in the time since the publication of the comprehensive revision.

SBA also made a number of revisions to the HUBZone regulations as part of its implementation of section 1701 of the National Defense Authorization Act for Fiscal Year 2018 (NDAA 2018), Public Law 115–91, Dec. 12, 2017. Included within that rulemaking were revisions freezing the HUBZone map until the results of the 2020 census were released; authorizing ''legacy HUBZone employees''; requiring annual recertification; implementing one-year certification and requiring HUBZone firms to be eligible on each anniversary of their HUBZone certification date; and requiring HUBZone firms to be HUBZone-certified at the time of offer for any HUBZone contract, with eligibility relating back to their certification anniversary date and removing the requirement for HUBZone small businesses to be eligible at the time of award of a HUBZone contract.

In the time since SBA published the comprehensive revision, the Office of the HUBZone Program has received questions and information that prompted refinement and clarification of policies contained in that revision, which SBA published in ''Frequently Asked Questions'' in February 2020 and in subsequent updates. This proposed rule would incorporate some of those clarifications and make other refinements in the HUBZone regulations, including requiring HUBZone firms to be eligible on the date of offer for a HUBZone contract and relieving the burden of annual recertification by moving to a triennial recertification requirement. In addition, this proposed rule would clarify policies related to ''Governor-designated covered areas,'' which were authorized by the NDAA 2018 and implemented through a direct final rule published by SBA on November 15, 2019. 84 FR 62447.

Further, in response to concerns related to potential fraud and abuse in the program, SBA is proposing to amend the definition of the term ''employee'' by raising the minimum number of work hours necessary for an individual to count as an employee for HUBZone program purposes.

The proposed rule would also make several changes to SBA's size and 8(a) business development (BD) regulations, as well as some technical changes to the women-owned small business (WOSB) and the Veteran Small Business Certification (VetCert) programs. Of note, the proposed rule would delete the program specific recertification requirements contained separately in SBA's size, 8(a) BD, HUBZone, WOSB, and VetCert and move them to a new section that would cover all size and status recertification requirements. Currently, there is some language contained in the program specific recertification rules that is not identical in each of the programs. This has caused some confusion as to whether SBA intended the rules to be different in certain cases. That was not SBA's intent. Moving all size and recertification to new § 125.12 should alleviate any confusion between the different programs and ensure that the size and status requirements will be uniformly applied.

II. Section-by-Section Analysis

Sections 121.103(a)(3), 124.106(h), 127.202(h) and 128.203(j)(6)

SBA proposes to amend its rules on affiliation in the size regulations and control in the 8(a) BD, WOSB and VetCert program regulations regarding negative control. Specifically, this proposed rule would make the negative-control rules consistent across SBA's various programs. The negative control provision states that a concern may be deemed controlled by, and therefore affiliated with, a minority shareholder that has the ability to prevent a quorum or otherwise block action by the board of directors or shareholders. The rule does not include any specific exceptions, though some have

developed through caselaw at SBA's Office of Hearings and Appeals (OHA). *See, e.g., Southern Contracting Solutions III, LLC,* SBA No. SIZ–5956 (Aug. 30, 2018).

This proposed rule would first amend § 121.103(a)(3) by adding language currently contained in the VetCert rules that developed from OHA case law to clarify that there are certain ''extraordinary circumstances'' under which a minority shareholder may have some decision-making authority without a finding of negative control. Specifically, SBA will not find that a lack of control exists where a qualifying individual or business does not have the unilateral power and authority to make decisions regarding: (1) adding a new equity stakeholder; (2) dissolution of the company; (3) sale of the company or all assets of the company; (4) the merger of the company; (5) the company declaring bankruptcy; and (g) amendment of the company's governance documents to remove the shareholder's authority to block any of (1) through (5). These exceptions to negative control are being implemented to promote consistency with other SBA contracting programs (*see* § 128.203(j)).

This rule proposes to add the same language to a new § 124.106(h) for the 8(a) BD program and to § 127.202(h) for the WOSB program. Finally, since the current VetCert regulations have only the first five exceptions for control and this rule would add six to the size, 8(a) BD and WOSB regulations, the proposed rule would add that same sixth exception to the VetCert regulations also. That addition would be a new § 128.203(j)(6). Through this proposed rule, SBA would add explicit exceptions to the negative-control provision for all programs for which control is an eligibility element. This would permit all small businesses to seek equity funding without becoming affiliated with the investors solely because of a broad interpretation of the negative-control rule. SBA specifically requests comments as to whether the six identified exceptions are sufficient or whether one or more additional exceptions should also be included in the regulations.

Section 121.103(h)

Section 121.103(h)(3) sets forth SBA's ''ostensible subcontractor'' rule, which may find a prime contractor ineligible for the award of any small business contract or order where a subcontractor that is not similarly situated (as that term is defined in § 125.1) performs primary and vital requirements of a contract, order, or agreement, or where the prime contractor is unusually reliant on such a subcontractor. The current regulatory text provides that a contractor and its ostensible subcontractor are treated as joint venturers for size determination purposes, and as long as each concern is small under the size standard corresponding to the relevant North American Industry Classification System (NAICS) code or the prime contractor is small and the subcontractor is its SBA-approved mentor, the arrangement will qualify as a small business. That language has caused some confusion. In the context of a subcontractor that is an SBA-approved mentor of the prime contractor, in treating the relationship ''as a joint venture'', SBA intended to allow the relationship to qualify as a small business only if all the joint venture requirements were met. That would mean that the protégé and mentor have an underlying joint venture agreement that meets the requirements of § 125.8(b), the protégé will direct and have ultimate responsibility for the contract, and the performance of work requirements set forth in § 125.8(c) will be met. In a prime-subcontractor relationship, those requirements are not present and SBA would aggregate the revenues/employees of such ''joint ventures'' in determining size. Unfortunately, without clearly specifying SBA's intent, the current regulation could be read to allow mentors to be found to be ostensible subcontractors while not meeting the normal joint venture requirements. That was not SBA's intent. This proposed rule would simplify § 121.103(h) by eliminating the reference to a joint venture and instead specify that an offeror is ineligible as a small business concern, an 8(a) small business concern, a certified HUBZone small business concern, a WOSB/EDWOSB, or a VO/SDVO small business concern where SBA determines there to be an ostensible subcontractor relationship.

This proposed rule would also make a corresponding change to § 121.702(c)(7) for the SBIR program. That change would provide that a concern with an other than small ostensible subcontractor cannot be considered a small business concern for SBIR and STTR awards.

Section 121.104

Section 121.104 defines the term annual receipts to mean all revenue in whatever form received or accrued from whatever source, including from the sales of products or services, interest, dividends, rents, royalties, fees, or commissions, reduced by returns and allowances. It goes on to state that generally, receipts are considered ''total income'' plus ''cost of goods sold'' as these terms are defined and reported on Internal Revenue Service (IRS) tax return forms. The section also provides that Federal income tax must be used to determine the size status of a concern. There has been some confusion as to whether SBA is restricted in all circumstances to examining only a concern's tax returns or whether SBA may look at other information if it appears or there is other information suggesting that the tax returns do not adequately capture a concern's total revenue. The proposed rule clarifies that SBA will always consider a concern's tax returns, but may also consider other relevant information in appropriate circumstances in determining whether the concern qualifies as small.

Section 121.404

SBA proposes to simplify and reorganize § 121.404, which addresses the date used to determine size for size certifications and determinations. The proposed changes would not alter the substance of SBA's rules regarding the date to determine size, but rather seek to clarify the current rules and make them easier to understand and apply. In addition to these clarifications, SBA is proposing substantive changes to the rules regarding size recertification and proposes to remove paragraph (g) on size recertification and relocate that paragraph to new section 125.12, which addresses size and small business program status recertification.

Generally, a concern (including its affiliates) must qualify as small under the NAICS code assigned to a contract as of the date the concern submits a self-certification that it is small to the procuring activity as part of its initial offer or response which includes price. Once awarded a contract as a small business, a concern is generally considered to be a small business throughout the life of that contract. For orders and agreements issued under multiple award contracts, the date that size is determined depends on whether the underlying multiple award contract was awarded on an unrestricted basis or whether it was set aside or reserved for small business (*i.e.,* small business set-aside, 8(a) small business, service-disabled veteran-owned small business, HUBZone small business, or women-owned/economically disadvantaged women-owned small business).

Where an order or agreement is to be set aside for small business under an unrestricted multiple award contract, size is determined as of the date of initial offer (or other formal response to a solicitation), including price, for each

order or agreement placed against the multiple award contract. In that scenario, the order or agreement is the first time that size status is important to eligibility. That is the first time that only some contract holders will be eligible to compete for the order or agreement while others will be excluded from competition because of their size status. SBA repeats here its view that SBA never intended to allow a firm's self-certification for the underlying unrestricted multiple award contract to control whether a firm is small at the time an order or agreement is set-aside for small business years after the multiple award contract was awarded.

Where the underlying multiple award contract was set aside or reserved for small business, size status will generally flow down from the underlying contract to the order or agreement, unless recertification is requested by a contracting officer with respect to an agreement or order. As such, size status for an order or agreement under a multiple award contract that itself was set aside or reserved for small business is determined as of the date of initial offer, including price, for the multiple award contract, unless size recertification is requested by the contracting officer in connection with a specific order or agreement.

This rule proposes to also clarify that where a contracting officer requests size recertification with respect to a specific order or agreement, size is determined as of the date of initial offer (or other formal response to a solicitation), including price, for that specific order or agreement only. The requirement to recertify applies only to the order or agreement for which a contracting officer requested recertification. The recertification does not apply to the underlying contract. Where an initially-small contract holder has naturally grown to be other than small and could not recertify as small for a specific order or agreement for which a contracting officer requested recertification, it may continue to qualify as small for other orders or agreements where a contracting officer does not request recertification.

If size recertification is triggered by a merger, sale, or acquisition; or because it is a long-term contract in the fifth year of performance, size will be determined as of the date of the merger, sale, or acquisition occurred, or the date of the size recertification in the case of a recertification in the fifth year of a long-term contract. The impact of a disqualifying recertification, the events that require recertification, and the timing of recertification, are discussed in detail in 125.12, which is a new proposed section of SBA's regulations.

To summarize and clarify, there are three, narrow exceptions to the general rule that the date on which size is determined for an order or agreement against a multiple award contract is dependent on whether the underlying multiple award contract was set aside for small business or unrestricted. The first exception is for set-aside orders or agreements to be placed against GSA's Federal Supply Schedule (FSS) Multiple Award Schedule (MAS) contracts, which is an unrestricted vehicle. Unlike set-side and reserved orders issued under unrestricted multiple award contracts where size status is determined at the date of the offer for the order, for FSS orders size status is determined as of the date of offer for the underlying FSS contract. This exception does not apply when any trigger for size recertification occurs under § 125.12, including when a contracting officer requests a size recertification with the offer for a specific order or agreement that is set-aside for small businesses against the FSS MAS.

SBA provides this clarification in response to a recent decision of the Government Accountability Office (GAO) in *Washington Business Dynamics, LLC,* B–421953, B–421953.2 (Dec. 18, 2023), which cites to several OHA decisions. SBA believes both GAO and OHA misinterpret SBA's regulations. In its decision, GAO extended the FSS exception to apply to size recertifications for orders placed under other multiple award contracts. When a contracting officer requests recertification of size with respect to an order or agreement, the FSS exception does not apply. If there is a disqualifying size recertification in response to any event in 125.12, including a merger, sale, or acquisition, the concern must notify the contracting officer for the underlying multiple award contract and the contracting officer for all existing orders, and update its *SAM.gov* profile to reflect its current size status. The concern is no longer eligible for set-aside orders or agreements against the FSS MAS. In those instances, size is determined as of the date that the triggering event occurred or offer for the particular order or agreement, depending on the cause for recertification.

The second exception is for 8(a) sole source awards issued against multiple award contracts, regardless of whether the underlying multiple award contract is unrestricted, set-aside (even if the underlying multiple award contract itself was set-aside or reserved as an 8(a) award), or under the GSA's FSS MAS contracts. SBA has always required an 8(a) Participant to qualify as eligible (to still be an active Participant in the 8(a) program, qualify as small, and meet all other eligibility criteria) at the time of any 8(a) sole source award. In terms of size for a specific 8(a) sole source order or agreement under a multiple award contract, including GSA's FSS MAS contracts, the concern must qualify as small for the size standard corresponding to the NAICS code assigned to the order or agreement on the date of initial offer for and award of the order or agreement.

The third exception applies when size recertification is triggered pursuant to any scenario outlined in new § 125.12, including when a contracting officer requests recertification of size for a particular order or agreement against a multiple award contract. To be clear, when a recertification of size is triggered, the date to determine size is outlined in new section 125.12, and is typically the date of the triggering event, but may be the date of initial offer for a particular order or agreement if a contracting officer requested recertification with the offer. Size recertification is an essential tool that ensures small business awards continue to be entered into with entities that are small at the time of offer for a particular award. As such, when the requirement for recertification is triggered, the date to determine size shifts to a date that coincides with either the triggering event or the date of initial offer for a particular award (except for sole source 8(a) awards as noted above).

Section 121.1001

Section 121.1001 identifies who may initiate a size protest or request a formal size determination in different instances. Paragraph 121.1001(b)(2)(ii) identifies who may request a formal size determination where SBA cannot verify that an 8(a) Participant is small for a specific sole source or competitive 8(a) contract. There have been a few cases where SBA initially determined that a Participant qualified as small for a sole source 8(a) contract, but later received information that questioned that determination. Under a strict reading of § 121.1001(b)(2)(ii), SBA could not then request a formal size determination because the wording of § 121.1001(b)(2)(ii) authorized such a request only where SBA ''cannot verify the eligibility of the apparent successful offeror because SBA finds the concern to be other than small.'' Since verification, albeit initial verification only, had already occurred, some have questioned whether SBA could request a formal size determination at all in that

context. SBA notes that it was never SBA's intent to prohibit further analysis of an 8(a) Participant's size eligibility when new information becomes available to SBA that questions the firm's eligibility at any point prior to award. SBA seeks to ensure that only firms that qualify as small receive 8(a) contracts. This proposed rule would add a new § 121.1001(b)(2)(iii) to specifically authorize SBA to request a formal size determination where SBA initially verified the eligibility of an 8(a) Participant for the award of an 8(a) contract but then subsequently receives specific information that the Participant may be other than small and consequently ineligible.

This rule also proposes to add a new § 121.1001(b)(12) to specifically authorize requests for formal size determinations relating to size recertifications required by § 125.12. Section 125.12 requires a concern to recertify its size when there is a merger, acquisition, or sale and prior to the sixth year and every option thereafter of a long-term contract. Although SBA and the relevant contracting officer may file a size protest before or after the award of a contract (*see* § 121.1004(b)), the regulations do not currently specifically authorize a protest or a request for a formal size determination in connection with a size recertification. More importantly, there currently is no mechanism to allow a protest or request for a formal size determination from another interested small business concern who believes that a size recertification is incorrect. For example, on a multiple award contract, if after a merger or acquisition a concern re-certifies itself to be small, another contract holder on that multiple award contract could not currently challenge that recertification. Because the proposed rule would render a concern ineligible for orders set aside for small business or set aside for a specific type of small business under a multiple award contract where the concern submits a disqualifying recertification (*see* § 125.12 below), SBA believes that other contract holders should have the ability to question a size recertification. The proposed rule would specifically authorize the contracting officer, the relevant SBA program manager, or the Associate General Counsel for Procurement Law to request a formal size determination. The relevant SBA program manager is that individual overseeing the program relating to the contract at issue. For an 8(a) contract, that would be the Associate Administrator for Business Development; for a HUBZone contract, that would be the Director of HUBZones; and for a small business set-aside, WOSB/EDWOSB or SDVOSB contract, that would be the Director of Government Contracting. The proposed rule would also specify that in connection with a size recertification relating to a multiple award contract, any contract holder on that multiple award contract could request a formal size determination in addition to the contracting officer, the relevant SBA program manager, or the Associate General Counsel for Procurement Law. As with a size protest, a request for a formal size determination questioning the size of a concern after its size recertification must be sufficiently specific to provide reasonable notice as to the grounds upon which the recertifying concern's size is questioned.

SBA is also considering allowing a size protest in connection with the award of an order issued under a multi-agency multiple award contract where the protest relates to the ostensible subcontractor rule. Whether a large business subcontractor will perform primary and vital requirements or whether a small business prime contractor will be unduly reliant on a large business subcontractor will not be an issue at the time of award of an underlying small business multiple award contract. It is at the order level where undue reliance may become an issue. SBA requests comments regarding whether SBA should implement a regulatory provision authorizing such a protest.

Section 121.1010

Section 121.1010 explains how a concern can become recertified as a small business after receiving an adverse size determination. This proposed rule would make slight wording changes to § 121.1010(b) to make clear that size recertification is not required and the prohibition against future self-certification does not apply if the adverse SBA size determination is based solely on a finding of affiliation limited to a particular Government procurement or property sale, such as an ostensible subcontracting relationship or non-compliance with the nonmanufacturer rule.

Section 124.3

Section 124.3 sets forth the definitions that are important in the 8(a) BD program. Included within this section is the definition of the term Community Development Corporation or CDC. In 1981, Congress enacted the Omnibus Reconciliation Act. Included within Title VI of this Act was § 626(a)(2), codified at 42 U.S.C. 9815(a)(2), which required SBA to ''promulgate regulations to ensure the availability to community development corporations of such programs as shall further the purposes of this subchapter, including programs under section 8(a) of the Small Business Act.'' Pursuant to 42 U.S.C. 9802, a CDC is defined as a non-profit organization responsible to the residents of the area it serves which is receiving financial assistance under 42 U.S.C. 9805, *et seq.* Under 42 U.S.C. 9806 the Secretary of Health and Human Services (HHS) has the authority to provide financial assistance in the form of grants to nonprofit and for-profit community development corporations. The program authorized by 42 U.S.C. 9805, *et seq.* is the Department of Health and Human Services (HHS) Urban and Rural Special Impact Program. In 1998, as part of Community Opportunities, Accountability, and Training and Educational Act of 1998, Public Law 105–285, 202(b)(1), 112 Stat. 2702, 2755 (1998), Congress moved HHS' funding authority for the Urban and Rural Special Impact Program from 42 U.S.C. 9803 to 42 U.S.C. 9921. Thus, after that date CDCs could not receive funding under 42 U.S.C. 9805, *et seq.* CDCs that have been in existence for a long time may still be able to demonstrate that they have received funding under 42 U.S.C. 9805, *et seq.* However, those forming after 1998 could not do so. In order for such a CDC seeking to participate in the 8(a) BD program after that date, SBA has required the CDC to obtain a letter from HHS confirming that the CDC has received funding through the successor program to that authorized by 42 U.S.C. 9805, *et seq.* However, SBA's regulations have not been changed to acknowledge eligibility for a CDC-owned firm through that process. The proposed rule would recognize that process. The proposed rule would also make the same change to the definition of the term Community Development Corporation or CDC contained in § 126.103 for the HUBZone program.

Sections 124.105(b), 127.202(d) and 128.202(c)

Sections 124.105(b) (for the 8(a) BD program), 127.202(d) (for the WOSB program), and 128.202(c) (for VetCert program) set forth ownership requirements pertaining to partnerships. The language of the three sections is not consistent. SBA seeks to harmonize the provisions so that a firm simultaneously applying to be certified in more than one program must meet the same requirements. SBA does not want possible contradictory determinations based on the same facts. In other words, SBA believes that it would be

inappropriate to find that a qualifying individual controls a partnership firm for purposes of one certification program but not to control the same partnership firm for purposes of another certification program. This rule would revise the ownership requirements for partnership to be identical for the 8(a) BD, WOSB and VetCert programs.

Section 124.105

Section 124.105 sets forth the ownership requirements that an applicant to or Participant in the 8(a) BD program must meet in order to be and remain eligible for the program. Paragraph 124.105(h) provides certain ownership restrictions that are applicable to non-disadvantaged individuals and concerns that seek to have an ownership interest in an applicant or Participant. The regulation currently provides that a non-disadvantaged individual or another business concern in the same or similar line of business generally cannot own more than a 10 percent interest in a Participant that is in the developmental stage or more than a 20 percent interest in a Participant in the transitional stage of the program. The proposed rule would increase the allowable ownership percentages for non-disadvantaged individuals and business concerns in the same or similar line of business from 10 and 20 percent to 20 and 30 percent. By changing 10 percent to 20 percent, the proposed rule would make this ownership restriction consistent with that contained in § 124.108(a)(4). It then follows that the current 20 percent ownership restriction for the transitional stage would also be correspondingly increased, which is why the proposed rule would raise that restriction to 30 percent.

Paragraph (i) sets forth the requirements relating to changes of ownership. Generally, a Participant may change its ownership or business structure so long as one or more disadvantaged individuals own and control it after the change and SBA approves the transaction in writing prior to the change. Paragraph 124.105(i)(2) authorizes three exceptions as to when prior SBA approval of a change of ownership is not needed and provides four examples implementing the change of ownership requirements, one showing when prior SBA approval is required and three showing when it is not. Prior SBA approval is not needed where all non-disadvantaged individual (or entity) owners involved in the change of ownership own no more than a 20 percent interest in the concern both before and after the transaction. To be consistent with the proposed change to § 124.105(h) above, the proposed rule would require prior approval only where a non-disadvantaged individual owns more than a 30 percent interest in the 8(a) Participant either before or after the transaction. The proposed rule would also add a fourth exception as to when prior SBA approval is not required. Specifically, the proposed rule would specify that prior SBA approval is not required where the 8(a) Participant has never received an 8(a) contract. The rule would then clarify that where prior approval is not required, the Participant must notify SBA within 60 days of such a change in ownership, or before it submits an offer for an 8(a) contract, whichever occurs first. SBA must be able to determine the continued eligibility of the Participant before it accepts a sole source 8(a) procurement on behalf of or authorizes the award of a competitive 8(a) award to the Participant. Finally, the rule would make changes to the examples set forth in § 124.105(i)(2) to reflect the change from 20 percent to 30 percent and would add a fifth example highlighting that prior SBA approval is not required where a Participant has never received an 8(a) contract.

Paragraph 124.105(k) currently provides generally that SBA considers applicable state community property laws in determining ownership interests when an owner resides in a community property state. Under that provision, a transfer or relinquishment of interest by the non-disadvantaged spouse may be necessary in some cases to establish eligibility for the 8(a) BD program. SBA initially promulgated this provision in order to comply with the statutory requirement that an 8(a) concern must be at least 51 percent ''unconditionally'' owned one or more socially and economically disadvantaged individuals. Upon reexamination, SBA believes that it may not be necessary to consider community property laws when determining that a specific individual does in fact ''unconditionally'' own an applicant or Participant. In order to align the 8(a) BD ownership requirements with those applicable in the WOSB and VetCert programs, SBA proposes to eliminate § 124.105(k). SBA requests comments as to whether not considering community property laws complies with the unconditional ownership requirement and whether previously required transmutation agreements (*i.e.,* agreements between spouses relinquishing some percentage of his or her community property ownership rights in an applicant or Participant) are permissible under state law.

The proposed rule would add a new § 124.105(k) to allow a right of first refusal granting a non-disadvantaged individual the contractual right to purchase the ownership interests of a disadvantaged individual without affecting the unconditional nature of ownership, if the terms follow normal commercial practices. This would align 8(a) ownership requirements with those set forth in the VetCert program. Of course, if those rights are exercised by a non-disadvantaged individual after certification that result in disadvantaged individuals owning less than 51% of the concern, SBA will initiate termination proceedings. This same provision would be added to § 127.201(b) to conform the WOSB unconditional ownership requirements as well.

The proposed rule would also align the language in § 124.105(f)(1) (for the 8(a) BD program), § 127. (for the WOSB program), and § 128.202(g) (for the VetCert program) regarding the distribution of profits. There was a slight wording difference in the 8(a) BD and VetCert regulations and the proposed rule would make the wording consistent. The same provision would also be added to the WOSB regulations.

Sections 124.106(e), 127.202(g) and 128.203(h)

Sections 124.106(e) (for the 8(a) BD program), 127.202(g) (for the WOSB program), and 128.203(h) (for VetCert program) address limitations on the involvement of non-qualifying individuals that can affect a business concern's eligibility for participation in the 8(a) BD, WOSB, and VetCert programs based on a qualifying individual's lack of control. Basically, each of these provisions generally prohibit a non-qualifying individual from unduly influencing the day-to-day management and control of qualifying individuals. The language of the three provisions, however, is not entirely consistent. This has led to questions as to whether SBA intended different application of the control requirements for different programs. In order to clear up any confusion, this rule proposes to change the wording of the three provisions to bring them more in line with each other to ensure that the control requirement is consistently applied. For example, the WOSB regulations did not previously contain a provision that generally required a qualifying woman to be the highest compensated individual in the business concern unless the concern demonstrates that the compensation to be received by a non-qualifying woman is commercially reasonable or that the qualifying woman has elected to take

lower compensation to benefit the concern. Such a provision was contained previously in both the 8(a) BD and VetCert regulations, and the proposed rule would add a similar provision for the WOSB program. In connection with the 8(a) BD program, the proposed rule would change the requirement that an 8(a) Participant must obtain the prior written consent of SBA before changing the compensation paid to the highest-ranking officer to be below that paid to a non-disadvantaged individual to a requirement that the Participant must notify SBA within 30 calendar days of such an occurrence. SBA believes that notification is preferable to prior approval because SBA does not want a Participant to lose an individual with a particular expertise where the approval process is lengthy. SBA would then have to determine that the compensation to be received by the non-disadvantaged individual is commercially reasonable or that the highest-ranking officer has elected to take lower compensation to benefit the Participant before SBA may determine that the Participant is eligible for an 8(a) award.

Section 124.107

Section 124.107(a) currently provides that an applicant's income tax returns for each of the two previous tax years must show operating revenues in the primary industry in which the applicant is seeking 8(a) BD certification. The proposed rule would revise this provision to require merely that an applicant's income tax returns for each of the two previous tax years must show operating revenues. Revenue on an income tax return may not be aligned by industry or NAICS code and SBA does not seek to deny entry to the 8(a) program to a firm that has performed work in its projected primary industry but that work may not have been properly captured on its tax return.

Section 124.107(e) requires that, as a condition to show an 8(a) applicant's potential for success, the applicant or individuals employed by the applicant must hold all requisite licenses if the concern is engaged in an industry requiring professional licensing (*e.g.,* public accountancy, law, professional engineering). Generally, the potential-for-success requirements carry out the requirement in section 8(a)(7)(A) of the Small Business Act, 15 U.S.C. 637(a)(7)(A), that SBA determine that an 8(a) applicant have reasonable prospects for success in competing in the private sector. That same statutory provision, however, requires SBA to determine that with contract, financial, technical, and management support the applicant will be able to perform contracts which may be awarded to it. As such, SBA believes that issues of current responsibility should not prevent an applicant from being eligible for the 8(a) BD program where SBA believes that the business concern will be able to perform contracts awarded to it with certain contract, financial, technical, or management support. Although a business concern applying to the 8(a) BD program that does not have a required professional license may not currently be responsible to be awarded certain 8(a) contracts, as long as SBA determines that the concern would be able to perform such contracts with appropriate support, SBA believes that the concern should be eligible for participation in the 8(a) BD program. The current section 124.107(e) affects relatively few businesses because it applies only to those in an industry requiring a professional license. This rule proposes to remove this professional-licensing requirement. It is not only inapplicable to most applicants, it also can be overcome before any 8(a) contract opportunity is sought by those concerns to which it applies. SBA also considered changing the current license provision to requiring an applicant to acknowledge that a license is needed for its primary business and to certify that it has such a license or will obtain a license when performing a contract. SBA requests comments on both alternatives.

Section 124.108

Section 124.108 sets forth other eligibility requirements that apply to 8(a) applicants and Participants. One of those requirements is that SBA must determine that an applicant or Participant and all of its principals possess good character. The 8(a) BD program is one of several certification programs to help small businesses win federal contracting awards, but the scope of the 8(a) BD program is different. For the WOSB and VetCert programs, SBA only determines whether a small business applicant is owned and controlled by one or more qualifying individuals. SBA does not look at character or business integrity in determining whether a small business is owned and controlled by qualifying individuals. Similarly, for the HUBZone program, SBA only determines whether the small business applicant is located in and employs residents of a historically underutilized business zone. SBA certification of these qualifications allows the certified small businesses to compete for certain federal contracts. These are not business development programs. Although SBA determines whether an 8(a) small business applicant is owned and controlled by one or more qualifying individuals, the program is not limited to this certification. Its scope is broader and includes a multi-year business development program with eligibility for specific management and technical assistance from SBA to support the business's successful competition in the marketplace. SBA requires ''good character'' to be admitted to this development program.

The proposed rule would limit the grounds that would serve as an automatic, mandatory bar from participation in the 8(a) BD program based on good character (*i.e.,* either an application denied or possible termination action commenced against a current Participant). It would remove the automatic bar for ''possible criminal conduct'' and amend the lack of business integrity bar to lack of business integrity as demonstrated by conduct that could be grounds for suspension or debarment. Expanding access to the 8(a) BD program aids the federal government's goal of helping small businesses win at least 23% of federal contracting dollars each year. The 8(a) BD program gives socially and economically disadvantaged small businesses access to important tools and training to help them become stronger competitors in the marketplace. The proposed rule also will facilitate employment opportunities for individuals with criminal history records. Research demonstrates that employment increases success during reentry, decreases the risk of recidivism, and strengthens both public safety and economic opportunity. Research also demonstrates that entrepreneurship provides an important and distinct avenue for economic stability given persistent stigma from employers who may decline to hire people with criminal history records. Notably, SBA found several studies showing the difficulty of obtaining employment for formerly incarcerated people (*see, e.g., Investigating Prisoner Reentry: The Impact of Conviction Status on the Employment Prospects of Young Men*; [1] from the Department of Justice's National Institute of Justice Grant) and a positive link between employment and successful reentry, including preventing recidivism (*see, e.g., Local Labor Markets and Criminal*

[1] *Investigating Prisoner Reentry: The Impact of Conviction Status on the Employment Prospects of Young Men. Investigating Prisoner Reentry* National Institute of Justice *Grant, Final Report., October 2009.*

Recidivism [2] in the Journal of Public Economics). Moreover, because individuals with criminal history records may face barriers in obtaining employment, entrepreneurship can be a productive option, and SBA found several studies showing the potential for entrepreneurship among individuals with criminal records (*see, e.g., From Prison to Entrepreneurship* [3] in the American Academy of Political and Social Science).

SBA will continue to conduct internal checks related to an applicant's business integrity that includes the applicant's criminal history, and consider all factors in evaluating whether an applicant would be a good candidate to participate in the 8(a) BD program. SBA will consider each application individually. The proposed rule does not change business integrity requirements of procuring agency contracting officers or any business integrity evaluations done by them. Procuring agency contracting officers evaluate offerors' responsibility to perform federal contracts prior to award, a process that can include an evaluation of business integrity.

Where fraudulent activity occurs after a firm is admitted to the 8(a) BD program, whether that activity results in an indictment, conviction, civil judgment or not, SBA may immediately move to protect the Government's interests. This could be through suspension/termination from the 8(a) BD program or through a Government-wide suspension/debarment action. The existence of a cause for suspension, termination or debarment, however, does not necessarily require that the Participant be suspended, terminated or debarred. SBA will consider the seriousness of the Participant's acts or omissions and any remedial measures or mitigating factors made by the Participant.

Sections 124.108(e), 126.200(h), 127.200(h), and 128.201(b)

Sections 124.108(e) (for the 8(a) BD program) and 128.201(b) (for the VetCert program) provide generally that a small business concern is ineligible for certification if the concern or any of its principals has failed to pay significant financial obligations owed to the Federal Government. A similar provision is not currently contained in the WOSB or HUBZone eligibility requirements. This rule proposes to apply that restriction to the WOSB and HUBZone programs as well. To ensure consistency among the programs, the rule would also revise the language in §§ 124.108(e) and 128.201(b) so that the regulatory language applying to all four programs is the same.

Sections 124.204(d), 126.306(d), 127.304(d), and 128.302

Sections 124.204(d) (for the 8(a) BD program), 126.306(d) (for the HUBZone program), 127.304(d) (for the WOSB program), and 128.302 (for the VetCert program) set forth the date at which at applicant must be eligible for each certification program. The wording of the regulations is not consistent. Section 124.204(d) specifies that an applicant must be eligible as of the date SBA issues a decision. Section 126.306(d) specifies that an applicant must be eligible as of the date it submitted its application and at the time SBA issues a decision. Section 127.304(d) specifies that an applicant must be eligible as of the date it submitted its application and up until the time SBA issues a decision. Section 128.302 details how SBA processes applications for VOSB and SDVOSB certification, but does not specifically address the point at which eligibility is determined. SBA is in the process of establishing a uniform application processing system. That system will allow a firm to simultaneously apply for multiple certifications for which it believes it is eligible. SBA believes that it is critical that eligibility be determined at the same point in time for all certification programs. If, for example, a firm amends a corporate document to come into compliance with a specific control requirement after initially submitting its application for the 8(a) BD program and the WOSB program, the current regulations would support a finding that a qualifying individual did control the applicant for 8(a) BD purposes but did not control the applicant for WOSB purposes. SBA believes that would be an inappropriate result. Therefore, this proposed rule amends each of these sections to require consistent wording that an applicant must be eligible as of the date SBA issues a decision. Although the proposed rule would specify that an applicant must be eligible as of the date SBA issues a decision, implicitly a small business must believe that it is eligible at the time it applies for certification for any program. For purposes of applying for HUBZone certification, an applicant must submit payroll records for the four-week period immediately prior to its application date. It would be impossible to require payroll records for some unknown future date. After submitting an application for any program, a concern must immediately notify SBA of any changes that could affect its eligibility and provide information and documents to verify the changes.

Sections 124.303(c), 126.503(c), 127.405(f), and 128.310(g)

The proposed rule would add a new provision to § 124.303(c) (for the 8(a) BD program), to § 126.503 (for the HUBZone program), to § 127.405(f) (for the WOSB program), and to § 128.310(g) (for the VetCert program) providing that a firm that is decertified or terminated from one SBA certification program due to the submission of false or misleading information may be removed from SBA's other small business contracting programs. In addition, the proposed rule would provide that SBA may require the firm to enter into an administrative agreement as a condition of admission or re-admission to one of the SBA certification programs. SBA believes that a firm that submits false information to obtain a certification in one program is more likely to submit false information to other SBA programs, and SBA needs a mechanism by which to investigate whether this has occurred and remove non-responsible firms from its programs expeditiously.

Section 124.207

Section 124.207 provides that a concern which has been declined for 8(a) BD program participation may submit a new application for admission to the program at any time after 90 days from the date of the Agency's final decision to decline. It also provides that a concern that has been declined three times within 18 months of the date of the first final Agency decision finding the concern ineligible cannot submit a new application for admission to the program until 12 months from the date of the third final Agency decision to decline. The proposed rule would remove that second provision. No other program has such a restriction and SBA does not seek to thwart firms who have made legitimate attempts to overcome deficiencies from again applying to the 8(a) BD program.

Section 124.503

Section 124.503 addresses how SBA will accept a procurement offered for award through the 8(a) BD program. An agency may offer a sole source procurement to SBA nominating a particular 8(a) Participant for performance based on the firm's self-

[2] *Local Labor Markets and Criminal Recidivism,* ScienceDirect, Journal of Public Economics, Volume 147, March 2017, Pages 16–29

[3] *From Prison to Entrepreneurship: Can Entrepreneurship be a Reentry Strategy for Justice-Impacted Individuals? https://doi.org/10.1177/00027162221115378,* Sage Journals, Volume 701, Issue 1, September 14, 2022.

marketing efforts, or may offer it as an open requirement (*i.e.,* an offering to the program generally, but not in support of a particular 8(a) Participant). SBA's acceptance policies for such offerings are contained in §§ 124.503(c) and (d), respectively. SBA has long recognized the importance of self-marketing in a Participant's business development and continued viability. Thus, where an agency offers a sole source 8(a) procurement in support of a particular Participant as a result of self-marketing and SBA deems it suitable for the program, SBA will normally accept it on behalf of the Participant recommended by the agency as long as specified eligibility criteria are met. This policy was first incorporated in SBA regulations in 1986, 51 FR 36132 at 36149, but had been previously part of the standard operating procedure for the 8(a) BD program.

Section 303 of the Business Opportunity Development Reform Act of 1988 (BODRA), Public Law No. 100–656, tit. III, § 303, 102 Stat. 3865 (1988), adopted and expanded SBA's sole source contract acceptance procedures, mandating that SBA shall award a sole source 8(a) contract to the 8(a) firm nominated by the offering agency, provided the following three statutory criteria are met: (i) the Program Participant is determined to be a responsible contractor with respect to performance of such contract opportunity; (ii) the award of such contract would be consistent with the Program Participant's business plan; and (iii) the award of the contract would not result in the Program Participant exceeding its 8(a) competitive business mix. This mandate is codified in Section 8(a)(16)(A) of the Small Business Act, 15 U.S.C. 637(a)(16)(A). BODRA also directed SBA to promote—to the maximum extent practicable—the equitable geographic distribution of sole source 8(a) contracts. In response to BODRA, SBA promulgated a rule stating that it would consider, among other things, equitable geographic distribution for open 8(a) sole source contracts offered to the 8(a) BD program. This policy is currently set forth in paragraph 124.503(d)(3).

There has been some confusion as to whether SBA considers equitable contract distribution for a follow-on to an 8(a) procurement offered to SBA on behalf of a specific 8(a) Participant. In SBA's view, the imperative statutory command of Section 8(a)(16)(A) restricts its authority to affirmatively deny a contract offering made on behalf of a specific Participant based on considerations related to the equitable distribution of sole source 8(a) contracts, irrespective of whether the procurement is a ''new'' or repetitive 8(a) requirement. The proposed rule would clarify this position by providing that § 124.503(g)(1)(iii) applies only to open sole source 8(a) offerings.

Sections 124.504(a)

Section 124.504 identifies several reasons why SBA will not accept a particular requirement for award through the 8(a) BD program. One of those reasons is where the procuring activity issued a solicitation for or otherwise expressed publicly a clear intent to award a contract as a small business set-aside, or to use the HUBZone, VetCert, or WOSB programs prior to offering the requirement to SBA for award as an 8(a) contract. This rule proposes to authorize SBA to accept a requirement for the 8(a) program where the AA/BD determines that there is a reasonable basis to cancel the initial solicitation or, if a solicitation had not yet been issued, a reasonable basis for the procuring agency to change its initial clear expression of intent to procure outside the 8(a) BD program. This would happen, for example, where the procuring agency's needs have changed since the initial solicitation was issued such that the solicitation no longer represents its current need, or where appropriations are no longer available for the requirement as anticipated, and the solicitation must be cancelled until a following fiscal year where funds are available. A change in strategy only (*i.e.,* an agency seeks to solicit through the 8(a) BD program instead of through another previously identified program) would never constitute a reasonable basis for SBA to accept the requirement into the 8(a) BD program.

Section 124.509

Section 124.509 establishes non-8(a) business activity targets (BATs) to ensure that Participants do not develop an unreasonable reliance on 8(a) awards. The reason for requiring a certain percentage of non-8(a) revenue during a Participant's last five years in the 8(a) BD program is to strengthen the Participant's ability to prosper once it exits the program. Congress believed that firms that were totally reliant on the 8(a) BD program for their revenues would be ill prepared to survive as on-going business concerns after leaving the program. As such, Congress required a certain percentage of non-8(a) revenue during the transitional stage of program participation to bolster Participants' continued viability. SBA amended § 124.509 as part of a comprehensive final rule in October 2020. *See* 85 FR 66146, 66189 (Oct. 16, 2020). In that final rule, SBA recognized that a strict prohibition on a Participant receiving new sole source 8(a) contracts should be imposed only where the Participant has not made good faith efforts to meet its applicable non-8(a) business activity target. SBA sought to provide guidance regarding what SBA considers to be good faith efforts in a final rule published in April 2023. *See* 88 FR 26164, 26208 (April 27, 2023). This rule proposes to provide further guidance on how SBA considers unsuccessful offers in determining whether good faith efforts have been made. Specifically, in determining the projected revenue that SBA will consider in determining whether one or more unsuccessful offers submitted by a Participant would have given the Participant sufficient revenues to achieve the applicable non-8(a) business activity target, the proposed rule would first provide that SBA will consider only procurements for which the Participant had reasonable prospects of success. The proposed regulatory text would include an example showing how revenue for an unsuccessful offer would be considered. Where a Participant has never received a contract in excess of a relatively small amount (the example cites $5M), SBA would not count any revenue from an unsuccessful offer for a contract that greatly exceeds what the Participant has previously performed (the example points to $100M contract). In such a case, the Participant would not have a reasonable prospect of success in submitting an offer for a contract that was substantially higher than anything it had performed in the past. The proposed rule would also clarify that only the value of the base year of the contract for which the Participant's offer was unsuccessful would be considered in determining whether the Participant made good faith efforts to achieve its non-8(a) BAT. There has been some confusion as to whether the value of the entire contract or only the value of the base year should be considered in determining whether the revenues from that contract, if received, would have brought the Participant back into compliance with its BAT. SBA believes that it does not make sense to consider more than the revenues from the base year of the contract. If the Participant had been successful and was awarded that contract, pursuant to § 124.509(b)(3) SBA would measure the Participant's compliance with the applicable BAT by comparing the Participant's non-8(a) revenue to its total revenue during the program year just completed. Thus, SBA would look at the non-8(a) revenues

received, not the total value of the non-8(a) contract that a Participant is performing. SBA believes the same should happen when considering whether a Participant has made good faith efforts to meet its BAT.

Section 124.514(a)(1)

Section 124.514 provides guidance regarding the exercise of 8(a) options and modifications. Paragraph 124.514(a)(1) currently states that if a concern has graduated or been terminated from the 8(a) BD program or is no longer small under the size standard corresponding to the NAICS code for the requirement, negotiations to price the option cannot be entered into and the option cannot be exercised. Because the regulatory language specifies graduation and termination from the program, SBA has received a few inquiries as to whether this provision applies to firms that have voluntarily exited the program. SBA has always intended this provision to apply to all firms that are no longer active Participants in the program. The proposed rule would merely make that intent clear by specifically providing that this provision applies to all firms whose term of participation in the 8(a) BD program has ended or who have otherwise exited the program through any means.

Section 124.518

Section 124.518(c) provides that SBA may authorize another Participant to complete performance of an 8(a) contract and, in conjunction with the procuring activity, permit novation of that contract without invoking the termination for convenience or waiver provisions of § 124.515 where SBA determines that substitution would serve the business development needs of both 8(a) Participants. SBA has seen several instances where a joint venture between an 8(a) Participant and a non-8(a) business concern was awarded an 8(a) contract and for whatever reason the two firms seek to terminate the joint venture and novate the 8(a) contract individually to the 8(a) Participant that was the lead partner of the joint venture. If novation would occur, performance of the 8(a) contract would remain with an 8(a) Participant (*i.e.,* the 8(a) Participant that was the lead partner of the joint venture). As such the intent of the program would be furthered. It could be argued that the current § 124.518(c) authority could be used to novate the 8(a) contract in this instance; substitution would serve the business development needs of both the initial 8(a) awardee (the joint venture) and the substituting 8(a) Participant (the former lead 8(a) partner to the joint venture). However, in order to more specifically authorize such a substitution, the proposed rule would add a new § 124.518(d). SBA also seeks comments on whether it should further define how substitution ''would serve the business development needs of both 8(a) Participants.'' For example, where a Participant was not in compliance with its applicable business activity target, sought to transfer an 8(a) contract to another eligible 8(a) Participant through the substitution process and then sought to perform a significant portion of that contract as a subcontractor to the new 8(a) Participant (to then count the revenue from the subcontract as non-8(a) revenue), SBA would not determine that such a transfer was in the best interests of the program or serve the business development needs of both 8(a) Participants.

Section 124.602

Section 124.602 sets forth the kind of annual financial statement an 8(a) BD Participant submits to SBA, depending upon its gross annual receipts. Currently, Participants with gross annual receipts of more than $10 million must submit to SBA audited annual financial statements prepared by a licensed independent public accountant; Participants with gross annual receipts between $2 million and $10 million must submit to SBA reviewed annual financial statements prepared by a licensed independent public accountant; and Participants with gross annual receipts of less than $2 million must submit to SBA an annual statement prepared in-house or a compilation statement prepared by a licensed independent public accountant. SBA believes that with the value of federal contracts greatly increasing over the last few years, the top dollar threshold of $10 million is being met by most Participants far more frequently. Recognizing that requiring an audited financial statement can be a significant cost to many small businesses, this rule proposes to require audited financial statements for those Participants exceeding $20 million, reviewed financial statements for those Participants with gross annual receipts between $5 million and $20 million, and in-house financial statements for those Participants with less than $5 million in annual receipts.

Section 125.2

SBA's regulations currently make clear that a contracting activity cannot conduct a competition requiring multiple socioeconomic certifications. In this regard, § 124.501(b) prohibits a contracting activity from restricting an 8(a) competition to Participants that are also certified HUBZone small businesses, certified WOSBs or certified SDVO small businesses. There is a similar restriction for the HUBZone program in § 126.609, for the WOSB program in § 127.503(e), and for the VetCert program in § 128.404(d). However, there is no similar specific restriction for small business set-asides and reserves. Where a contracting activity seeks to require 8(a), HUBZone, WOSB or SDVO certification in addition to status as a small business, in essence the contracting activity would be soliciting as an 8(a), HUBZone, WOSB or SDVO small business contract. That is permissible. Similarly, current § 125.2(e)(6) specifies that a contracting officer may set aside orders for eligible 8(a) Participants, certified HUBZone small business concerns, SDVO small business concerns, WOSBs, and EDWOSBs against total small business set-aside multiple award contracts. As such, there should be no doubt that there can be an order or agreement set-aside or reserved for a specific type of small business (*i.e.,* 8(a), HUBZone, WOSB/EDWOSB, or SDVO) under a multiple award contract that itself was set aside for small business. SBA has been asked whether a contracting activity could require multiple certifications through ''a small business set aside''. SBA believes that the current program specific regulations identified above would prohibit that. In order to eliminate any misinterpretation, the proposed rule would add a new § 125.2(c)(6) that would clarify that a procuring activity cannot restrict a small business set-aside or reserve (for either a contract or order) to require multiple socioeconomic program certifications in addition to a size certification.

Section 125.3

Section 125.3 governs subcontracting plans and reporting of subcontracting achievements. SBA proposes to extend the due dates for subcontracting reports by 15 days, from 30 days to 45 days. SBA also would extend the time period for reviewing such reports by 15 days, from 60 days to 75 days. These extended time periods recognize that prime contractors are under increased reporting burdens because of order-level subcontract reporting.

Section 125.6(d)

Section 125.6 sets forth the limitations on subcontracting that apply to a small business prime contractor. A small business prime contractor, together with any similarly situated entity, must perform a certain specified

amount of a small business contract and cannot subcontract more than that amount to another than similarly qualified small business. Paragraph 125.6(d) provides that for a multi-agency set aside contract where more than one agency can issue orders under the contract, the ordering agency must use the period of performance for each order to determine compliance. A question has arisen as to who should monitor compliance with such an order, the contracting officer for the underlying multi-agency contract or the contracting officer for the ordering agency. SBA believes that the contracting officer for the ordering agency is in the best position to monitor compliance with the limitations on subcontracting for a specific order. As such, the ordering contracting officer should monitor compliance throughout performance. At the end of performance of the order, the ordering contracting officer should inform the contracting officer for the underlying multi-agency contract if the ordering contracting officer knows that the contractor has failed to meet the applicable limitations on subcontracting requirement.

Additionally, there has been some confusion as to how work performed by leased employees is considered in determining compliance with the applicable limitation on subcontracting. Paragraph 125.6(d)(3) explains that work performed by an independent contractor shall be considered a subcontract and will therefore count against the prime contractor's limitation on subcontracting unless the independent contractor qualifies as a similarly situated entity. Unlike independent contractors, employees obtained from a temporary employee agency, professional employee organization, or leasing concern perform work under the primary direction and control of the recipient concern. For this reason, such individuals are treated as employees of the recipient concern for purposes of determining that concern's employee count under Section 121.106(a). SBA believes the same logic should apply when determining a recipient prime contractor's compliance with the limitations on subcontracting. Work performed by employees leased to the small business prime contractor shall be considered the prime contractor's self performance, and therefore will not count against the prime contractor's limitation on subcontracting. The proposed rule would clarify this position in § 125.6(d)(3).

Section 125.8

Section 125.8(e) covers how agencies evaluate the capabilities, past performance, and experience of joint ventures, including SBA mentor-protégé joint ventures. For SBA mentor-protégé joint ventures, section 125.8(e) provides that a procuring activity may not require the protégé firm to individually meet the same evaluation or responsibility criteria as that required of other offerors generally. This provision recognizes that protégés may be less experienced when submitting an offer but, if they win the award, will gain experience and capabilities while performing with the mentor. SBA does not require, however, that every contract competition include special evaluation criteria for protégés.

A recent decision by the Court of Federal Claims has caused some confusion as to what past performance a procuring activity can require of a protégé joint venture partner and how that past performance should be evaluated. *See* SH Synergy, LLC v. United States, 165 Fed. Cl. 745 (2023). The SBA's mentor-protégé program is designed to enhance the capabilities of protégé firms by requiring approved mentors to provide business development assistance to protégé firms and to improve the protégé firms' ability to successfully compete for federal contracts. The program recognizes that many small businesses may not have the necessary past performance and experience to individually compete successfully for certain larger contracts. Thus, it allows joint ventures between a protégé firm and a large business mentor to qualify as small to allow protégé firms to gain valuable experience overseeing and performing larger contracts. While the joint venture as a whole must meet the applicable limitation on subcontracting (or in other words perform a certain percentage of the contract), the protégé firm must perform at least 40% of all the work done by the joint venture partners in the aggregate. Because of that 40% requirement, some procuring activities require protégé joint venture partners to demonstrate some level of past performance as part of a joint venture's offer. Although SBA's current regulation provides that a procuring activity may not require the protégé firm to individually meet the same evaluation or responsibility criteria as that required of other offerors generally, it does not provide guidance on what a procuring activity could require. This rule proposes to provide such guidance. Specifically, the rule proposes to permit a procuring activity to require some past performance at a dollar level below what would be required of joint venture mentor partners or of individual offerors. The rule would provide an example of how this could work. In the example, where offerors must generally demonstrate successful performance on five contracts with a value of at least $20 million, a procuring activity could require a protégé joint venture partner to demonstrate one or two contracts valued at $10 million or $8 million. In addition, if a procuring activity requires a protégé joint venture partner to demonstrate successful performance on two contracts valued at $10 million or more, successful performance by the protégé firm on those $10 million contracts shall be rated equivalently to successful performance by the mentor partner to the joint venture or any other individual offeror on $20 million contracts.

Where a joint venture is the apparent successful offeror for a contract set aside or reserved for small business, § 125.8(f) currently authorizes the procuring activity to execute a contract in the name of the joint venture entity or a small business partner to the joint venture. There has been some confusion as to whether a procuring activity can choose to either execute the contract in the name of the joint venture entity or to a small business partner to the joint venture. SBA did not intend such discretion. SBA's joint venture rules set forth in § 121.103(h)(1) provide that a joint venture may be in the form of a formal or informal partnership or exist as a separate limited liability company or other separate legal entity. Where a joint venture exists as a separate legal entity, SBA intended a contract to be executed in the name of the joint venture. SBA intended to allow contracts successfully won by a joint venture to be awarded in the name of the small business partner only where the joint venture was not a separate legal entity, but rather an informal arrangement that had a written joint venture agreement that complied with SBA's regulations. The proposed rule would clarify SBA's intent.

Section 125.9

Section 125.9 sets forth the requirements relating to SBA's mentor-protégé program. Paragraph 125.9(b) specifies rules pertaining to firms seeking to become mentors and to firms which have been approved as mentors in the program. The introductory language to that paragraph provides that any concern that demonstrates a commitment and the ability to assist small business concerns may act as a mentor, including other than small businesses. There has been some confusion as to whether no-profit

entities may act as mentors. The statutory authority for the mentor-protégé program specifies that the term ''mentor'' means a for-profit business concern, of any size, that has the ability to assist and commits to assisting a protege to compete for Federal prime contracts and subcontracts. 15 U.S.C. 657r(d). Although § 125.9(b) does not specifically state that a mentor must be a for-profit entity, it requires a mentor to be a ''concern'' and that term is defined in SBA's regulations as a business entity organized for profit under § 121.105(1)(1). To eliminate any confusion, this rule proposes to clarify that only for-profit business concerns may be mentors.

Paragraph 125.9(b)(3)(ii)(B) authorizes a mentor to purchase another business entity that is also an SBA-approved mentor of one or more protégé small business concerns where the purchasing mentor commits to honoring the obligations under the seller's mentor-protégé agreement. Paragraph 125.9(b)(3)(i) provides that a mentor that has more than one protégé cannot submit competing offers in response to a solicitation for a specific procurement through separate joint ventures with different protégés. However, it is possible that the initial or selling mentor may be a contract holder as a joint venture with a protégé on the same multiple award contract where the acquiring mentor is also a contract holder as a joint venture with its protégé. In such a case, after the purchase and the purchasing mentor committing to fulfill the obligations of the selling mentor's mentor-protégé agreement, the purchasing mentor could then have two different joint ventures as contract holders on the same multiple award contract. This could allow the mentor to dictate which joint venture could compete for any specific order under the multiple award contract. SBA does not believe that the mentor should be able to choose one protégé over another to compete for an order. In order to clarify SBA's intent, the proposed rule would provide that where a mentor purchases another business entity that is also an SBA-approved mentor that is a contract holder as a joint venture with a protégé small business and the mentor is also a contract holder with a protégé small business on that same multiple award contract, the mentor must exit one of those joint venture relationships. SBA understands that this could adversely affect one of the protégé firms involved in a joint venture. To alleviate any harm to a protégé, the proposed rule would also permit the protégé firm connected to the joint venture from which the mentor exits to seek to acquire the new mentor's interest in the underlying multiple award contract or reserve and work with the contracting officer to determine whether novation of such contract or reserve to itself only may be appropriate where it is consistent with 41 U.S.C. 6305 and FAR 42.1204. The protégé may also seek to replace the new mentor with another business in the joint venture such that the revised joint venture continues to qualify as small. Similarly, the proposed rule would also add a new § 125.9(d)(1)(iv) which would give a protégé firm a right of first refusal to purchase a mentor's interest in a mentor-protégé joint venture where the mentor seeks to sell its interest in the joint venture.

The proposed rule would also redesignate current § 125.9(e)(6) as § 125.9(c)(4). This provision relates to rules affecting protégé firms and SBA believes it should more appropriately be located in § 125.9(c), which has a heading entitled ''Proteges.'' The proposed rule would add clarifying language to redesignated § 125.9(c)(4)(iv) to make clear that a concern cannot be a protégé for a total of more than 12 years. There has been some confusion that if a protégé elects to extend its mentor-protégé relationship with the same mentor for an additional six-year period that the protégé could somehow be able to participate in the mentor-protégé program as a protégé for more than 12 years. SBA believes that the current regulations clearly restrict such participation to a total of 12 years. Nevertheless, in order to dispel any possible contrary interpretation, the proposed rule would specify that a firm could be a protégé for up to 12 years, whether the concern has a mentor-protégé relationship with two different mentors or the same mentor for second six-year period.

Finally, the proposed rule would add a new § 125.9(c)(5). Within the provisions relating to mentors in § 125.9(b), the current regulations authorize a firm to purchase another firm that is currently an approved mentor in SBA's mentor-protégé program and to continue that mentor-protégé relationship if the purchasing firm commits to honoring the obligations under the seller's mentor-protégé agreement. The regulations do not, however, currently address any rights a protégé may have where such a sale occurs. There are times that the former mentor-protégé agreement would not be a good fit with the purchasing business concern. The purchasing concern may have different capabilities than the selling concern and may not be the best business concern to carry out the previous mentor's commitments. Where the purchasing concern is not able to fulfill the requirements of the existing mentor-protégé agreements as written, SBA believes that the protégé firm should be able to either negotiate a revised mentor-protégé agreement with the buying concern or terminate the mentor-protégé agreement if the protégé believes the buying concern is not a good fit for it. This right of the protégé would be limited to where the new mentor would not fulfill the former mentor-protégé agreement. SBA would have to approve any revised mentor-protégé agreement. If the mentor-protégé agreement is terminated, the protégé firm could seek another business concern to enter a mentor-protégé relationship for a duration not to exceed six years minus the length of the mentor-protégé relationship with the former mentor.

Sections 125.12, 126.619, 127.504(h), and 128.401(e)

SBA proposes to relocate size recertification and small business program status recertification to new § 125.12. Historically, size and status recertification have been separately addressed in parts 121 (for size), 124 (for 8(a) BD), 126 (for HUBZone), 127 (for WOSB), and 128 (for service-disabled veteran-owned small business or SDVOSB) of SBA's regulations. Differences in the regulatory text are an unintended result of placing the size and status recertification rules across multiple sections of title 13. SBA believes that the rules regarding recertification should be the same for size and status, across all SBA small business government contracting and business development programs. The consolidation of the rules into one section that is cross-referenced in each small business program regulation would simplify the text and ensure easier, more consistent interpretation and application of the regulations. The requirements for recertification currently contained in § 121.404(g) (for size), § 126.619 (for HUBZone status), § 127.504(h) (for WOSB/EDWOSB status), and § 128.401(e) (for SDVOSB status) would be amended to reference the provisions contained in § 125.12. This change would ensure that all recertification requirements pertaining to size and status would be identical.

Size and status recertification is a complex area of SBA's regulations that requires simplification and clarity, especially in the context of exceptions to recertification and the impact of recertification. SBA's proposed

consolidation and relocation of size and status recertification would make several clarifications to how SBA always intended recertification to operate, but which may be unclear from the existing regulatory text. First, a concern that recertifies as other than the size or status required for an award that it is currently performing may continue to perform that particular period of performance. Whether it can continue to receive future orders under an underlying contract or agreement after it submitted a disqualifying recertification depends upon whether the underlying contract or agreement is a single award or a multiple award vehicle. A concern that has recertified as other than small or other than a qualified program participant still may receive orders or agreements issued under a single award small business contract or agreement or unrestricted orders issued under an unrestricted multiple award contract. In either case, a procuring agency could not count the order as an award to small business or to the specific type of small business (*i.e.,* 8(a), WOSB, SDVOSB, or HUBZone). For any multiple award contract or agreement, the concern would not be eligible for orders set aside for small business or set aside for a specific type of small business.

Similarly, for a single award small business contract or any unrestricted contract, a concern that recertified as other than small or other than the required small business program status remains eligible to receive options. The procuring agency cannot count the option period as an award to a small business or small business program participant for goaling purposes. Such a concern may recertify as small or as the required small business program status for a subsequent option period if it meets the applicable size standard or becomes a certified small business program participant at that time. Conversely, for a multiple award small business set-aside or reserve, a concern that recertified as other than small or other than the required small business program would be ineligible to receive options.

The proposed rule would also clarify SBA's intent as to the effect of a disqualifying recertification that occurs after an offer is submitted but prior to award. For an award set aside or reserved for small business, a concern must recertify its size and, where appropriate, status if a merger, sale or acquisition occurs after an offer is submitted but prior to award. If the concern submits a disqualifying recertification, it may or may not be eligible for the award depending on when the sale, merger or acquisition occurred. If the merger, sale, or acquisition occurs within 180 days of offer submission and before award, the concern is ineligible for the award. If the merger, sale, or acquisition occurs after 180 days of its offer and before award, the concern would continue to be eligible for the award.

These proposed changes are needed to overcome several recent decisions from the GAO and SBA's Office of Hearings and Appeals (OHA). SBA believes that GAO and OHA adopted incorrect interpretations in these cases, resulting in the misapplication of SBA's size recertification regulations. SBA provides clarification through this preamble and proposed changes to the regulatory text to avoid confusion from courts or administrative venues regarding the proper and reasonable interpretation of SBA's size recertification rules.

In 2021, OHA issued a decision in Size Appeal of *Odyssey Systems Consulting Group, Ltd.,* SBA No. SIZ–6135 (2021). *Odyssey* involved a small business set-aside task order that was awarded against the General Services Administration's (GSA) OASIS multiple award contract. Specifically, the task order was solicited against the small business pool that was established for the OASIS multiple award contract. The protested firm had allegedly exceeded the size standard assigned to a task order solicitation, following an acquisition by another entity. The issue on appeal was whether SBA had properly dismissed the size protest as untimely.

SBA filed comments in response to the appeal that distinguished between size recertifications requested by a contracting officer and recertifications following a merger, sale, or acquisition, only as that distinction relates to timeliness for size protests. Over the years, the distinction was misinterpreted to be broader than SBA intended and to impact eligibility for future set-aside orders against unrestricted multiple award contracts. SBA's OHA has issued several subsequent decisions to the *Odyssey* case that relate to this issue with the most recent in January 2024, confirming that if a concern recertifies as other than small following a merger, sale, or acquisition, the concern may remain eligible for future set-aside orders under an unrestricted multiple award contract, but not provide goaling credit. *See Size Appeal of Saalex Corp. d/b/a Saalex Solutions, Inc.,* SBA No. SIZ–6274 at 11 (2024). This was not SBA's intended interpretation of a size recertification following a merger, sale, or acquisition, or following the requirement to recertify size in the fifth year of a long-term contract.

Any disqualifying size or status recertification precipitated by § 125.12(a) or § 125.12(b) (except for the 180-day rule discussed above), renders a concern ineligible for future set-aside or reserved awards, including awards of set-aside or reserved orders against pre-existing unrestricted or set-aside multiple award contracts. Additionally, in support of this interpretation, SBA proposes to allow requests for size determinations following any size recertification made in §§ 125.12(a) and (b) as well as those is requested by a contracting officer as set forth in § 125.12(c).

SBA notes that the requirement for size recertification has always been interpreted by SBA to apply to Blanket Purchase Agreements in addition to all other small business set-aside or reserved awards, whether those awards are executed in the form of task orders, contracts, or any other type of procurement mechanism. Following a 2022 bid protest decision from GAO, SBA explicitly added the word ''agreement'' at 13 CFR 121.404(g)(2)(iii).

Sections 125.13 and 124.4

The proposed rule would add a new § 125.13 explaining the restrictions on fees for representatives of applicants to and participants in the 8(a) BD, HUBZone, WOSB, and VetCert programs. These restrictions are currently contained in § 124.4 for the 8(a) BD program. The proposed rule takes the language currently contained in § 124.4 for the 8(a) BD program and adds it to a new § 125.13 that would be applicable to the 8(a) BD, HUBZone, WOSB and VetCert programs. SBA considered making revisions to part 126, 127 and 128 of this title adopting the same language contained in § 124.4 for the WOSB, HUBZone and VetCert programs. Instead, SBA believes that it would be more expedient to add a new § 125.13 that would apply to all of SBA's certification programs than it would be to repeat the same language in each of the specific program area's regulations.

Section 126.103

The proposed rule would revise the definitions for the following terms: ''Certify'', ''Contracting Officer (CO)'', ''Decertify'', ''Dynamic Small Business Search (DSBS)'', ''Employee'', ''HUBZone Small Business Concern'', ''Indian Tribal Government'', ''Interested party'', ''Principal office'', ''Qualified Disaster Area'', ''Redesignated Area'', ''Reside'', and

''Small business concern (SBC)''. The proposed rule would add definitions for the terms ''HUBZone Certification Date'', ''HUBZone Map'', ''HUBZone Resident Employee'', and ''System for Award Management (SAM)''. The proposed rule would delete the definition for the term ''AA/BD'' because this term no longer appears in Part 126.

The proposed rule would clarify that ''Certification'' and ''Certify'' both mean the process by which SBA determines that a concern is qualified for the HUBZone program and eligible to be designated by SBA as a certified HUBZone small business concern in DSBS (or successor system).

The proposed rule would add a new definition for the term ''Certification''.

The proposed rule would amend the definition of ''Contracting Officer'' to correct an outdated citation.

The proposed rule would amend the definition of ''decertify'' to clarify that a firm may voluntarily withdraw from the program without SBA needing to approve such withdrawal.

The proposed rule would amend the definition of ''Dynamic Small Business Search (DSBS)'' to reference ''SAM, as defined in this section'' rather than ''the System for Award Management (SAM)''. SBA proposes to remove the words ''the Dynamic Small Business Search (DSBS)'' wherever they appear and add in their place the acronym ''DSBS''.

The proposed rule would amend the definition of ''employee'' to prevent abuse and strengthen the integrity of the program. The HUBZone program was intended to provide meaningful work experiences to individuals who reside in some of the nation's most economically distressed communities to help them gain valuable skills, on-the-job experience, and upward mobility. In 2021, SBA HUBZone analysts identified a pattern in which firms put on their payroll HUBZone residents who did not perform work for those companies in order to claim them as employees and appear to qualify for the program. This has never been permitted under the HUBZone regulations because allowing this practice would undermine the purpose of the HUBZone program.

In response to the discovery of this practice and to prevent fraud and abuse in the program, this proposed rule would increase the number of hours that an individual must work to be considered an employee for HUBZone purposes to 80 hours per month. Under SBA's current regulations, an employee is defined as an individual ''employed on a full-time, part-time, or other basis, so long as that individual works a minimum of 40 hours during the four-week period immediately prior to the relevant date of review . . .'' 13 CFR 126.103. SBA believes that the minimum 40 hours per month is not sufficient to promote the purpose of the program. Furthermore, under the current 40 hour per month requirement, an individual could work 40 hours in one week and be off the remaining three weeks of the month. If all HUBZone employees did the same, the ''principal office'' could be empty and closed for the remaining three weeks of the month. SBA believes that there needs to be a legitimate presence in the HUBZone, and this includes occupying the principal office and requiring that office to be open during normal business hours, and requiring employees to work significantly at that office. SBA does not believe that a firm that can close its ''principal office'' three weeks every month meets that legitimate presence, but rather that there should be a consistent presence at the principal office. SBA also notes that an 80 hour per month requirement would be consistent with how the 8(a) BD program treats employees establishing a bona fide place of business. In that context, § 124.3 defines the term bona fide place of business for 8(a) construction contracts to mean a location where an 8(a) BD Participant regularly maintains an office within the appropriate geographical boundary which employs at least one individual who works at least 20 hours per week at that location. The 80 hours per month requirement in this proposed rule would be in line with that 20 hours per week requirement. SBA requests comments on whether 80 hours per month is an appropriate threshold and whether there should be a minimum number of hours per week. SBA also seeks comments on whether there should be an exception to the 80 hours per month threshold for a limited number (or percentage) of individuals where such individuals are working at least 40 hours per month.

In addition, the proposed rule would clarify the existing requirement that an individual must be performing work for the concern in order to be considered an employee for HUBZone purposes. This proposed rule would provide that in order to ensure that an individual is performing work for the business concern, SBA may request a combination of job descriptions, resumes, detailed timesheets, sample work product and other relevant documentation.

The proposed rule also would delete the provision providing that individuals who receive in-kind compensation may be considered employees. The current regulations provide that someone receiving in-kind compensation may be considered an employee, where the compensation is commensurate with the work performed by the individual and provides a demonstrable financial value to the individual, and where the arrangement is compliant with all relevant federal and state laws, such as federal tax laws. SBA is proposing to eliminate this provision because SBA has found that little to no firms are able to meet these requirements. The process of requesting and reviewing documentation that is ultimately insufficient has only served to slow down application processing.

Finally, SBA is requesting comments on when reservists should be considered employees for HUBZone purposes. When reservists are called up for active duty, companies may be required to hold their positions for them, which may mean those individuals appear on the company's payroll with zero hours listed. SBA requests feedback on whether there are scenarios when such individuals should be treated as employees for HUBZone purposes.

The proposed rule would provide that individuals who are obtained ''from a concern *primarily engaged* in leasing employees'' (emphasis added) are generally considered employees. The current regulations provide that individuals obtained from a ''leasing concern'' are generally considered employees, however it has been SBA's policy for a number of years that leased employees will only be considered employees for HUBZone purposes where they are leased from a concern that is primarily engaged in leasing employees. This policy is consistent with SBA's size regulations at § 121.103(b)(4), which provide: ''Business concerns which lease employees from concerns primarily engaged in leasing employees to other businesses . . . are not affiliated with the leasing company . . . solely on the basis of a leasing agreement.''

The proposed rule would add a new definition for the term ''HUBZone Certification Date'' providing that this is the date on which SBA approves a concern's application for HUBZone certification and is the date specified in the concern's certification letter. The proposed definition would provide that if a concern leaves the HUBZone program and reapplies for certification, their HUBZone certification date is the date SBA approves the concern's most recent application.

The proposed rule would add a new definition for the term ''HUBZone Map'' providing that the HUBZone Map is a

publicly accessible online tool that depicts HUBZones.

The proposed rule would add a new definition for the term ''HUBZone Resident Employee'' providing that this means an individual who meets the definition of an employee and who SBA has determined resides in a HUBZone.''

The proposed rule would amend the definition of the term ''HUBZone small business concern'' by deleting the last sentence, which provides: ''A concern that was a certified HUBZone small business concern as of December 12, 2017, and that had its principal office located in a Redesignated Area set to expire prior to January 1, 2020, shall remain a certified HUBZone small business concern until June 30, 2023, so long as all other HUBZone eligibility requirements are met.'' This is a reference to the previous map freeze, and since the map freeze ended on June 30, 2023, this language is no longer a necessary.

The proposed rule would amend the definition of ''Indian Tribal Government'' to make it consistent with the definition of the term ''Indian tribe'' in the 8(a) BD Program regulations at § 124.3 of this chapter. Specifically, the proposed rule revises the definition to explicitly allow participation by State-recognized tribes.

The proposed rule would amend the definition of ''interested party'' to prevent non-HUBZone firms from filing a HUBZone protest on a HUBZone set-aside procurement. Currently, an interested party is defined as any concern that submits an offer for a specific HUBZone set-aside contract or order, or any concern that submitted an offer in full and open competition and its opportunity for award will be affected by a price evaluation preference given a qualified HUBZone small business concern. In the context of a HUBZone set-aside contract, SBA does not believe that a firm that is not itself a qualified HUBZone small business concern should be able to submit a protest. In other words, a large business or a small business which is not a qualified HUBZone small business should not be able to protest the HUBZone status of the apparent successful offeror on a HUBZone set aside contract merely because it submitted an offer for that contract or order. The large business or small business which is not a qualified HUBZone small business is not harmed by an award to the apparent successful offeror since it has no right itself to that award. It is ineligible for that award. Only firms that are capable of winning the HUBZone set-aside contract or order should be able to protest the HUBZone status of an apparent successful offeror. SBA has seen situations where a non-eligible firm has submitted an offer and then protested the HUBZone status of the apparent successful offeror. SBA believes this is not the intent of the protest process and causes unnecessary delays. If such a ''protest'' raises a genuine concern, SBA can always adopt it as an SBA-initiated protest. However, often this is a delay tactic used by an incumbent contractor protesting the apparent successful offeror in order to continue to perform the underlying work while the protest is resolved. This change would not affect the ability of a large business to protest the HUBZone status of an apparent successful offeror where the apparent successful offeror received the benefit of the HUBZone price evaluation preference in an unrestricted competition and the large business submitted an offer for that contract. In such a case, a large business could otherwise be eligible for the award of the contract. SBA is proposing a similar change to the WOSB regulations through a separate rulemaking.

The proposed rule would amend the definition of ''principal office'' to make several changes and clarifications. First, the proposed rule would require firms to provide a lease that commenced at least 30 days prior to the date of SBA's review and ends at least 60 days after the date of SBA's review. Second, the proposed rule would clarify the requirement that a firm must conduct business from the location identified as the firm's principal office and may be required to demonstrate that it is doing so by providing documentation such as photos and/or providing a live or virtual walk-through of the space. The proposed rule would also provide that for shared working spaces (or ''coworking'' spaces), firms will need to provide evidence that the firm has dedicated space within any shared location, and that such dedicated space contains sufficient work surface area, furniture, and equipment to accommodate the number of employees claimed to work from this location. The proposed rule would specify that a virtual office (or other location where a firm only receives mail and/or occasionally performs business) does not qualify as a principal office. Third, the proposed rule would add a provision stating that if 100% of a firm's employees telework (*i.e.,* work the majority of the time from their homes), then at least 51% of its employees must work from HUBZone locations and the firm's principal office would be the location where its records are kept. One of the purposes of the principal office requirement is to provide an infusion of capital into the HUBZone area with employees utilizing the services of other business concerns located near the principal office is situated. Where all of a firm's employees telework, that intent cannot be fulfilled. However, SBA understands that in today's business environment, firms are utilizing telework employees more and more. With that understanding, SBA proposes to allow 100% of a firm's employees to telework, but where that occurs would require the firm to have 51% of its employees reside in a HUBZone instead of the normal 35%. SBA believes that such an additional requirement would make up for the lack of additional capital infusion caused by not having a traditional office located in a HUBZone. In addition, SBA seeks comments on whether SBA could allow teleworking employees who reside and work within the same census tract as the firm's claimed principal office (or an adjacent census tract) to be counted as working from the principal office. If permitted, SBA believes this should be limited to firms with commercial leases and/or firms with only a single office location but seeks comments on this and other changes SBA should consider in response to the shift to telework.

The proposed rule would revise the definition of ''Qualified Disaster Area'' to provide that a census tract or non-metropolitan county shall be considered to be a Qualified Disaster Area for the period of time starting on the date on which the President declared the major disaster for the area in which the census tract or non-metropolitan county, as applicable, is located (or in the case of a catastrophic incident, on the date on which the catastrophic incident occurred in the area in which the census tract or non-metropolitan county, as applicable, is located) and ending on the date when SBA next updates the HUBZone Map in accordance with § 126.104(a). This is SBA's current interpretation of the statutory definition of ''Qualified Disaster Area'' and the proposed rule would only make that interpretation clearer.

The proposed rule would amend the definition of ''Redesignated Area'' to delete the last sentence, which currently reads: ''However, an area that was a redesignated area on or after December 12, 2017, shall remain a redesignated area until June 30, 2023.'' This is a reference to the previous map freeze, and since the map freeze ended on June 30, 2023, this language is no longer necessary.

The proposed rule would revise the definition of ''reside'' to provide that to

determine residence, SBA will first look to an individual's address identified on his or her driver's license ''or other government-issued identification.'' The current regulation provides that SBA will rely on an individual's voter registration card. However, voter registration cards generally do not specify the date that they were issued and thus SBA cannot rely on them to determine how long an individual has resided at a location. In addition, SBA is proposing to change the requirement for an individual to have lived at a location for 180 calendar days immediately prior to the relevant date of review. The proposed rule would decrease this to 90 calendar days because it would allow firms to enter the program more quickly where they have employees who have resided in HUBZones for less than 180 days.

The proposed rule would amend the definition of ''Small business concern (SBC)'' to make it consistent with the definition contained in § 126.200(b)(1). In order to be eligible for the HUBZone program, SBA previously required that a concern qualify as small for the size standard corresponding to its primary industry. That requirement was contained both in § 126.103 and § 126.200(b)(1). SBA amended § 126.200(b)(1) to require that a concern must qualify as small under the size standard corresponding to any NAICS code listed in its profile in the System for Award Management. 88 FR 26164, 26212 (Apr. 27, 2023). SBA inadvertently did not make a corresponding change to the definition of small business concern contained in § 126.103. The proposed rule would adjust § 126.103 to be consistent with § 126.200(b)(1).

The proposed rule would define ''System for Award Management (SAM)'' as having the same meaning as that which is in FAR 2.101. SBA also proposes to remove the words ''System for Award Management (*SAM.gov*)'' wherever they appear in this part and add in their place the acronym ''SAM''.

Finally, SBA proposes to remove the word ''SBC'' wherever it appears in this part and add in its place the phrase ''small business concern''.

Section 126.104

The proposed rule would make several amendments to § 126.104, which explains how Governor-designated covered areas become designated. First, the proposed rule would insert language providing that a State Governor may annually submit a petition to the SBA Office of the HUBZone Program requesting that certain covered areas be designated as Governor-designated covered areas. This is not a change from current policy, but rather a restatement of that policy in a more clear and direct way. Second, the proposed rule also would clarify that a petition need not seek SBA approval for those covered areas previously designated as Governor-designated covered areas. Third, the proposed rule would provide that a Governor-designated covered area will be treated as a HUBZone until SBA next updates the HUBZone Map in accordance with § 126.104(a), or one year after the petition is approved, whichever is later. Fourth, the proposed rule would authorize the Associate Administrator for Government Contracting and Business Development or designee, instead of the SBA Administrator, to approve specific covered areas to be considered as Governor-designated covered areas. SBA believes that this will reduce the amount of time to approve a petition, which will allow small businesses located in such areas the opportunity to participate more expeditiously in the HUBZone Program.

Finally, the proposed rule would remove the term ''urbanized area'' in the definition of ''covered area'' in § 126.104(d)(1). The HUBZone statute and the current regulations provide that only certain areas are eligible to become Governor-Designated Covered Areas. Such areas are referred to as ''covered areas.'' A ''covered area'' is defined in the statute and regulations as ''an area in a State . . . (i) [t]hat is located outside of an urbanized area, as determined by the Bureau of the Census; (ii) [w]ith a population of not more than 50,000; and (iii) [f]or which the average unemployment rate is not less than 120 percent of the average unemployment rate of the United States or of the State in which the covered area is located, whichever is less, based on the most recent data available from the American Community Survey conducted by the Bureau of the Census.'' 15 U.S.C. 657a(b)(3)(F)(v)(I); 13 CFR 126.104(d)(1). Thus, the statute and implementing regulations provide that ''covered areas'' must be located outside of ''urbanized areas.'' At the time this provision was implemented, the Census Bureau defined ''urbanized areas'' as ''urban areas'' with populations of 50,000 or more. In addition, the Census Bureau defined ''urban clusters'' as ''urban areas'' with populations of more than 2,500 and less than 50,000. Given these definitions, SBA interpreted the statute to mean that areas located in ''urban clusters'' could be eligible for Governor's designation if they also met the unemployment requirement. In addition, SBA interpreted ''area'' to mean either a census tract or a county.

Following the 2020 census, the Census Bureau changed the definition of ''urban area'' in several ways, including by removing the distinction between ''urbanized areas'' and ''urban clusters'' and discontinuing the use of those terms. As a result, areas that previously were known as urbanized areas or urban clusters are both now simply designated as urban areas. In a **Federal Register** notice published on December 29, 2022, the Census Bureau noted: ''Agencies using the [urban area] classification for their programs are responsible for ensuring that the classification is appropriate for their use.'' To be consistent with Congressional intent, this proposed rule would amend the definition of ''covered area'' to remove the term ''urbanized area'' and instead provide that the term ''covered area'' means a census tract or a county ''that is located outside of an urban area, as determined by the Bureau of the Census, with a population of not more than 50,000.''

Section 126.105

The proposed rule would add a new § 126.105, explaining when the HUBZone Map will be updated in accordance with statutory requirements. Proposed § 126.105 would provide that Qualified Census Tracts and Qualified Non-Metropolitan Counties will be updated every 5 years. This is consistent with the statutory requirement for SBA to update these designations on a 5-year cycle. The proposed rule would provide that Redesignated Areas will be added to the HUBZone Map when areas cease to be designated as Qualified Census Tracts or Qualified Non-Metropolitan Counties, in accordance with the 5-year cycle, and will expire after 3 years. The proposed rule would provide that Qualified Base Closure Areas will be added to the HUBZone Map after SBA receives information that the Department of Defense has created a new base closure area and will expire after 8 years. The proposed rule would provide that Qualified Disaster Areas generally will be added to the HUBZone Map on a monthly basis, based on data received by SBA from the Federal Emergency Management Agency (FEMA), and generally will expire on the effective date of the 5-year HUBZone Map update following the declaration. Finally, the proposed rule would provide that Governor-designated covered areas will be added to the HUBZone Map after SBA approves a petition in accordance with § 126.104 and will expire on the effective date of the 5-year HUBZone Map update

following the approval, or one year after the petition is approved, whichever is later.

Sections 126.200(b)(1), 127.200(e), and 128.204(a)

Section 126.200 sets forth the requirements a concern must meet to be eligible as a certified HUBZone small business concern. Pursuant to § 126.200(b)(1), a concern, together with its affiliates, must qualify as a small business concern under the size standard corresponding to any NAICS code listed in its profile in SAM. This paragraph does not, however, explain how SBA will determine whether a business concern qualifies as small. Some have questioned whether SBA performs a formal size determination with respect to each application. That is not the case. In determining whether a concern seeking to be a certified HUBZone small business qualifies as small under the size standard corresponding to a specific NAICS code, SBA will accept the concern's size representation in SAM, unless there is evidence to the contrary. SBA will request a formal size determination pursuant to § 121.1001(b)(8) of this chapter where any information it possesses calls into question the concern's SAM size representation. The proposed rule would clarify SBA's intent in this regard. The proposed rule would also provide the same guidance for WOSB/EDWOSB certifications by adding a new § 127.200(e) and to VOSB/SDVOSB certifications by revising § 128.204(a).

Section 126.200

The proposed rule would revise § 126.200(c)(1) to incorporate policy updates to the ''long-term investment'' provision, which was implemented through SBA's final rule published on November 26, 2019 (84 FR 65222). This provision incentivizes firms to make long-term investments in qualifying HUBZones by allowing them to maintain their principal office for up to 10 years and continue to be considered to meet the principal office requirement even if the area loses its HUBZone designation.

First, the proposed rule would provide that the 10-year ''clock'' starts to run on the firm's HUBZone certification date (if the investment was made prior to the firm's certification) or on the firm's recertification date that follows the execution of the lease or deed (if the investment was made after the firm's certification). For example, if a firm was certified on May 1, 2020, and purchased a building on December 1, 2020, the 10-year clock would start when the firm recertifies prior to May 1, 2023.

Second, the proposed rule would clarify SBA's current policy that a firm is not eligible to take advantage of the long-term investment provision if its principal office is in a Redesignated Area or a Qualified Disaster Area at the time of the investment. Redesignated Areas and Qualified Disaster Areas are areas that have already lost their designation as Qualified Census Tracts or Qualified Non-Metropolitan Counties because the income, poverty, and/or unemployment levels of those tracts/counties have improved beyond the statutory levels necessary to qualify as HUBZones. SBA does not believe it would be in line with the purpose of the HUBZone program—to encourage investment in low-income and high-unemployment areas—to encourage firms to invest in areas that have already surpassed the HUBZone thresholds for these socioeconomic indicators. SBA notes that if a firm's principal office is in a location that falls within both a qualifying area (*i.e.,* Qualified Census Tract, Qualified Non-Metropolitan County, Governor-Designated Covered Area, Qualified Base Closure Area) and a non-qualifying area (*e.g.,* Redesignated Area that was previously a Qualified Non-Metropolitan County) at the time of the investment, the firm would be eligible for this provision. In addition, the proposed rule would provide that this provision would not apply to an investment made within 180 days of the expiration of an area's designation as a Qualified Census Tract, Qualified Non-Metropolitan County, Governor-Designated Covered Area, or Qualified Base Closure Area.

Third, the proposed rule would provide that a firm is not eligible for this provision if its principal office is owner-occupied (*e.g.,* a location that also serves as a residence). In such a case, SBA does not believe that the investment in the HUBZone was primarily to develop a certified HUBZone small business.

The proposed rule would revise § 126.200(d)(1) to clarify that if a firm has one employee, that employee must reside in a HUBZone for the firm to be eligible for HUBZone certification. That has always been SBA's interpretation of the HUBZone requirements, and the proposed rule merely makes that explicit.

The proposed rule would revise § 126.200(d)(3), which addresses ''Legacy HUBZone Employees'' to: clarify the amount of time an individual must reside in a HUBZone in order to qualify as a Legacy HUBZone Employee; specify that residence in a Redesignated Area does not qualify someone for this provision; and to implement limits on the number of Legacy HUBZone Employees a firm may have.

First, the proposed rule would provide that a Legacy HUBZone Employee is an individual who: (a) resided in a HUBZone (other than a Redesignated Area) for at least 90 days preceding, and 180 days following, the concern's HUBZone certification date or most recent recertification date, and (b) remains an employee at the time of the concern's current recertification date.

Second, the proposed rule would clarify that an individual cannot reside in a Redesignated Area and qualify as a Legacy HUBZone Employee. This does not mean to imply that an individual who resided in a HUBZone when a firm was first certified as a HUBZone eligible firm and continued to live at that same location while the area transitioned to a Redesignated Area cannot be considered a Legacy HUBZone Employee if that individual moves to a non-HUBZone area. The proposed rule intends to clarify that an individual who qualifies as a HUBZone employee for the first time while living in a Redesignated Area cannot later be deemed a Legacy HUBZone Employee.

Third, the proposed rule would provide that a certified HUBZone small business may only have one legacy HUBZone employee at a given time. SBA supports the growth of individual HUBZone employees and allowing such employees to improve their personal residential situation. However, SBA is concerned that the Legacy HUBZone Employee concept could be abused. Without a limit on the number of Legacy HUBZone Employees permitted by SBA, a firm could potentially move all individuals into a HUBZone for a one-year period and qualify all of those individuals as Legacy HUBZone Employees without those individuals ever intending to live long-term in the HUBZone area. SBA seeks comments on what the limit on Legacy HUBZone Employees should be and whether there should be any other limitations. Specifically, SBA requests comments on the following: whether SBA should limit the duration of Legacy HUBZone employee status to a certain number of years, and if so, how many years would be appropriate; whether individuals who were students when they resided in a HUBZone should be eligible for treatment as Legacy HUBZone Employees; whether Legacy Employees should be limited to full-time employees only; and whether an owner of the concern should be able to qualify as a Legacy HUBZone Employee. SBA is concerned that not imposing some

restrictions on Legacy Employees could open the provision to abuse. The purpose of this provision is to allow HUBZone firms to retain employees who have managed to improve their position and move out of a HUBZone. This purpose is not relevant to many owners of HUBZones because they are not at risk of being fired for moving out of a HUBZone.

The proposed rule would revise § 126.200(e), which addresses the ''attempt to maintain'' requirement. The proposed rule would clarify when HUBZone firms must certify that they will attempt to maintain compliance with the 35% HUBZone residency requirement during the performance of a HUBZone contract. The rule would provide that firms must make this certification when they apply for HUBZone certification, at the time they complete their recertification, and at the time of offer for any HUBZone contract.

Similarly, the proposed rule would amend § 126.200(f) to provide that HUBZone firms must certify that they will comply with the applicable limitations on subcontracting requirements when they apply for HUBZone certification, and at the time they complete their annual recertification. Certified HUBZone small business concerns also agree to comply with the limitations on subcontracting requirements under FAR clause 52.219–14, Limitations on Subcontracting, by submitting an offeror for and executing a HUBZone contract.

Finally, the proposed rule would revise § 126.200(g) to clarify that neither a concern nor any of its owners may have an active exclusion in SAM at the time of application or at any time while the concern is HUBZone-certified.

Section 126.201

The proposed rule would amend § 126.201 by rephrasing the language explaining the ownership requirements for HUBZone small business concerns. The current regulations provide: ''An owner of a SBC seeking HUBZone certification or a qualified HUBZone SBC is a person who owns any legal or equitable interest in such SBC.'' The proposed rule would rephrase this sentence to read: ''For purposes of qualifying for HUBZone certification, SBA considers any person who owns any legal or equitable interest in a concern to be an owner of the concern.'' This change is intended only to make this section clearer and easier to read, without changing the meaning or intent of the provision.

Section 126.204

The proposed rule would revise § 126.204(a) to specify that a HUBZone firm can have affiliates, so long as the firm and its affiliates in the aggregate qualify as small in at least one NAICS code listed in the HUBZone firm's SAM profile. This clarification is necessary because the current regulation says only that the firm and its affiliates in the aggregate must be small—without specifying that the firms, together, must be small in at least one NAICS code listed in the HUBZone-certified firm's SAM profile.

The proposed rule would amend § 126.204(c) to clarify that SBA reviews the ''totality of circumstances'' when determining whether to aggregate the employees of affiliated companies for purposes of calculating a firm's compliance with the 35% HUBZone residency and principal office requirements. In addition, the proposed rule would add a new paragraph (c)(4) clarifying SBA's current policy that if firms are not considered affiliated for size purposes, their employees generally will not be aggregated for HUBZone purposes.

Sections 124.203, 126.302, 126.303, 127.301, 127.302, 128.301

Sections 126.302 and 126.303 provide general guidance on applying to SBA to be certified as a HUBZone small business concern. Section 124.203 provides similar guidance for applying to the 8(a) BD program; sections 127.301 and 127.302 do so for the WOSB program and section 128.301 does the same for applying to the VetCert program. The current regulations for the 8(a) BD, HUBZone and WOSB programs require that an application must be electronically signed by a specified individual (by each individual claiming social and economic disadvantage status for the 8(a) BD program and by an officer of the concern who is authorized to represent the concern for the HUBZone and WOSB programs). This proposed rule would change that language to provide instead that the individual(s) upon whom eligibility is based take responsibility for the accuracy of all information submitted on behalf of the applicant. The proposed rule would also add similar language to § 128.301 for the VetCert program.

Section 126.304(e)

The proposed rule would amend § 126.304(e) to clarify the records that HUBZone participants must maintain to ensure continued eligibility. Specifically, the proposed rule would provide that HUBZone small business concerns must retain documentation related to any ''Legacy HUBZone employees'' in order to demonstrate that individuals being claimed as Legacy HUBZone employees meet the requirements (*i.e.,* 180 days of HUBZone residence after the firm's certification or recertification date, and uninterrupted employment).

Section 126.306(h)

The proposed rule would amend § 126.306 by adding a new paragraph (h) to make clear that the D/HUB's decision to approve or deny an application to the HUBZone program is the final agency decision. This has been SBA's long-standing policy. There is no reconsideration or appeal process because declined applicants are permitted to reapply to the HUBZone program 90 days after receiving the decline decision.

Sections 126.309, 126.803, 127.305, and 128.305

The proposed rule would revise § 126.309, which describes when a declined or decertified firm can re-apply for HUBZone certification. The proposed rule would keep the 90-day wait period for firms whose application has been declined, but would eliminate that wait period for firms that have been decertified. When the HUBZone regulations were first implemented, declined or decertified firms were required to wait one year to reapply to the HUBZone program. At that time, SBA chose the one-year period to give small businesses a reasonable period of time within which to make the changes or modifications that are necessary to enable them to qualify for the HUBZone program, and at the same time to allow SBA to administer the HUBZone program effectively with available resources. However, SBA found that in many cases, a small business only had to hire a few additional HUBZone residents to come back into compliance. SBA also found that after the 2010 census, many small businesses had principal offices in HUBZone areas that were expiring and some such businesses may be planning to move to newly-designated HUBZone areas. SBA found that it would not serve the purposes of the program to make such small businesses wait one year to reapply. Thus, in 2011, SBA reduced the wait period to ninety (90) calendar days, to encourage businesses to move into newly designated HUBZones and hire HUBZone residents, which are the two purposes of the statute. SBA also believed that it would create an incentive for small businesses that no longer meet the HUBZone program

requirements to voluntarily decertify and then seek eligibility when they come back into compliance.

At the present time, the HUBZone portfolio is once again being significantly impacted by changes to the HUBZone Map caused by the decennial census. When the HUBZone Map was updated on July 1, 2023, many Redesignated Areas lost their HUBZone status, and thus many small businesses with principal offices in those Redesignated Areas have faced (or are facing) the decision to either relocate their principal office or withdraw from the program. Given how many small businesses are being affected by the expiration of the Redesignated Areas—whether as a result of its principal office no longer being located in a HUBZone or employees no longer residing in a HUBZone—SBA believes it is best to eliminate the waiting period that currently applies after decertification.

This rule proposes a corresponding change to § 126.803, to provide that a firm that is decertified for any reason (including based on a protest or due to voluntarily withdrawing) can reapply immediately after the decertification is effective.

In order to promote consistency across SBA's programs, the proposed rule would make similar changes in § 127.305 for the WOSB program and in § 128.305 for the VetCert program to eliminate the 90-day wait time to reapply for certification in those programs after it has been decertified.

Section 126.401

The proposed rule would revise § 126.401, which explains what program examinations are. The proposed rule would provide that a program examination is an investigation by SBA officials, which verifies the accuracy of any certification made or information provided as part of the HUBZone application process, as part of the recertification process, or in connection with a HUBZone contract. The current regulation does not specify that program examinations may be conducted to verify the accuracy of certifications made in connection with HUBZone contracts. This proposed change would be necessary if SBA implemented the proposed changes requiring a HUBZone small business concern to meet the 35% HUBZone residency and principal office requirements on the date it submits an offer for a HUBZone contract. In light of this proposed requirement, proposed § 126.401 would provide that during a program examination, SBA ''may verify that the concern met the program's eligibility requirements at the time of its application for certification, at the time of any recertification, or at the time of its offer for a HUBZone contract.''

Section 126.403

The proposed rule would amend § 126.403(a) to clarify that a program examination may include a site visit. The current regulations describing program examinations provide that ''SBA may conduct a program examination, or parts of an examination, at one or more of the concern's offices.'' It is true that SBA may conduct a site visit to one or more of a HUBZone concern's offices as part of a program examination. However, site visits are just one potential facet of a program examination and not all program examinations include site visits.

Section 126.404

The proposed rule would amend § 126.404 to clarify that where a firm is found ineligible pursuant to a program examination, SBA will decertify the firm by removing the firm's certification in DSBS for a period of 30 calendar days, during which time the firm is ineligible to submit offers for or be awarded HUBZone contracts. SBA may also identify such decertification actions on its website to ensure that relevant contracting officers are aware of any such decertification. Decertification in this instance is a statutory requirement under section 31(d)(6) of the Small Business Act. Prior to this rule, SBA has not formally removed firms' HUBZone status in DSBS during this 30-day period. However, SBA has determined that in order for the statutory requirement to be enforceable, SBA must remove a firm's certification in DSBS during the 30-day suspension period. In addition, the proposed rule would provide that the firm must provide written notice of the concern's ineligibility to the contracting officer for any pending HUBZone award. During this 30-day period, the firm may submit documentation showing that it was in fact eligible on its recertification date. If the concern failed to submit documentation sufficient to demonstrate its eligibility by the last day of the 30-day period, the concern would remain decertified. If SBA overturned its determination, SBA would reverse the firm's decertification and reinstate its certification.

Sections 126.500 and 126.601

The proposed rule would revise §§ 126.500 and 126.601 to eliminate the one-year certification rule and instead require firms to be eligible on the date of offer for HUBZone contracts and only recertify once every three years. Currently, the HUBZone rules require firms to annually recertify their HUBZone status to SBA. Under the current rules, once a firm annually recertifies its HUBZone status, it generally can submit offers for HUBZone contracts for one year without being required to meet the 35% HUBZone residency and principal office requirements at the time of offer. Thus, SBA's current regulations set one point in time—the date of certification or the certification anniversary date—as the time at which a firm must be eligible for a HUBZone contract. Under the current regulations, if a firm is eligible as of its certification or certification anniversary date, it remains eligible for HUBZone contracts for a period of one year from that date regardless of whether the firm falls out of compliance with the HUBZone eligibility requirements throughout the year. SBA believes that the current process can permit abuses that were not intended for the program. A firm could hire one or more individuals who reside in a HUBZone for four weeks prior to its application for certification and immediately dismiss those individuals from its employ after becoming certified and be eligible throughout the year for HUBZone contracts. Similarly, a firm could again re-hire one or more individuals who reside in a HUBZone for four weeks prior to its certification anniversary date and immediately release those individuals after the certification anniversary date and be eligible for additional HUBZone contracts for another year. SBA believes that that was not the intent of the program. Thus, proposed § 126.601(a) would require a firm to be both a certified HUBZone small business and one that continues to be eligible as of the date of its offer for a HUBZone contract.

In light of this change, the rule also proposes to amend § 126.500 to require firms to recertify to SBA every three years, rather than annually. SBA believes annual recertification is not necessary, and would impose undue burdens on HUBZone small businesses, if firms are also required to be eligible at the time they submit offers on any HUBZone contracts. Moreover, SBA believes that uniformity among its contracting programs is an important goal, and SBA's WOSB and VetCert programs require firms to be eligible at the time of offer for contracts and to recertify to SBA every three years. Thus, returning to triennial recertification, combined with the change to require HUBZone firms to be eligible on the date of offer for HUBZone contracts, would bring the HUBZone program

more in line with SBA's other socioeconomic contracting programs.

The proposed rule would clarify that an offeror on a competitively awarded HUBZone contract need not be eligible on the date of award of such contract. Prior to 2020, SBA's regulations required eligibility for a competitively awarded HUBZone contract both at time of offer and time of award. That caused problems with the procurement process where a HUBZone employee that was counted on for HUBZone eligibility left the firm in the time between the firm's offer and the date of award. The firm could be in the process of hiring a new employee from a HUBZone but if it had not done so by the date of award the firm would be ineligible for award. SBA continues to believe that determining such a firm ineligible for award is inappropriate. There must be certainty to eligibility when a firm submits an offer. The proposed rule, however, would provide that certainty. As long as a firm is eligible as of the date of its offer for a competitively awarded HUBZone contract, it will be eligible for award. This is similar to the size requirement where a firm must also be small on the date of its offer but may grow to be other than small between the date of its offer and the date of award. However, the proposed rule would specify that there is an exception to this rule for HUBZone sole source awards, for which a firm must be HUBZone-certified at the time of award. SBA believes that sole source procurements require stricter eligibility rules. In order to be eligible for a sole source HUBZone award, a procuring activity must conclude that the firm receiving the award is the only certified HUBZone small business concern that is capable of performing the contract. That by itself is very restrictive, and SBA believes that eligibility should also be restrictive. SBA does not believe that Congress intended to allow a firm that no longer qualifies as a HUBZone small business concern prior to award to be elevated to a status as the only certified HUBZone small business concern that is capable of performing the contract. In addition, this change would align HUBZone sole source awards with how SBA treats sole source awards in the 8(a) BD program.

The proposed rule would clarify that an offeror under a competitive HUBZone contract must be identified as HUBZone-certified in DSBS when it submits its initial offer. SBA proposes to add this to clarify that for the HUBZone program, unlike the WOSB Program, a firm cannot submit an offer on HUBZone contract while its application is still pending. That is, a concern is only eligible to submit offers for HUBZone contracts after SBA has formally approved its application and updated DSBS (or successor system) showing that the concern is a certified HUBZone small business concern. In addition, the proposed rule would clarify that for a multiple award contract, where concerns are not required to submit price as part of the offer for the contract, an offeror must be identified as a certified HUBZone small business concern in DSBS (or successor system) and meet the HUBZone requirements in § 126.200 on the date of initial offer, which may not include price. This is consistent with SBA's size regulations at § 121.404(a)(1)(iv).

SBA has also found that the HUBZone Program goals are not sufficiently fulfilled by how the ''attempt to maintain'' requirement is currently being implemented. Under the current rules, a HUBZone firm can have less than 35% HUBZone residents at the time of its annual recertification if the firm is performing a HUBZone contract. This means that a firm being awarded HUBZone contracts in essence never has to demonstrate that it is employing at least 35% HUBZone residents. SBA believes this is contrary to the purpose of the HUBZone Program. SBA believes it would make more sense to give firms a specific ''grace period'' after they are awarded a HUBZone contract during which time they can take the necessary steps to hire enough HUBZone residents to get back up to 35% HUBZone residency. If a firm's recertification falls within this grace period, then such firm's recertification would require the firm to represent that it is ''attempting to maintain'' compliance with the 35% HUBZone residency requirement. After the grace period, then such firm would have to be back up to 35% HUBZone residency at the time of any recertification. This rule proposes that the grace period be 12 months following the award of a HUBZone contract. To implement this proposed change, proposed § 126.500(a)(1)(i) would provide that, in order to recertify, a HUBZone firm that did not receive a HUBZone contract during the year preceding its recertification date must represent that, at the time of its recertification, at least 35% of its employees reside in HUBZones and the concern's principal office is located in a HUBZone. Proposed § 126.500(a)(1)(ii), on the other hand, would provide that a HUBZone firm that was awarded a HUBZone contract during the year preceding its recertification date would have to represent that, at the time of its recertification, it is attempting to maintain compliance with the 35% HUBZone residency requirement and the concern's principal office is located in a HUBZone.

Proposed § 126.500(a)(2) would provide that a concern's recertification must be submitted within 90 calendar days before the triennial anniversary of its HUBZone certification date. This 90-day window mirrors the VetCert regulations and thus creates additional uniformity among SBA's programs.

Proposed § 126.500(a)(3) would provide that a firm that fails to recertify will be proposed for decertification. However, SBA is seeking comments on whether such firms should be decertified automatically within a certain timeframe (such as 30 days) of failing to recertify.

Proposed § 126.500(b) would explain that SBA will conduct a program examination of each certified HUBZone small business concern at least once every three years to ensure continued program eligibility, using a risk-based analysis. The proposed rule would further provide that SBA may conduct more frequent program examinations using a risk-based analysis to select which concerns are examined. This is SBA's current policy, and this rule would make these policies clearer.

Section 126.501

The proposed rule would revise § 126.501 in its entirety. The proposed section would address a certified HUBZone small business concern's ongoing obligations to SBA (which is what this section addressed prior to the 2019 rule change). First, the proposed rule would provide that a certified HUBZone small business concern that acquires, is acquired by, or merges with another business entity must provide evidence to SBA, within 30 calendar days of the transaction becoming final, that the concern continues to meet the HUBZone eligibility requirements. The proposed section would provide that a concern that no longer meets the requirements may voluntarily withdraw from the program or it will be removed by SBA pursuant to program decertification procedures. This is SBA's current policy, but the current regulations only require a firm to notify SBA via email where it is involved in a merger or acquisition and do not explain what happens after such notification.

Second, proposed § 126.501(b) would provide that a certified HUBZone small business concern that is performing a HUBZone contract and fails to ''attempt to maintain'' the minimum employee HUBZone residency requirement must notify SBA notify SBA via email to

hubzone@sba.gov within 30 calendar days of such occurrence. A concern that cannot meet the requirement may voluntarily withdraw from the program or it will be removed by SBA pursuant to program decertification procedures.

Section 126.503

The proposed rule would add a new paragraph (d) to § 126.503, clarifying that SBA will decertify a HUBZone small business concern that is debarred from federal contracting without first proposing the firm for decertification. This is merely a clarification of an existing policy. Once a firm has been debarred, it is ineligible for all federal contracts and subcontracts and thus there is no benefit to being HUBZone-certified.

Section 126.504

The proposed rule would amend § 126.504(a) to add that SBA will remove a firm's HUBZone designation if the firm has been debarred from government contracting pursuant to the procedures in FAR 9.4. This change would be consistent with the addition of a new paragraph (d) to § 126.503, discussed above.

The proposed rule would revise § 126.504(c) by renumbering the introductory language as paragraph (c)(1), changing paragraph (c)(1) to paragraph (c)(2), and eliminating current paragraph (c)(2) as unnecessary. The proposed rule would then amend renumbered § 126.504(c)(1) by clarifying that a firm is ineligible to submit offers for HUBZone contracts at the time SBA decertifies the firm. The current regulations provide that a firm is ineligible when it is ''removed as a certified HUBZone small business concern in DSBS.'' However, there are occasional lags between SBA's decertification action and updates to DSBS, as well as potential errors in updates to DSBS. SBA may identify such decertification actions on its website to address the occasional lags.

The proposed rule would amend renumbered § 126.504(c)(2) by clarifying that a firm must be HUBZone-certified at the time of its initial offer for a HUBZone contract, and it must be able to demonstrate its compliance with the HUBZone requirements (*e.g.,* the 35% HUBZone residency requirement and the principal office requirement) as of the date of its offer. This provision would continue to provide that HUBZone eligibility is determined at the time of offer, and not at the time of award, but eligibility would no longer relate back to the firm's certification anniversary date.

Section 126.600

The proposed rule would amend § 126.600 to clarify that qualifying joint ventures may be considered HUBZone small business concerns for HUBZone contracts and to clarify that the rules in Part 126 apply to HUBZone prime contracts, not subcontracts awarded to HUBZone small businesses. The proposed rule would add a new paragraph (e) clarifying that orders awarded to certified HUBZone small business concerns under set-aside Multiple Award Contracts are HUBZone contracts.

Section 126.602

The proposed rule would amend the requirements relating to how a certified HUBZone small business concern ''attempts to maintain'' having at least 35% of its employees reside in a HUBZone during the performance of a HUBZone contract. Specifically, the proposed rule would revise § 126.602 to provide that a certified HUBZone small business concern that has received a HUBZone contract must be ''attempting to maintain'' the 35% HUBZone residency requirement (including by having at least 20% of its employees reside in a HUBZone) on the first certification anniversary date after being awarded a HUBZone contract and at least 35% of its employees reside in a HUBZone on each certification anniversary date thereafter. SBA does not believe that the 35% HUBZone residency requirement should be watered down to as low as 20% over the course of a firm's participation in the HUBZone program merely because a HUBZone small business concern received one or more HUBZone contracts. However, SBA also believes that it must give some meaning to the ''attempt to maintain'' statutory language, which is why allowing a firm to drop below the 35% residency requirement (but no lower than 20%) for a year makes sense to SBA. SBA believes that giving a firm an additional year to come back into compliance with the 35% residency requirement after being awarded a HUBZone contract is a good balance between the two statutory requirements. However, SBA requests comments on how to implement this requirement where a HUBZone firm receives multiple HUBZone awards in successive years.

Section 126.605

The proposed rule would amend § 126.605 to clarify that this section describes circumstances under which a contracting officer is prohibited from soliciting a requirement as a HUBZone contract. The proposed rule changes the words ''may not'' to ''shall not'' to clarify that a contracting officer does not have discretion to award a HUBZone contract in those specified instances.

Section 126.612

The proposed rule would amend § 126.612 by adding a new paragraph (f) providing that the awardee of a HUBZone sole source contract must be a certified HUBZone small business concern on the date of award. This has always been the policy for the 8(a) Business Development program (*see* § 124.501(h)), and SBA is trying to make its socioeconomic programs as consistent as possible.

Section 126.613

The proposed rule would amend § 126.613, which addresses the HUBZone price evaluation preference (PEP), to clarify how the HUBZone PEP should be applied. The proposed rule would revise paragraph (a) and the examples. The proposed rule would provide that to apply the HUBZone PEP, a contracting officer must add 10% to the offer of the otherwise successful large business offeror. Then, if the certified HUBZone small business concern's offer is lower than that of the large business after the HUBZone PEP is applied, the certified HUBZone small business concern must be deemed the lowest-priced offeror. The proposed rule would add a sentence specifying that the HUBZone price evaluation preference does not apply where the initial lowest responsive and responsible offeror is a small business concern.

The proposed rule would add clarifying language to Example 1 explaining that a non-HUBZone small business concern is not affected by the application of the HUBZone PEP where such non-HUBZone small business is not the lowest offeror prior to the application of the preference. This is because the HUBZone PEP is intended neither to harm nor to benefit a non-HUBZone small business.

The proposed rule would amend Example 2 by specifying that, in the example, after the application of the HUBZone PEP, the HUBZone small business concern's offer is not lower than the offer of the large business (*i.e.,* $103 is not lower than $102.3 ($93 × 110%)).

The proposed rule would amend Example 3 to clarify that a contracting officer should not apply the HUBZone PEP where the lowest, responsive, responsible offeror is a small business concern, even if a large business concern submitted an offer.

In addition, the proposed rule would clarify how the PEP should be applied to a procurement using trade off procedures. The proposed rule would provide that for a procurement using trade off procedures, the CO must first apply the 10% price preference to the offers of any large businesses and then determine which offeror represents the best value to the Government, in accordance with the terms of the solicitation. Where, after considering the price adjustment, the total evaluation points received by a certified HUBZone small business concern is equal to or greater than the total evaluation points received by a large business, award shall be made to the certified HUBZone small business concern.

Section 126.615

The proposed rule would amend § 126.615 by adding a reference to § 125.9, to clarify that large businesses may participate in HUBZone procurements by serving as SBA-approved mentors under SBA's mentor-protégé program, and by correcting the cross-reference to the limitations on subcontracting.

Section 126.616

The proposed rule would amend § 126.616, which describes the circumstances under which a joint venture can be awarded a HUBZone contract. The proposed rule would delete language from current § 126.616(a)(1) stating that a ''joint venture itself need not be a certified HUBZone small business concern.'' SBA proposes to delete this language because it implies that a joint venture could be HUBZone-certified, when in fact the HUBZone program does not certify joint ventures under any circumstances. Instead, proposed § 126.616(a)(1) would clarify that SBA does not certify HUBZone joint ventures, but provide that a joint venture should be designated as a HUBZone joint venture in SAM (or successor system), with the HUBZone-certified joint venture partner identified. The proposed rule would add a new paragraph (k) to provide that a procuring agency may only receive HUBZone credit for an award to a HUBZone joint venture where the joint venture complies with the requirements in § 126.616.

Section 126.619

As noted above, this rule proposes to move recertification requirements for size and socioeconomic status to a new § 125.12. A revised § 126.12 would refer to the requirements set forth in§ 125.12 as applying to recertifications of HUBZone status.

Section 126.701

The proposed rule would amend § 126.701 by removing the words ''these subcontracting percentages'' in the section heading and adding in their place the words ''the limitations on subcontracting'' to clarify the content of the section.

Section 126.800

The proposed rule would amend § 126.800 by removing the paragraph subheadings and incorporating them into the text of the regulation, to make the section more readable. In addition, the proposed rule would clarify that interested parties may protest a HUBZone joint venture offeror's eligibility for award of a HUBZone contract. Finally, the proposed rule would add a new paragraph (c) providing that for contracts other than HUBZone contracts, SBA may protest an apparent successful offeror's status as a certified HUBZone small business concern. SBA believes that where there is evidence that the prospective awardee does not meet the HUBZone requirements, the agency needs to be able to protest a firm's HUBZone status, even for a non-HUBZone award. This would prevent an agency from receiving HUBZone credit where the awardee is not eligible for the program.

Section 126.801

In response to the change made to § 126.601(a) requiring a HUBZone small business to be eligible for a HUBZone contract as of the date of its initial offer including price, the proposed rule would first align the protest procedures to recognize that the date of offer would be the relevant date for protesting a HUBZone small business concern's eligibility for award of a HUBZone contract.

Section 126.803

SBA proposes to amend § 126.803 by revising paragraph (a), which explains the date that will be used to determine a firm's HUBZone eligibility if it is the subject of a HUBZone status protest. As explained above, this proposed rule would require HUBZone firms to be eligible at the time of offer for competitively awarded HUBZone contracts. Consistent with this proposed change, proposed § 126.803(a) would provide that for all HUBZone contracts other than HUBZone sole source awards, SBA shall determine a protested firm's HUBZone eligibility as of the date of its initial offer that includes price. For HUBZone sole source awards, SBA would determine a protested firm's HUBZone eligibility as of the date of award.

SBA also proposes to redesignate paragraphs (c), (d), and (e) as paragraphs (d), (e), and (f), and to add a new paragraph (c) to § 126.803. Proposed § 126.803(c) would provide that the burden of proof to demonstrate eligibility is on the protested concern. The section would explain that if a concern does not provide information requested by SBA within the allotted time provided, or if it submits incomplete information, SBA may draw an adverse inference and presume that the information that the applicant failed to provide would demonstrate ineligibility and sustain the protest on that basis. These policies are explained in SBA's protest notification letters, and SBA believes it makes sense to add them to the protest regulations.

Section 126.900

The proposed rule would amend § 126.900 by adding a new paragraph (e)(4) providing that if SBA discovers that false or misleading information has been knowingly submitted by a certified small business concern in order to obtain or maintain HUBZone certification, the D/HUB will propose the firm for decertification.

Sections 127.200 and 128.200

In order to be eligible for the 8(a) BD program, SBA requires socially and economically disadvantaged individuals to reside in the United States. *See* 13 CFR 124.101. There currently is not a similar requirement for the WOSB or VetCert programs. SBA believes that qualifying individuals should reside in the United States to more adequately advance the purposes of the programs. The proposed rule would add a United States residency requirement for qualifying individuals in the WOSB and VetCert programs.

Section 127.400

Section 127.400 provides guidance as to how a concern can maintain its WOSB or EDWOSB certification. Current § 127.400(b) specifies that a concern must either request a program examination from SBA or notify SBA that it has requested a program examination from a third-party certifier no later than 30 days prior to its certification anniversary. In order to provide consistency between the programs, the proposed rule would state that a concern must either recertify with SBA or notify SBA that it has completed a program examination from a third party certifier in the 90 calendar days prior to its certification anniversary. The

proposed rule would also revise the example set forth in the regulations to take into account the change from 30 days to 90 days.

Section 134.1104

Section 134.1104 sets forth the time limits a VOSB or SDVOSB must appeal an adverse determination finding it ineligible for the VetCert program to SBA's Office of Hearings and Appeals (OHA). Currently, § 134.1104 requires an appeal to be filed within 10 business days of receipt of the denial. When an application for the 8(a) BD program is denied, a firm has 45 days from the date it receives the Agency decision to file an appeal with OHA. *See* 13 CFR 124.206(b). SBA is in the process of establishing a uniform application processing system. That system will allow a firm to simultaneously apply for multiple certifications for which it believes it is eligible. If a firm applied for 8(a) and VetCert certification at the same time and was denied for both programs, the current regulations would require the firm to appeal its VetCert denial withing 10 days while not being required to file its 8(a) eligibility appeal for 45 days. SBA believes that may be confusing to affected applicants and that there should be consistency in the appeal process. As such, this proposed rule would change the time to file an appeal for the VetCert program to 45 days.

Compliance With Executive Orders 12866, 12988, 13132, 13563, the Congressional Review Act (5 U.S.C. 801–808), the Paperwork Reduction Act (44 U.S.C. Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Executive Orders 12866, 13563 and 14904

Executive Order 12866, ''Regulatory Planning and Review,'' directs 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, ''Improving Regulation and Regulatory Review,'' emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 14094, ''Modernizing Regulatory Review,'' amends section 3(f) of Executive Order 12866 and supplements and reaffirms the principles, structures and definitions governing contemporary regulatory review established in Executive Order 12866 and Executive Order 13563. The OMB Office of Information and Regulatory Affairs (OIRA) has determined that this rule is a significant regulatory action and, therefore, it was reviewed under subsection 6(b) of E.O. 12866.

Regulatory Impact Analysis

1. Is there a need for the regulatory action?

This regulatory action clarifies and streamlines SBA's regulations governing the HUBZone Program and other contracting assistance programs. In 2019, SBA published a comprehensive revision to the HUBZone Program regulations, which implemented changes intended to make these regulations easier to understand and implement. This proposed rule is intended to further clarify and improve policies surrounding some of those changes to ensure that the HUBZone program fulfills its statutory purpose. In addition, SBA has heard from small businesses of a desire for consistency among its contracting assistance programs in order to relieve burdens associated with compliance with multiple programs. As a result, the proposed rule would make several improvements to create uniformity among the programs, including deleting the program-specific recertification requirements contained separately in SBA's size, 8(a) BD, HUBZone, WOSB, and VetCert and moving them to a new section that would cover all size and status recertification requirements.

2. What are the incremental benefits and costs of this regulatory action?

The proposed rule benefits program participants by reducing burdens and increasing consistency with other contracting programs while changing or adding some compliance requirements that strengthen the program's impact and reduce the potential for business policies and practices that are contrary to the goals of the HUBZone program. The reduction of burdens includes the decrease in the time of proof of residence for employees, removal of the 90-day wait period for reapplication after decertification, revisions to the part of the rule that addresses Governor-designated covered areas, a change in the negative-control rule in SBA's affiliation rule, deletion of program-specific requirements for certification, and triennial instead of annual recertification. Additionally, the proposed rule adds a telework provision. Proposed compliance requirements include limits on the number of Legacy Employees, revised requirements for the use of the ''attempt to maintain'' statutory language, possible minimum thresholds for number of hours worked, and proof of eligibility at the time of offer of a HUBZone contract. These proposed compliance measures are consistent with the program's goal of promotion of growth and impact of small businesses in historically underutilized areas and SBA believes, as outlined below, that they are not substantial burdens.

Benefits

The decrease from 180 days to 90 days for proof of employees' residency allows for firms to enter the HUBZone program more quickly and increases opportunities for newly-hired employees. Both of these results increase accessibility of the program's opportunities. Removal of the 90-day wait period for decertified firms also promotes the program's accessibility because SBA has found that a shorter wait period is consistent with firms' ability to qualify or return to compliance by hiring HUBZone residents or by moving to a newly-designated HUBZone.

The restatement of § 126.104 clarifies existing policy on Governor-designated covered areas, including the condition for annual petitions and a statement of no need for SBA's approval of previously designated covered areas. This restatement decreases uncertainty for firms that participate or plan to participate in the program. The restatement also authorizes the Associate Administrator for Government Contracting and Business Development, or designee, instead of the Administrator to approve covered areas, which SBA believes would reduce time to approve a petition and facilitate entry into the program.

Amendments to regulations on affiliation will remove inconsistencies with other programs' regulations. The benefit of the amendments is more certainty on measures that minority-share investors can include to protect their investments without a finding of control. This proposed rule further reduces uncertainty in this matter by applying the same language to the 8(a) BD, WOSB and VetCert programs. SBA expects the changes in regulations on affiliation and control and increased consistency among programs to improve the environment for access to capital for small businesses in contracting assistance programs.

The proposed rule returns the HUBZone program to triennial recertification and deletes program-specific recertification requirements. Both of these changes alleviate the burden associated with recertification.

With recertification taking about an hour to complete, SBA estimates that the change to triennial recertification will result in an annual reduction in the time burden from recertification of approximately 2,468 hours and about $326,911 in annual savings.[4] SBA has seen a downward trend in the number of HUBZone firms over the years, with lateness in annual recertification as one reason for the trend, so a reduction in this recertification burden may increase the number of HUBZone program participants and, consequently, the savings from this change in the future, in addition to the wider economic benefits generated by more HUBZone firms in communities. Deletion of program-specific recertification requirements would also reduce time in recertification. In 2023, SBA sampled several years of data to estimate that about 10% of the firms in the HUBZone program were also in the WOSB program and 15% in the 8(a) program. The eliminated recertification procedures from uniform certification could reduce the time burden by an estimated 617 hours and generate an additional $81,728 in annual savings.[5]

The proposed rule recognizes the increased importance of telework and allows small businesses with 100 percent of its employees to participate in the HUBZone program but with the condition that at least 51 percent of the employees work from HUBZone locations. This provision enables program participants to use the benefits of telework for recruitment and flexibility while addressing the program's goals of stimulating economic activity in HUBZone areas.

Revisions in Compliance Measures

The proposed rule revises § 126.200(d)(3) to allow HUBZone firms to retain employees who have move out of a HUBZone but proposes a limitation on the number of these Legacy HUBZone Employees. This is an attempt to balance the needs of employees who move for personal reasons or for professional development with the aims of the program to promote business activity in specific areas. The limitation is a potential source of burden on small business entities and SBA is seeking comments on aspects of limiting the number of Legacy Employees.

SBA is also adjusting the threshold of 20 percent of employees for ''attempt to maintain'' currently in § 126.500(a)(2) with 35 percent. This increased threshold is a stronger standard but the procedures for demonstrating compliance are not different. Any resulting costs should be balanced against SBA's assessment that HUBZone goals are not sufficiently fulfilled by implementation of the current requirement of 20 percent.

Currently, § 126.103 specifies that an individual who works 40 hours in a four-week period is an employee. SBA proposes to increase the number of hours worked to 80 but seeks comments on whether this level is appropriate. This proposal is a revised and stricter compliance requirement but is one that SBA believes better promotes the purpose of the program and the need for a firm's legitimate presence in the HUBZone area. SBA expects that the increase in hours of gainful employment would be matched with increased output and therefore the additional hours would not impose a burden on employers. Recognizing some employers' and employees' needs for fewer hours per period, SBA seeks comments on a minimum number of hours for some individuals.

This rule proposes to require any certified HUBZone small business to be eligible as of the date of offer for any HUBZone contract. In Federal Procurement Data System (FPDS) data from previous years, approximately 2,100 new HUBZone contracts were awarded in a fiscal year. SBA estimates it takes approximately 1 hour for a firm to gather proof that it is eligible at the time of offer. Thus, this proposed rule will increase the burden on HUBZone small business concerns by approximately 2,100 hours for an estimated annual cost of $278,166.[6] SBA notes that the number of firms in the program has decreased over the past few years and this number of 2,100 may therefore be too high. SBA also notes that a specific small business entity incurs this burden only when a contract is offered and that, in the aggregate, the burden is balanced by the benefits of consistency of this provision with other contracting programs and maintenance of standards for the integrity of the HUBZone program.

Summary

The proposed changes clarify and streamline regulations and increase consistency with other contracting programs. Many of the benefits are not quantifiable, but SBA estimates annual savings of about $408,639 from reduced frequency of recertification. Benefits from the proposed changes regarding affiliation and control reduce uncertainty for investors and may therefore have a significant impact on access to capital. The rule contains measures that introduce or strengthen some compliance requirements but these are balanced by the need to maintain the goals and integrity of the program. The one quantifiable burden noted in these proposed compliance measures is proof of eligibility at the time of offer and this is a cost only when the benefit of the offer is present.

3. What are the alternatives to this rule?

SBA considered alternatives to each of the significant changes made by this rule. Instead of requiring HUBZone firms to recertify every three years and be eligible at the time of offer, SBA considered maintaining the current requirement where annual recertification allows a concern to seek and be eligible for HUBZone contracts for a year. However, SBA has found that the annual recertification requirement does not fulfill the purposes of the HUBZone program as effectively as requiring firms to be eligible at the time of offer for HUBZone contracts. Moreover, SBA believes that uniformity among its contracting programs is an important goal, and returning to triennial recertification and eligibility determinations based on the date of offer would bring the HUBZone program much more in line with SBA's other small business and socioeconomic contracting programs.

This regulatory action is needed to clarify and improve SBA's regulations governing the HUBZone Program and SBA's other socioeconomic contracting programs. In 2019, SBA published a

[4] The calculation assumes that with triennial recertification, two-thirds of the number of program participants, which is now 3,700 firms, will not recertify each year. Using 3,700 for this calculation, with the value of an hour at $132.46 per hour, which is the mean hourly wage of $66.23 plus 100 percent for overhead and benefits for Management Occupation (from Management Occupations (*bls.gov*), retrieved April 16, 2024), savings for about 2,468 small business is $326,912.

[5] The calculation assumes that with triennial recertification, two-thirds of the 10 percent of HUBZone firms that are in WOSB and 15% of the HUBZone firms that are in 8(a) will not engage in program-specific recertification procedures in a given year. A small number of firms participated in all three of these contracting programs. Using the current number of about 3,700 small businesses in the HUBZone program, with the value of an hour at $132.46 per hour, which is the mean hourly wage of $66.23 plus 100 percent for overhead and benefits for Management Occupation (from Management Occupations (*bls.gov*), retrieved April 16, 2024), savings for about 247 small business in HUBZone program and WOSB and 370 small business in HUBZone and 8(a) amounts to $81,728. SBA notes that this would be a low estimate of relief of recertification burden because it does not include HUBZone firms that also participate in other contracting programs like VetCert.

[6] This calculation is 2,100 multiplied by the value of an hour of $132.46 per hour, which is the mean hourly wage of $66.23 for Management Occupation (from Management Occupations (bls.gov), retrieved April 16, 2024) plus 100 percent for overhead and benefits.

comprehensive revision to the HUBZone Program regulations, which implemented changes intended to make the HUBZone Program more efficient and effective. This proposed rule is intended to clarify and improve policies surrounding some of those changes. The clarifications and improvements are needed to ensure that the rules governing the HUBZone program fulfill its statutory purpose. In addition, SBA has heard from the small business community that improvements are needed to make its socioeconomic contracting programs more uniform, in order to relieve burdens associated with compliance with multiple programs. As a result, the proposed rule would make several improvements to create uniformity among the programs, including deleting the program specific recertification requirements contained separately in SBA's size, 8(a) BD, HUBZone, WOSB, and VetCert and moving them to a new section that would cover all size and status recertification requirements.

Executive Order 13132

For the purposes of Executive Order 13132, Federalism, SBA has determined that this rule would not have substantial, direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, for the purpose of Executive Order 13132, Federalism, SBA has determined that this rule has no federalism implications warranting preparation of a federalism assessment.

Paperwork Reduction Act, 44 U.S.C. Ch. 35

This rule does not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

In 2019, SBA revised its regulations to give contracting officers discretion to request information demonstrating compliance with the limitations on subcontracting requirements. *See* 84 FR 65647 (Nov. 29, 2019). In conjunction with this revision, SBA requested an Information Collection Review by OMB (Limitations on Subcontracting Reporting, OMB Control Number 3245–0400). OMB approved the Information Collection. The proposed rule would not alter the contracting officer's discretion to require a contractor to demonstrate its compliance with the limitations on subcontracting at any time during performance and upon completion of a contract. The estimated number of respondents, burden hours, and costs remain the same as that identified by SBA in the previous Information Collection. As such, SBA believes this provision is covered by its existing Information Collection, Limitations on Subcontracting Reporting.

Regulatory Flexibility Act, 5 U.S.C. 601–612

According to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601, when an agency issues a rulemaking, it must prepare a regulatory flexibility analysis to address the impact of the rule on small entities. However, section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities. The RFA defines ''small entity'' to include ''small businesses,'' ''small organizations,'' and ''small governmental jurisdictions.'' This proposed rule concerns various aspects of SBA's HUBZone program, as well as its size, 8(a) BD, WOSB, and VetCert programs. As such, the rule relates to small businesses but would not affect ''small organizations'' or ''small governmental jurisdictions.''

The proposed changes clarify and streamline regulations and increase consistency with other contracting programs. Many of the benefits are not quantifiable, but SBA estimates annual savings of about $408,639 from reduced frequency of HUBZone recertification. There are approximately 5,000 small businesses that are listed as certified HUBZone small businesses in DSBS, and under the proposed rule, these firms would only need to recertify every three years, rather than every year. Benefits from the proposed changes regarding affiliation and control reduce uncertainty for investors and may therefore improve access to capital. The rule contains measures that introduce or strengthen some compliance requirements, but these are balanced by the need to maintain the goals and integrity of the program. The one quantifiable burden noted in these proposed compliance measures is proof of HUBZone eligibility at the time of offer and this is a cost only when the benefit of the offer is present. Moreover, this burden is counterweighed by the benefit of making the HUBZone program more consistent with SBA's other socioeconomic contracting programs, which decreases the amount of regulations that small businesses must learn and understand in order to participate in SBA's programs. The other changes that make the programs more consistent, such as consolidating the regulations related to recertification of size and status, only serve to benefit the small businesses that participate in these programs. Based on the foregoing, SBA does not believe that the proposed amendments would have a disparate impact on small businesses or would impose any additional significant costs. For the reasons discussed, SBA certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities.

List of Subjects

13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Individuals with disabilities, Loan programs—business, Small businesses.

13 CFR Part 124

Administrative practice and procedure, Government procurement, Government property, Small businesses.

13 CFR Part 125

Government contracts, Government procurement, Reporting and recordkeeping requirements, Small businesses, Technical assistance.

13 CFR Part 126

Administrative practice and procedure, Government procurement, Penalties, Reporting and recordkeeping requirements, Small businesses.

13 CFR Part 127

Government contracts, Reporting and recordkeeping requirements, Small businesses.

13 CFR Part 128

Government contracts, Government procurement, Reporting and recordkeeping requirements, Small businesses Technical assistance, Veterans.

13 CFR Part 134

Administrative practice and procedure; Claims Confidential business information; Equal access to justice; Equal employment opportunity; Lawyers; Organization and function (Government agencies).

Accordingly, for the reasons stated in the preamble, SBA proposes to amend 13 CFR parts 121, 124, 125, 126, 127, 128, and 134 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

■ 1. The authority citation for part 121 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 636(a)(36), 662, and 694a(9).

■ 2. Amend § 121.103 by revising paragraphs (a)(3), (h)(3) introductory text, and (h)(3)(i), and adding a new adding paragraph (h)(3)(v), to read as follows:

§ 121.103 How does SBA determine affiliation?

(a) * * *

(3) Control may be affirmative or negative. Negative control includes, but is not limited to, instances where a minority shareholder has the ability, under the concern's charter, by-laws, or shareholder's agreement, to prevent a quorum or otherwise block action by the board of directors or shareholders. However, SBA will not find that a minority shareholder has negative control where such minority shareholder has the authority to block action by the board of directors or shareholders regarding the following extraordinary circumstances:

(i) Adding a new equity stakeholder;

(ii) Dissolution of the company;

(iii) Sale of the company or all assets of the company;

(iv) The merger of the company;

(v) The company declaring bankruptcy; and

(vi) Amendment of the company's corporate governance documents to remove the shareholder's authority to block any of (1) through (5).

* * * * *

(h) * * *

(3) *Ostensible subcontractors and unduly reliant managing joint venture partners.* (i) An offeror is ineligible as a small business concern, an 8(a) small business concern, a certified HUBZone small business concern, a WOSB/EDWOSB concern, or a VOSB/SDVOSB concern where SBA determines there to be an ostensible subcontractor. An ostensible subcontractor is a subcontractor that is not a similarly situated entity, as that term is defined in § 125.1 of this chapter, and performs primary and vital requirements of a contract, or of an order, or is a subcontractor upon which the prime contractor is unusually reliant.

* * * * *

(v) A joint venture offeror is ineligible as a small business concern, an 8(a) small business concern, a certified HUBZone small business concern, a WOSB/EDWOSB concern, or a VO/SDVO small business concern where SBA determines that the managing joint venture partner will not perform 40% of the work to be performed by the joint venture, where a joint venture partner that is not similarly situated to the managing venturer performs primary and vital requirements of a contract, or of an order, or where the managing venturer is unusually reliant on such a joint venture partner.

* * * * *

■ 3. Amend § 121.104 by revising paragraph (a)(1) to read as follows:

§ 121.104 How does SBA calculate annual receipts?

(a) * * *

(1) SBA will consider a concern's Federal income tax return and any amendments filed with the IRS on or before the date of self-certification to determine the size status of the concern. SBA may also consider other relevant information where it appears that the tax return does not properly capture a concern's total revenue.

* * * * *

■ 4. Revise § 121.404 to read as follows:

§ 121.404 When is the size status of a business concern determined?

(a) *General.* A concern, including its affiliates, must qualify as small under the NAICS code assigned to a contract as of the date the concern submits a written self-certification that it is small to the procuring activity as part of its initial offer or response which includes price. Once awarded a contract as a small business, a firm is generally considered to be a small business throughout the life of that contract.

(b) *Multiple Award Contracts.* (1) If a single NAICS code is assigned to a multiple award contract as set forth in § 121.402(c)(1)(i), SBA determines size status for the underlying multiple award contract as of the date a business concern submits its initial offer (or other formal response to a solicitation), which includes price, for the contract based upon the size standard set forth in the solicitation for the multiple award contract.

(2) When multiple NAICS codes are assigned to a multiple award contract as set forth in § 121.402(c)(1)(ii), SBA determines size status for the underlying multiple award contract for each discrete category for which an offer is submitted, by applying the size standard corresponding to each discrete category, as of the date a business concern submits its initial offer which includes price for the contract.

(3) Where concerns are not required to submit price as part of the initial offer for a multiple award contract, SBA determines size status for the underlying multiple award contract as of the date a business concern submits its initial offer for the contract, which may not include price.

(c) *Orders and Agreements Established Against Multiple Award Contracts.* (1) *Unrestricted Contracts.* Where an order is set-aside for small business under an unrestricted multiple award contract, SBA determines size status for each order placed against the multiple award contract as of the date a business concern submits its initial offer (or other formal response to a solicitation), which includes price, for each order.

(2) *Set-Aside or Reserved Contracts.* Where an order is issued under a multiple award contract that itself was set aside or reserved for small business (*i.e.,* small business set-aside, 8(a) small business, service-disabled veteran-owned small business, HUBZone small business, or women-owned/economically-disadvantaged women-owned small business), SBA determines size status as of the date a business concern submits its initial offer, which includes price, for the set-aside or reserved multiple award contract, unless a contracting officer requests size recertification with respect to a specific order.

(i) Where a contracting officer requests size recertification with respect to a specific order, size is determined as of the date the business concern submits its initial offer (or other formal response to a solicitation), which includes price, for the order.

(ii) Where a contracting officer requests size recertification with respect to a specific order, size is determined only with respect to that order. Where a contract holder has grown to be other than small and cannot recertify as small for a specific order for which a contracting officer requested recertification, it may continue to qualify as small for other orders issued under the contract where a contracting officer does not request recertification.

(3) *Agreements.* With respect to agreements established under FAR part 13, size is determined as of the date the business concern submits its initial offer, which includes price, for the agreement. Because an agreement is not a contract, the concern must also qualify as small as of the date the concern submits of its initial offer, which includes price, for each order issued pursuant to the agreement to be considered small for the order.

(4) *Exceptions.* (i) For orders or BPAs to be placed against the GSA Federal Supply Schedule (FSS) Multiple Award Schedule (MAS) contract, size is determined as of the date the business concern submits its initial offer, which includes price, for the GSA FSS MAS contract.

(ii) For 8(a) sole source orders issued under a multiple award contract, size is determined in accordance with § 124.503(i)(1)(iv) of this chapter, as of the date the order is offered to the 8(a) BD program, regardless of whether the multiple award contract is unrestricted, set-aside, or the GSA FSS MAS contract.

(iii) Size is determined on the date of recertification when a recertification is required pursuant to §§ 125.12(a) and (b) of this chapter, or on the date of initial offer which includes price if requested by a contracting officer pursuant to § 125.12(c). This exception applies to all provisions of paragraphs 121.404(a), (b), (c), and (d).

(d) *Eligibility for SBA programs.* A concern applying to be certified as a Participant in SBA's 8(a) Business Development program (under part 124, subpart A, of this chapter), as a HUBZone small business concern (under part 126 of this chapter), as a women-owned small business concern (under part 127 of this chapter), or as a service-disabled veteran-owned small business concern (under part 128 of this chapter) must qualify as a small business as of the date of its application and, where applicable, the date the SBA program office requests a formal size determination in connection with a concern that otherwise appears eligible for program certification. For the 8(a) Business Development program, a concern must qualify as small under the size standard corresponding to its primary industry classification. For all other certification programs, a concern must qualify as small under the size standard corresponding to any NAICS code listed in its SAM profile. SBA will accept a concern's size representation in SAM, or successor system, unless there is evidence indicating that the concern is other than small. SBA will request a formal size determination pursuant to § 121.1001(b)(8) where any information it possesses calls into question the SAM.gov size representation.

(e) *Certificates of competency.* The size status of an applicant for a Certificate of Competency (COC) relating to an unrestricted procurement is determined as of the date of the concern's application for the COC.

(f) *Nonmanufacturer rule, ostensible subcontractor rule, and joint venture agreements.* Compliance with the nonmanufacturer rule set forth in § 121.406(b)(1), the ostensible subcontractor rule set forth in § 121.103(h)(3), and the joint venture agreement requirements in §§ 124.513(c) and (d), §§ 126.616(c) and (d), § 127.506(c) and (d), and §§ 125.8(b) and (c) of this chapter, as appropriate, is determined as of the date of the final proposal revision for negotiated acquisitions and final bid for sealed bidding.

(g) *Subcontracting.* For subcontracting purposes, a concern must qualify as small as of the date that it certifies that it is small for the subcontract. The applicable size standard is that which is set forth in § 121.410 and which is in effect at the time the concern self-certifies that it is small for the subcontract. A prime contractor may rely on the self-certification of a subcontractor provided it does not have a reason to doubt the concern's self-certification.

(h) *Two-step procurements.* For purposes of architect-engineering, design/build or two-step sealed bidding procurements, a concern must qualify as small as of the date that it certifies that it is small as part of its initial bid or proposal (which may or may not include price).

(i) *Recertification. See* § 125.12 for information on recertification of size and status, and the effect of recertification. None of the exceptions set forth in paragraph (c)(4) of this section have an effect or serve as an exception to whether recertification is required under § 125.12.

(j) *Follow-on contracts.* A follow-on or renewal contract is a new contracting action. As such, size is determined as of the date the concern submits a written self-certification that it is small to the procuring agency as part of its initial offer including price for the follow-on or renewal contract.

■ 5. Amend § 121.702 by revising paragraph (c)(7) to read as follows:

§ 121.702 What size and eligibility standards are applicable to the SBIR and STTR programs?

* * * * *

(c) * * *

(7) *Affiliation based on the ostensible subcontractor rule.* A concern with an other than small ostensible subcontractor cannot be considered a small business concern for SBIR and STTR awards. An ostensible subcontractor is a subcontractor or subgrantee that performs primary and vital requirements of a funding agreement (*i.e.,* those requirements associated with the principal purpose of the funding agreement), or a subcontractor or subgrantee upon which the concern is unusually reliant.

(i) All aspects of the relationship between the concern and the subcontractor are considered, including, but not limited to, the terms of the proposal (such as management, technical responsibilities, and the percentage of subcontracted work) and agreements between the concern and subcontractor or subgrantee (such as bonding assistance or the teaming agreement).

(ii) To determine whether a subcontractor performs primary and vital requirements of a funding agreement, SBA will also consider whether the concern's proposal complies with the performance requirements of the SBIR or STTR program.

(iii) The prime and any small business ostensible subcontractor both must comply individually with the ownership and control requirements in paragraphs (a) and (b) of this section, as applicable.

* * * * *

■ 6. Amend § 121.1001 by:

■ a. Adding paragraph (b)(2)(iii);

■ b. Redesignating paragraphs (b)(12) and (b)(13) as paragraphs (b)(14) and (b)(15), respectively; and

■ c. Adding new paragraphs (b)(12) and (b)(13).

The revision and additions read as follows:

§ 121.1001 Who may initiate a size protest or request a formal size determination?

* * * * *

(b) * * *

(2) * * *

(iii) Where SBA initially verified the eligibility of an 8(a) Participant for the award of an 8(a) contract but subsequently receives specific information that the Participant may be other than small and consequently ineligible, the Associate Administrator for Business Development or the Associate General Counsel for Procurement Law may request a formal size determination.

* * * * *

(12) In connection with a size recertification relating to a contract required by § 125.12 of this chapter, the contracting officer, the SBA program manager relating to the contract at issue (*i.e.,* the Director of Government Contracting, the Associate Administrator for Business Development, or the Director of HUBZone, as appropriate), or the Associate General Counsel for Procurement Law may request a formal size determination.

(13) In connection with a size recertification relating to a multiple award contract required by § 125.12 of this chapter, any contract holder on that multiple award contract may also request a formal size determination concerning a recertifying concern's status as a small business.

(i) A request for a formal size determination made by another contract

holder on a multiple award contract must be sufficiently specific to provide reasonable notice as to the grounds upon which the recertifying concern's size is questioned. Some basis for the belief or allegation that the recertifying concern does not continue to qualify as small must be given.

(ii) SBA will dismiss as not sufficiently specific any request for a formal size determination alleging merely that the recertifying concern is not small or is affiliated with unnamed other concerns.

* * * * *

■ 7. Amend § 121.1010 by revising paragraph (b) to read as follows:

§ 121.1010 How does a concern become recertified as a small business?

* * * * *

(b) Recertification will not be required nor will the prohibition against future self-certification apply if the adverse SBA size determination is based solely on a finding of affiliation limited to a particular Government procurement or property sale, such as an ostensible subcontracting relationship or non-compliance with the nonmanufacturer rule.

* * * * *

PART 124—8(a) BUSINESS DEVELOPMENT/SMALL DISADVANTAGED BUSINESS STATUS DETERMINATIONS

■ 8. The authority citation for part 124 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(j), 637(a), 637(d), 644, 42 U.S.C. 9815; and Pub. L. 99–661, 100 Stat. 3816; Sec. 1207, Pub. L. 100–656, 102 Stat. 3853; Pub. L. 101–37, 103 Stat. 70; Pub. L. 101–574, 104 Stat. 2814; Sec. 8021, Pub. L. 108–87, 117 Stat. 1054; and Sec. 330, Pub. L. 116–260.

■ 9. Amend § 124.3 by revising the definition of ''Community Development Corporation or CDC'' to read as follows:

§ 124.3 What definitions are important in the 8(a) BD program?

* * * * *

Community Development Corporation or CDC means a nonprofit organization responsible to residents of the area it serves which has received financial assistance under 42 U.S.C. 9805, *et seq.* or has received a letter from the Department of Health and Human Services affirming that it has received assistance under a successor program to that authorized by 42 U.S.C. 9805.

* * * * *

§ 124.4 [Removed]

■ 10. Remove § 124.4.

■ 11. Amend § 124.102 by adding the following sentence to the end of paragraph (a)(1) to read as follows:

§ 124.102 What size business is eligible to participate in the 8(a) BD program?

(a) * * *

(1) * * * In determining whether a concern applying to be certified for the 8(a) BD program qualifies as a small business concern under the size standard corresponding to its primary industry classification, SBA will accept the concern's size representation in the System for Award Management (*SAM.gov*), or successor system, unless there is evidence indicating that the concern is other than small. SBA will request a formal size determination pursuant to § 121.1001(b)(8) of this chapter where any information it possesses calls into question the concern's *SAM.gov* size representation.

* * * * *

■ 12. Amend § 124.105 by:
■ a. Revising paragraph (b);
■ b. Revising paragraph (f)(1);
■ c. Removing the words ''10 percent'' wherever they appear in paragraph (h)(1) and adding in their place the words ''20 percent'';
■ d. Removing the words ''20 percent'' in paragraph (h)(1) and adding in their place the words ''30 percent''; and
■ e. Revising paragraphs (h)(2), (i)(2), and (k).

The revisions read as follows:

§ 124.105 What does it mean to be unconditionally owned by one or more disadvantaged individuals?

* * * * *

(b) *Ownership of a partnership.* In the case of a concern which is a partnership, one or more individuals determined by SBA to be socially and economically disadvantaged must serve as general partners, with control over all partnership decisions. At least 51 percent of every class of partnership interest must be unconditionally owned by one or more individuals determined by SBA to be socially and economically disadvantaged. The ownership must be reflected in the concern's partnership agreement.

* * * * *

(f) * * *

(1) At least 51 percent of any distribution of profits paid to the owners of a corporation, partnership, or limited liability company concern, and a disadvantaged individual's ability to share in the profits of the concern must be commensurate with the extent of his or her ownership interest in that concern;

* * * * *

(h) * * *

(2) A non-Participant business concern in the same or similar line of business or a principal of such concern may generally not own more than a 20 percent interest in an 8(a) Participant that is in the developmental stage or more than a 30 percent interest in an 8(a) Participant in the transitional stage of the program, except that a business concern approved by SBA to be a mentor pursuant to § 125.9 of this chapter may own up to 40 percent of its 8(a) Participant protégé as set forth in § 125.9(d)(2), whether or not that concern is in the same or similar line of business as the Participant.

(i) * * *

(2) (i) Prior approval by the AA/BD is not needed where:

(A) All non-disadvantaged individual (or entity) owners involved in the change of ownership own no more than a 30 percent interest in the concern both before and after the transaction;

(B) The transfer results from the death or incapacity due to a serious, long-term illness or injury of a disadvantaged principal;

(C) The disadvantaged individual or entity in control of the Participant will increase the percentage of its ownership interest; or

(D) The Participant has never received an 8(a) contract.

(ii) In determining whether a non-disadvantaged individual involved in a change of ownership has more than a 30 percent interest in the concern, SBA will aggregate the interests of all immediate family members as set forth in § 124.3, as well as any individuals who are affiliated based on an identity of interest under § 121.103(f).

(iii) Where prior approval is not required, the concern must notify SBA within 60 days of such a change in ownership, or before it submits an offer for an 8(a) contract, whichever occurs first.

Example 1 to paragraph (i)(2). Disadvantaged individual A owns 90% of 8(a) Participant X; non-disadvantaged individual B owns 10% of X. In order to raise additional capital, X seeks to change its ownership structure such that A would own 75%, B would own 10% and C would own 15%. X can accomplish this change in ownership without prior SBA approval. Non-disadvantaged owner B is not involved in the transaction and non-disadvantaged individual C owns less than 30% of X both before and after the transaction.

Example 2 to paragraph (i)(2). Disadvantaged individual C owns 60% of 8(a) Participant Y; non-disadvantaged individual D owns 35% of Y; and non-disadvantaged individual E owns 5% of

Y. C seeks to transfer 5% of Y to E. Prior SBA approval is not needed. Although non-disadvantaged individual D owns more than 30% of Y, D is not involved in the transfer. Because the only non-disadvantaged individual involved in the transfer, E, owns less than 30% of Y both before and after the transaction, prior approval is not needed.

Example 3 to paragraph (i)(2). Disadvantaged individual A owns 80% of 8(a) Participant X; non-disadvantaged individual B owns 20% of X. A seeks to transfer 15% of X to B. SBA approval is needed. Although B, the non-disadvantaged owner of X, owns less than 30% of X prior to the transaction, prior approval is needed because B would own more than 30% after the transaction.

Example 4 to paragraph (i)(2). ANC A owns 55% of 8(a) Participant X; non-disadvantaged individual B owns 45% of X. B seeks to transfer 10% to A. Prior SBA approval is not needed. Although a non-disadvantaged individual who is involved in the transaction, B, owns more than 30% of X both before and after the transaction, SBA approval is not needed because the change only increases the percentage of A's ownership interest in X.

Example 5 to paragraph (i)(2). Disadvantaged individual C owns 65% of 8(a) Participant Z and non-disadvantaged individual D owns 35% of Z. Z has been in the 8(a) BD program for 2 years but has not yet been awarded an 8(a) contract. C seeks to transfer 10% to D. Although a non-disadvantaged individual who is involved in the transaction, D, owns more than 30% of Z both before and after the transaction, prior SBA approval is not needed because Z has never received an 8(a) contract.

* * * * *

(k) *Right of first refusal.* A right of first refusal granting a non-disadvantaged individual or other entity the contractual right to purchase the ownership interests of a qualifying disadvantaged individual does not affect the unconditional nature of ownership, if the terms follow normal commercial practices. If those rights are exercised by a non-disadvantaged individual or other entity after certification, the Participant must notify SBA. If the exercise of those rights results in disadvantaged individuals owning less than 51% of the concern, SBA will initiate termination pursuant to §§ 124.303 and 124.304.

■ 13. Amend § 124.106 by:

■ a. Removing paragraph (d)(3);

■ b. Redesignating paragraphs (d)(4) and (d)(5) as paragraphs (d)(3) and (d)(4), respectively;

■ c. Revising paragraph (e)(3);

■ d. Removing the text ''director, or key employee'' in paragraph (f) and adding in its place the text ''or director'';

■ e. Redesignating paragraph (h) as paragraph (i); and

■ f. Adding new paragraph (h).

The revision and addition to read as follows:

§ 124.106 When do disadvantaged individuals control an applicant or Participant?

* * * * *

(e) * * *

(3) Receive compensation from the applicant or Participant in any form as a director, officer or employee, that exceeds the compensation to be received by the highest ranking officer (usually CEO or President), unless the concern demonstrates that the compensation to be received by the non-disadvantaged individual is commercially reasonable or that the highest-ranking officer has elected to take lower compensation to benefit the applicant or Participant. A Participant must notify SBA within 30 calendar days if the compensation paid to the highest-ranking officer of the Participant falls below that paid to a non-disadvantaged individual. In such a case, SBA must determine that that the compensation to be received by the non-disadvantaged individual is commercially reasonable or that the highest-ranking officer has elected to take lower compensation to benefit the Participant before SBA may determine that the Participant is eligible for an 8(a) award.

* * * * *

(h) *Exception for extraordinary circumstances.* SBA will not find that a lack of control exists where a socially and economically disadvantaged individual does not have the unilateral power and authority to make decisions regarding the following extraordinary circumstances:

(1) Adding a new equity stakeholder;

(2) Dissolution of the company;

(3) Sale of the company or all assets of the company;

(4) The merger of the company;

(5) The company declaring bankruptcy; and

(6) Amendment of the company's corporate governance documents to remove the shareholder's authority to block any of (1) through (5).

* * * * *

■ 14. Amend § 124.107 by:

■ a. Revising the first sentence of the introductory text;

■ b. Revising paragraph (a);

■ c. Removing paragraph (e); and

■ d. Redesignating paragraph (f) as paragraph (e).

The revisions read as follows:

§ 124.107 What is potential for success?

SBA must determine that with contract, financial, technical, and management support from the 8(a) BD program, from contractors or from others assisting with business operations, the applicant concern is able to perform 8(a) contracts and possess reasonable prospects for success in competing in the private sector. * * *

(a) Income tax returns for each of the two previous tax years must show operating revenues.

* * * * *

■ 15. Amend § 124.108 by:

■ a. Removing paragraph (a)(1);

■ b. Redesignating paragraphs (a)(2), (a)(3), (a)(4) and (a)(5) as paragraphs (a)(1), (a)(2), (a)(3), and (a)(4), respectively; and

■ c. Revising newly redesignated paragraph (a)(3) and paragraph (e).

The revision to read as follows:

§ 124.108 What other eligibility requirements apply for individuals or businesses?

* * * * *

(a) * * *

(3) An applicant is ineligible for admission to the 8(a) BD program if the applicant concern or a proprietor, partner, limited liability member, director, officer, or holder of at least 20 percent of its stock, or another person (including key employees) with significant authority over the concern lacks business integrity as demonstrated by conduct that could be grounds for suspension or debarment;

* * * * *

(e) *Federal financial obligations.* A business concern is ineligible for admission to or participation in the 8(a) BD program if either the concern or any of its principals has failed to pay significant financial obligations owed to the Federal Government, including unresolved tax liens and defaults on Federal loans or other Federally assisted financing. However, a small business concern may be eligible if the concern or the affected principals can demonstrate that they are current on an approved repayment plan or the financial obligations owed have been settled and discharged/forgiven by the Federal Government.

■ 16. Amend § 124.203 by removing the last three sentences and adding a sentence in their place to read as follows:

§ 124.203 What must a concern submit to apply to the 8(a) BD program?

* * * The majority socially and economically disadvantaged owner

must take responsibility for the accuracy of all information submitted on behalf of the applicant.

■ 17. Amend § 124.204 by revising paragraph (d) to read as follows:

§ 124.204 How does SBA process applications for 8(a) BD program admission?

* * * * *

(d) An applicant must be eligible as of the date SBA issues a decision. An applicant's eligibility will be based on the totality of circumstances, including facts set forth in the application, supporting documentation, any information received in response to any SBA request for clarification, and any changed circumstances.

* * * * *

■ 18. Revise § 124.207 to read as follows:

§ 124.207 Can an applicant reapply for admission to the 8(a) BD program?

A concern which has been declined for 8(a) BD program participation may submit a new application for admission to the program at any time after 90 calendar days from the date of the Agency's final decision to decline.

■ 19. Amend § 124.303 by adding paragraph (c) to read as follows:

§ 124.303 What is termination?

* * * * *

(c) *Termination based on false or misleading information.* (1) A firm that is terminated from the 8(a) BD Program due to the submission of false or misleading information may be removed from SBA's other small business contracting programs, including the HUBZone Program, the Women-Owned Small Business (WOSB) Program, the Veteran Small Business Certification (VetCert) Program, and SBA's Mentor-Protégé Program.

(2) A firm that is decertified from the HUBZone Program, the WOSB Program, or the VetCert Program due to the submission of false or misleading information may be terminated from the 8(a) BD Program.

(3) SBA may require a firm that is decertified from the HUBZone Program, the WOSB Program, or the VetCert Program due to the submission of false or misleading information to enter into an administrative agreement with SBA as a condition of admission to the 8(a) BD program.

§ 124.403 [Amended]

■ 20. Amend § 124.403 by removing the text ''within thirty (30) days after'' from paragraph (a) and adding, in its place, the text ''in the 90 days prior to''.

■ 21. Amend § 124.503 by revising paragraph (g)(1)(iii) to read as follows:

§ 124.503 How does SBA accept a procurement for award through the 8(a) BD program?

* * * * *

(g) * * *

(1) * * *

(iii) For open requirements, the effect that contract would have on the equitable distribution of 8(a) contracts; and

* * * * *

■ 22. Amend § 124.504 by revising paragraph (a) to read as follows:

§ 124.504 What circumstances limit SBA's ability to accept a procurement for award as an 8(a) contract, and when can a requirement be released from the 8(a) BD program?

* * * * *

(a) *Prior intent to award as a small business set-aside, or use the HUBZone, VetCert, or Women-Owned Small Business programs.* A procuring activity, for itself or for another end user, issued a solicitation for or otherwise expressed publicly a clear intent to award the contract as a small business set-aside, or to use the HUBZone, VetCert, or Women-Owned Small Business programs prior to offering the requirement to SBA for award as an 8(a) contract. However, SBA may accept the requirement into the 8(a) BD program where the AA/BD determines that there is a reasonable basis to cancel the initial solicitation or, if a solicitation had not yet been issued, a reasonable basis for the procuring agency to change its initial clear expression of intent to procure outside the 8(a) BD program (*e.g.,* the procuring agency's needs have changed since the initial solicitation was issued such that the solicitation no longer represents its current needs; or appropriations are no longer available for the requirement as anticipated). A change in strategy only (*i.e.,* an agency seeking to solicit through the 8(a) BD program instead of through another previously identified program) will not constitute a reasonable basis for SBA to accept the requirement into the 8(a) BD program.

* * * * *

■ 23. Amend § 124.509 by:

■ a. Removing the text ''within 30 days from'' in paragraph (c)(1) and adding in its place the text ''in the 90 days prior to'';

■ b. Redesignating paragraph (d)(1)(ii) as paragraph (d)(1)(iii); and

■ c. Adding new paragraph (d)(1)(ii).

The addition to read as follows:

§ 124.509 What are non-8(a) business activity targets?

* * * * *

(d) * * *

(1) * * *

(ii) In determining the projected revenue SBA should consider in determining whether one or more unsuccessful offers submitted by the Participant would have given the Participant sufficient revenues to achieve the applicable non-8(a) business activity target under paragraph (d)(1)(i)(A) of this section, SBA will consider:

(A) Only procurements for which the Participant had reasonable prospects of success; and

(B) Only the base year of the procurement at issue and not the projected full value of the procurement.

Example 1 to paragraph (d)(1)(ii): Participant X is in year 2 of the transitional stage (or year 6 of the 8(a) BD program). It has never received a contract in excess of $5M. X received $20M in total revenue and $3M in non-8(a) revenue during program year 6. X failed to meet its applicable non-8(a) business activity target (BAT) of 25% ($20M × 0.25 = $5M). To demonstrate its good efforts to achieve non-8(a) revenue, X submits evidence that it submitted two offers: one for a five-year contract valued at $100M and one for a five-year contract valued at $5M. SBA would not consider the first offer to qualify as a ''good faith effort'' since there was no reasonable prospect for success in submitting an offer for a $100M contract where the firm had never performed a contract in excess of $5M. The second offer would count as a good faith effort since its overall value was in line with previous contracts X had performed. However, because SBA considers only the projected revenue for the base year of the contract (or $1M), considering this offer does not bring X into compliance with its BAT ($3M + $1M = $4M, which is less than the $5M required to be in compliance).

* * * * *

■ 24. Amend § 124.514 by revising paragraph (a)(1) to read as follows:

§ 124.514 Exercise of 8(a) options and modifications.

(a) * * *

(1) If a firm's term of participation in the 8(a) BD program has ended (or the firm has otherwise exited the program) or is no longer small under the size standard corresponding to the NAICS code for the requirement, negotiations to price the option cannot be entered into and the option cannot be exercised.

* * * * *

■ 25. Amend § 124.518 by revising the section heading and adding paragraph (d) to read as follows:

§ 124.518 How can an 8(a) contract be terminated or novated before performance is completed?

* * * * *

(d) *Novation to the lead partner to an 8(a) joint venture.* A joint venture that was awarded an 8(a) contract may seek to novate the 8(a) contract to the lead 8(a) Participant to the joint venture, provided each member of the joint venture agrees to such novation. In order for SBA to authorize novation, SBA must determine that the 8(a) Participant seeking to be novated the contract continues to meet all 8(a) eligibility requirements as if for a new 8(a) contract at the time of novation and the procuring agency must determine that the 8(a) firm is capable and responsible to perform the contract.

§ 124.602 [Amended]

■ 26. Amend § 124.602 by:
■ a. Removing the word ''$10,000,000'' in paragraphs (a)(1) and (a)(2) and adding in its place the word ''$20,000,000'';
■ b. Removing the words ''$2,000,000 and $10,000,000'' in paragraph (b)(1) and adding in their place the words ''5,000,000 and $20,000,000''; and
■ c. Removing the word ''$2,000,000'' in paragraph (c) and adding in its place the word ''$5,000,000''.

§ 124.603 [Amended]

■ 27. Amend § 124.603 by removing the word ''Former'' and adding in its place the words ''If requested by the SBA, former''.

PART 125—GOVERNMENT CONTRACTING PROGRAMS

■ 28. The authority citation for part 125 continues to read as follows:

Authority: 15 U.S.C. 632(p), (q), 634(b)(6), 637, 644, 657f, 657q, 657r, and 657s; 38 U.S.C. 501 and 8127.

■ 29. Amend § 125.1 by adding, in alphabetical order, the definitions of ''Agreement'', ''Disqualifying Recertification'', ''Qualifying Recertification'', and ''Set-Aside or Reserved Award'' to read as follows:

§ 125.1 What definitions are important to SBA's Government Contracting Programs?

Agreement means a Blanket Purchase Agreement, Basic Agreement, or a Basic Ordering Agreement.

* * * * *

Disqualifying recertification means a recertification as either other than small or other than a qualified small business program participant that is required for eligibility to participate in a Set Aside or Reserved Award.

* * * * *

Qualifying recertification means a recertification as small or as a qualified small business program participant that is required for eligibility to participate in a Set Aside or Reserved Award.

* * * * *

Set Aside or Reserved Award means a contract, including multiple award contracts, agreements, or orders against contracts or agreements, that are set aside, partially set aside, or reserved for small business or any socio-economic small business program participants.

* * * * *

■ 30. Amend § 125.2 by redesignating paragraph (c)(6) as paragraph (c)(7) and adding new paragraph (c)(6) to read as follows:

§ 125.2 What are SBA's and the procuring agency's responsibilities when providing contracting assistance to small businesses?

* * * * *

(c) * * *

(6) *Prohibition on competitions requiring or favoring additional socioeconomic certifications.* A procuring activity cannot create a small business set-aside or reserve (for either a contract, order or agreement) that requires one or more socioeconomic certifications in addition to a size certification (*i.e.,* a competition cannot be limited only to small business concerns that are also 8(a), HUBZone, WOSB, or SDVOSB certified) or give evaluation preferences to concerns having one or more socioeconomic certifications.

* * * * *

■ 31. Amend § 125.3 by:
■ a. Adding paragraphs (a)(4) and (b)(4);
■ b. Removing from paragraph (d)(1) the text ''30 days'' and ''October 30th'' and adding in their place ''45 days'' and ''November 14th'', respectively; and
■ c. Removing from paragraph (d)(2) the text ''60 days'' and ''November 30th'' and adding in their place ''75 days'' and ''December 14th'', respectively.

The additions read as follows:

§ 125.3 What types of subcontracting assistance are available to small businesses?

(a) * * *

(4) For subcontracting purposes, a concern must qualify as a small business concern and a socioeconomic small business concern as of the date that it certifies that it is small or that it qualifies as a socioeconomic small business concern for the subcontract.

(b) * * *

(4) Except for HUBZone and SDVO small business subcontractors, a prime contractor may rely on the socioeconomic self-certification of a subcontractor provided the prime contractor does not have a reason to doubt the subcontractor's self-certification.

* * * * *

■ 32. Amend § 125.6 by revising the second sentence and adding a new third sentence in paragraph (d) introductory text and adding two sentences to the end of paragraph (d)(3) to read as follows:

§ 125.6 What are the prime contractor's limitations on subcontracting?

* * * * *

(d) * * * However, for a multi-agency set aside contract where more than one agency can issue orders under the contract, the ordering agency must use the period of performance for each order to determine compliance and monitor compliance with the limitations on subcontracting for that specific order. At the end of performance of the order, the ordering contracting officer should then inform the contracting officer for the underlying multi-agency contract if the ordering contracting officer knows that the contractor has failed to meet the applicable limitations on subcontracting requirement. * * *

* * * * *

(3) * * * Work performed by an employee obtained from a temporary employee agency, professional employee organization, or leasing concern shall be treated as the recipient concern's self-performance. The work performed by employees leased to the small business prime contractor will therefore not count against the applicable limitation on subcontracting.

* * * * *

■ 33. Amend § 125.8 by:
■ a. Removing the second sentence in paragraph (e) and adding in its place two sentences;
■ b. Adding an Example 1 to paragraph (e); and
■ c. Revising paragraph (f).

The additions and revision read as follows:

§ 125.8 What requirements must a joint venture satisfy to submit an offer for a procurement or sale set aside or reserved for small business?

* * * * *

(e) * * * A procuring activity has discretion whether to require a protégé member of a joint venture to demonstrate some level of past performance and/or experience. Where it does so, the procuring activity may not require a protégé firm to individually meet all the same evaluation or responsibility criteria as that required of other offerors generally.

* * *

Example 1 to paragraph (e). A solicitation requires offerors to demonstrate successful performance on five similar contracts valued at $20 million or more. Because a protégé joint venture partner must perform at least 40% of the work to be done by a successful joint venture offeror, the procuring activity seeks to require a protégé joint venture partner to demonstrate some past performance. The procuring activity may require a protégé joint venture partner to demonstrate one or two contracts valued at $10 million or $8 million, but may not require the protégé to demonstrate successful performance on five similar contracts and may not require the protégé to demonstrate successful performance on contracts valued at $20 million. In addition, if a procuring activity requires a protégé joint venture partner to demonstrate successful performance on two contracts valued at $10 million or more, successful performance by the protégé firm on those $10 million contracts shall be rated equivalently to successful performance by the mentor partner to the joint venture or any other individual offeror on $20 million contracts.

(f) *Contract execution.* The procuring activity will execute a contract set aside or reserved for small business in the name of the joint venture entity where there is a separate legal entity joint venture or the name of a small business partner to the joint venture where there is an informal joint venture, but in either case will identify the award as one to a small business joint venture or a small business mentor-protégé joint venture, as appropriate.

* * * * *

■ 34. Amend § 125.9 by:
■ a. Revising paragraph (b) introductory text;
■ b. Revising paragraph (b)(2);
■ c. Adding the word ''a'' after the words ''more than one protégé at'' and before the word ''time'' in paragraph (b)(3) introductory text;
■ d. Adding paragraph (b)(4);
■ e. Redesignating paragraph (e)(6) as paragraph (c)(4);
■ f. Revising newly redesignated paragraph (c)(4)(iv);
■ g. Adding paragraph (c)(5);
■ h. Adding paragraph (d)(1)(iv); and
■ i. Redesignating paragraphs (e)(7), (8) and (9) as paragraphs (e)(6), (7) and (8), respectively.

The revisions and additions read as follows:

§ 125.9 What are the rules governing SBA's small business mentor-protégé program?

* * * * *

(b) *Mentors.* Any for-profit business concern that demonstrates a commitment and the ability to assist small business concerns may act as a mentor and receive benefits as set forth in this section. This includes other than small businesses.

* * * * *

(2) (i) SBA will decline an application if SBA determines that the mentor does not possess good character or a favorable financial position, employs or otherwise controls the managers or key employees of the protégé, or is otherwise affiliated with the protégé.

(ii) SBA may terminate the mentor-protégé agreement if:

(A) SBA determines that the mentor does not possess good character or a favorable financial position;

(B) SBA determines that the mentor was affiliated with the protégé at the time of application or becomes affiliated with the protégé for reasons other than the mentor-protégé agreement or assistance provided under the agreement; or

(C) Key managers or personnel become employees of both the mentor and protégé firms at the same time.

* * * * *

(4) A mentor cannot be a contract holder through joint ventures with two protégé small business concerns on the same small business multiple award contract or small business reserve on a multiple award contract at the same time.

(i) Where a mentor purchases another business entity that is also an SBA-approved mentor that is a contract holder as a joint venture with a protégé small business and the mentor is also a contract holder with a protégé small business on that same multiple award contract, the mentor must exit one of those joint venture relationships.

(ii) The protégé firm connected to the joint venture from which the mentor exits may seek to:

(A) Acquire the new mentor's interest in the small business multiple award contract or reserve and, where necessary and appropriate, novate such contract or reserve to itself only pursuant to FAR 42.1204; or

(B) Replace the new mentor with another business in the joint venture such that the revised joint venture continues to qualify as small, and, where necessary and appropriate, novate such contract or reserve pursuant to FAR 42.1204.

* * * * *

(c) * * *

(4) * * *

(iv) Instead of having a six-year mentor-protégé relationship with two separate mentors, a protégé may seek to extend or renew a mentor-protégé relationship with the same mentor for a second six-year term. In order for SBA to approve an extension or renewal of a mentor-protégé relationship with the same mentor, the mentor must commit to providing additional business development assistance to the protégé. Whether a protégé has a mentor-protégé relationship with two different mentors or the same mentor for a second six-year period, a concern cannot be a protégé for a total of more than 12 years.

(5) Where a business concern purchases another business concern that is currently the mentor of a protégé firm, that business concern can become the new mentor of the protégé if it commits to honoring the obligations under the seller's mentor-protégé agreement or the purchasing business concern and the protégé negotiate a new mentor-protégé agreement that SBA approves. Where that occurs, that new mentor-protégé relationship will be effective for no longer than six years minus the length of the mentor-protégé relationship with the seller mentor.

(i) If the purchasing business concern and the protégé firm cannot agree on either continuing with the previous mentor-protégé agreement or negotiating a new mentor-protégé agreement that is acceptable to SBA, the protégé firm can terminate its mentor-protégé relationship.

(ii) Where a mentor-protégé relationship is terminated, the protégé firm may seek another business concern to enter a mentor-protégé relationship for a duration not to exceed six years minus the length of the mentor-protégé relationship with the former mentor.

Example 1 to paragraph (c)(5). 8(a) Participant A enters a mentor-protégé relationship with business concern X. After 3 years, business concern Y purchases X. A and Y agree to continue to abide by the mentor-protégé agreement between A and X. The mentor-protégé relationship between A and Y can last no longer than 3 years (6 years minus the length of the A and X mentor-protégé relationship). At the end of that agreement A and Y could seek to renew the mentor-protégé relationship for another 6 years if this is A's first mentor-protégé relationship.

Example 2 to paragraph (c)(5). 8(a) Participant Z enters a mentor-protégé relationship with business concern B. After 3 years, business concern C purchases B. If either C is unwilling to abide by the terms of the Z/B mentor-protégé agreement or Z does not want to extend a mentor protégé relationship with C and the mentor-protégé agreement is terminated, Z may seek a

new business concern to enter a mentor-protégé relationship. If business concern D agrees to enter into a mentor-protégé relationship with Z and SBA approves that relationship, the Z/D mentor-protégé relationship can last for no longer than 3 years (6 years minus the length of the Z/B mentor-protégé relationship). If that was Z's first mentor-protégé relationship, Z may seek to extend the Z/D mentor-protégé relationship for an additional 6 years or may seek a new mentor-protégé relationship with another firm for up to 6 years. In no case can a protégé firm have mentor-protégé relationships lasting more than 12 years.

(d) * * *

(1) * * *

(iv) Where a mentor seeks to sell its interest in a mentor-protégé joint venture, the protégé firm shall have a right of first refusal to purchase that interest.

* * * * *

■ 35. Add § 125.12 to read as follows:

§ 125.12 Recertification of Size and Small Business Program Status.

(a) *General.* Recertification of size and small business program status (*i.e.,* 8(a), HUBZone, WOSB/EDWOSB, or SDVOSB) is required within 30 calendar days of an approved novation, merger, acquisition, or sale, including agreements in principle, of or by a concern or an affiliate of the concern, which results in a change in controlling interest.

(1) A concern and the acquiring concern must recertify if each has received an award as a small business or small business program participant.

(2) In the context of a joint venture, recertification is required from any partner to the joint venture that has merged or is party to the sale or acquisition.

(3) Recertification does not change the terms and conditions of the award. The limitations on subcontracting, non-manufacturer and subcontracting plan requirements in effect at the time of award remain in effect throughout the life of the award regardless of whether a recertification is qualifying or disqualifying. However, a contracting officer may require a subcontracting plan if a prime contractor's size status changes from small to other than small as a result of a size recertification.

(4) A size re-certification shall relate to the size standard in effect at the time of re-certification that corresponds to the NAICS code that was initially assigned to the award.

(b) *Long term contracts.* For contracts (including multiple award contracts) and orders with durations of more than five years (including options), a concern must recertify its size and status no more than 120 days prior to the end of the fifth year of the award, and no more than 120 days prior to exercising any option thereafter. A contracting officer may also request size and/or status recertification, as he or she deems appropriate, prior to the 120-day point in the fifth year of a long-term contract or order. The agency and the contractor must immediately revise all applicable Federal contract databases to reflect the new size status.

(c) *Request by contracting officer.* Recertification of size and small business program status is required where the contracting officer explicitly requires concerns to recertify their size or status in response to a solicitation for a set aside or reserved order or agreement.

(d) *Change in structure of entity-owned concern.* Size or status recertification is not required when the ownership of a concern that is at least 51% owned by an Indian Tribe, Alaska Native Corporation, or Community Development Corporation changes to or from a wholly-owned business concern of the same entity, as long as the ultimate owner remains that entity.

Example 1 to paragraph (d). Indian Tribe X owns 100% of small business ABC. ABC wins an award for a small business set-aside contract. In year two of contract performance, X changes the ownership of ABC so that X owns 100% of a holding company XYZ, Inc., which in turn owns 100% of ABC. This restructuring does not require ABC to recertify its status as a small business because it continues to be 100% owned (indirectly rather than directly) by Indian Tribe X.

(e) *Effect of Recertification.*

(1) *Qualifying Recertification.* A concern that has a qualifying recertification is generally considered to be a small business or small business program participant for up to five years from the date of the recertification and remains eligible for set-aside or reserved awards unless there is a subsequent disqualifying recertification.

(2) *Disqualifying Recertification.*

(i) *Pending Set Aside or Reserved Award.* If events triggering a disqualifying recertification under paragraph (a) of this section occur within 180 days after the date of an offer but prior to award, the concern is ineligible to receive the pending small business set aside or reserved award. The concern must notify the contracting officer of the change in its size or status. If events triggering a disqualifying recertification under paragraph (a) of this section occur more than 180 days after the date of an offer but prior to award, the concern is eligible to receive a pending single award or reserve and the award will count as an award to a small business or small business program participant for goaling purposes for up to five years from the date of the award unless there is a disqualifying recertification. However, where the underlying award is a multiple award small business set aside or reserve the concern is ineligible for the pending award because the concern would not be eligible for orders set aside for small business or set aside for a specific type of small business. *See* paragraph (e)(2)(ii)(B) of this section.

(ii) *Future Set Aside or Reserved Award.*

(A) *Request for Recertification on a Specific Order or Agreement.* If a concern has a disqualifying recertification in response to a contracting officer request for recertification on a specific order or agreement, the concern is ineligible for the specific order or agreement but remains eligible for other set aside or reserved awards and unrestricted awards.

(B) *Other Events Triggering Recertification.* If a concern has a disqualifying recertification in response to any triggering event for recertification, aside from a contracting officer request for recertification on a specific order or agreement, the concern is ineligible to submit an offer for a set aside or reserved award under a multiple award contract after the triggering event occurs. The concern remains eligible for unrestricted awards under a multiple award contract and orders issued under a single award small business contract. In either case, a procuring agency could not count the order as an award to small business or to the specific type of small business (*i.e.,* 8(a), WOSB, SDVOSB, or HUBZone).

(iii) *Options.*

(A) For a single award small business set-aside or reserve award or any unrestricted award, a concern that submits a disqualifying recertification remains eligible to receive options. The procuring agency cannot count the option period as an award to a small business or small business program participant for goaling purposes. Such a concern may make a qualifying recertification for a subsequent option period if it meets the applicable size standard or becomes a certified small business program participant.

(B) For a multiple award small business set-aside or reserve award, a concern that submits a disqualifying

recertification is ineligible to receive options.

(f) *Joint venture recertifications.* Where a joint venture must recertify its small business size status under paragraph (a) of this section, the joint venture can recertify as small where all parties to the joint venture qualify as small at the time of recertification, or the protégé small business in a still active mentor-protégé joint venture qualifies as small at the time of recertification. A joint venture can recertify as small even though the date of recertification occurs more than two years after the joint venture received its first contract award (*i.e.,* recertification is not considered a new contract award under § 121.103(h).

■ 36. Add § 125.13 to read as follows:

§ 125.13 What restrictions apply to fees for representatives of applicants and participants in SBA's 8(a) BD, HUBZone, WOSB and VetCert programs?

(a) The compensation received by any packager, agent, or representative of a concern applying for 8(a) BD, HUBZone, WOSB/EDWOSB, or VOSB/SDVOSB certification in exchange for assisting the applicant in obtaining such certification must be reasonable in light of the service(s) performed by the packager, agent, or representative.

(b) The compensation received by any packager, agent, or representative of a certified 8(a) BD, HUBZone small business concern, WOSB/EDWOSB, or VOSB/SDVOSB in exchange for assisting the concern in obtaining any small business contracts, orders, BPAs, BAs, or BOAs must be reasonable in light of the service(s) performed by the packager, agent, or representative, and cannot be a fee that is a percentage of the gross value of the contract, order, BPA, BA or BOA.

(c) For good cause, SBA may initiate proceedings to suspend or revoke a packager's, agent's, or representative's privilege to assist applicants obtain SBA certification and assist certified small business concerns obtain contracts, orders, or any other assistance to support participation in the 8(a) BD, HUBZone, WOSB or VetCert programs. Good cause is defined in § 103.4 of this chapter.

(1) SBA may send a ''show cause'' letter requesting the agent or representative to demonstrate why the agent or representative should not be suspended or proposed for revocation, or may immediately send a written notice suspending or proposing revocation, depending upon the evidence in the administrative record. The notice will include a discussion of the relevant facts and the reason(s) why SBA believes that good cause exists.

(2) Unless SBA specifies a different time in the notice, the agent or representative must respond to the notice within 30 calendar days of the date of the notice with any facts or arguments showing why good cause does not exist. The agent or representative may request additional time to respond, which SBA may grant in its discretion.

(3) After considering the agent's or representative's response, SBA will issue a final determination, setting forth the reasons for this decision and, if a suspension continues to be effective or a revocation is implemented, the term of the suspension or revocation.

(d) The relevant SBA program office may refer a packager, agent, or other representative to SBA's Suspension and Debarment Official for possible Government-wide suspension or debarment where appropriate, including where it appears that the packager, agent, or representative assisted an applicant or certified small business concern to submit information to SBA that the packager, agent, or representative knew to be false or materially misleading.

PART 126—HUBZONE PROGRAM

■ 37. The authority citation for part 126 continues to read as follows:

Authority: 15 U.S.C. 632(a), 632(j), 632(p), 644 and 657a.

§ 126.100 [Amended]

■ 38. Amend § 126.100 by removing the words ''qualified SBCs'' and adding in their place the words ''small business concerns''.

§ 126.102 [Amended]

■ 39. Amend § 126.102 by removing the words ''qualified HUBZone SBCs'' and adding in their place the words ''certified HUBZone small business concerns''.

■ 40. Amend § 126.103 by:

■ a, Removing the definition for ''AA/BD'';

■ b. Revising the definitions for ''Certify'', ''Community Development Corporation (CDC)'', ''Contracting Officer (CO)'', ''Decertify'', ''Dynamic Small Business Search (DSBS)'', ''Employee'', ''Governor-Designated Covered Area'', ''HUBZone small business concern or certified HUBZone small business concern'', ''Indian Tribal Government'', ''Interested party'', ''Principal office'', ''Qualified Disaster Area'', ''Redesignated Area'', ''Reside'', and ''Small business concern'';

■ c. Removing paragraph (3) in the definition of ''Qualified Census Tract'';

■ d. Removing paragraph (4) in the definition of ''Qualified Non-Metropolitan County'';

■ e. Adding definitions for ''HUBZone certification date'', ''HUBZone Map'', ''HUBZone resident employee'', and ''System for Award Management (SAM)'', in alphabetical order.

The revisions and additions read as follows:

§ 126.103 What definitions are important in the HUBZone program?

* * * * *

Certification or Certify means the process by which SBA determines that a concern is qualified for the HUBZone program and eligible to be designated by SBA as a certified HUBZone small business concern in DSBS (or successor system).

* * * * *

Community Development Corporation or CDC means a nonprofit organization responsible to residents of the area it serves which has received financial assistance under 42 U.S.C. 9805, *et seq.* or has received a letter from the Department of Health and Human Services affirming that it has received assistance under a successor program to that authorized by 42 U.S.C. 9805.

* * * * *

Contracting Officer (CO) has the meaning given that term in 41 U.S.C. 2101(1), which defines a CO as a person who, by appointment in accordance with applicable regulations, has the authority to enter into a Federal agency procurement contract on behalf of the Government and to make determinations and findings with respect to such a contract.

* * * * *

Decertify means the process by which SBA removes a concern as a certified HUBZone small business concern from DSBS (or successor system) upon a finding that the firm does not meet the HUBZone eligibility requirements or after a firm voluntarily withdraws from the HUBZone program.

Dynamic Small Business Search (DSBS) means the database that government agencies use to find small business contractors for upcoming contracts. The information a business provides when registering in SAM, as defined in this section, is used to populate DSBS. For HUBZone Program purposes, a concern's DSBS profile will indicate whether it is a certified HUBZone small business concern, and if so, the date it was certified.

Employee means an individual employed on a full-time, part-time, or other basis, so long as that individual works a minimum of 80 hours during

the four-week period immediately prior to the relevant date of review.

(1) To determine the number of hours worked by each individual employed by the firm, SBA will review a concern's payroll records for the most recently completed pay periods that account for the four-week period immediately prior to the relevant date of review. To determine if an individual is an employee, SBA reviews the totality of circumstances, including criteria used by the Internal Revenue Service (IRS) for Federal income tax purposes and the factors set forth in SBA's Size Policy Statement No. 1 (51 FR 6099, February 20, 1986).

(2) In general, the following are considered employees:

(i) Individuals obtained from a temporary employee agency, from a concern primarily engaged in leasing employees, or through a union agreement, or co-employed pursuant to a Professional Employer Organization agreement;

(ii) An individual who has an ownership interest in the concern and who works for the concern 80 hours or more during the four-week period immediately prior to the relevant date of review, whether or not the individual receives compensation;

(iii) An owner who works less than 80 hours during the four-week period immediately prior to the relevant date of review, where another individual has not been hired to manage and direct the actions of the concern's employee(s).

(3) In general, the following are not considered employees:

(i) Individuals who are not owners and receive no compensation (including no in-kind compensation) for work performed;

(ii) Individuals who receive deferred compensation for work performed;

(iii) Independent contractors to whom payments are reported via IRS Form 1099 and who are not otherwise considered employees under SBA's Size Policy Statement No. 1; and

(iv) Subcontractors.

(3) Employees of an affiliate may be considered employees, if the totality of the circumstances shows that there is no clear line of fracture between the HUBZone applicant (or certified HUBZone small business concern) and its affiliate(s) (*see* § 126.204).

(4) An individual must perform work for the concern to be considered an employee for HUBZone purposes. SBA may require evidence that an individual is performing work, including but not limited to the following: a job description; the individual's resume; timesheets; proof of onboarding and/or training; evidence of regular communication assigning work to the individual and responses to such communication; examples of work product commensurate with hours worked; documentation demonstrating the individual's participation in online or telephonic meetings with supervisors or colleagues, such as meeting invitations, notes from meetings, post-meeting questions or assignments; written attestations; and other relevant documentation.

Governor-Designated Covered Area means an area that SBA has designated as a HUBZone by approving a Governor-generated petition pursuant to the procedures described in § 126.104.

* * * * *

HUBZone certification date means the date on which SBA approves a concern's application for HUBZone certification and is the date specified in the concern's certification letter. If a concern leaves the HUBZone program and reapplies for certification, their HUBZone certification date is the date SBA approves the concern's most recent application.

HUBZone Map means a publicly accessible online tool that depicts HUBZones.

HUBZone resident employee means an individual who meets the definition of an employee and who SBA has determined resides in a HUBZone.

HUBZone small business concern or certified HUBZone small business concern means a small business concern that meets the requirements described in § 126.200 and that SBA has certified as eligible for federal contracting assistance under the HUBZone program.

* * * * *

Indian Tribal Government means the governing body of any Indian tribe, band, nation, pueblo, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or is recognized as such by the State in which the tribe, band, nation, group, or community resides.

Interested party means any certified HUBZone small business concern that submits an offer for a specific HUBZone set-aside contract (including a multiple award contract) or order, any concern that submitted an offer in full and open competition and its opportunity for award will be affected by a price evaluation preference given to a certified HUBZone small business concern or by a reserve of an award given to a certified HUBZone small business concern, the contracting activity's contracting officer, or SBA.

* * * * *

Principal Office means the location where the greatest number of the concern's employees at any one location perform their work.

(1) In order for a location to be considered the principal office, the concern must provide a deed or an active lease that includes a start date that was at least 30 calendar days prior to the relevant date of review, and an end date that is at least 60 calendar days after the relevant date of review, as well as any other documentation requested by SBA;

(2) In order for a location to be considered the principal office, the concern must conduct business at this location. The concern may be required to demonstrate that it is doing so by submitting evidence including but not limited to the following:

(i) Photos and/or a live or virtual walk-through of the space; and

(ii) For shared working spaces, evidence that the firm has dedicated space within any shared location, and that such dedicated space contains sufficient work surface area, furniture, and equipment to accommodate the number of employees claimed to work from this location;

(3) If an employee works at multiple locations, then the employee will be deemed to work at the location where the employee spends more than 50% of his or her time. If an employee does not spend more than 50% of his or her time at any one location and at least one of those locations is a non-HUBZone location, then the employee will be deemed to work at a non-HUBZone location.

(4) If 100% of a firm's employees telework, at least 51% of its employees must work from HUBZone locations to meet the principal office requirement.

(5) For those concerns whose ''primary industry classification'' is services or construction (see § 121.201 of this chapter), the determination of principal office excludes the concern's employees who perform more than 50% of their work at job-site locations to fulfill specific contract obligations. If all of a concern's employees perform more than 50% of their work at job sites, the concern does not comply with the principal office requirement.

(i) *Example 1:* A business concern whose primary industry is construction has a total of 78 employees, including the owners. The business concern has one office (Office A), which is located in a HUBZone, with 3 employees working at that location. The business

concern also has a job-site for a current contract, where 75 employees perform more than 50% of their work. The 75 job-site employees are excluded for purposes of determining principal office. Since the remaining 3 employees all work at Office A, Office A is the concern's principal office. Since Office A is in a HUBZone, the business concern complies with the principal office requirement.

(ii) *Example 2:* A business concern whose primary industry is services has a total of 4 employees, including the owner. The business concern has one office located in a HUBZone (Office A), where 2 employees perform more than 50% of their work, and a second office not located in a HUBZone (Office B), where 2 employees perform more than 50% of their work. Since there is not one location where the greatest number of the concern's employees at any one location perform their work, the business concern would not have a principal office in a HUBZone.

(iii) *Example 3:* A business concern whose primary industry is services has a total of 6 employees, including the owner. Five of the employees perform all of their work at job-sites fulfilling specific contract obligations. The business concern's owner performs 45% of her work at job-sites, and 55% of her work at an office located in a HUBZone (Office A) conducting tasks such as writing proposals, generating payroll, and responding to emails. Office A would be considered the principal office of the concern since it is the only location where any employees of the concern work that is not a job site and the 1 individual working there spends more than 50% of her time at Office A. Since Office A is located in a HUBZone, the small business concern would meet the principal office requirement.

* * * * *

Qualified Disaster Area. (1) Qualified Disaster Area means any census tract or non-metropolitan county located in an area where a major disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) has occurred or an area in which a catastrophic incident has occurred if such census tract or non-metropolitan county ceased to be a Qualified Census Tract or Qualified Non-Metropolitan County during the period beginning 5 years before the date on which the President declared the major disaster or the catastrophic incident occurred.

(2) A census tract or non-metropolitan county shall be considered to be a Qualified Disaster Area for the period of time starting on the date on which the President declared the major disaster for the area in which the census tract or non-metropolitan county, as applicable, is located (or in the case of a catastrophic incident, on the date on which the catastrophic incident occurred in the area in which the census tract or non-metropolitan county, as applicable, is located) and ending on the date when SBA next updates the HUBZone Map in accordance with § 126.104(a).

* * * * *

Redesignated Area means any census tract that ceases to be a Qualified Census Tract or any non-metropolitan county that ceases to be a Qualified Non-Metropolitan County. A Redesignated Area generally shall be treated as a HUBZone for a period of three years, starting from the date on which the area ceased to be a Qualified Census Tract or a Qualified Non-Metropolitan County. The date on which the census tract or non-metropolitan county ceases to be qualified is the date on which the official government data affecting the eligibility of the HUBZone is released to the public.

Reside means to live at a location full-time and for at least 90 calendar days immediately prior to the relevant date of review.

(1) To determine residence, SBA will first look to an individual's address identified on his or her driver's license or other government-issued identification card.

(i) Where such documentation is not available (or where the address on the individual's driver's license it outdated), SBA will require other specific proof of residency, such as deeds, leases, and/or utility bills, as well as a signed statement explaining why a driver's license is unavailable and attesting to an individual's dates of residency.

(ii) Where such documentation does not demonstrate 90 days of residency, SBA will require a signed statement attesting to an individual's dates of residency.

(2) For HUBZone purposes, SBA will consider individuals temporarily residing overseas in connection with the performance of a contract to reside at their U.S. residence.

(i) *Example 1:* A person possesses the deed to a residential property and pays utilities and property taxes for that property. However, the person does not live at this property, but instead rents out this property to another individual. For HUBZone purposes, the person does not reside at the address listed on the deed.

(ii) *Example 2:* A person moves into an apartment under a month-to-month lease and lives in that apartment full-time. SBA would consider the person to reside at the address listed on the lease if the person can show that he or she has lived at that address for at least 90 calendar days immediately prior to the relevant date of review (*i.e.,* date of application, date of recertification, or date of offer for a HUBZone contract).

(iii) *Example 3:* A person is working overseas on a contract for the small business and is therefore temporarily living abroad. The employee can provide documents showing he has paid rent for an apartment located in a HUBZone for at least 90 calendar days immediately prior to the relevant date of review. That person is deemed to reside in a HUBZone.

* * * * *

Small business concern means a concern that, with its affiliates, meets the size standard corresponding to any NAICS code listed in its profile in the System for Award Management (SAM or *SAM.gov*), pursuant to part 121 of this chapter.

System for Award Management (SAM) has the same meaning as in FAR 2.101.

■ 41. Revise § 126.104 as follows:

§ 126.104 How can a Governor petition for the designation of a Governor-designated cover area?

(a) *Petition.* Each calendar year, the Governor of a State may submit a petition to the SBA Office of the HUBZone Program requesting that certain covered areas be designated as Governor-designated covered areas. For a specific covered area to receive a designation as a Governor-designated covered area, the Governor of the State in which the identified covered area is wholly contained shall include such area in a petition to SBA requesting such a designation.

(1) A Governor may submit not more than 1 petition described in this section per calendar year.

(2) The petition described in this section shall include all covered areas in a State for which the Governor seeks designation as a Governor-designated covered area. The total number of covered areas included in such petition may not exceed 10 percent of the total number of covered areas in the State.

(3)(i) The total number of covered areas in a State shall be calculated by aggregating the number of census tracts and counties that qualify as covered areas as described in (d) of this section.

(ii) A petition need not seek SBA approval for those covered areas previously designated as Governor-designated covered areas.

(b) *SBA Review.* In reviewing a request for designation included in such a petition, the Administrator may consider:

(1) The potential for job creation and investment in the covered area;

(2) The demonstrated interest of small business concerns in the covered area to be designated as a Governor-designated covered area;

(3) How State and local government officials have incorporated the covered area into an economic development strategy; and

(4) If the covered area was a HUBZone before becoming the subject of the petition, the impact on the covered area if the Administrator did not approve the petition.

(c) *SBA Decision.* The AA/GCBD (or designee) is authorized to grant the petitions described in this section. If the AA/GCBD (or designee) grants a petition described in this section, SBA will issue a written notice to the petitioning Governor and add the newly designated Governor-designated covered areas to the HUBZone Map.

(d) *Length of designation.* A Governor-designated covered area will be treated as a HUBZone until SBA next updates the HUBZone Map in accordance with § 126.104(a), or one year after the petition is approved, whichever is later.

(e) *Definitions.* In this section:

(1) The term ''covered area'' means a census tract or county in a State—

(i) That is located outside of an urban area, as determined by the Bureau of the Census, with a population of not more than 50,000; and

(ii) For which the average unemployment rate is at least 120 percent of the average unemployment rate of the United States or of the State in which the covered area is located, whichever is less, based on the most recent data available from the American Community Survey conducted by the Bureau of the Census.

(2) The term ''Governor'' means the chief executive of a State.

(3) The term ''State'' means each of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or American Samoa.

■ 42. Add § 126.105 to read as follows:

§ 126.105 How often will the HUBZone Map be updated?

The HUBZone Map will be updated as follows:

(a) Qualified Census Tracts and Qualified Non-Metropolitan Counties will be updated every 5 years.

(b) Redesignated Areas will be added to the HUBZone Map when areas cease to be designated as Qualified Census Tracts or Qualified Non-Metropolitan Counties, in accordance with the 5-year cycle described in paragraph (a), and will be removed after 3 years.

(c) Qualified Base Closure Areas will be added to the HUBZone Map after SBA receives information from the Department of Defense that a new base closure area has been created and will be removed after 8 years.

(d) Qualified Disaster Areas generally will be added to the HUBZone Map on a monthly basis, based on data received by SBA from the Federal Emergency Management Agency (FEMA), and generally will be removed on the effective date of the 5-year HUBZone Map update following the declaration.

(e) Governor-Designated Covered Areas will be added to the HUBZone Map after SBA approves a petition in accordance with § 126.104 and will be removed on the effective date of the 5-year HUBZone Map update following the approval, or one year after the petition is approved, whichever is later.

■ 43. Amend § 126.200 by:

■ a. Adding two sentences to the end of paragraph (b)(1);

■ b. Revising paragraph (c)(1);

■ c. Adding paragraph headings in paragraphs (c)(2) and (d)(2);

■ d. Removing the words ''Example to paragraph (d)(3)'' in paragraph (d)(3)(i) and adding in their place the words ''Example 1 to paragraph (d)(3)'';

■ e. Revising paragraphs (d)(1) and (d)(3);

■ f. Revising paragraphs (e), (f), and (g); and

■ g. Adding paragraph (h).

The revisions and additions read as follows:

§ 126.200 What requirements must a concern meet to be eligible as a certified HUBZone small business concern?

* * * * *

(b) * * *

(1) * * * In determining whether a concern qualifies as small under the size standard corresponding to a specific NAICS code, SBA will accept the concern's size representation in SAM, or successor system, unless there is evidence indicating that the concern is other than small. SBA will request a formal size determination pursuant to § 121.1001(b)(8) of this chapter where any information it possesses calls into question the concern's *SAM.gov* size representation.

* * * * *

(c) * * *

(1) *Long-term investment.* (i) *General.* A concern that has purchased a building or entered a long-term lease of at least 10 years for a property in a HUBZone (other than in a Redesignated Area) will be deemed to have its principal office located in a HUBZone for up to 10 years from the date of the investment, as long as that building or property qualifies as the concern's principal office and continues to qualify as the concern's principal office, and as long as the firm maintains the long-term lease or continues to be the sole owner of the property.

(ii) *Commencement of 10-year period.* The 10-year principal office long-term investment protection period starts to run on the firm's HUBZone certification date (if the investment was made prior to the firm's certification) or on the date of the investment (if the investment was made after the firm's HUBZone certification date).

Example 1 to paragraph (d)(2)(i): If a firm was certified on March 31, 2020, and purchased a building on July 20, 2020, the 10-year clock would begin when the firm recertifies as of May 1, 2021.

(iii) *Exceptions.* The following do not qualify for this provision:

(A) An office located in a Redesignated Area at the time of initial HUBZone certification;

(B) An office that is shared with one or more other concerns or individuals;

(C) Any location being used as a personal residence; or

(D) An investment made within 180 calendar days of the expiration of an area's designation as a Qualified Census Tract, Qualified Non-Metropolitan County, Governor-Designated Covered Area, or Qualified Base Closure Area.

(2) *Tribally-owned concerns.* * * *

* * * * *

(d) *Employees.* (1) *General.* In order to be eligible for HUBZone certification, at least 35% of a concern's employees must qualify as HUBZone Resident Employees. When determining the percentage of employees that must reside in a HUBZone to meet the 35% HUBZone residency requirement, if the percentage results in a fraction, SBA rounds to the nearest whole number, except for a firm with only one employee. For firms with only one employee, that one employee must reside in a HUBZone.

Example 1 to paragraph (d)(1): A concern has 25 employees; 35% of 25, or 8.75, employees must reside in a HUBZone. The number 8.75 rounded to the nearest whole number is 9. Thus, 9 employees must reside in a HUBZone.

Example 2 to paragraph (d)(1): A concern has 95 employees; 35% of 95, or 33.25, employees must reside in a HUBZone. The number 33.25 rounded to the nearest whole number is 33.

Thus, 33 employees must reside in a HUBZone.

(2) *Tribally-owned concerns.* * * *

(3) *Legacy HUBZone Employees.* (i) An individual will be considered a Legacy HUBZone Employee and count as a HUBZone Resident Employee even if the employee subsequently moves to a location that is not in a HUBZone or the area in which the employee's residence is located no longer qualifies as a HUBZone if the individual:

(A) Continues to live in a HUBZone for at least 180 calendar days immediately after the firm's HUBZone certification date (or recertification date); and

(B) Continues to meet the definition of ''employee'' in § 126.103 continuously and without interruption.

(ii) An individual who initially qualified as a HUBZone Resident Employee by living in a Redesignated Area or a Qualified Disaster Area will not qualify as a Legacy HUBZone Employee.

(iii) A certified HUBZone small business concern may have up to one Legacy HUBZone Employee at a given time.

(iv) The certified HUBZone small business concern must maintain records of the Legacy HUBZone Employee's original HUBZone address, as well as records of any HUBZone other address in which the individual resided, as well as records of the individual's continuous and uninterrupted employment by the HUBZone small business concern, for the duration of the concern's participation in the HUBZone program. In order to demonstrate that an individual resided in a HUBZone for 180 days after certification (or recertification), the concern must submit to SBA copies of leases, utility bills, or property tax records.

(v) The certification date or recertification date being used to establish the HUBZone residency of the employee must be after December 26, 2019.

Example 1 to paragraph (d)(3): As part of its application for HUBZone certification, a concern provides documentation showing that it has 10 employees, 4 of which reside in HUBZones. SBA certifies the concern as a certified HUBZone small business concern. More than 180 days after being certified, two individuals who qualified as HUBZone Resident Employees, and were critical to the concern's meeting the 35% residency requirement, move out of the HUBZone area but continuously remain employees of the concern. Only one of these individuals may be treated as a Legacy Employee and count as a HUBZone Resident Employee for purposes of recertification.

(e) *Attempt to maintain.* (1) At the time of application and each recertification, a concern must certify that it will ''attempt to maintain'' (*see* § 126.103) having at least 35% of its employees reside in a HUBZone during the performance of any HUBZone contract it receives.

(2) If the concern is owned in whole or in part by one or more Indian Tribal Governments (or by a corporation that is wholly owned by one or more Indian Tribal Governments), the concern must certify at the time of application and at each recertification that it will ''attempt to maintain'' (see § 126.103) the applicable employment percentage described in paragraph (c)(2) of this section during the performance of any HUBZone contract it receives.

(3) At the time of offer for a HUBZone contract, a concern must certify that it will ''attempt to maintain'' compliance with the 35% HUBZone residency requirement.

(f) *Subcontracting.* (i) At the time of application and each recertification, a concern must certify that it will comply with the applicable limitations on subcontracting requirements in connection with any HUBZone contract it receives (*see* §§ 125.6 and 126.700).

(ii) In connection with a HUBZone contract, certified HUBZone small business concerns also agree to comply with the limitations on subcontracting requirements under FAR clause 52.219–14 by submitting an offeror for and executing a HUBZone contract.

(g) *Suspension and Debarment.* At the time of application and at all times while a concern is HUBZone-certified, such concern and any of its owners must not have an active exclusion in SAM.

(h) *Federal financial obligations.* A business concern is ineligible to be certified as a HUBZone small business concern or to participate in the HUBZone program if either the concern or any of its principals has failed to pay significant financial obligations owed to the Federal Government, including unresolved tax liens and defaults on Federal loans or other Federally assisted financing. However, a small business concern may be eligible if the concern or the affected principals can demonstrate that they are current on an approved repayment plan, or the financial obligations owed have been settled and discharged/forgiven by the Federal Government.

■ 44. Amend § 126.201 by revising the section heading, and the first sentence of the introductory text to read as follows:

§ 126.201 Who does SBA consider to be an owner of a HUBZone small business concern?

For purposes of qualifying for HUBZone certification, SBA considers any person who owns any legal or equitable interest in a concern to be an owner of the concern. * * *

* * * * *

§ 126.202 [Amended]

■ 45. Amend § 126.202 by removing the word ''SBC'' in the section heading and in the first sentence and adding in its place the words ''small business concern'', and removing the third and fourth sentences.

■ 46. Amend § 126.204 by:

■ a. Revising paragraph (a);

■ b. Removing the words ''all information'' in the introductory text of paragraph (c) and adding in their place the words ''the totality of circumstances'';

■ c. Revising paragraph (c)(3); and

■ d. Adding paragraph (c)(4).

The revisions and addition read as follows:

§ 126.204 May a HUBZone small business concern have affiliates?

(a) A HUBZone small business concern may have affiliates, provided that the HUBZone small business concern, together with its affiliates, qualifies as a small business concern as defined in part 121 of this chapter under the size standard corresponding to any NAICS code listed in its profile in SAM.

* * * * *

(c) * * *

(3) Minimal business activity between the concern and its affiliate alone will not result in an affiliate's employees being counted as employees of the HUBZone applicant or HUBZone small business concern.

(4) SBA will not treat the employees of one company as employees of another for HUBZone program purposes if the two firms would not be considered affiliated for size purposes under Part 121 of this chapter.

Example 1 to paragraph (c): X owns 100% of Company A and 51% of Company B. Based on X's common ownership of A and B, the two companies are affiliated under SBA's size regulations. SBA will look at the totality of circumstances to determine whether it would be reasonable to treat the employees of B as employees of A for HUBZone program purposes. If both companies do construction work and share office space and equipment, then SBA would find that there is not a clear line of fracture between the two concerns and would treat the employees of B as employees of A for HUBZone

program purposes. In order to be eligible for the HUBZone program, at least 35% of the combined employees of A and B must reside in a HUBZone.

§ 126.302 [Amended]

■ 47. Amend § 126.302 by removing the last sentence.

■ 48. Revise § 126.303 to read as follows:

§ 126.303 Where must a concern submit its application for certification?

A concern seeking certification as a HUBZone small business concern must submit an electronic application to SBA's HUBZone Program Office via SBA's web page at *www.SBA.gov.* The majority owner must take responsibility for the accuracy of all information submitted on behalf of the applicant.

■ 49. Amend § 126.304 by revising paragraph (e) to read as follows:

§ 126.304 What must a concern submit to SBA in order to be certified as a HUBZone small business concern?

* * * * *

(e) *Records maintenance.* (1) HUBZone small business concerns must retain documentation demonstrating satisfaction of all qualifying requirements for 6 years from the date of submission of all initial and continuing eligibility actions.

(2) HUBZone small business concerns must retain documentation related to ''Legacy HUBZone employees,'' as described in § 126.200(d)(3).

■ 50. Amend § 126.306 by:

■ a. Revising paragraph (d);

■ b. Removing the words ''System for Award Management'' in paragraph (g) and adding in their place the word ''SAM''; and

■ c. Adding paragraph (h).

The revision and addition read as follows:

§ 126.306 How will SBA process an application for HUBZone certification?

* * * * *

(d) An applicant must be eligible as of the date SBA issues a decision.

* * * * *

(h) The D/HUB's decision is the final agency decision.

§ 126.308 [Amended]

■ 51. Amend § 126.308 by removing the words ''System for Award Management'' in paragraph (b) and adding in their place the word ''SAM''.

■ 52. Revise § 126.309 to read as follows:

§ 126.309 May a declined or decertified concern apply for certification at a later date?

(a) A concern that SBA has declined may apply for certification after ninety (90) calendar days from the date of decline if it believes that it has overcome all reasons for decline through changed circumstances and is currently eligible.

(b) A concern that SBA has decertified may apply for certification immediately after the date of decertification, if it believes that it has overcome all reasons for decertification through changed circumstances and is currently eligible.

(c) A concern that voluntarily withdraws from the HUBZone program may immediately re-apply for certification, if it believes that it is currently eligible.

■ 53. Revise § 126.401 to read as follows:

§ 126.401 What is a program examination?

A program examination is an investigation by SBA officials, which verifies the accuracy of any certification made or information provided as part of the HUBZone application process, as part of the recertification process, or in connection with a HUBZone contract.

■ 54. Amend § 126.403 by revising paragraphs (a) and (b) to read as follows:

§ 126.403 What will SBA review during a program examination?

(a) SBA will determine the scope of a program examination and may review any information related to the concern's HUBZone eligibility including, but not limited to, documentation related to the concern's size, principal office, ownership, compliance with the 35% HUBZone residency requirement, and compliance with the ''attempt to maintain'' (*see* § 126.103) requirement. A representative from SBA may visit one or more of a concern's offices as part of a program examination.

(b) SBA may require that a HUBZone small business concern submit additional information as part of the program examination. If SBA requests additional information, SBA will presume that written notice of the request was provided when SBA sends such request to the concern at an email address provided in the concern's profile in DSBS or *SAM.gov* (or successor systems). The burden of proof to demonstrate eligibility is on the concern. If a concern does not provide requested information within the allotted time provided by SBA, or if it submits incomplete information, SBA may draw an adverse inference and presume that the information that the concern failed to provide would demonstrate ineligibility and decertify the concern (or deny certification) on this basis.

* * * * *

■ 55. Amend § 126.404 by revising paragraphs (b) and (c) to read as follows:

§ 126.404 What are the possible outcomes of a program examination and when will SBA make its determination?

* * * * *

(b) If the D/HUB (or designee) determines that the concern is eligible, SBA will send a written notice to the HUBZone small business concern and continue to designate the concern as a certified HUBZone small business concern in DSBS (or successor system).

(c) If the D/HUB (or designee) determines that the concern is not eligible, the firm will be suspended from the HUBZone program. The concern will have 30 calendar days to submit sufficient documentation showing that it was in fact eligible on the date of review. During the suspension period, such concern may not compete for or be awarded a HUBZone contract and must provide written notice of the concern's ineligibility to the contracting officer for any pending HUBZone award. If such concern fails to submit documentation sufficient to demonstrate its eligibility, the concern will be decertified. If SBA overturns its determination, SBA will reverse the firm's decertification and reinstate its certification.

■ 56. Revise § 126.500 to read as follows:

§ 126.500 How does a concern maintain HUBZone certification?

(a) *Recertification.* (1) Any concern seeking to remain a certified HUBZone small business concern in DSBS (or successor system) must recertify to SBA that it continues to meet all HUBZone eligibility criteria (*see* § 126.200) every three years. In order to recertify—

(i) A certified HUBZone small business concern that was not awarded a HUBZone contract during the 12-month period preceding its recertification must represent that, at the time of its recertification, at least 35% of its employees reside in HUBZones and the concern's principal office is located in a HUBZone.

(ii) A certified HUBZone small business concern that was awarded a HUBZone contract during the 12-month period preceding its recertification must represent that, at the time of its recertification, it is attempting to maintain compliance with the 35% HUBZone residency requirement and the concern's principal office is located in a HUBZone.

(2) The concern's recertification must be submitted in the 90 calendar days before the triennial anniversary of its HUBZone certification date.

(3) If a concern fails to recertify, SBA will propose the concern for decertification pursuant to § 126.503.

(b) *Program examinations.* SBA will conduct program examinations of certified HUBZone small business concerns to ensure continued program eligibility using a risk-based analysis to select which concerns are examined.

■ 57. Revise § 126.501 to read as follows:

§ 126.501 What are a certified HUBZone small business concern's ongoing obligations to SBA?

(a) A certified HUBZone small business concern that acquires, is acquired by, or merges with another business entity must provide evidence to SBA, within 30 calendar days of the transaction becoming final, that the concern continues to meet the HUBZone eligibility requirements. A concern that no longer meets the requirements may voluntarily withdraw from the program or it will be removed by SBA pursuant to program decertification procedures.

(b) A certified HUBZone small business concern that is performing a HUBZone contract and fails to ''attempt to maintain'' the minimum employee HUBZone residency requirement (*see* § 126.103) must notify SBA notify SBA via email to *hubzone@sba.gov* within 30 calendar days of such occurrence. A concern that cannot meet the requirement may voluntarily withdraw from the program or it will be removed by SBA pursuant to program decertification procedures.

§ 126.502 [Amended]

■ 58. Amend § 126.502 by removing the words ''§§ 126.200, 126.500, and 126.501'' and adding in their place the words ''§§ 126.200, 126.500, and 126.501, and all other requirements described in this part''.

■ 59. Amend § 126.503 by:

■ a. Revising paragraphs (a) and (c);

■ b. Redesignating paragraph (d) as paragraph (e); and

■ c. Adding new paragraph (d).

The revisions and addition read as follows:

§ 126.503 What happens if SBA is unable to verify a HUBZone small business concern's eligibility or determines that a concern is no longer eligible for the program?

(a) *Proposed decertification.* If SBA is unable to verify a certified HUBZone small business concern's eligibility or has information indicating that a concern may not meet the eligibility requirements of this part, SBA may propose decertification of the concern. In addition, if SBA has information indicating that a HUBZone small business concern that is performing a HUBZone contract is not attempting to maintain (*see* § 126.103) compliance with the 35% HUBZone residency requirement, SBA will propose the concern for decertification.

(1) *Notice of proposed decertification.* SBA will notify the HUBZone small business concern in writing that SBA is proposing to decertify it and state the reasons for the proposed decertification. The notice of proposed decertification will notify the concern that it has 30 calendar days from the date it receives the letter to submit a written response to SBA explaining why the proposed ground(s) should not justify decertification. SBA will consider that written notice was provided if SBA sends the notice of proposed decertification to the concern at a mailing address, email address, or fax number provided in the concern's profile in DSBS (or successor system).

(2) *Response to notice of proposed decertification.* The HUBZone small business concern must submit a written response to the notice of proposed decertification within the timeframe specified in the notice. In this response, the concern must rebut each of the reasons set forth by SBA in the notice of proposed decertification, and where appropriate, the rebuttal must include documents showing that the concern is eligible for the HUBZone program as of the date specified in the notice.

(3) *Adverse inference.* If a HUBZone small business concern fails to cooperate with SBA or fails to provide the information requested, the D/HUB may draw an adverse inference and assume that the information that the concern failed to provide would demonstrate ineligibility.

(4) *SBA's decision.* SBA will determine whether the HUBZone small business concern remains eligible for the program within 90 calendar days after receiving all requested information, when practicable. The D/HUB will provide written notice to the concern stating the basis for the determination.

(i) If SBA finds that the concern is not eligible, the D/HUB will decertify the concern and remove its designation as a certified HUBZone small business concern in DSBS (or successor system).

(ii) If SBA finds that the concern is eligible, the concern will continue to be designated as a certified HUBZone small business concern in DSBS (or successor system).

* * * * *

(c) *Decertification based on false or misleading information.* (1) If SBA discovers that a certified HUBZone small business concern or its representative submitted false, inconsistent, or misleading information, SBA will propose the firm for decertification. In addition, SBA will refer the matter to the SBA Office of Inspector General for review and may request that Government-wide debarment or suspension proceedings be initiated by the agency.

(2) A firm that is decertified from the HUBZone program due to the submission of false or misleading information may be removed from SBA's other small business contracting programs, including the 8(a) Business Development Program, the Women-Owned Small Business (WOSB) Program, the Veteran Small Business Certification (VetCert) Program, and SBA's Mentor-Protégé Program.

(3) A firm that is decertified or terminated from the 8(a) BD Program, the WOSB Program, or the VetCert Program due to the submission of false or misleading information may be decertified from the HUBZone Program.

(4) SBA may require a firm that is decertified or terminated from the HUBZone Program, 8(a) BD Program, the WOSB Program, or the VetCert Program due to the submission of false or misleading information to enter into an administrative agreement with SBA as a condition of admission or re-admission to the HUBZone program.

(d) *Decertification due to debarment.* If a certified HUBZone small business concern is debarred from federal contracting, SBA will decertify the HUBZone small business concern immediately and change the concern's status in DSBS (or successor system) to reflect that it no longer qualifies as a certified HUBZone small business concern, without first proposing it for decertification.

* * * * *

■ 60. Amend § 126.504 by:

■ a. Removing the word ''or'' at the end of paragraph (a)(2);

■ b. Redesignating paragraph (a)(3) as (a)(4);

■ c. Adding new paragraph (a)(3);

■ d. Removing the words ''pursuant to § 126.501(b)'' in newly redesignated paragraph (a)(4); and

■ e. Revising paragraph (c).

The additions and revisions read as follows:

§ 126.504 When will SBA remove the designation of a concern in DSBS (or successor system) as a certified HUBZone small business concern?

(a) * * *

(3) Been debarred pursuant to the procedures in FAR 9.4; or

* * * * *

(c)(1) After a concern has been decertified by SBA, it is ineligible for the HUBZone program and may not submit an offer for a HUBZone contract.

(2) As long as a concern was a certified HUBZone small business and met the HUBZone requirements as of the date of its initial offer for a HUBZone contract, it may be awarded a HUBZone contract even if it no longer appears as a certified HUBZone small business concern on DSBS or no longer qualifies as an eligible HUBZone small business on the date of award.

■ 61. Revise § 126.600 to read as follows:

§ 126.600 What are HUBZone contracts?

HUBZone contracts are prime contracts awarded to a certified HUBZone small business concern (or a HUBZone joint venture that complies with the requirements of § 126.616), regardless of the place of performance, through any of the following procurement methods:

(a) Sole source awards awarded pursuant to § 126.612 to certified HUBZone small business concerns (or HUBZone joint ventures that comply with the requirements of § 126.616);

(b) Set-aside awards (including partial set-asides and set-aside multiple award contracts) based on competition restricted to certified HUBZone small business concerns;

(c) Awards to certified HUBZone small business concerns (or HUBZone joint ventures that comply with the requirements of § 126.616) through full and open competition after the HUBZone price evaluation preference is applied to an other than small business in favor of a certified HUBZone small business concern (or a HUBZone joint venture that complies with the requirements of § 126.616);

(d) Awards based on a reserve for certified HUBZone small business concerns (or HUBZone joint ventures that comply with the requirements of § 126.616) in an unrestricted solicitation;

(e) Orders awarded to certified HUBZone small business concerns (or HUBZone joint ventures that comply with the requirements of § 126.616) under a multiple award contract that was set-aside for certified HUBZone small business concerns; or

(f) Orders set-aside for certified HUBZone small business concerns (or HUBZone joint ventures that comply with the requirements of § 126.616) under a multiple award contract that was awarded in full and open competition.

■ 62. Amend § 126.601 by revising paragraphs (a) and (b)(1) and adding paragraph (f) to read as follows:

§ 126.601 What additional requirements must a certified HUBZone small business concern meet to submit an offer on a HUBZone contract?

(a) Only certified HUBZone small business concerns are eligible to submit offers for a HUBZone contract or to receive a price evaluation preference under § 126.613.

(i) An offeror on a HUBZone contract must be identified as a certified HUBZone small business concern in DSBS (or successor system) and meet the HUBZone requirements in § 126.200 as of the date it submits its initial offer that includes price.

(ii) For a multiple award contract, where concerns are not required to submit price as part of the offer for the contract, an offeror must be identified as a certified HUBZone small business concern in DSBS (or successor system) and meet the HUBZone requirements in § 126.200 as of the date it submits its initial offer, which may not include price.

(iii) A HUBZone joint venture must have its joint venture agreement in place that complies with the requirements in § 126.616 as of its final offer.

(b) * * *

(1) Is a certified HUBZone small business concern in DSBS (or successor system) and meets the HUBZone requirements in § 126.200, including having 35% of its employees residing in HUBZones and having its principal office located in a HUBZone;

* * * * *

(f) In general, an offeror on a HUBZone contract is not required to be HUBZone-certified on the date the contract is awarded. However, for HUBZone sole source contracts, the concern must be a certified HUBZone small business concern and meet the requirements in § 126.200 at the time of award and must qualify as small as of that date under the size standard corresponding to the NAICS code assigned to the procurement.

■ 63. Revise § 126.602 to read as follows:

§ 126.602 Must a certified HUBZone small business concern maintain the HUBZone employee residency percentage during contract performance?

(a) A certified HUBZone small business concern that has been awarded a HUBZone contract must ''attempt to maintain'' (*see* § 126.103) having 35% of its employees residing in a HUBZone during the performance of any HUBZone contract. If a certified HUBZone small business concern is awarded a HUBZone contract within 12 months prior to the due date for its triennial recertification, then such concern must be attempting to maintain compliance with the 35% HUBZone residency requirement at the time of such recertification. However, such a concern must have at least 35% of its employees residing in HUBZones at the time of each recertification thereafter, even if the concern is still performing that HUBZone contract.

(b) For orders under indefinite delivery, indefinite quantity contracts (including orders under multiple award contracts), a certified HUBZone small business concern must ''attempt to maintain'' the HUBZone residency requirement during the performance of each order that is set aside for HUBZone small business concerns.

(c) A certified HUBZone small business concern that is tribally-owned, and made the certification in § 126.200(c)(2)(ii) at the time of its HUBZone certification (or at the time of its most recent recertification), must have at least 35% of its employees engaged in performing a HUBZone contract residing within any Indian reservation governed by one or more of the concern's Indian Tribal Government owners, or residing within any HUBZone adjoining any such Indian reservation.

(d) A certified HUBZone small business concern that has less than 20% of its total employees residing in a HUBZone during the performance of a HUBZone contract has failed to attempt to maintain the HUBZone residency requirement. Such failure will result in proposed decertification pursuant to § 126.503.

§ 126.603 [Amended]

■ 64. Amend § 126.603 by removing the word ''concernwill'' and adding in its place the words ''concern will''.

§ 126.604 [Amended]

■ 65. Amend § 126.604 by removing the words ''makes this decision'' and adding in their place the words ''determines if a contract opportunity for HUBZone set-aside competition exists''.

§ 126.605 [Amended]

■ 66. Amend § 126.605 by removing the word ''may'' in the introductory text and adding in its place the word ''shall''.

§ 126.607 [Amended]

■ 67. Amend § 126.607 by:

■ a. Removing the word ''must'' in the section heading and adding in its place the word ''may'';

■ b. Removing the words ''SDVO SBC'' wherever they appear in paragraphs (b)(1) and (b)(2) and adding in their place the words ''Veteran Small Business Certification''; and
■ c. Removing the words ''qualified HUBZone SBCs'' in paragraph (c)(1) and adding in their place the words ''certified HUBZone small business concerns''.
■ 68. Amend § 126.612 by:
■ a. Revising the section heading;
■ b. Removing the word ''and'' at the end of paragraph (d);
■ c. Removing the punctuation mark ''.'' at the end of paragraph (e) and adding in its place the text ''; and''; and
■ d. Adding paragraph (f).

The addition to read as follows:

§ 126.612 When may a contracting officer award a sole source contract to a HUBZone small business concern?

* * * * *

(f) The intended awardee is a certified HUBZone small business concern at the time of its initial offer and on the date of award.

■ 69. Amend § 126.613 by revising paragraph (a) and adding a paragraph heading in paragraph (b).

The revisions and additions read as follows:

§ 126.613 How does a price evaluation preference affect the bid of a certified HUBZone small business concern in full and open competition?

(a) *In general.* (1) Where a CO will award a contract on the basis of full and open competition, the CO must deem the price offered by a certified HUBZone small business concern to be lower than the price offered by an offeror that is not a small business concern if: the large business initially is the lowest responsive and responsible offeror, and the price offered by the certified HUBZone small business concern is not more than 10% higher than the price offered by the large business.

(2) The HUBZone price evaluation preference does not apply where the initial lowest responsive and responsible offeror is a small business concern.

(3) The HUBZone price evaluation preference does not apply if the certified HUBZone small business concern will receive the contract as part of a reserve for certified HUBZone small business concerns.

(4) To apply the HUBZone price evaluation preference, the CO must add 10% to the offer of the otherwise successful large business offeror. If the certified HUBZone small business concern's offer is lower than that of the large business after the preference is applied, the certified HUBZone small business concern must be deemed the lowest-priced offeror. For a best value procurement, the CO must first apply the 10% price preference to the offers of any large businesses and then determine which offeror represents the best value to the Government, in accordance with the terms of the solicitation. Where, after considering the price evaluation adjustment, the price offered by a certified HUBZone small business concern is equal to the price offered by a large business (or, in a best value procurement, the total evaluation points received by a certified HUBZone small business concern is equal to or greater than the total evaluation points received by a large business), award shall be made to the certified HUBZone small business concern.

Example 1 to paragraph (a): In a full and open competition, a certified HUBZone small business concern submits an offer of $98, a non-HUBZone small business concern submits an offer of $95, and a large business submits an offer of $93. The initial lowest, responsive, responsible offeror is the large business. The CO must then apply the HUBZone price evaluation preference because an offer was received from a certified HUBZone small business concern. After the application of the price preference, the HUBZone small business concern's offer is considered to be lower than the offer of the large business (*i.e.,* $98 is lower than $102.3 ($93 × 110%)). Since the certified HUBZone small business concern's offer is not more than 10% higher than the large business' offer, the certified HUBZone small business concern displaces the large business as the lowest, responsive, and responsible offeror. The non-HUBZone small business concern is unaffected by the preference because it was not the lowest offeror prior to the application of the preference.

Example 2 to paragraph (a): In a full and open competition, a certified HUBZone small business concern submits an offer of $103, a non-HUBZone small business concern submits an offer of $100, and a large business submits an offer of $93. The initial lowest responsive and responsible offeror is the large business. The CO must then apply the HUBZone price evaluation preference. After the application of the price preference, the HUBZone small business concern's offer is not lower than the offer of the large business (*i.e.,* $103 is not lower than $102.3 ($93 × 110%)). Since the certified HUBZone small business concern's offer is more than 10% higher than the large business' offer, the certified HUBZone small business concern does not displace the large business as the lowest offeror. In addition, the non-HUBZone small business concern's offer at $100 does not displace the large business' offer because a price evaluation preference is not applied to change an offer and benefit a non-HUBZone small business concern.

Example 3 to paragraph (a): In a full and open competition, a certified HUBZone small business concern submits an offer of $98, a large business submits an offer of $95, and a non-HUBZone small business concern submits an offer of $93. The CO would not apply the price evaluation preference in this procurement because the lowest, responsive, responsible offeror is a small business concern.

Example 4 to paragraph (a): In a full and open competition, a certified HUBZone small business concern submits an offer of $98 and a large business submits an offer of $93. The contracting officer has stated in the solicitation that one contract will be reserved for a certified HUBZone small business concern. The contracting officer would not apply the price evaluation preference when determining which HUBZone small business concern would receive the contract reserved for HUBZone small business concerns but would apply the price evaluation preference when determining the awardees for the non-reserved portion.

(b) *Agricultural commodities.* * * *

* * * * *

■ 70. Revise § 126.615 to read as follows:

§ 126.615 May a large business participate on a HUBZone contract?

Except as provided in §§ 126.618 and 125.9, a large business may not participate as a prime contractor on a HUBZone award but may participate as a subcontractor to a certified HUBZone small business concern, subject to the limitations on subcontracting set forth in § 125.6.

■ 71. Amend § 126.616 by revising paragraphs (a)(1) and (e)(1)(i), and adding paragraph (l) to read as follows:

§ 126.616 What requirements must a joint venture satisfy to submit an offer and be eligible for award of a HUBZone contract?

(a) * * *

(1) SBA does not certify HUBZone joint ventures, but the joint venture should be designated as a HUBZone joint venture in *SAM.gov* (or successor system) with the HUBZone-certified joint venture partner identified.

* * * * *

(e) * * *

(1) * * *

(i) It is a certified HUBZone small business concern that appears in DSBS (or successor system) as a certified HUBZone small business concern and it meets the eligibility requirements in § 126.200;

* * * * *

(l) For a procuring agency to receive HUBZone credit for goaling purposes, the joint venture awardee must comply with the requirements of this section and § 125.8.

■ 72. Revise § 126.619 to read as follows:

§ 126.619 When must a certified HUBZone small business concern recertify its status for a HUBZone contract?

A prime contractor that receives an award as a certified HUBZone small business concern must comply with the recertification requirements set forth in § 125.12 of this chapter regarding its status as a certified HUBZone small business.

■ 73. Revise the subpart heading for subpart G to read as follows:

Subpart G—Limitations on Subcontracting Requirements

§ 126.701 [Amended]

■ 74. Amend § 126.701 by:

■ a. Removing the words ''these subcontracting percentages'' in the section heading and adding in their place the words ''the limitations on subcontracting''.

■ b. Removing the words ''the subcontracting percentage'' in the paragraph and adding in their place the words ''the limitations on subcontracting''.

■ 75. Revise § 126.800 to read as follows:

§ 126.800 Who may protest the status of a certified HUBZone small business concern?

(a) For a HUBZone sole source procurement, SBA or the contracting officer may protest the intended awardee's status as a certified HUBZone small business concern.

(b) For HUBZone contracts other than sole source procurements, including multiple award contracts (*see* § 125.1 of this chapter), SBA, the contracting officer, or any other interested party may protest the apparent successful offeror's status as a certified HUBZone small business concern (or the HUBZone joint venture offeror's compliance with § 126.616).

(c) For contracts other than HUBZone contracts, SBA may protest an apparent successful offeror's status as a certified HUBZone small business concern.

§ 126.801 [Amended]

■ 76. Amend § 126.801 by:

■ a. Removing the words ''should not qualify'' in the introductory text to paragraph (b)(1) and adding in their place the words ''did not qualify'';

■ b. Removing the words '', on the anniversary date of its initial HUBZone certification,'' in paragraph (b)(1)(iv); and

■ c. Removing the words ''at the time the concern applied for certification or on the anniversary of such certification'' in paragraph (b)(3)(i) and adding in their place the words ''at the time of offer''.

■ 77. Amend § 126.803 by:

■ a. Revising paragraph (a);

■ b. Redesignating paragraphs (c), (d), and (e) as paragraphs (d), (e), and (f), respectively;

■ c. Adding new paragraph (c); and

■ d. Revising newly redesignated paragraph (f)(3).

The revisions and additions read as follows:

§ 126.803 How will SBA process a HUBZone status protest and what are the possible outcomes?

(a) *Date at which eligibility determined.* (1) For competitively awarded HUBZone contracts, SBA will determine the eligibility of a concern subject to a HUBZone status protest as of the date of its initial offer that includes price. For sole source HUBZone contracts, SBA will determine the eligibility of a concern subject to a HUBZone status protest as of the date of the award or intended award.

(2) For protests filed against a HUBZone joint venture alleging that the joint venture does not comply with the requirements in § 126.616, SBA will determine the eligibility of the joint venture as of its final offer for the procurement.

(3) For protests alleging undue reliance on one or more non-HUBZone subcontractors or alleging that such subcontractor(s) will perform the primary and vital requirements of the contract, SBA will determine the HUBZone small business concern's eligibility as of the date of its final offer for the procurement.

* * * * *

(c) *Burden of proof.* In the event of a protest, the burden of proof to demonstrate eligibility is on the protested concern. If a concern does not provide requested information within the allotted time provided by SBA, or if it submits incomplete information, SBA may draw an adverse inference and presume that the information that the concern failed to provide would demonstrate ineligibility and sustain the protest on that basis.

* * * * *

(f) * * *

(3) A concern found to be ineligible may apply for HUBZone certification immediately after its decline if it believes that it has overcome all reasons for ineligibility through changed circumstances and is currently eligible.

■ 78. Amend § 126.900 by:

■ a. Removing the word ''SBCs'' in paragraphs (a) and (b)(1) and adding in its place the phrase ''small business concerns'';

■ b. Removing the word ''SBC'' in paragraphs (a), (b)(2), (b)(3), (d), and (e)(1) and adding in its place the phrase ''small business concern'';

■ c. Removing the word ''SBC'' in the introductory text of paragraph (b) and in paragraph (c);

■ d. Removing the phrase ''agency suspension'' in paragraph (e)(1) and adding in its place the phrase ''procuring agency's suspension'';

■ e. Adding paragraph (e)(4).

The addition reads as follows:

§ 126.900 What are the requirements for representing HUBZone status, and what are the penalties for misrepresentation?

* * * * *

(e) * * *

(4) If SBA discovers that false or misleading information has been knowingly submitted by a certified small business concern in order to obtain or maintain HUBZone certification, the D/HUB will propose the firm for decertification.

PART 127—WOMEN-OWNED SMALL BUSINESS FEDERAL CONTRACT PROGRAM

■ 79. The authority citation for part 127 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 637(m), 644 and 657r.

■ 80. Amend § 127.200 by:

■ a. Revising paragraphs (a)(2) and (b)(2);

■ b. Redesignating paragraph (d) as paragraph (f); and

■ c. Adding new paragraphs (d) and (e).

The revisions and additions read as follows:

§ 127.200 What are the requirements a concern must meet to qualify as an EDWOSB or WOSB?

(a) * * *

(2) Not less than 51 percent unconditionally and directly owned and controlled by one or more economically disadvantaged women who are citizens of and reside in the United States.

(b) * * *

(2) Not less than 51 percent unconditionally and directly owned and controlled by one or more women who

are citizens of and reside in the United States.

* * * * *

(d) *Size.* In determining whether a concern qualifies as small under the size standard corresponding to a specific NAICS code, SBA will accept the concern's size representation in the System for Award Management (*SAM.gov*), or successor system, unless there is evidence indicating that the concern is other than small. SBA will request a formal size determination pursuant to § 121.1001(b)(7) of this chapter where any information it possesses calls into question the concern's *SAM.gov* size representation.

(e) *Federal financial obligations.* A business concern is ineligible to be certified as a WOSB or EDWOSB or to participate in the WOSB program if either the concern or any of its principals has failed to pay significant financial obligations owed to the Federal Government, including unresolved tax liens and defaults on Federal loans or other Federally assisted financing. However, a small business concern may be eligible if the concern or the affected principals can demonstrate that they are current on an approved repayment plan, or the financial obligations owed have been settled and discharged/forgiven by the Federal Government.

* * * * *

■ 81. Amend § 127.201 by revising paragraph (b) and adding paragraph (g) to read as follows:

§ 127.201 What are the requirements for ownership of an EDWOSB and WOSB?

* * * * *

(b) *Unconditional ownership.* To be considered unconditional, ownership must not be subject to any conditions, executory agreements, voting trusts, restrictions on or assignments of voting rights, or other arrangements causing or potentially causing ownership benefits to go to another (other than after death or incapacity).

(1) The pledge or encumbrance of stock or other ownership interest as collateral, including seller-financed transactions, does not affect the unconditional nature of ownership if the terms follow normal commercial practices and the owner retains control absent violations of the terms.

(2) In determining unconditional ownership, SBA will disregard any unexercised stock options or similar agreements held by qualifying women. However, any unexercised stock options or similar agreements (including rights to convert non-voting stock or debentures into voting stock) held by men or other entities will be treated as exercised, except for any ownership interests which are held by investment companies licensed under 15 U.S.C. 681 *et. seq.*

(3) A right of first refusal granting a man or other entity the contractual right to purchase the ownership interests of the qualifying woman, does not affect the unconditional nature of ownership, if the terms follow normal commercial practices. If those rights are exercised by a man or other entity after certification, the WOSB/EDWOSB must notify SBA. If the exercise of those rights results in qualifying women owning less than 51% of the concern, SBA will initiate decertification pursuant to § 127.405.

* * * * *

(g) *Dividends and distributions.* One or more qualifying women must be entitled to receive:

(1) At least 51 percent of any distribution of profits paid to the owners of a corporation, partnership, or limited liability company concern, and a qualifying woman's ability to share in the profits of the concern must be commensurate with the extent of her ownership interest in that concern;

(2) 100 percent of the value of each share of stock owned by them in the event that the stock is sold; and

(3) At least 51 percent of the retained earnings of the concern and 100 percent of the unencumbered value of each share of stock or member interest owned in the event of dissolution of the corporation, partnership, or limited liability company.

■ 82. Amend § 127.202 by revising paragraphs (d) and (g) and adding paragraph (h) to read as follows:

§ 127.202 What are the requirements for control of an EDWOSB or WOSB?

* * * * *

(d) *Ownership of a partnership.* In the case of a concern which is a partnership, one or more qualifying women, or in the case of an EDWOSB, economically disadvantaged women, must serve as general partners, with control over all partnership decisions. At least 51 percent of every class of partnership interest must be unconditionally owned by one or more qualifying women or economically disadvantaged women. The ownership must be reflected in the concern's partnership agreement.

* * * * *

(g) *Involvement in the concern by other individuals or entities.* Men or other entities may be involved in the management of the concern and may be stockholders, partners or limited liability members of the concern. However, no males or other entities may:

(1) Exercise actual control or have the power to control the concern;

(2) Have business relationships that cause such dependence that the qualifying woman cannot exercise independent business judgment without great economic risk;

(3) Control the concern through loan arrangements (which does not include providing a loan guaranty on commercially reasonable terms);

(4) Provide critical financial or bonding support or a critical license to the concern, which directly or indirectly allows the male or other entity to significantly influence business decisions of the qualifying woman.

(5) Be a former employer, or a principal of a former employer, of any qualifying woman, unless the concern demonstrates that the relationship between the former employer or principal and the qualifying woman does not give the former employer actual control or the potential to control the concern and such relationship is in the best interests of the concern; or

(6) Receive compensation from the concern in any form as a director, officer, or employee, that exceeds the compensation to be received by the qualifying woman who holds the highest officer position (usually Chief Executive Officer or President), unless the concern demonstrates that the compensation to be received by non-qualifying woman is commercially reasonable or that the qualifying woman has elected to take lower compensation to benefit the concern.

(h) *Exception for extraordinary circumstances.* SBA will not find that a lack of control exists where a woman or an economically disadvantaged woman does not have the unilateral power and authority to make decisions regarding the following extraordinary circumstances:

(1) Adding a new equity stakeholder;

(2) Dissolution of the company;

(3) Sale of the company or all assets of the company;

(4) The merger of the company;

(5) The company declaring bankruptcy; and

(6) Amendment of the company's corporate governance documents to remove the shareholder's authority to block any of (1) through (5).

§ 127.301 [Amended]

■ 83. Amend § 127.301 by removing the last sentence.

■ 84. Revise § 127.302 to read as follows:

§ 127.302 Where can a concern apply for certification?

A concern seeking certification as a WOSB or EDWOSB must submit an

electronic application to SBA via *www.certify.sba.gov* or any successor system. The majority woman or economically disadvantaged woman owner must take responsibility for the accuracy of all information submitted on behalf of the applicant.

■ 85. Amend § 127.304 by revising paragraph (d) to read as follows:

§ 127.304 How is an application for certification processed?

* * * * *

(d) An applicant must be eligible as of the date SBA issues a decision. An applicant's eligibility will be based on the totality of circumstances, including facts set forth in the application, supporting documentation, any information received in response to any SBA request for clarification, and any changed circumstances.

* * * * *

■ 86. Revise § 127.305 to read as follows:

§ 127.305 May declined or decertified concerns apply for certification at a later date?

(a) A concern that SBA or a third-party certifier has declined may apply for certification after ninety (90) calendar days from the date of decline if it believes that it has overcome all of the reasons for decline and is currently eligible. A concern that has been declined may seek certification by any of the certification options listed in § 127.300.

(b) A concern that SBA has decertified may apply for certification immediately after the date of decertification, if it believes that it has overcome all reasons for decertification through changed circumstances and is currently eligible.

(c) A concern that voluntarily withdraws from the WOSB program may immediately apply for certification, if it believes that it is currently eligible.

■ 87. Amend § 127.400 by revising paragraph (b) to read as follows:

§ 127.400 How does a concern maintain its WOSB or EDWOSB certification?

* * * * *

(b) The concern must either recertify with SBA or notify SBA that it has completed a program examination from a third party certifier in the 90 calendar days prior to its certification anniversary. Failure to do so will result in the concern being decertified.

Example 1 to paragraph (b). Concern B is certified by a third-party certifier to be eligible for the WOSB Program on July 20, 2024. Concern B is considered a certified WOSB that is eligible to receive WOSB contracts (as long as it is small for the size standard corresponding to the NAICS code assigned to the contract) through July 19, 2027. Concern B must request a program examination from SBA or notify SBA that it has completed a program examination from a third-party certifier, by April 21, 2027, to continue participating in the WOSB Program after July 19, 2027.

* * * * *

■ 88. Amend § 127.405 by redesignating paragraph (f) as paragraph (g) and adding new paragraph (f) to read as follows:

§ 127.405 What happens if SBA determines that the concern is no longer eligible for the program?

* * * * *

(f) *Decertification based on false or misleading information.* (1) A firm that is decertified from the WOSB program due to the submission of false or misleading information may be removed from SBA's other small business contracting programs, including the 8(a) Business Development Program, the HUBZone Program, the Veteran Small Business Certification (VetCert) Program, and SBA's Mentor-Protégé Program.

(2) A firm that is decertified or terminated from the 8(a) BD Program, the HUBZone Program, or the VetCert Program due to the submission of false or misleading information may be decertified from the WOSB Program.

(3) SBA may require a firm that is decertified or terminated from the WOSB Program, 8(a) BD Program, the HUBZone Program, or the VetCert Program due to the submission of false or misleading information to enter into an administrative agreement with SBA as a condition of admission or re-admission to the WOSB program.

* * * * *

■ 89. Amend § 127.504 by:

■ a. Revising paragraph (a);

■ b. Removing the words ''under paragraph (f) of this section'' in paragraph (d)(1) and adding in their place the words ''under § 125.12 of this chapter''; and

■ c. Revising paragraph (h).

The revisions read as follows:

§ 127.504 What requirements must an EDWOSB or WOSB meet to be eligible for an EDWOSB or WOSB requirement?

(a) *General.* In order for a concern to submit an offer on a specific EDWOSB or WOSB set-aside requirement, the concern must, at the time of its initial offer that includes price:

(1) Qualify as a small business concern under the size standard corresponding to the NAICS code assigned to the contract;

(2) Meet the eligibility requirements of an EDWOSB or WOSB in § 127.200; and

(3) Either be a certified EDWOSB or WOSB pursuant to § 127.300, or represent that the concern has submitted a complete application for WOSB or EDWOSB certification to SBA or a third-party certifier and has not received a negative determination regarding that application from SBA or the third party certifier.

(i) If a concern becomes the apparent successful offeror while its application for WOSB or EDWOSB certification is pending, either at SBA or a third-party certifier, the contracting officer for the particular contract must immediately inform SBA's D/GC. SBA will then prioritize the concern's WOSB or EDWOSB application and make a determination regarding the firm's status as a WOSB or EDWOSB within 15 calendar days from the date that SBA received the contracting officer's notification. Where the application is pending with a third-party certifier, SBA will immediately contact the third-party certifier to require the third-party certifier to complete its determination within 15 calendar days.

(ii) If the contracting officer does not receive an SBA or third-party certifier determination within 15 calendar days after the SBA's receipt of the notification, the contracting officer may presume that the apparently successful offeror is not an eligible WOSB or EDWOSB and may make award accordingly, unless the contracting officer grants an extension to the 15-day response period.

* * * * *

(h) *Recertification.* A prime contractor that receives an award as a certified WOSB or EDWOSB must comply with the recertification requirements set forth in § 125.12 of this chapter regarding its status as a certified WOSB or EDWOSB.

PART 128—VETERAN SMALL BUSINESS CERTIFICATION PROGRAM

■ 90. The authority citation for part 128 continues to read as follows:

Authority: 15 U.S.C. 632(q), 634(b)(6), 644, 645, 657f, 657f–1.

§ 128.100 [Amended]

■ 91. Amend § 128.100 by removing the words ''Veteran Small Business Certification Program'' and adding in their place the words ''Veteran Small Business Certification Program (VetCert)''.

■ 92. Amend § 128.200 by revising paragraphs (a)(2) and (b)(2) to read as follows:

§ 128.200 What are the requirements a concern must meet to qualify as a VOSB or SDVOSB?

(a) * * *

(2) Not less than 51 percent owned and controlled by one or more veterans who reside in the United States.

(b) * * *

(2) Not less than 51 percent owned and controlled by one or more service-disabled veterans who reside in the United States or, in the case of a veteran with a disability that is rated by the Secretary of Veterans Affairs as a permanent and total disability who are unable to manage the daily business operations of such concern, the spouse or permanent caregiver of such veteran who resides in the United States.

* * * * *

■ 93. Amend § 128.201 by revising paragraph (b) to read as follows:

§ 128.201 What other eligibility requirements apply for certification as a VOSB or SDVOSB?

* * * * *

(b) *Federal financial obligations.* A business concern is ineligible to be certified as a VOSB or SDVOSB or to participate in the VetCert program if either the concern or any of its principals has failed to pay significant financial obligations owed to the Federal Government, including unresolved tax liens and defaults on Federal loans or other Federally assisted financing. However, a small business concern may be eligible if the concern or the affected principals can demonstrate that they are current on an approved repayment plan, or the financial obligations owed have been settled and discharged/forgiven by the Federal Government.

■ 94. Amend § 128.202 by revising paragraph (c) and removing the words ''the annual distribution'' in paragraph (g) and adding in their place the words ''any distribution'' to read as follows:

§ 128.202 Who does SBA consider to own a VOSB or SDVOSB?

* * * * *

(c) *Ownership of a partnership.* In the case of a concern which is a partnership, one or more qualifying veterans must serve as general partners, with control over all partnership decisions. At least 51 percent of every class of partnership interest must be unconditionally owned by one or more qualifying veterans. The ownership must be reflected in the concern's partnership agreement.

* * * * *

■ 95. Amend § 128.203 by:

■ a. Removing the second and third sentences in paragraph (f);

■ b. Revising paragraphs (g) and (h);

■ c. Removing the word ''and'' at the end of paragraph (j)(4);

■ d. Removing the punctuation mark ''.'' at the end of paragraph (j)(5) and adding in its place the text ''; and''; and

■ e. Adding paragraph (j)(6).

The revision and addition read as follows:

§ 128.203 Who does SBA consider to control a VOSB or SDVOSB?

* * * * *

(g) *Unexercised rights.* Except as set forth in paragraph (e)(1) of this section, a qualifying veteran's unexercised right to cause a change in the control or management of the concern does not in itself constitute control, regardless of how quickly or easily the right could be exercised.

(h) *Limitations on control by non-qualifying-veterans.* Non-qualifying-veterans may be involved in the management of the concern and may be stockholders, partners or limited liability members of the concern. However, no non-qualifying veteran may:

(1) Exercise actual control or have the power to control the concern;

(2) Have business relationships that cause such dependence that the qualifying veteran cannot exercise independent business judgment without great economic risk;

(3) Control the concern through loan arrangements (which does not include providing a loan guaranty on commercially reasonable terms);

(4) Provide critical financial or bonding support or a critical license to the concern, which directly or indirectly allows the non-qualifying veteran to significantly influence business decisions of the qualifying veteran.

(5) Be a former employer, or a principal of a former employer, of any qualifying veteran, unless the concern demonstrates that the relationship between the former employer or principal and the qualifying veteran does not give the former employer actual control or the potential to control the concern and such relationship is in the best interests of the concern; or

(6) Receive compensation from the concern in any form as a director, officer, or employee, that exceeds the compensation to be received by the qualifying veteran who holds the highest officer position (usually Chief Executive Officer or President), unless the concern demonstrates that the compensation to be received by non-qualifying veteran is commercially reasonable or that the qualifying veteran has elected to take lower compensation to benefit the concern.

* * * * *

(j) * * *

(6) Amendment of the company's corporate governance documents to remove the shareholder's authority to block any of (1) through (5).

* * * * *

■ 96. Amend § 128.204 by revising paragraph (a) to read as follows:

§ 128.204 What size standards apply to VOSBs and SDVOSBs?

(a) *Time of certification.* At the time of certification or recertification, a VOSB or SDVOSB must be a small business under the size standard corresponding to any NAICS code listed in its System for Award Management (*SAM.gov*), or successor system, profile. In determining whether a concern applying to be certified as a VOSB or SDVOSB qualifies as small under the size standard corresponding to a specific NAICS code, SBA will accept the concern's size representation in SAM, unless there is evidence indicating that the concern is other than small. SBA will request a formal size determination pursuant to § 121.1001(b)(12) of this chapter where any information it possesses calls into question the concern's *SAM.gov* size representation.

* * * * *

■ 97. Revise § 128.301 to read as follows:

§ 128.301 Where must an application be filed?

An application for certification as a VOSB or SDVOSB must be electronically filed according to the instructions on SBA's website at *www.sba.gov.* The qualifying veteran must take responsibility for the accuracy of all information submitted on behalf of the applicant.

■ 98. Amend § 128.302 by:

■ a. Adding a sentence to the end of paragraph (a); and

■ b. Removing from the introductory text to paragraph (d) the text ''any independent research conducted by SBA,''.

The addition reads as follows:

§ 128.302 How does SBA process applications for certification?

(a) * * * An applicant must be eligible as of the date SBA issues a decision.

* * * * *

■ 99. Revise § 128.305 to read as follows:

§ 128.305 May declined or decertified concerns apply for recertification at a later date?

(a) A concern that SBA has declined may apply for certification after ninety (90) calendar days from the date of decline, if it believes that it has overcome all of the reasons for decline and is currently eligible.

(b) A concern that SBA has decertified may apply for certification immediately after the date of decertification, if it believes that it has overcome all reasons for decertification through changed circumstances and is currently eligible.

(c) A concern that voluntarily withdraws from the VetCert program may immediately apply for certification, if it believes that it is currently eligible.

§ 128.306 [Amended]

■ 100. Amend § 128.306 by removing the text ''120 calendar days'' from paragraph (a) and adding, in its place, the text ''the 90 calendar days''.

§ 128.309 [Amended]

■ 101. Amend § 128.309 by removing the third and fourth sentences of paragraph (a), the second and third sentences of paragraph (b), and the second and third sentences of paragraph (c).

■ 102. Amend § 128.310 by adding paragraph (g) to read as follows:

§ 128.310 What are the procedures for decertification?

* * * * *

(g) *Decertification based on false or misleading information.* (1) A firm that is decertified from the VetCert Program due to the submission of false or misleading information may be removed from SBA's other small business contracting programs, including the 8(a) Business Development Program, the HUBZone Program, the Women-Owned Small Business (WOSB) Program, and SBA's Mentor-Protégé Program.

(2) A firm that is decertified or terminated from the 8(a) BD Program, the HUBZone Program, or the WOSB Program due to the submission of false or misleading information may be decertified from the VetCert Program.

(3) SBA may require a firm that is decertified or terminated from the VetCert Program, the 8(a) BD Program, the HUBZone Program, or the WOSB Program due to the submission of false or misleading information to enter into an administrative agreement with SBA as a condition of admission or re-admission to the VetCert program.

■ 103. Amend § 128.401 by:

■ a. Revising paragraph (a);

■ b. Removing the words ''under paragraph (e) of this section'' in paragraph (d)(1)(i) and adding in their place the words ''under § 125.12 of this chapter''; and

■ c. Revising paragraph (e).

The revisions read as follows:

§ 128.401 What requirements must a VOSB or SDVOSB meet to submit an offer on a contract?

(a) *Certification requirement.* Only certified VOSBs and SDVOSBs are eligible to submit an offer on a specific VOSB or SDVOSB requirement. For a competitively awarded VOSB/SDVOSB contract, order, or agreement, the concern must qualify as a small business concern under the size standard corresponding to the NAICS code assigned to the contract, order or agreement, and be a certified VOSB or SDVOSB and meet the eligibility requirements of a VOSB or SDVOSB in § 128.200 at the time of initial offer or response which includes price. For any sole source VOSB or SDVOSB award, the concern must qualify as a small business concern under the size standard corresponding to the applicable NAICS code, and be a certified VOSB or SDVOSB and meet the eligibility requirements of a VOSB or SDVOSB in § 128.200 on the date of award.

* * * * *

(e) *Recertification.* A prime contractor that receives an award as a certified SDVOSB must comply with the recertification requirements set forth in § 125.12 of this chapter regarding its status as a certified SDVOSB.

* * * * *

■ 104. Amend § 128.402 by revising the second sentence of the introductory text of paragraph (a) and adding paragraph (k) to read as follows:

§ 128.402 When may a joint venture submit an offer on a VOSB or SDVOSB contract?

(a) * * * SBA does not certify VOSB or SDVOSB joint ventures, but the joint venture should be designated as a VOSB or SDVOSB joint venture in *SAM.gov* with the VOSB or SDVOSB-certified joint venture partner identified. * * *

* * * * *

(k) For a procuring agency to receive VOSB or SDVOSB credit for goaling purposes, the joint venture awardee must comply with the requirements of this section and § 125.8.

§ 128.500 [Amended]

■ 105. Amend § 128.500 by removing the text ''128.402(c)'' in paragraph (c) and adding in its place ''128.402''.

PART 134—RULES OF PROCEDURE GOVERNING CASES BEFORE THE OFFICE OF HEARINGS AND APPEALS

■ 106. The authority citation for part 134 continues to read as follows:

Authority: 5 U.S.C. 504; 15 U.S.C. 632, 634(b)(6), 634(i), 637(a), 648(l), 656(i), 657t and 687(c); E.O. 12549, 51 FR 6370, 3 CFR, 1986 Comp., p. 189.

Subpart J issued under 15 U.S.C. 657f.

Subpart K issued under 15 U.S.C. 657f.

Subpart L issued under 15 U.S.C. 636(a)(36); Pub. L. 116–136, 134 Stat. 281; Pub. L. 116–139, 134 Stat. 620; Pub. L. 116–142, 134 Stat. 641; and Pub. L. 116–147, 134 Stat. 660.

Subpart M issued under 15 U.S.C. 657a; Pub. L. 117–81, 135 Stat. 1541.

■ 107. Amend § 134.1003 by revising the first sentence of paragraph (e)(1) to read as follows:

§ 134.1003 Grounds for filing a VOSB or SDVOSB status protest.

* * * * *

(e) * * *

(1) If the VOSB or SDVOSB status protest pertains to a procurement, the Judge will determine a protested concern's eligibility as a VOSB or SDVOSB as of the date of its initial offer or response which includes price for a competitively awarded VOSB/SDVOSB contract, order, or agreement, and as of the date of award for any sole source VOSB or SDVOSB award. * * *

* * * * *

§ 134.1104 [Amended]

■ 108. Amend § 134.1104 by removing the words ''10 business days'' in paragraph (a) and adding in their place the words ''45 business days''.

Isabella Casillas Guzman,

Administrator.

[FR Doc. 2024–18325 Filed 8–22–24; 8:45 am]

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